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ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (PART 3A REPEAL) BILL 2011

Bill introduced on motion by Mr Brad Hazzard.

Agreement in Principle

Mr BRAD HAZZARD (Wakehurst—Minister for Planning and Infrastructure, and Minister Assisting the Premier on Infrastructure NSW) [7.17 p.m.]: I move:

> That this bill be now agreed to in principle.

Today I implement one of the major election commitments of the Liberal-Nationals Government—to repeal part 3A of the Environmental Planning and Assessment Act 1979. In repealing part 3A the Liberal-Nationals Government is honouring two of its commitments for the New South Wales planning system: returning a broad range of decision-making powers to local communities and providing a planning framework for genuinely State significant development that provides certainty for investment and the efficiency needed to get this State moving again. The Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011 is a first step in the comprehensive review of the New South Wales planning system.

In that sense the bill I introduce today is an interim, but necessary, measure to rebuild confidence in a new planning system for New South Wales—a planning system based on the public interest, not private interests; a planning system that is transparent, where planning rules are certain and decisions are taken on merit and in a timely way. The Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011 provides the framework to correct the imbalance in the New South Wales planning system—delivering the balance between the decisions that should be made by local communities and the decisions that are genuinely of State significance.

Unlike part 3A, the bill provides that local environmental plans and council development standards will be an important consideration in the comprehensive environmental assessment of State significant development proposals. At the same time, the bill will honour the Liberal-Nationals Government's commitment to place the provision of major infrastructure at the centre of our program. The bill provides for a dedicated, comprehensive and independent environmental assessment regime for infrastructure that is genuinely of State significance. It is for these reasons that I introduce a bill today which will repeal part 3A in its entirety and replace it with an open, transparent and fair assessment process to deal exclusively with genuinely State significant development and infrastructure.
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This assessment process for State significant proposals will be an interim measure until the comprehensive review and rewriting of the planning laws has been completed. Before I turn to the bill I must point out that it is merely the principal measure in a package of measures to give effect to the repeal of part 3A. The parts of the package include major amendments to State Environmental Planning Policy (Major Development) 2005 to remove all references to part 3A of the planning legislation, a new State environmental planning policy for State significant development, necessary changes to the Environmental Planning and Assessment Regulation 2000, delegation of the Minister for Planning and Infrastructure's determination role to the Planning Assessment Commission, new more transparent procedures for the Planning Assessment Commission, and consequential changes to State Environmental Planning Policy (Infrastructure) 2007.

The explanatory note to the bill sets out the effect of the provisions of the bill in some detail and will assist members in understanding its provisions. The bill itself comprises two schedules. Schedule 1 contains amendments to the Environmental Planning and Assessment Act 1979 while schedule 2 contains consequential and other amendments to other Acts. Schedule 1.1 repeals part 3A of the Act in its entirety. Schedule 1.2 amends existing Act provisions and inserts a new division 4.1 under part 4 of the Act to establish the new assessment pathway for State significant

development. These amendments set out a clear, accountable, and transparent assessment process for determining projects that have been classed as State significant development.

New division 4.1 to be inserted by the bill provides that State significant development applications will be assessed under part 4 of the Act, with the Minister for Planning and Infrastructure as the consent authority. The bill allows for classes or descriptions of development to be declared State significant development by a State environmental planning policy. The bill also provides that the Minister may declare by order other specified development on specified land as State significant development. This will only occur after the Minister has obtained, and made publicly available, advice from the Planning Assessment Commission about the State or regional significance of the development. I seek leave to table a policy statement that outlines the proposed classes of State significant development.

Leave granted.

Document tabled

It is proposed these classes be listed in a State environmental planning policy to be entitled the State Environmental Planning Policy (State and Regional Development) 2011 to provide both transparency and certainty for the development industry, councils and the public. As has traditionally been the case with part 4 applications, these developments are predominantly by private developers and will include types of major employment generating industrial development that were previously determined by the Minister for Planning under part 4 prior to the introduction of part 3A. This includes coalmining and other large-scale mining resource and primary industry projects such as petroleum and extractive industries. It includes projects such as timber milling, intensive livestock industries, aquaculture, agricultural and food processing, as well as metal and chemical processing and major industrial manufacturing, storage and distribution facilities.

Development involving category 1 remediation of contaminated land will also be dealt with as State significant development. State significant development will also pick up major social infrastructure projects valued over $30 million, including such projects as large-scale hospitals and medical facilities, correctional centres, schools, TAFEs and universities, major sporting facilities and cultural facilities such as performing arts centres, museums and exhibition and convention centres. State significant development will also include certain infrastructure projects over $30 million—mainly undertaken by private proponents such as electricity generation, port and wharf facilities, water supply works, sewage and wastewater treatment plants, private road and bridge projects, industrial heavy rail lines, rail freight and intermodal terminals and related rail corridor developments.

Certain infrastructure such as electricity generation, sewage treatment, water supply works and resource recovery and waste facilities such as landfills will also be listed as State significant development depending on their scale and whether they are located in environmentally sensitive areas. For some classes of development we have removed employment generating numbers and significantly increased financial thresholds, for example, from $15 million to $30 million for health facilities and from $20 million to $50 million for large warehouse and distribution centres to cut back on the number of medium-scale or less-significant proposals that would otherwise have been dealt with by the State.

We have also continued to honour our commitment to exclude residential, commercial, retail and coastal subdivision projects from being specific classes as State significant development and we have expanded the exclusions to cover marinas as well. These types of part 3A proposals have caused significant community concern over the past six years and will no longer be considered State significant development, regardless of their scale. The removal of these classes of development and increase in the capital investment value thresholds for remaining classes will result in around a 50 per cent reduction in the number of matters that will be considered State significant when compared with projects previously assessed under part 3A.

The new State environmental planning policy will also include a schedule for listing specified sites and will initially carry across several sites from the Major Development State Environmental Planning Policy. These specified sites are of major significance in terms of delivering the Government planning agenda and will continue to be dealt with by the Minister but under the new State significant development provisions in part 4 of the Act. These sites include the Sydney Opera House, Luna Park, Barangaroo, Sydney Olympic Park, the Bays Precinct, Honeysuckle, Warnervale, The Rocks, Darling Harbour, Taronga Zoo, Fox Studios, Moore Park and Sydney

Sports Stadiums, Redfern Waterloo sites and Penrith Lakes. While as Minister for Planning and Infrastructure I will be the consent authority for State significant development, I will delegate these functions to the Planning Assessment Commission, for example, for proposals by private developers.

As State significant development will largely be undertaken by private developers, it is anticipated that the majority of these projects—over 80 per cent of State significant development—will not be determined by the Minister. For public authority projects such as schools, hospitals and other public infrastructure, it would be appropriate for the Minister to retain the consent authority function. However, I will delegate my approval role to senior officers of the Department of Planning and Infrastructure where appropriate, especially for minor or non-controversial matters that the relevant local council does not oppose. In addition to making the Minister for Planning and Infrastructure the consent authority, the bill also allows the Minister to return the assessment of subsequent stages of a development to the relevant council.

The Minister for Planning will not be able to grant consent to a development that is wholly prohibited by an environmental planning instrument, but consent for partly prohibited development may be granted. In instances where a proposed development is wholly or partly prohibited, a development application may be considered in conjunction with a proposed environmental planning instrument to remove the prohibition, for example, a rezoning by a local environmental plan. In such instances, the Director General of the Department of Planning and Infrastructure will become the relevant planning authority under part 3 of the Act and where the proposed local environmental plan relates to a State significant development that is wholly prohibited, only the Planning Assessment Commission can make the proposed local environmental plan and determine the related development application.

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I seek leave to table a policy statement that provides additional information about the ministerial call-in process, including how the concurrent rezoning process will work for proposals dealing with prohibited development.

Leave granted.

Document tabled.

All State significant development applications will be subject to a mandatory minimum 30-day public exhibition period, which will be extended in the regulations to a minimum of 45 days during school holiday periods. The bill also provides that if following public exhibition a State significant development application is amended, substituted or replaced by a later application, and the director general determines that it substantially differs from the original application, then the application must be placed on further public exhibition. One of the main features of the State significant development system will be heightened transparency and disclosure of decision-making.

This will include requiring the Department of Planning and Infrastructure to publish on its website State significant development applications, environmental assessment requirements, environmental impact statements, public submissions, and other related documents and reports relevant to the proposal as soon as they become available. The bill also provides that an environmental impact statement will be required to be submitted with a State significant development application even if it is not designated development. Environmental impact statements provide a clear and comprehensive framework for assessing the impacts of proposed development and have been a widely accepted tool used in New South Wales, other jurisdictions and internationally to assist in improving environmental outcomes stemming from development.

