Northern Beaches Hospital has informed us that as at 1 May, 904 babies have been born at the hospital. Thank you to our fantastic nurses, midwives and doctors. There have also been 29,860 emergency department presentations, 17,566 outpatients, 7,578 theatres cases and 20,895 admissions. There has been a significant increase in the number of beds from the 31 beds, five birthing suites and six special care nursery cots that were available at Manly and Mona Vale hospitals. The hospital is a great win for our community. There has also been an increase in the number of staff from 1,037 to 1,650. [*Time expired*.]

Ms CATE FAEHRMANN (16:00): The Greens support the motion moved by the Hon. Walt Secord. We have been receiving communication from residents in the Northern Beaches who are concerned about the sale of the hospital and about the loss of some of the treasured hospitals in that part of the world. Friends of Northern Beaches Maternity Services are concerned about the services being provided at the hospital. People have raised concerns about the accident and emergency department that was lost as a result of the closure of Mona Vale Hospital. People have raised concerns about the distances they have to travel.

Residents are concerned but an inquiry such as this will enable greater transparency around the contracts. The very good investigative journalist Michael West has asked some serious questions of the Government that have not been answered. Those questions are about the recent sale of Healthscope—so soon after the Northern Beaches Hospital was opened—to a company that has much of its investment based the Cayman Islands. The Government will not answer questions about what Healthscope sold. Was it the future cash flows from our patients in health funds? The Government has not answered any questions about Healthscope.

Quite a few privatised hospitals, under Healthscope, have been sold to a much bigger operator but we do not know what the ramifications are. There are a lot of questions to be answered because these matters appear to be very fishy indeed. This is exactly the type of thing that the new upper House committees, with their increased powers, should be able to investigate for the people of New South Wales. I am looking forward to this inquiry and to the upper House supporting it.

The Hon. WALT SECORD (16:03): In reply: I thank the two members for their contributions. I note that the Northern Beaches Hospital was set up as a private-public partnership. It was the subject of major public expenditure—$600 million up front, and a further $2.14 billion for the private operation over the life of the hospital. It is not only the Labor Party that wants to examine the workings and operation of the Northern Beaches Hospital; the community of the Northern Beaches also wants this to happen.

If the inquiry is supported I would like the committee to take evidence from the community on the Northern Beaches, health and hospital representatives, unions, public-private partnership experts, Healthscope, Brookfield Capital Partners, past and present medical staff, and even taxation experts such as Michael West. In conclusion, I commend the motion to the House. If this motion is supported, I would like the committee to report in early 2020.

The DEPUTY PRESIDENT (The Hon. Courtney Houssos): The question is that the motion be agreed to.

Motion agreed to.

Bills

MINING AMENDMENT (COMPENSATION FOR CANCELLATION OF EXPLORATION LICENCE) BILL 2019

First Reading

Bill introduced, and read a first time and ordered to be printed on motion by Reverend the Hon. Fred Nile.

Second Reading Speech

Reverend the Hon. FRED NILE (16:06): I move:

That this bill be now read a second time.

The Mining Amendment (Compensation for Cancellation of Exploration Licence) Bill 2019 seeks to correct serious injustices that arose during the terms of the previous two Parliaments. In 2012 and 2013 the Independent Commission Against Corruption conducted Operation Acacia, which concerned the granting of Doyles Creek exploration licence to Doyles Creek Mining Pty Limited, which at the time of the inquiry was a wholly owned subsidiary of NuCoal Resources Limited. Following these inquiries ICAC issued reports with respect to Operation Acacia, in which findings of corrupt conduct in the grant of Doyles Creek exploration licence were made. Importantly, there were absolutely no findings of corrupt conduct against the directors of NuCoal in relation to either the creation or the granting of the relevant exploration licences.

In December 2013 ICAC issued a further report dealing with Operation Acacia. Within this third report ICAC recommended that "special legislation to expunge" the licences be considered to be enacted which "could be accompanied by a power to compensate any innocent person affected by the expunging" and that "relevant decision-makers take into the account issues of procedural fairness". In January 2013 the New South Wales Parliament implemented one aspect of ICAC's recommendations and cancelled the Mount Penny, Glendon Brook and Doyles Creek exploration licences. This was done through the Mining Amendment (ICAC Operations Jasper and Acacia) Act 2014—the cancellation Act. Contrary to the advice of both ICAC and Bret Walker, SC, the cancellation Act denied any claim for compensation for the shareholders. Instead, the legislation cancelled the licence without the due process afforded under the Mining Act 1992, without any public hearing or any right of appeal, without recourse to normal rule of law measures, including the legal system and courts, and without just compensation. It removed any right to compensation that NuCoal would otherwise have had. It also absolved the Government of liability for the corrupt conduct of its Ministers and employees and required NuCoal to provide the Government with all the confidential exploration data that the companies had paid for. That meant that shareholders in NuCoal suffered significant financial disadvantage because of the passage of the Act.

Nearly 3,000 innocent NuCoal mum-and-dad investors lost a considerable value of their investment as a result of the introduction of the cancellation bill. I have met with a number of those people and the cases they have presented to me are absolutely compelling. According to a briefing note provided to me by NuCoal, the company's share value fell from 0.65c to 0.026c, resulting in a loss of hundreds of thousands of dollars for some of the mum-and-dad investors. The shareholders had every reason to believe that their savings would be safe, that the company had completed all due diligence, and that they had made an investment which would contribute to the wealth of the State and the nation.

