

Second Reading

Ms LEE RHIANNON [11.32 a.m.]: I move:

That this bill be now read a second time.

I am proud to introduce the Save the Graythwaite Estate Bill 2009 on behalf of the Greens today. The purpose of this bill is to provide the legal protection necessary to preserve the Graythwaite Estate in public hands for future generations. It is fitting that this bill is introduced on 11 November, Armistice Day. The historical significance of the Graythwaite Estate dates back to World War I. The Friends of Graythwaite describe the property as "a living link to Gallipoli and all that means to our national identity". Sir Thomas Dibbs generously entrusted the Graythwaite Estate to the State of New South Wales in June 1915, in the immediate aftermath of the terrible losses Australian troops suffered at Gallipoli. Stories from that time tell of the coming together—the solidarity and sympathy—felt throughout this country for the young troops who lost their lives and for their families.

At that moment in history Sir Thomas Dibbs gifted Graythwaite Estate to the State Government as a convalescent home for sick and wounded soldiers and sailors and, if not needed for that purpose, as a convalescent home in perpetuity for distressed subjects of the British Empire. I acknowledge the tireless work of the local community group the Friends of Graythwaite. This group, formed in 2005, has led the campaign to keep the Graythwaite Estate in public hands. I have relied a lot on the wealth of knowledge held by the Friends of Graythwaite in outlining the history and significance of this estate. I also acknowledge the work of North Sydney Council in advocating for the preservation of the Graythwaite Estate and the construction division of the Construction, Forestry, Mining and Energy Union for placing a green ban over the site since August this year.

The importance of the Graythwaite Estate cannot be underestimated. It is unbelievable that the New South Wales Government would consider selling this precious piece of land, seemingly for the sake of a cash grab. Graythwaite Estate occupies an important place in the modern history of Australia and in Sydney's urban landscape. The Graythwaite Estate is located at 50 Union Street, North Sydney. It is the only remaining large area of parkland close to North Sydney's central business district [CBD]. Anyone who has visited its six acres of landscaped gardens could attest to its beautiful lawns, towering 130-year-old fig trees, rainforest glades and peaceful seclusion. In the hustle and bustle of the crowded North Sydney CBD it is a magical gem, and I urge people to visit it. Within the grounds is the historic three-storey Victorian sandstone mansion, and there are all these wonders to behold.

The Graythwaite Estate is currently listed on the State Heritage Register, the Register of the National Estate and with the National Trust of Australia. Following Sir Thomas Dibbs' instructions that the site was to be used as a convalescent home for sick and wounded soldiers and sailors the Red Cross ran the estate as a convalescent home from 1916 to 1980. In 1980 the Graythwaite Estate was taken over by the Department of Health to be run as a nursing home. Since then one would have to describe the estate as having seen better days. Indeed, the Friends of Graythwaite describe the estate as being in a state of almost criminal neglect since the Department of Health took it over. In 1994 the Department of Health initiated a process to sell off Graythwaite for development. A major community campaign at the time saw plans temporarily shelved. The plans were shelved but they were certainly not forgotten—not forgotten by the people who feel so passionate about saving this estate for the public or by Mr Dibbs's family.

In 2001 the Department of Health again started making moves to sell off the Graythwaite Estate. In March 2006 the North Sydney Central Coast Area Health Service started action in the Supreme Court to enable it to sell the estate for development. In August 2008 the Supreme Court found that the current use of Graythwaite as a nursing home for patients with no prospect of recovery was not consistent with the use for which Sir Thomas Dibbs gave the Graythwaite Estate—for convalescence. As a consequence, the court found that the Graythwaite Estate had failed in its responsibilities. A second round of court proceedings then began to determine the best use for Graythwaite Estate. Two schemes were proposed to the court. Firstly, the Department of Health proposed that Graythwaite Estate be sold and the proceeds be used for a rehabilitation facility at Ryde Hospital.

Secondly, it was proposed that Graythwaite Trust be filled by a Commonwealth grant of \$15 million to the Returned Services League [RSL] for the provision of care services to veterans and that the grounds of Graythwaite Estate be leased for a peppercorn rent to North Sydney Council for use as a regional park for North Sydney's CBD. This proposal also included that the Commonwealth provide \$5 million for restoration of the Graythwaite mansion, and that St Vincent's Hospital and Mater hospital construct a new rehabilitation facility adjacent to the Graythwaite mansion. The Commonwealth Government, the RSL, North Sydney Council, St Vincent's Hospital and Mater hospital, and the Friends of Graythwaite supported this proposal. In November 2008 the court found in favour of the scheme proposed by the Department of Health on the basis that it would help more distressed citizens. This was despite the fact that the proposal would not create one additional rehabilitation bed.

Keen to get on with the cash grab, the Department of Health announced a tender process for the Graythwaite Estate this year, and on 19 October the Minister for Health, Carmel Tebbutt, announced that the Graythwaite Estate would be sold to the Sydney Church of England Grammar School—Shore—for \$35.2 million. The close community around this estate has been put through all this trouble over \$35.2 million. As I will outline, the Federal Government offered a similar amount. We have been told that proceeds from the sale will go to the Graythwaite Trust to build a new rehabilitation centre at Ryde Hospital. I understand that not one new rehabilitation bed will be created in the process. It seems that the Government chose Shore over a rival bid from the Federal Government's Department of Veterans' Affairs. I understand that its offer was about \$25 million with maybe an additional \$5 million. Clearly this was an opportunity for the Government to do the right thing and at the same time gain the money that it believed is needed. This could have been a win-win situation but once again this Government put its head in the sand, defied the interest of the community and pushed ahead with a proposal that is extremely destructive.