A key feature of environmental impact statements is the need for proponents to assess potential impacts, identify and evaluate options and alternative solutions, and outline ways in which the proposal can be modified to avoid, minimise and mitigate those impacts. The submission requirements for a State significant development application and the accompanying environmental impact statement will be outlined in the regulations so that the standard of assessment and reporting is made clear up-front to proponents and other stakeholders. The preparation of each environmental impact statement will be informed by whole-of-government input into the assessment requirements. This will ensure that a coordinated, strategic and holistic approach is taken to addressing the myriad issues that might arise with large, complex and multi-faceted development proposals.

All relevant State agencies will be consulted early in the process about the assessment requirements for environmental impact statements and their views will be sought on the proposal at inception, rather than later down the track. Furthermore, seeking early local council feedback, including inviting input into assessment requirements, will be an important tool for State significant development. This is particularly important where proposals raise particular local issues that should inform the preparation of the environmental impact statement, including developing any strategies to avoid, manage or mitigate impacts on local communities. By applying a coordinated and holistic assessment process, including involvement of all relevant government agencies at the early stages of the process, the need for separate individual approvals from those agencies further down the track can be reduced.

As such, additional and separate consultation and concurrence requirements such as for threatened species from other State agencies will not apply for State significant development. Also, the current provisions relating to the application of approvals under other legislation to part 3A projects have been brought across into the new division 4.1 of part 4 of the Act for State significant development to assist in integrating approvals for State significant development. The provisions mean that certain integrated approvals and other authorisations will continue not to apply while some other approvals will need to be consistent with the consent issued by the Minister. In addition, the bill applies the current regime for biobanking for part 3A projects to State significant development, so that biobanking remains an optional requirement for dealing with the impact of proposals on biodiversity for these projects.

The primary purpose of coordinating State agency input early in the assessment process and removing individual and separate approvals by different agencies is to enable one comprehensive assessment of environmental impacts to ensure they are properly mitigated together, rather than piecemeal and sequentially. This also enables the reduction of the bureaucratic red tape associated with major, complex and multifaceted projects that would otherwise trigger requirements under multiple pieces of legislation. Coordinating and streamlining the services that government provides through strategic, comprehensive and holistic assessments gives industry and investors greater certainty and will help get the State moving again. Such an approach will also give the community certainty at a much earlier stage about whether a project can go ahead and will provide greater confidence that a comprehensive suite of measures will be put in place to minimise and mitigate off-site environmental impacts.

As with local development, State significant development will be assessed under section 79C of the Act and, therefore, relevant planning controls and development standards in council local environmental plans will apply. As with local development applications, development standards can be varied where appropriate under State environmental planning policy 1. However, there is reduced latitude to do so than under part 3A where local development standards and controls could be completely ignored or contradicted. It is also proposed that the State environmental planning policy of State and Regional Development will include a provision to exclude the application of development control plans to State significant development and allow for relevant planning issues to be assessed taking into account site-specific factors and the individual merits of each proposal.

Development control plans typically are not prepared with major complex classes of development in mind and often do not provide appropriate planning provisions for the types of proposals that would come under State significant development. As such, detailed and meaningful planning controls need to be tailored to specific proposals as they arise. Furthermore, other provisions in development control plans covering matters such as notification, advertising and procedural matters related to the handling of development applications will be unnecessary, given that the new Act and regulation provisions will provide consistent statewide procedures for the State significant development application process. An important feature of State significant development that builds and improves on the regular part 4 process is the power for the Minister to require modifications to the proposal before approving it.

This new process encourages proponents to address and respond to concerns raised in submissions by the public and this may include modifying the final proposal to mitigate impacts or to otherwise deliver improved outcomes for the community. In respect of appeal rights, standard section 123 appeals will apply—those being judicial reviews on points of law. Existing third party appeal rights will also apply. The process for modifying State significant development consents will be the same as that for other development modified under section 96 of part 4 of the Act—that is, proposed modifications need to be substantially the same as the original approved development.

Significant changes to these developments would require lodging of a new development application, with full assessment and public scrutiny like any other development application. Another important feature for State significant development will be to reinstate general rules related to the lapsing of development consents.

Under part 3A the Minister has complete discretion about whether to require developers to commence work by a certain date, potentially leading to proposed development sites remaining untouched for indefinite periods without recourse. However, under State significant development, as with other development applications, consents will lapse after a maximum of five years—thereby encouraging developers to physically commence works including construction of buildings on sites so that the benefits of these approvals are realised sooner.
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The bill includes regulation-making powers in respect of State-significant development, including for the preparation of environmental impact statements, consulting with government agencies and other affected parties, making orders for declaring specified development as State-significant development, making application and determination information publicly available, and requiring applicants to provide responses to submissions. I seek leave to table a policy statement which provides additional information about the State-significant development process, including provisions to be included in the regulations.

Leave granted.

Document tabled.

Schedule 1.3 amends existing Act provisions and inserts a new part, part 5.1, to establish the new assessment pathway for State-significant infrastructure. New part 5.1, to be inserted by the bill, provides that State-significant infrastructure must not be carried out without the approval of the Minister for Planning and Infrastructure. The process for assessing State-significant infrastructure, as with State-significant development, aims to provide coordinated and strategic assessment by the State for large-scale projects. However, it is necessary to ensure that the process for assessing State-significant infrastructure proposals of direct and great public benefit to the community, including critical infrastructure projects, is comprehensive, efficient, and done with minimal red tape.

The bill provides that classes or descriptions of development may be declared State-significant infrastructure by a State environmental planning policy. The bill restricts such declarations, however, to development that is permitted to be carried out without consent under a State environmental planning policy, and infrastructure, as defined under the new part 5.1, or other activities permitted without consent where the proponent is also the determining authority and where an environmental impact statement would otherwise be required under part 5 of the Act. The bill also provides that the Minister may declare by a State environmental planning policy, or by an order, other specified development on specified land to be State-significant infrastructure. The bill also includes a provision that allows such declarations to be made on recommendation from Infrastructure NSW or the Planning Assessment Commission.

I draw the attention of the House to the policy statement I previously tabled outlining proposed classes of State-significant development. The statement also outlines the proposed classes of State-significant infrastructure to be listed in the proposed State and Regional Development State environmental planning policy. State-significant infrastructure largely includes classes of development undertaken by or for public authorities. We have tried to match, as much as possible, the underlying structure of the Act so that most large development proposals, including by private developers, are dealt with under part 4 of the Act, while public infrastructure projects are dealt with in a similar manner to that under part 5 of the Act.

The proposed classes of State-significant infrastructure include transport and public utility works undertaken by or for State public authorities and which would otherwise require an environmental impact statement under part 5 of the Act. These works were traditionally determined by the Government under part 5 of the Act, before part 3A was introduced. They include, among other things, major road and rail projects, electricity transmission and distribution, telecommunications, water and sewerage systems, and stormwater management and flood mitigation works. In addition, major public water supply works, public port and wharf facilities and Australian Rail Track Corporation rail infrastructure will also be captured if the works are valued above $30 million. State-significant infrastructure will also include submarine telecommunication cables and licensed pipeline projects.

The bill provides that if a development meets the description of a class of State-significant infrastructure and also a class of State-significant development under the State environmental planning policy, the development is to be assessed as State-significant development. This will ensure that there is one comprehensive, rigorous and transparent assessment process by the Department of Planning and Infrastructure, rather than a piecemeal approach. The bill also sets out provisions for staged infrastructure applications, and outlines the application and assessment process for State-significant infrastructure. This includes application lodgement requirements and the director general issuing the proponent environmental assessment requirements following consultation with relevant public authorities.

All State-significant infrastructure will undergo comprehensive assessment, including preparation of an environmental impact statement, with State agencies consulted early in the process about the assessment requirements for the environmental impact statements. As with State-significant development, by applying a coordinated and holistic assessment process, including the involvement of all relevant State agencies at the early stages of the process, there is a reduced need for separate individual approvals from those agencies further down the track. Similarly, additional and separate consultation and concurrence requirements such as for threatened species from other State agencies will not apply for State-significant infrastructure. Also, the current provisions relating to biobanking and the application of approvals under other legislation to part 3A projects have been brought across State-significant infrastructure to assist in integrating the approval.

As State-significant infrastructure will almost exclusively deal with proposals delivering important and high-priority community infrastructure, it is essential that a comprehensive and coordinated whole-of-government approach is taken to assessing these proposals, rather than requiring piecemeal and separate approvals from different agencies. The bill requires the director general to provide submissions or a report on issues raised in submissions to the proponent, and the director general may require the proponent to submit a response to issues raised in the submissions. The director general may also require the proponent to submit a preferred infrastructure report that outlines any changes to the proposal to minimise its environmental impact or to deal with any other issue raised during the assessment of the infrastructure proposal. This is an important feature that ensures public comments are duly considered, and it encourages proponents to seek better solutions by modifying the final proposal to mitigate impacts or to otherwise deliver improved on-ground outcomes for the community.