At the time that the licences were removed the Government argued that shareholders should have been made aware of the alleged corruption. But that assessment by Premier O'Farrell was plainly wrong. Any potential shareholders would have relied on an independent probity report by O'Connor Marsden & Associates, which raised no issues whatsoever. There was no way, realistically, that any person investing in NuCoal—up to the point where the ICAC report into Operation Acacia was finally handed down—could have been expected to be aware of any probity concerns. Now, because of the cancellation bill, and through no fault of their own, many face the prospect of their investments being worth a tiny fraction of what they originally were.

The point is that NuCoal's shareholders were innocent of any wrongdoing and should not have been punished. The bill sets in train a fair process for fair compensation. It does not seek to set an amount, or select who should be compensated, or under what terms that compensation should be paid. It does not seek to direct a specific outcome. Rather, the bill establishes a scheme that parties who have been unjustly adversely impacted as a consequence of the ICAC investigations and what followed in their wake may seek recourse to. The scheme is outlined in the operative part of the bill, namely item [3], which creates a new section 7A in the Mining Act.

New section 7A (1) establishes the purpose and scope of this legislative reform by recognising that those affected by the cancellation of the relevant licence are to be entitled to fair compensation after an open and impartial process of assessment. New section 7A (2) creates an obligation on the part of the Minister to appoint an independent arbitrator who will preside over the assessment process. The section also stipulates that the appointment should be made before the end of this calendar year, which I think is eminently reasonable. In the interest of keeping the appointment as impartial as possible while also requiring that the arbitrator be qualified, new section 7A (2) also requires that the appointee should not have been employed by ICAC; however, the Minister has a wide element of discretion as to what he believes makes a candidate qualified for the job.

New sections 7A (3) and (4) assert that a claimant can make a claim for compensation to the independent arbitrator and has a right to make a submission and be heard within a reasonable period of time. New section 7A (5) requires that the independent arbitrator outline what information will be considered when determining a claimant's claim, and that this be published on a public website so that claimants can prepare their submissions. New section 7A (6) provides a wide discretion on the part of the independent arbitrator to establish a procedure for assessing the claims and to have the procedure published on a publicly accessible website.

A concern has been raised by stakeholders that the discretionary power is too wide. I do not think so. In fairness to the Minister and his independent arbitrator appointee, and in light of the context of this legislation, I have full confidence that any process for arbitration and assessment will be fair, equitable and just. For the abundance of caution, I make it clear that it is the intention of the drafter of the bill that this process indeed be fair, equitable and just. The bill is intended to right a wrong. It is imperative that this crucial aspect of the process be free of any defects that might cause a member of the public—let alone those persons who may be prospective claimants—to lose confidence in its rightness. I trust that whoever will be appointed will do the right thing and therefore the discretion will allow them to establish whatever process is seen as most effective and efficient to that end.

New section 7A (7) directs the independent arbitrator, when establishing the process for assessment, to turn their attention to and make provision for certain procedural matters. They include the manner in which the procedure is commenced, submissions made, claims determined and rights of appeal exercised, and also establish a limitations period for claims to be lodged. They also include compliance with any other laws that the independent arbitrator may feel is appropriate under the circumstances to bind himself by, and any other matters that the independent arbitrator may feel are necessary in the interests of fairness, equity and justice.

New section 7A (8) outlines the powers of the independent arbitrator—namely, to determine entitlements to compensation, the amount of compensation payable and any conditions of payment. New sections 7A (9) and (10) establish a claimant's right to be represented in the process through a third party. That is necessary as we envisage that some claimants may not be, in legal terms, "sophisticated parties". In other words, because the purpose of the bill is to provide justice and relief to mum-and-dad investors, they may not be in a position to deal with their claim, lodgement and submission in person.

New section 7A (11) states that compensation shall be payable out of "money to be provided by Parliament or that is otherwise legally available". That section follows the Letona precedent. I believe that it is a fair and open way to work out the competing claims for compensation. By relying on an independent arbitrator, the Government, the companies, and, most importantly, the shareholders can have confidence that the outcome will be equitable and just. Moreover, the principle that governments should not impinge upon private property rights without fair compensation will be restored and reaffirmed. The injured parties have been waiting for justice now for a number of years. The bill will start the process of rectifying a wrong. Finally, I acknowledge my chief of staff, Edwin Dyga, for his work in coordinating the drafting of the bill with the Parliamentary Counsel's office. I commend the bill to the House.

Debate adjourned.

Committees

STANDING COMMITTEE ON LAW AND JUSTICE

Reference

Reverend the Hon. FRED NILE: I move:

That:

(a) the bill be referred to the Standing Committee on Law and Justice for inquiry and report; and

(b) on tabling of the report by the Law and Justice Committee, a motion may be moved without notice that the bill be restored to the *Notice Paper* at the stage it had reached prior to referral.

Motion agreed to.

Motions

LAND CLEARING AND BIODIVERSITY LAWS

Mr JUSTIN FIELD: I move:

That private members' business item No. 87 outside the order of precedence be considered in a short form format.

Motion agreed to.

Mr JUSTIN FIELD (16:18): I move:

1. That this House notes that:

(a) media reports in the week commencing 4 June 2019 revealed Office of Environment and Heritage satellite mapping data, obtained by *The Sydney Morning Herald* under a GIPA request, showed 2016-17 native vegetation land clearing rates had significantly increased across New South Wales compared to the four previous years;

(b) this increase in clearing of native vegetation occurred immediately prior to the introduction of new biodiversity conservation and native vegetation management laws which commenced in August 2017;

(c) there is no way for this House or the community to know the extent of native vegetation clearing since the laws came into force due to the unavailability of more recent data; and

(d) critical aspects of the Government's 2017 Biodiversity Reform package that were intended to protect environmental values and ensure oversight to minimise ecological impacts from land clearing and forestry remain incomplete, including:

(i) a finalised Native Vegetation Regulatory Map to determine where the new codes and clearing rules apply;