The principle that guided the Government was clearly who could afford the most money, not the fate of the Graythwaite Estate and not the needs of the local community. The surviving family of Sir Thomas Dibbs maintain that selling the school to Shore will go against the wishes of Sir Thomas Dibbs. The great grandson of Sir Thomas Dibbs, Tim Honnor, said, "I am sure he would be turning in his grave if he knew what was happening today." According to his descendants, Shore was the one organisation that Sir Thomas Dibbs explicitly did not want to own the Graythwaite Estate following a large falling out between the two. It is worth remembering where the wealth of this school comes from, that is, the public purse via a series of State and Federal government grants and from student fees.

Shore will receive an estimated \$9.9 million over the four years from 2009-2012 from the Federal Government. It will receive money under the National School Pride Program. In 2007-08, the last year for which figures are available, Shore received \$1.65 million from the New South Wales Government. On top of that is the annual recurrent State and Federal funding of more than \$4 million. Annual revenue from school fees for the approximately 1,550 Shore students is about \$29 million. Friends of Graythwaite wants Graythwaite Estate protected and the estate to stay in public hands, which the Greens strongly support. Both sides of Federal Parliament, North Sydney local council and the local community support this vision. I understand that the Opposition in this House supports this bill, something that is welcomed by the Greens. Local members of Parliament Joe Hockey and Jillian Skinner have added their voice to this campaign over the years.

When the Minister for Health last month announced the Government's plan to sell off the Graythwaite Estate to Shore for \$35.2 million it was disappointing that the shadow Minister, Mrs Jillian Skinner, gave notice of motion in the lower House that accepted that sale and called on Shore to commit to keeping the grounds free of development and open to the public. Clearly, total protection is needed. I believe we now have unity to ensure that the whole estate stays in public hands and we honour the memory of Sir Thomas Dibbs and his wishes. The case is quite clear that Shore should never have any role in running the Graythwaite Estate.

Save the Graythwaite Estate Bill sets out to meet the legitimate community aspiration to protect this site. The objects of the bill, as set out in clause 4, are: to retain Graythwaite Estate in public ownership and subject to public control; to preserve areas of open space at the Graythwaite Estate and to allow public access to such areas; to preserve the heritage significance of the Graythwaite Estate; and to impose appropriate controls on the future development of the Graythwaite Estate. The clauses of the bill that enshrine ongoing public ownership of the bill are clauses 5 and 6. Clause 5 prohibits the sale or other alienation of the Graythwaite Estate. This clause does allow Graythwaite Estate to be transferred to a statutory body representing the Crown that is subject to the direction and control of a Minister.

Clause 6 provides that any lease or licence over the use of Graythwaite Estate to a person other than a public or local authority must include terms that require the grounds of the Graythwaite Estate to always remain open to the public. The bill also restricts the types of development that may be carried out at the Graythwaite Estate. Clause 7 sets out that development for the purposes of health, educational or community facilities is permitted with the consent of North Sydney Council. Community and educational facilities are defined in the bill as facilities that provide services to the community on a not-for-profit basis. "Health facility" means a building or place used for the medical or surgical treatment of persons, whether public or private. The Greens believe that this section is sufficiently broad to give the Government flexibility as to the type of development that occurs on Graythwaite Estate while still stipulating that the development would be of public benefit to the community. Clause 8 provides that the regulations may set up a community consultation committee for the Graythwaite Estate. The Greens hope that decisions regarding the future and management of Graythwaite Estate will be subject to community involvement and consultation.

I do note that the bill is retrospective in its application to ensure that the purpose of this bill is not overridden by the recent announcement of Minister Tebbutt to sell Graythwaite Estate to Shore. Clause 2 states that the Act is taken to have commenced on 10 September 2009, being the date that I gave notice of the bill in the upper House. Clause 13 states that any sale, transfer or other disposal of the Graythwaite Estate that occurred on or after 10 September 2009 but before the date of assent to the proposed Act and that is contrary to the provisions of the proposed Act is null and void. A contract voided by the clause may be held by a court to be frustrated at common law. As a general principle, the Greens do not support retrospective legislation and I note that the

Government, with the Opposition's support, passes numerous pieces of retrospective legislation. The Greens believe that retrospectivity should be applied only in rare circumstances where there is proper justification. We believe Graythwaite Estate is one of those cases.

This bill to keep Graythwaite Estate in public hands was already afoot—I had previously given notice of this bill on the parliamentary *Notice Paper* when the Government announced that the property was to be sold to Shore. Community voices were growing louder and the Construction, Forestry, Mining and Energy Union [CFMEU] green ban was firmly in place. There was clearly a strong community campaign and an upcoming bill on the horizon about the future of Graythwaite Estate. The Greens believe that the Government was irresponsible to go ahead and announce a sale, circumventing a strong community campaign and heading off a parliamentary debate on the issue. In this context a clause allowing retrospectivity is justified.

Graythwaite Estate is an important public asset, and one that is much appreciated and cared for by the local community. It marks an important chapter in Australia's modern history and it is a unique green space next to the bustling North Sydney central business district. Graythwaite Estate needs to be kept in public hands—not sold off to the highest bidder. If the State Government is allowed to get away with selling Graythwaite Estate future generations look back and ask why. Again I recognise and congratulate the Friends of Graythwaite for leading an incredibly strong and cohesive community campaign to save the Graythwaite Estate. I also recognise the contribution made by the President of the Construction, Forestry, Mining and Energy Union, Construction Division, Peter McClelland, as a green ban is still in place over the grounds of Graythwaite Estate, and Genia McAffery and the North Sydney Council for their work to safeguard Graythwaite Estate. We need to make every effort to maintain this glorious estate in public hands where it belongs. This bill provides the means to achieve that. I urge members to support the bill.