The bill includes provisions regarding the preparation of the director general's report to the Minister and the considerations the Minister is to take into account when deciding whether to approve or refuse consent for the carrying out of the State-significant infrastructure. The bill also provides that any State-significant infrastructure may also be declared critical infrastructure if the Minister is of the opinion that it is essential for the State for economic, environmental or social reasons. The concept of critical infrastructure was first introduced in 2005 to ensure that there was a straightforward and quicker way to assess and approve infrastructure projects of high importance to delivering government infrastructure priorities to the public. Today there is still a need to have in place a way to speed up the assessment and determination of high-priority public infrastructure proposals.

It is important to note, however, that future critical infrastructure declarations will be far more restrictive and will apply only to certain major public infrastructure projects that are not State-significant developments. This means that in future, development proposals such as power stations, wind farms and biodiesel projects will no longer be listed as critical infrastructure, hence significantly restricting the application of the critical infrastructure provisions. The main distinction between State-significant infrastructure and critical infrastructure is that for State-significant infrastructure an assessment is undertaken to determine whether the development should proceed. However, for critical infrastructure the proposal will generally already be recognised as a priority to proceed, and the assessment process assists in determining the details of how it will proceed.

Once an approval has been given, only the Minister for Planning and Infrastructure will be empowered to ensure that the environmental protections built into every critical infrastructure approval are complied with. As currently applies under part 3A, it will not be possible for any person, interest group, or other entity, including local councils or other government agencies, to commence legal proceedings under the Environmental Planning and Assessment Act 1979, or any other environmental legislation in this State, or to issue stop work orders to prevent the

government agency, or public private partnership, or private infrastructure provider, from carrying out the project.

The critical infrastructure provisions in this bill will not prevent interest groups and communities going to court to seek judicial review about whether a proposal has been assessed and determined in accordance with the law, in line with the principles recognised last year by the High Court in the case of *Kirk v WorkCover*. However, the bill ensures that there are no additional rights to seek judicial review of a decision on critical infrastructure, statutory or otherwise, beyond those recognised in Kirk. The provisions for critical infrastructure strike the appropriate balance between the rule of law and the role of the courts in reviewing the decisions of public officials, the need for certainty for investors, and the imperative that these projects be delivered speedily and without interference for the benefit of all the people of New South Wales.
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The bill does, however, include a three-month time limit for the bringing of any such judicial review proceedings in regard to State-significant infrastructure projects, not just those declared critical infrastructure. This three-month period is consistent with other provisions limiting the bringing of judicial review proceedings that already exist in the Act, in relation to the making of environmental planning instruments under part 3 and for the granting of development consents under part 4 of the Act, including those for State-significant development. These provisions limiting the time for judicial review proceedings are important in providing certainty for investors and the community alike. Including this provision in the bill strikes the appropriate balance between the need to allow the courts to supervise the decision making of public officials and the need for the Government and infrastructure providers to get on with delivering these projects for the benefit of all the people of New South Wales.

The bill also includes a range of machinery provisions dealing with State-significant infrastructure, including allowing for modification and conditioning of approvals. As with State-significant development, another main feature of State-significant infrastructure will be heightened transparency and disclosure of decision-making, including requiring the Department of Planning and Infrastructure to publish on its website environmental assessment requirements, environmental impact statements, and all public submissions and other related documents and reports relevant to the State-significant infrastructure proposals. The bill also includes regulation-making powers in respect of State-significant infrastructure for landowners consent, amending applications, application fees, and public exhibition, notification and public registers of applications and determinations.

Schedule 1.4 amends part 2A and schedule 3 to the Act in relation to the Planning Assessment Commission. The bill sets out revised functions for the Planning Assessment Commission. This includes any functions delegated to it under the Act and allows the Director General of the Department of Planning and Infrastructure, in addition to the Minister, to request the Planning Assessment Commission to provide advice, to review certain matters or to hold public hearings. The bill also amends schedule 3 to the Act to clarify that the chairperson is a member of the Planning Assessment Commission and that membership of the commission can range from four to nine members, including the chairperson. The bill also includes amendments to the membership of the Planning Assessment Commission so that members may not hold office for more than six years in total to strengthen the independence of the commission. The amendments also include allowing for Planning Assessment Commission members to be appointed on either a full-time or part-time basis and allowing the Minister to change the basis of the appointment during the member's term of office.

With the establishment of State-significant development and increased delegation of ministerial determination functions to the Planning Assessment Commission, there is a strong need to ensure that the membership and operation of the commission is optimal for undertaking its heightened role. The provisions relating to the Planning Assessment Commission membership and functions are part of a broader suite of measures to improve the transparency, independence and professional operation of the Planning Assessment Commission. Other measures will include providing more resources to assist the Planning Assessment Commission in carrying out its expanded role. As Minister I will require the commission to publish new operational procedures and protocols which outline how the commission will undertake its day-to-day functions in a more open and transparent way. Meetings where determinations of development applications are made will generally be open to the public to give opportunities to communities, local councils and proponents to address the Planning Assessment Commission directly.

There will also be an increase in Planning Assessment Commission public meetings in rural and

regional New South Wales, where there is significant community interest in a proposal. As well as making determinations in public and holding public briefing meetings for contentious proposals, the Minister for Planning and Infrastructure will still be able to direct the Planning Assessment Commission to hold an inquiry into a proposal by way of a full-scale public hearing and report back to the Minister with the results of that hearing. In this case the commission will also ask for written submissions from interested parties before asking them to make submissions to the commission in person. Consistent with the current provisions of the Act, if the Planning Assessment Commission determines a development application after conducting a public hearing at the Minister's request, with an opportunity for the community to make submissions and participate in the investigation of the proposal, there will be no appeal rights for applicants and third parties for applications under part 4 of the Act. This will ensure that the public's participation in the process cannot be undermined either by an applicant or a third party following the report of the Planning Assessment Commission, merely because they did not agree with the report of the independent umpire.

Let me make it clear, however, that appeal rights will be affected only if the Planning Assessment Commission holds a public hearing at the request of the Minister. Appeal rights will not be affected if the commission merely holds a public briefing or public determination meeting. Schedule 1.5 amends part 2A and schedule 4 to the Act and inserts a new schedule 4A, in relation to joint regional planning panels. As with the Planning Assessment Commission at the State level, joint regional planning panels will have an important role in determining large-scale projects, particularly those residential, commercial, retail and coastal projects that were previously dealt with by the Government. It is therefore essential to ensure that the membership and operation of the regional panels is also optimal for performing its functions. The bill will give local government more of a say in the selection of the chairperson of each regional panel by requiring the Minister to obtain the concurrence of the Local Government and Shires Associations of the proposed appointment. The associations' concurrence will not be required if they do not respond to the request within 21 days or if they refuse concurrence on two occasions with respect to the same appointment.

To provide transparency and to ensure that the best possible appointments are made, I propose to establish a panel with representatives from the Local Government and Shires Associations, the development industry, the Department of Planning and Infrastructure, and the Public Service Commission to advise me not only on suitable chairperson candidates but also on future appointments of other members of the regional panels. These proposed changes to rebalance how regional panel members are nominated and appointed will help to strengthen relationships with our council partners, ensure members are of the highest calibre and possess appropriate skills, and improve public confidence in the way decisions are made regarding regional development. It has been two years since the joint regional planning panels were first introduced to determine development proposals of regional significance. We have an opportunity now also to put in place administrative and procedural measures to respond to the lessons learnt over that time.

As with the Planning Assessment Commission, changes to regional panel membership are part of a broader suite of measures to improve the transparency, independence and professional operation of the regional panels to help build community confidence in the system. The operational procedures for the regional panels will also be revised and published, and will include improved systems for addressing key issues such as complaints handling and additional measures to remove instances where there may be potential conflicts of interest. The bill also inserts a new schedule 4A, which outlines the classes of regional development for which the joint regional planning panels will be the consent authority. This will provide ongoing certainty to industry, the community and local councils about what applications will be determined by councils and what will be determined by the regional panels. These classes of regional development have largely come across from the State Environmental Planning Policy (Major Development) 2005, with some changes.

It is proposed in the bill that applications for certain classes of regional development currently determined by regional panels be handed back to councils to determine instead. This includes most designated development proposals, certain types of coastal development and large subdivisions. It is also proposed to increase the capital investment value threshold for the general development category determined by joint regional planning panels from $10 million to $20 million, with the exception of council and Crown applications. Other classes of development applications determined by the panels will not materially change. These changes will return about 55 per cent of development applications to councils and will allow regional panels to concentrate on the determination of truly regionally significant development. With the return of the determination of those development applications to local councils, it will be important that councils continue to meet the performance benchmarks for those development applications within the range of $10 million to

$20 million so that the improved assessment times achieved by the regional panels and the flow-on savings to industry can be maintained.
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Accordingly, the bill includes a provision to give applicants the right to refer these development applications to the regional panel if they remain undetermined by the local council after more than 120 days, unless the chair of the regional panel considers the delay was caused by the applicant.

The referral of a delayed development application will not be automatic. The proponent will have the choice of pursuing determination by the local council after the 120 days expires or referring it to the regional panel. Council assessment officers will remain responsible for the assessment of the proposal at all times and a proponent's existing appeal rights will also be maintained. At the same time it is proposed to require regular quarterly reporting from local councils on their performance in processing these applications. Performance measures will include timeliness, consistency with assessment officer reports and appeals against decisions. To respond to instances of repeated or systemic poor performance in determining development applications, the bill also allows the Minister to designate additional classes of development back to the regional panels if the Minister deems the council's performance in dealing with those development proposals to have been unsatisfactory.

Schedule 1.6 includes miscellaneous consequential amendments to Act provisions in relation to the repeal of part 3A, the Planning Assessment Commission and joint regional planning panels, and the introduction of State significant development and State significant infrastructure. Importantly, the bill will allow the independent Planning Assessment Commission to recommend that a planning proposal be submitted to the Minister for a gateway determination. This will enable rezoning proposals that have planning merit or are consistent with local, sub-regional and regional planning strategies to be progressed even if a local council is unwilling or does not have the resources to pursue the rezoning at the time. In such a case the Minister can make the Director General of the Department of Planning and Infrastructure the relevant planning authority for the planning proposal to carry it forward.

Schedule 1.7 inserts a new schedule in the Act, schedule 6A, to provide transitional arrangements for existing part 3A project applications and concept plan applications. I am advised that more than 500 pending part 3A projects, worth over $60 billion, were caught in the part 3A system when the Government took office that will need either to continue under part 3A until determined, be transitioned to new assessment processes, or be returned to proponents and be re-lodged with councils. Transitional arrangements have already been determined for around 165 residential, retail, commercial and coastal subdivision projects.

It is proposed in the bill that the remaining part 3A projects for other classes of development currently in the system be subject to the following savings and transitional arrangements: part 3A projects that also fall within the new categories for State significant infrastructure will be assessed under the new State significant infrastructure regime, including State agency projects that meet certain criteria; other part 3A projects will be finalised under the existing part 3A regime where director general's requirements have already been issued by the time part 3A is repealed; projects that have not reached that stage of assessment yet will be assessed under the new State significant development regime if they also come within the new classes of State significant development; and, finally, certain projects will be removed from the State assessment system entirely if they do not match the new State significant development and State significant infrastructure classes and no director general's requirements are issued when the new legislation commences, or where director general's requirements have been issued more than two years previously and the proponent has not submitted an environmental assessment by the time the part 3A repeal is effective.

These provisions strike an effective balance between the need to provide security for investors and delivering jobs and housing for the people of New South Wales by facilitating the assessment of genuinely State significant proposals at a State level. The provisions also ensure that communities are able to have a real say at a local level about projects that should be determined at a local level. It is important to note that around a quarter of the pending part 3A proposals will leave the State assessment process entirely and be returned to the local level to be dealt with appropriately. Schedule 2 to the bill outlines consequential amendments to 22 other Acts, six regulations and six water sharing plans to build on existing references to part 3A by referring to State significant development or State significant infrastructure, where relevant. Schedule 2 also amends the Statutory and Other Offices Remuneration Act 1975 to make reference to full-time members of the Planning Assessment Commission under the Schedule of Public Offices. Schedule 2 also amends

the Subordinate Legislation Act 1989 to ensure that the Environmental Planning and Assessment Regulation 2000 can remain in force for another two years until September 2013 as an interim measure while a broader review of the planning system is being undertaken.

In conclusion, the bill offers an opportunity to wind back much of the layering and complexity introduced by the former Labor Government when it first introduced part 3A of the Act in 2005. The time has come to give planning powers back to communities. The majority of that task will be achieved through the outcomes we seek as part of the broad review of the planning system, which will be an inclusive review in partnership with councils and the community. However, in the interim, the bill will assist in slashing the number of development proposals dealt with by the State and depoliticising the determination of the remaining State significant proposals by handing them to the Planning Assessment Commission or to the Director General of the Department of Planning and Infrastructure for determination. This bill provides an opportunity to reinstate transparency, integrity and propriety in the way we assess and determine major developments of significance to the State of New South Wales. I commend the bill to the House.

Mr MICHAEL DALEY (Maroubra) [8.06 p.m.]: After all the bluster, fluff and verbosity from the then Opposition and now Government for more than 12 months, here we are. The dragon is dead—or so members opposite would have us believe. I concede that those opposite were very good at convincing the people of New South Wales that part 3A was a dog. But the Government has taken the labrador inside, given it a perm, sent it back out onto the street and told the public it is now a poodle. Nothing much has changed. For all its talk in the past nine weeks about being pro business, the Government has delayed, obfuscated and talked its way into not doing very much. All the while, applicants with part 3A applications lodged for significant and costly developments have been stalled and their holding costs have run up. They are the ones who have been penalised.

Why am I as shadow Treasurer and shadow Minister for Finance speaking to the Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011? The answer is clear. The shadow Minister for Planning Infrastructure and Heritage, the Deputy Leader of the Opposition and member for Canterbury would have led on this bill but earlier today she was removed from the House in questionable circumstances, to say the least. Today the Government has moved to repeal part 3A of the Environmental Planning and Assessment Act. The Opposition received a copy of the legislation only this morning—and I thank the Minister for the briefing we received on it. The Opposition has agreed to the bill passing through all stages because, as has been said many times before in the past nine weeks, it is allowing the Government to ramp up its legislative program to give work to the other place. The Opposition will not oppose the bill in this place, given the importance of the New South Wales planning system to the economy of the State. But as the Opposition has only had a short time to consider it in detail and to speak to stakeholders, it reserves the right to amend the bill and to speak further about it in the other place.
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The New South Wales Opposition takes seriously the role that planning plays in our State's economic growth, as well as in the lives of our communities. As such, members of the Opposition recognise that this is an important bill. But I want to make a number of observations about what this bill does—or, more correctly, what it does not do. Given the Government's commitments prior to the election, the record should reflect exactly what this legislation delivers, and exactly what it does not. Members may recall the release of the document, "Start the Change", by the Liberal Party and The Nationals in 2010. I do not believe it is still available online—they have removed everything else that they are embarrassed about. I will quote from that document. Page 59 tells us what the Liberal Party and The Nationals were promising the people of New South Wales. It states:

> The NSW Liberal and National Parties are committed to returning local planning powers to local communities (through their councils). We believe that local residents—through councils—are best placed to make local planning decisions affecting their suburbs.

Members will recall the great fanfare that accompanied the Coalition's "Contract With NSW." I love this one; it is a cracker—apart from the photos.

Mr Brad Hazzard: Am I in it?

Mr MICHAEL DALEY: No, you are not. The Minister is too good looking for it. If he sees the roll-up, he will know I am correct. It says, "If we don't perform you can hold us to account at the next election." Opposition members will make sure that the people hold the Government to account at

the next election, particularly in relation to the legislative sleight of hand in this bill. The contract is a blatant rip-off of an idea from the conservative parties in the United Kingdom and the United States of America, but I suppose no-one ever seriously accused the conservative parties of having too many original thoughts. The contract, which was personally signed by the Premier, states on its final page:

> We will return planning powers to the community … We will Scrap Part 3A and rewrite the Planning Act to give communities a say again in the shape of their neighbourhood.

Local communities and councils could be forgiven for thinking the election of the O'Farrell Government would herald a new era for them, when they would be empowered by the new State Government to take planning decisions into their own hands. They could be forgiven for thinking that the scrapping of part 3A by this new Government would mean that State significant residential development would no longer take place, that ministerial discretion would no longer exist and that bodies such as the joint regional planning panels would no longer make decisions. They could be forgiven for thinking all those things, but this bill shows that they were mistaken in thinking that that is what the O'Farrell Government would do. One needs only to read the explanatory note to the bill to see that. It states:

> Development that is State significant development will be dealt with under Part 4 by the Minister.
>
> Development that is State significant infrastructure will be dealt with under a new Part 5.1 by the Minister.

The bill does not scrap part 3A and return planning powers to local communities. The bill scraps part 3A and renames it "part 4" and "part 5.1". Rover becomes Lassie.

Mr Andrew Gee: Great gag.

Mr MICHAEL DALEY: Is that right?

Mr Andrew Gee: I like it.

Mr MICHAEL DALEY: Good, thank you. Under the bill does the Minister retain discretion for calling in State significant development? Yes, he does.

Mr Stephen Bromhead: It’s a bit rough. It's got hair on it.

Mr MICHAEL DALEY: It has been permed and now it is poodle, apparently. The Minister will say that he has to get advice from the Planning Assessment Commission [PAC] first. That is fine. So he seeks advice, but he retains the call-in discretionary powers. Under the bill, does the Minister retain the decision-making power he currently enjoys under part 3A? Yes, he does; he just relocates it to part 4 and part 5.1. The Minister will say, as he did earlier, that he will delegate his decision-making power to the Planning Assessment Commission. Let us talk about the Planning Assessment Commission. Who set it up? It was the Labor Government. Who brought it into operation? It was the Labor Government. Who is going to retain it, make it more powerful and not return its powers to local communities? That is Liberal-Nationals Government. Let us be very clear about this. The Minister is not giving back the powers of the Planning Assessment Commission to local councils. He is retaining them for himself, as the legislation permits him to do, and he will delegate them for private projects to the commission. Another Minister might choose to behave otherwise, but the legislation permits him to do just that. Under the bill does State significant development still include residential development? Yes, it does. The bill stipulates that State significant development includes major developments such as mines, large chemical and manufacturing plants, large warehouses and distribution centres, hospitals, some port facilities, electricity generation projects, large waste management facilities and—the catch—urban renewal sites.

The Government has deceived the communities of Randwick, the City of Sydney, Granville, Leichhardt and, yes, even Ku-ring-gai, whose residents hate home units—everyone else in Sydney has to live with home units but the good folk of Ku-ring-gai will not have anything above nine metres. They thought the Premier's promise to scrap part 3A would mean that State significant urban renewal sites in their areas—we do have them in Sydney in established urban areas—would be returned to them for determination. All those people who joined my good friend the member for Coogee outside the Coogee Bay Hotel to rally against part 3A may well be back at his electorate

office rallying against him and his Government, because this bill leaves the door wide open for the Minister to call in and declare pretty much any development he wants under the guise of urban renewal.

Under the bill do joint regional planning panels still exist? Yes, they do. Joint regional planning panels were established by the Labor Government in July 2009. They have accelerated planning decisions, facilitating economic investment and jobs growth, and taken the politics out of planning—the politics that this Government said did not exist but now is keeping. The Liberal-Nationals Government will not be returning planning decisions to local councils through this bill. In fact, the Government will retain the joint regional planning panels. So to all those councils, community activists and residents out there who believed the Premier when he pledged he would return planning powers to them, the proof is in the pudding—this legislation. He is not. Since part 3A was introduced in 2005 it has seen $60 billion worth of capital investment approved and 200,000 jobs supported. It is no wonder this Government is retaining it by another name.

Mr ROB STOKES (Pittwater—Parliamentary Secretary) [8.16 p.m.]: I support the Environmental Planning Assessment Amendment (Part 3A Repeal) Bill 2011. I note the comments of the member for Maroubra, who agreed that part 3A was, in fact, a dog that needed to be collared. That is what the communities of New South Wales have been telling us for the past three years, in particular. I remember when the now Minister made the announcement at a rally calling on the then Labor Government to save Currawong on the western foreshores of Pittwater from Labor's plans to subdivide and residentially redevelop that beautiful coastal bushland historic site as a gated community of McMansions. Communities throughout New South Wales have been demanding that these absolutely draconian planning laws be removed.

The member for Maroubra made a number of fallacious statements, the first of which was in relation to residential development. One of the big reasons why part 3A had had its day and why it needed to go was that residential developments that were clearly not State significant, such as home unit blocks and developments such as that, were being caught in its ambit. I will spend a little time on Currawong because it illustrates to the House why part 3A was so bad and why it needed to go. Currawong is only State significant because of its heritage value, not as a development site. Under the major projects State environmental planning policy at the time one could call for development—a 25-lot subdivision, for example—in a sensitive coastal site, such as Currawong, and it could be caught in the part 3A net.
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The site at Currawong was owned by Unions NSW. The then leader of Unions NSW, now Leader of the Opposition, John Robertson, facilitated the sale of the site to a development company, Eco Villages. That company put a caveat over the land title of Currawong before Unions NSW gave its executive body the agency to sell the site. Perhaps Eco Villages knew something before the vote; we will never know. Eco Villages then made a development application for a 25-lot coastal subdivision and the then Minister for Planning called in that 25-lot coastal subdivision redevelopment for his personal determination. It was cute—very cute indeed. Even cuter, it emerged that Eco Villages had made significant donations to the New South Wales branch of the Australian Labor Party. That is what stank about part 3A.

In a political sense, clearly part 3A was developed as a route for funnelling developer donations into the pockets of those in Sussex Street. That was its reason for being. It was a route for developer donations, nothing more and nothing less. The not-so-subtle implication behind part 3A, as it was developed in a political sense, was that the Minister had a wide discretion to call in all sorts of developments that, on any rational grounds, could hardly be considered State significant. If developers wanted the Minister to be more inclined to call in their developments, they trotted down to Sussex Street and made their donations. If they did that, the Minister might be more likely to call in their developments for his or her personal determination. That is what was wrong with part 3A. Belatedly, the Labor Government realised that it was doing damage to the Labor brand. The then Labor Premier, Nathan Rees, the member for Toongabbie, in the final moments of his premiership realised that developer donations were doing the Labor brand a huge amount of damage. He introduced legislation to ban those donations and part 3A became a shell. The reason for it had all but disappeared. The shell remained but the reason for its enactment had gone.

Mr Nick Lalich: It's now called part 4 or part 5.

Mr ROB STOKES: The member for Cabramatta refers to parts 4 and 5. The member for Maroubra, who led for the Opposition on this bill, suggested that we have developed a new part 4 to put part 3A into. I have news for the member for Maroubra. Part 4 has been in the Act since its

enactment in 1979. It was a simple Act when it was first developed. Part 3 dealt with plan making, part 4 dealt with development control and part 5 dealt with environmental assessment. It was elegant and simple. Over the past 16 years the Labor Government introduced more than 100 substantive amendments and made a mess of an elegant and simple piece of legislation.

Mr Kevin Anderson: A mockery of development.

Mr ROB STOKES: It made a complete mockery of planning laws in New South Wales, as the member for Tamworth points out. This Government has had to fix the mess. It is interesting to see how far New South Wales Labor has fallen. Labor legend Joe Cahill, when setting up the first comprehensive planning system in New South Wales in 1945, said:

> Planning shall be democratic … the people themselves shall join in the planning to the greatest extent possible. We will not have planning imposed from above.

That is exactly what part 3A was designed to do. We see how far Labor has fallen. To Labor's shame, those opposite still do not get it. They still do not understand the damage that part 3A caused to their brand. They still do not understand the community anger at part 3A and the damage it was doing to the environment, to communities and, most crucially, to public confidence in the planning system. Each and every member in this place, beyond our policies and politics, is here to maintain public faith in the institutions of democracy and the Parliament. Part 3A went to the heart of public confidence in the system, which we are here to uphold. That is why we must repeal part 3A. It was a cancer eating away at public confidence in this State. That is the reason we have introduced this important bill.

Part 3A ostensibly was introduced to fast-track the assessment of proposals for major or significant development by establishing a streamlined assessment process, with the Minister for Planning installed as decision-maker in the place of local council. That was not the real purpose of part 3A. We have always had a mechanism to enable the Minister to call in matters of true State significance. Part 3A allowed the Minister sweeping powers to declare a huge range of potential developments as State significant, to call them in for his or her personal determination in a truncated assessment process and to switch off all the protections that those who were not among the Minister's favoured coterie of developers had to comply with. The powerful, vested-interest developers, particularly the ones who had made big donations to Sussex Street, did not have to jump through the same hoops that the ordinary citizens of New South Wales had to.

The favoured developers were exempt from established environmental assessment for coastal protection, fisheries management, biodiversity protection, heritage, water management and bushfire risk. Once a proposal received a green light under part 3A there was no need to get approval before demolishing heritage items, destroying Aboriginal sites or clearing native vegetation. Part 3A could be applied not just to developments that were considered truly State significant, such as large industrial processes, renewable energy plants, freeways and bridges. It could also be applied to developments such as residential flat buildings. I do not know how a residential flat building could be considered State significant. The ordinary person in the street would say that type of development should be determined by the local council. The Environmental Planning and Assessment Act was set up for that purpose.

The clear objectives of the Environmental Planning and Assessment Act were general planning, to provide for power sharing between State and local governments, and to offer increased opportunities for public participation. Part 3A attacked the two latter objectives. It attacked the objective of power sharing between State and local governments to ensure that projects were assessed at the right level determined on their significance, and it attacked the clear objective of the original Act to ensure increased opportunities for public participation.

Mr Kevin Anderson: An undercurrent of deceit.

Mr ROB STOKES: As the member for Tamworth says, it was a complete undercurrent of deceit in relation to the way that part 3A was processed at a political level by various Labor Ministers. It has been said that political parties are tending to merge. One area of marked difference that I have noticed in my time in this place, having examined legislation and having been involved in debates, is that Labor tends to favour centralisation and Liberal tends to favour devolution to involve local communities. In any area of government that tends to be the general theme, and in planning it is very clear. The problem with the centralisation of power in relation to planning is, as Lord Acton once famously quipped, power has a tendency to corrupt. By containing too much power in too few

hands, one creates a perception of corruption. When there is a perception of corruption or the opportunity for corruption, it does not really matter whether corruption exists. The perception of corruption allows the damage to be done. That is why the repeal of part 3A is so important.
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This legislation is only the first part of what the Government needs to do to clean up the mess in planning legislation in New South Wales left by Labor governments. The Environmental Planning and Assessment Act has become bloated over the past 16 years. What was a very simple and elegant Act has now become a monstrosity that is very difficult to read and understand. It is virtually inaccessible to ordinary citizens. We have a big job in cleaning it up. I recall that at a breakfast the former Minister for Planning said she could not quite understand an area of her own legislation and had to get the director general of planning to help her out. Some suggested it was terrible that a Minister did not understand her own legislation, but I thought there was a deeper point. I did not think that indicated that the Minister was stupid; rather, it indicated that even the Minister for Planning, who I understand to be a very intelligent person, could not understand her own legislation. If the Minister could not understand that legislation, how could anyone in the community understand it? That became a real problem with planning legislation in New South Wales.

This bill is the first step in restoring public faith in the planning system. As the new Minister for Planning has already indicated, this is the first step in a comprehensive overhaul of the entire Act, to restore some semblance of structure, order and good process to planning in New South Wales. Public confidence in the planning system is absolutely crucial. The member for Maroubra indicated how important the planning system is. Planning decisions must be made clearly and accountably, and they must be made at the right level to ensure full community involvement and proper protection of the environment. That is what this Government must do.

Mr KEVIN ANDERSON (Tamworth) [8.31 p.m.]: I support the Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011. One could fairly compress that elongated title to just two words: common sense. Common sense is underpinning the O'Farrell-Stoner Government. Right from day one we said we are going to get New South Wales back on track and make this the number one State again. This bill is a significant demonstration of how to do that. I commend the Hon. Brad Hazzard, Minister for Planning and Infrastructure, and Minister Assisting the Premier on Infrastructure NSW, his staff, who are still here at this late hour, and of course the department for doing such a magnificent job, putting in hours and hours of work to unravel the spaghetti and network wrought by this terrible part 3A.

It has constrained, restricted and choked quite a number of significant developments. I believe in some cases part 3A made it all too hard to operate in New South Wales, and led to developments being undertaken elsewhere—north in Queensland and south in Victoria. Companies said they were not doing business in New South Wales because it was far too hard—that is, unless they were in the pockets of those who held the pens to write the signatures and approve developments that were brought under part 3A, in circumstances which in some instances were quite questionable.

Part 3A was the planning assessment framework that was used by the Labor Government to deal with State significant development projects, and override all local planning controls, and community concerns with proposed development. The key words there are "override all local planning controls". A most significant aspect of the new Coalition Government is its consultation with local communities and giving local government the opportunity to control what happens in their communities. No-one knows better than local government, in consultation with their communities, what happens at ground level.

Local government has worked hard to deliver local environment plans that will best deliver the services and infrastructure necessary to ensure communities live harmoniously with infrastructure and development that works well in those communities. Local communities do not want to be dictated to by a few people in backrooms who have no regard for communities. That is because they have been controlled by a puppeteer government that is imposing its mandate upon them, telling them exactly how the State will be run, without caring what happens in some areas of New South Wales, particularly regional areas.

Local planning laws have been pushed out the door, and local government had no say. It was left with its hands tied behind its back and with little funding because of the cost shifting that also was part of the 16 years of control from Sussex Street. That had to stop, and it will be stopped by repeal of part 3A. The time has come to give planning powers back to local communities. In

repealing part 3A, the Government is honouring two of its commitments on the New South Wales planning system: first, returning a broad range of decision-making powers to local communities and, second, proving a planning framework for genuinely State significant development that provides certainty or investment and the efficiency needed to get this State moving again. That is a significant statement in the conversation about significant development and significant infrastructure. Getting the State moving again and providing the efficiency needed to get it moving again are critical to encourage companies that have been looking to invest and become involved in regional development and in State significant projects.

New South Wales was once the great economic powerhouse of Australia. Investors and developers would enter this State as a place of great opportunity. Suddenly, they came across the brick wall of part 3A, implemented under the Labor Government. It was as if Labor had set out to make it really difficult for those people to get involved in this State, and how to make it difficult for companies to invest in New South Wales. But the former Government also decided it needed control. It wanted the power to tell companies what is best for this State and how they should run their businesses, so it invented part 3A. I am pleased to be speaking this evening in support of repeal of part 3A.

This Government's approach is about tailoring the system to suit the types of projects being assessed, rather than just loading everything under part 3A and ignoring the wishes of local communities. The bill provides an opportunity to reinstate transparency, integrity and propriety in the way that we assess and determine major developments of significance to the State of New South Wales. The electorate of Tamworth has a number of projects that will come under new part 3. These new environmental planning and assessment measures are robust tools being implemented by the Government. Part 4 relates to State significant development, and part 5 relates to State significant infrastructure. Many areas in the electorate of Tamworth are breathing a sigh of relief today, because they know they can do business in this State again. They can see that there is light at the end of the tunnel. The light is no longer a train wreck; it is a hope and a vision for the future. It is a strategy and plan to go forward and make this great State number one again.

The new system will ensure that only projects of genuine State significance will be determined through the new State significant development and infrastructure framework. The bill splits projects of State significance into two classes: State significant development, under part 4, and State significant infrastructure, under part 5.
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Under State significant development, projects will have to be consistent with local planning controls. That means that local governments will have a say in what happens in their communities, and that is critical. Local governments need to be given respect and they need to be given the authority to say what happens to a certain level in their communities. That is why this bill is a significant step forward in getting us back on track to where we need to be.

State significant development is typically private projects such as mines and manufacturing projects, and some public projects such as hospitals, wind farms, et cetera. In relation to hospitals, Tamworth Base Hospital is about to undergo a total redevelopment and I am delighted that this bill will envelope that redevelopment and cushion it through. It will show our communities that this Government cares for them, that this Government is listening to them, and showing them how it is going to work with them and not against them. The Minister will delegate decision-making authority to the Planning Assessment Commission or the director general of the department for more minor or non-controversial projects, which is an excellent way to go.

Private projects will be dealt with by the Planning Assessment Commission at arm's length from the Minister. That means that no longer will the Minister be the controlling authority over absolutely everything. There is a change of culture in the Coalition Government. There is a breath of fresh air and a weight lifted off shoulders in relation to moving forward with State development. In the change of culture I am talking about there will be no cash for comment and there will be no dollars for decisions; it will be open, transparent and consultative. We will make sure that there is a process in place to ensure that the planning processes are robust and at local level.

Joint regional planning panels now will be able to decide projects up to $20 million, which is an increase from $10 million. Let us give the panels a bit of power. Let us empower them to make the decisions that are good for their communities. As with any building company—and I come from private practice—as with any project, you set a date for when you want to commission that project. You have a budget worked out and you know the processes you need to go through, the time lines, the benchmarks and the key performance indicators. You have an end time and you

basically work back from that, which pretty much gives you your project plan.

Under the old part 3A, if you hit a snag and the project got stuck and bogged down, it would get put on a table, a desk or a shelf and it was left there until someone got around to it, and that cost dollars. It made companies rethink about investing in New South Wales. It made companies look over their shoulders at Queensland and Victoria. In relation to investment opportunities, companies were walking out the door and walking north, south and west. One of the significant aspects of this legislation is that it will provide hope for those businesses looking to invest in New South Wales. Assessment times will be reduced, and that will return savings to the industry. Around 50 per cent of proposals under the old part 3A will go back to council.

Today I had the pleasure of hosting the mayor and general manager of Mid Western Regional Council here in the Fifty-fifth Parliament—the oldest Parliament in Australia—and they were delighted to hear two words that are ringing clearly throughout the Coalition, two words that they have not heard for so long, and they are breathing a sigh of relief. Those words are: common sense. Common sense is now being applied to policy, it is being applied to legislation and it is being applied to the way that this State will be run. That is what we have been crying out for. That is what so many people, particularly the new members of this House, including me, campaigned so hard for. As we doorknocked we heard businesses, private enterprise and many people saying, "Let us get some common sense back into the way we run our State."

Mr Bryan Doyle: That is what we are going to do.

Mr KEVIN ANDERSON: That is exactly what we are going to do. We are also making significant changes to the joint regional planning panels. We are ensuring that those projects that are determined by the panels are truly regionally significant. There will be input into those panels, which will comprise two council employees, two State Government appointees and an independent Chair appointed by the Minister from a list of candidates agreed to by the Local Government and Shires Association. We had genuine consultation and genuine input from people on the ground, people at the front line, who know what they are talking about in relation to their communities. Many of us have cried out for far too long for that to happen.

The bill also amends the criteria for regionally significant development to be referred to the joint regional planning panels for determination by increasing the capital investment threshold up to $20 million, which is certainly the way to go. This is about giving more responsibility back to councils and local communities, and we will see how they manage that responsibility when we review the planning legislation. It is a change of culture. The member for Maroubra told us that it was a dog, and he is absolutely right—it was a dog of a process.

Ms Clover Moore: Did he say that?

Mr KEVIN ANDERSON: Yes, he did. Did he not say it was part of a dog?

Mr Greg Piper: Which part?

Mr KEVIN ANDERSON: That is up to you. You can help us out.

Ms Clover Moore: The tail.

Mr KEVIN ANDERSON: The tail wagging the dog; the dog wagging the tail. He said at one point that we took the labrador in, we gave it a bit of a buff and out came a poodle.

Mr Ray Williams: They didn't do that to the dog?

Mr KEVIN ANDERSON: They certainly did.

Mr Ray Williams: No dogs were harmed during—

Mr KEVIN ANDERSON: That is right. No dogs were harmed during the making of this bill. I return to the matter of repealing part 3A. It is a very positive move by the Minister and I support the bill in its entirety. It will give back common sense to the planning decisions in our region. The time has come to give planning powers back to local communities. I commend the Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011 to the House.

Ms CLOVER MOORE (Sydney) [8.47 p.m.]: I support and welcome the Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011, which is a step in the right direction towards much-needed reform to the planning system after years of emasculation of what was once landmark legislation. The Environmental Planning and Assessment Act 1979 was a response to the ravages of the Askin Government, which saw development excesses and appalling and rapid loss of heritage, particularly in the inner city. At that time people had no say in the form and future of their cities, towns and environments. It was a free-for-all between governments and developers.

The Environmental Planning and Assessment Act was proudly introduced by a former Labor government and it enshrined community rights to be informed and involved in planning and development processes, particularly for development that affected communities. But the achievements of the 1979 Act were progressively reversed under successive legislative changes by the former Government over the last decade. Heritage protections were gutted, and the built environment and neighbourhood amenity were put in the hands of people the community had not elected and who did not live locally. I opposed those changes every step of the way in this House.

In 2005 when then Planning Minister Knowles introduced part 3A, I told the House the bill "could be a recipe for environmental degradation, urban chaos and social dysfunction". Part 3A gave the Minister extraordinary discretion over environmental assessment and final development approval at the expense of community input and checks and balances in order to fast track development. It created a new process for major projects and critical infrastructure that reduced accountability and transparency, took away people's right to be involved in development in their neighbourhoods and, worse, took development assessment out of the public arena to behind closed doors, creating an environment conducive to corruption.

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I called for a division to oppose that legislation and only five Independents voted with me.

In 2006 there were further changes proposed which I again opposed. These changes allowed the State to override development control plans formulated with community input. It enabled the Government to spend development contributions away from communities impacted by a development, and to appoint administrators or panels to perform the functions of councils. Also in 2006 I opposed changes that allowed the Minister to ignore environmental assessments that prohibit development approvals. Again, in 2008, I opposed changes that transferred planning decisions from elected councillors to unelected panels and bodies hired and fired by the Minister or the developer. Bit by bit the people of New South Wales have had their hard-won rights to be involved in the future of their neighbourhood wound back and environmental and heritage protection diminished.

The Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill creates an interim planning process for major development and critical infrastructure, and returns some types of development to elected representatives, where they will be assessed openly and transparently. The Planning and Assessment Commission will determine State significant development, such as major developments like mines and hospitals, as well as urban renewal sites. The planning Minister will continue to approve State significant infrastructure, which includes roads, railways and pipelines. I acknowledge that the Minister says the bill is an interim measure while a comprehensive review of the New South Wales planning system is carried out; however, I do have some concerns with proposals in the bill.

The Minister retains a call-in power for State significant development. This process could deteriorate and create perceptions of and opportunities for a conflict of interest. Developers are likely to lobby to have their developments called in to avoid rigorous processes required by councils. They will use the need for jobs and housing as justification. The ability to call in prohibited development is a particular concern, which could encourage approvals of inappropriate development. A preferred approach would be to require a public and accountable process to look at amending planning controls on their merit and with input from the community.

I welcome provisions that allow for legal challenges against State significant development approvals. I am concerned that planning decisions will continue to be made by the Planning Assessment Commission, which is made up of unelected members. I acknowledge the Minister's comments that commission determinations will involve more opportunities for public comment. However, it remains another decision-making body in what is an over-governed State. The Minister should also commit to seeking and considering public submissions, including from councils,

communities and stakeholders, on the matters proposed in the new State environmental planning policy. The Government's review should aim to achieve a twenty-first century version of the 1979 Act, which encouraged the best social and environmental outcomes in planning. I look forward to working with the Government to achieve that.

Mr BRYAN DOYLE (Campbelltown) [8.52 p.m.]: I am pleased to speak in support of the Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011. I am pleased to see that the bill sets out a regime for the State to assess major infrastructure projects that can bring such great public benefits to communities throughout New South Wales and especially Campbelltown. The classes of State significant infrastructure will be set out in a State environmental planning policy. The types of proposals will primarily include large-scale and generally linear infrastructure such as roads, railways, pipelines, transmission lines and some port-related facilities. State significant infrastructure will also include activities carried out by public authorities that are likely to have significant environmental impacts.

An independent, integrated and comprehensive assessment process for State significant infrastructure will be coordinated by the Department of Planning and Infrastructure with input from relevant government agencies early in the process. The bill will require that an environmental impact statement be submitted with the State significant infrastructure proposal. Environmental impact statements provide a clear and comprehensive framework for assessing the impacts of proposed projects and also require proponents to identify and evaluate options and alternative solutions, and outline ways in which the proposal can be modified to avoid, minimise and mitigate those impacts. I am pleased to see that there will be a mandatory minimum 30-day consultation period for all State significant infrastructure projects and I understand that the Department of Planning and Infrastructure will publish on its website all submissions made in response to public consultation on a proposal. This will improve transparency and accountability in the assessment of these projects.

I note that the Minister for Planning and Infrastructure will retain his approval role for these projects given that these projects are mainly undertaken by public authorities or through public-private partnerships. With the Minister as the approval authority, and as a democratically elected member of the Government, there will be clear Government accountability in relation to the approval of projects that expend public funds and that are intended to deliver on Government election commitments, policies and plans. Importantly, however, the Minister may still request the Planning Assessment Commission's advice in relation to controversial or complex State significant infrastructure proposals or direct the commission to conduct public hearings in relation to a project. This provides another measure of transparency and integrity to this new assessment system for State significant infrastructure projects. I believe the community can have confidence that in this new system their concerns will be considered and that the assessment of major infrastructure projects will be as thorough and efficient as possible so that State significant infrastructure projects can be delivered for the benefit of communities with any external impacts reduced or minimised wherever possible.

The bill also includes important provisions to strengthen and expand the role of the independent Planning Assessment Commission. The commission will now have an expanded role in determining State significant development. The bill provides for this by allowing the Minister to delegate a broader range of functions to the commission. It is proposed the commission will determine all private State significant development applications other than those involving minor non-controversial projects with limited objections. In addition, the commission will have a new role in respect of State significant development which has been called in by the Minister. Where such development is prohibited, the commission will oversee the concurrent rezoning and development application process to ensure the proposal is appropriate having regard to existing planning controls and stakeholder concerns. This change is consistent with the recommendations of the Independent Commission Against Corruption.

In recognition of the commission's increased role, the bill includes provisions to increase transparency in the way the commission operates, strengthen its procedures and improve the process for appointing commission members. In particular, the bill strengthens the commission's capability by having a mix of full-time and part-time members as well as an additional pool of long-term casual members to increase the breadth and depth of experience needed for its expanded role. It provides that commissioners' terms be limited to a maximum of six years in line with the recommendations of the Independent Commission Against Corruption. It also provides for the commission to hold public hearings when requested to do so by the Minister, thereby providing members of the public with increased opportunity to comment on significant proposals. It also

provides for the commission's procedures to be formalised, including a requirement for all significant determinations to be held in public.

In addition to the provisions included in the bill other procedural changes will further strengthen the accountability and accessibility of the commission. For example, I understand that the Planning Assessment Commission will hold more meetings in rural and regional New South Wales where there is significant community interest in a proposal. Taken together these measures will go a long way to restoring the community's trust and confidence in the New South Wales planning system—a confidence that the community did not have with part 3A.
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In particular, I draw the attention of the House to the provisions in the bill dealing with the joint regional planning panels process for the determination of proposals of regional significance. This is a matter of great concern in my electorate of Campbelltown.

Mr John Sidoti: The pearl of the south-west.

Mr BRYAN DOYLE: No, it is the opal of the south-west. As the Minister said, the Liberal-Nationals Government is honouring its commitment to reform the New South Wales planning system. It is returning a broad range of decision-making powers to local communities and providing certainty and efficiency that investors can rely upon. That is vital for developing the economy. The proposed changes with regard to regionally significant development as outlined in this bill will help to achieve that and will strengthen the operation of the regional panels. The bill outlines the classes of regional development for which the joint regional planning panels will be the consent authority. I will list some of the developments previously dealt with under part 3A. Residential, commercial and retail developments valued at more than $100 million and coastal subdivisions have already been removed from part 3A and will now be determined by regional panels. Further, as identified in the policy statements tabled in support of this bill, determination of other developments such as marinas, some warehouses and distribution centres and other developments will also be returned to local councils. This means there will be a significant increase in applications going back to council for assessment. Assessments will be done by local council planning staff and in accordance with the planning controls in local environmental plans.

The bill also provides that certain classes of development currently determined by regional panels must be handed back to councils to determine. That includes most designated development proposals, certain types of coastal development and large subdivisions. Importantly, the bill increases the capital investment value threshold for the general development category determined by joint regional panels from $10 million to $20 million. These changes will return about 55 per cent of development applications to local councils. That will allow regional panels to concentrate on the determination of truly regionally significant development.

It is important that the improved assessment times achieved by the regional panels and the flow-on savings to industry are maintained. As at April 2011 the regional panels had determined 352 development applications and 96 per cent were in accordance with the council officer's recommendation. The changes proposed in the bill will ensure that regional panels can continue to support the assessment of regionally significant development applications by local council planning staff. Importantly, the bill will give applicants the right to refer development applications valued at between $10 million and $20 million to the regional panel if they have remained undetermined by the local council for more than 120 days if the applicant has not been the cause of the delay.

The bill also amends the way in which regional panel members are nominated and appointed. That is vital to help strengthen relationships with our council partners and to ensure that regional panel members have the required skills and experience. It will also improve public confidence in the way decisions are made regarding regional development. The bill will also ensure that local government has more say in the selection of the chairperson of each regional panel. That has been a matter of concern at Campbelltown—the opal of the south-west. The Local Government and Shires Associations will provide a list of suitable and appropriately qualified people with the required expertise and the Minister for Planning and Infrastructure will select the chair from that very same list. The operational procedures for the regional panels will also be revised, improvements will be made to complaints handling procedures and additional measures will be implemented to remove conflicts of interest.

This bill provides an opportunity to reinstate transparency, integrity and fairness in the way we assess and determine developments of regional significance in New South Wales. The changes to regional development criteria and panel membership are part of a broader suite of measures that

will improve the professional operation of the regional panels and help to rebuild community confidence in a planning system that desperately needs it. I support the bill.

Mr GREG PIPER (Lake Macquarie) [9.05 p.m.]: I support the Environmental Planning and Assessment (Part 3A Repeal) Bill. Any member who was in this Chamber in the early hours of 3 June 2008 would wish to be here to deal with what was a truly aberrant amendment to the Act introduced by the penultimate Labor Minister for Planning, the Hon. Frank Sartor. Debate on that legislation concluded at about 2.30 a.m. Earlier tonight I spoke about my credentials in the local government field, having been a Lake Macquarie councillor since 1991 and mayor since 2004. I put myself forward as a candidate for local government election because of my concern, which many others shared, about the nature of development in the Lake Macquarie area. I was appalled at what occurred, particularly over the last two terms of the former Labor Government and probably over its entire administration. We witnessed an inexorable march away from considering the concerns of local communities.

Part 3A was an abomination. There is no other way it can be described. It set aside the principles of democracy that served us so well through the Environmental Planning and Assessment Act 1979. That was a very worthy and well-developed planning instrument. If it had a flaw in contemporary terms it was the result of its age: it desperately needed to be modernised. It was the victim of a host of ill-considered amendments moved by the Labor Government. It looked like a very poorly constructed Christmas tree covered in appalling amendments. Nearly all of those amendments were designed to deprive someone of the right to participate in the planning process.

The 2008 amendment bill, which introduced the Planning Assessment Commission process and joint regional planning panels, was the star on top of the tree. It was a disgrace, and I put my strong objections to that legislation to the then Minister. In Minister Sartor's defence, I believe he had some sympathy for the issues being raised by local government representatives and members of this House. It would be hard to place all the responsibility for those atrocious amendments on his shoulders. The legislation was not the product of one Minister; it was a reflection of the systemic corruption of the process that occurred under the Labor Government's administration.
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I applaud the Government for once again bringing forward in a timely manner such a significant piece of legislation to honour a promise that it made to the community across New South Wales in the lead-up to the election. I thank the Government for doing that. I acknowledge my friend, Craig Baumann, the former mayor of and the current member for Port Stephens. I have had many discussions with him about this issue. I am also heartened that we are moving towards what appears to be a very genuine and serious reconsideration and reassessment of the planning legislation for New South Wales. I am heartened by what I am seeing: it looks like we are going to re-engage with local communities, in particular through local councils. I am still a little concerned about some of the thresholds. While I recognise that the thresholds for consideration under joint regional planning panels are doubled from $10 million to $20 million, we should put that into some kind of context. An amount of $20 million is very minor in development terms. Any review should seriously consider that.

I will reflect on a conversation I once had with former Minister Sartor. I am sure he will not mind my mentioning it. Some years back Lake Macquarie City Council had a major development before it for Charlestown Square, which was being undertaken by General Property Trust. It was a controversial development because of its magnitude. The original estimate of the cost of the project was $360 million; ultimately it was closer to $460 million—nearly half a billion dollars of investment in the city of Lake Macquarie, which is now in the electorate of the member for Charlestown. I am sure the member for Charlestown is very pleased to have that economic stimulus within his community. It is more than an economic stimulus; it really has improved community infrastructure, which is a key element of what Lake Macquarie City Council and other councils that pursued this project were after. It was not about looking after the interests of General Property Trust; it was about what we could do for our community.

We were having difficulties because the project was taking a considerable time—it was a complex development. To retrofit a major commercial centre that has the largest commercial turnover in the Lower Hunter was very difficult. I was approached by Minister Sartor and asked very quietly whether I would to have it taken over under part 3A. I politely—that is a euphemism—informed him that I did and that I felt somewhat offended if he felt a request to me might elicit a response that way. I informed the Minister that he could try to take it over; however, the development required council's contribution of land and therefore it would not be possible. The end of the story is that General Property Trust thanked me after the development was approved and well underway. It did

not believe it could have had a better result by dealing with the State Government through part 3A and through a planning assessment commission process; nor did it believe it would have delivered for the community if had not negotiated with council.

Councillors know their communities. Councillors live in their communities. We walk in the communities. We shop in the communities. We are directly answerable to communities and we want the best for our communities. This is what we should be doing. This is what good planning should be about, but the former Labor Government vicariously abrogated that responsibility for us. It was a disgrace. I am speaking in this debate tonight because I want my name attached to the same debate in *Hansard* that saw this aberration removed from the statutes as it was when I spoke against the planning amendment on that early morning in 2008. I thank members for their patience.

ACTING-SPEAKER (Mr Lee Evans): As one of the members said, you have a Minister who is listening now.

Mr CRAIG BAUMANN (Port Stephens—Parliamentary Secretary) [9.05 p.m.]: I congratulate the seventieth member of the Coalition on his impassioned speech. We will give him the nomination form in the morning.

ACTING-SPEAKER (Mr Lee Evans): Order! The member will direct his comments through the Chair.

Mr CRAIG BAUMANN: Minister Craig Knowles introduced the coastal policy, I think it was clause 71, giving the Minister the authority to determine all major projects within one kilometre of a tidal waterway along the entire New South Wales coast. One of the first approvals was for a 14-metre high building in an eight-metre high zone at Shoal Bay—a limit respected by all colours of Port Stephens councillors since Adam wore shorts. It was six metres over the height limit and the Minister's excuse was that he cut the applicant back by one storey. As mayor I visited all coastal councils from Port Stephens to Tweed and every council was frustrated by Sydney-based planners determining the character of their towns and ignoring the local residents. I know the member for Lake Macquarie, who is also the mayor of Lake Macquarie, had similar problems with the disastrous coastal policy of State environmental planning policy 71.

The Labor Government then introduced part 3A so all of us could share the pain. The income derived from the development application fees, which are the lifeblood of council planning departments, was channelled into that Labor Government. My experience in Labor Government has solidified my belief that professional assessment and decision-making with regard to development applications should occur at the local government level. As previous speakers have said, councillors and council staff live and breathe their communities. They are the best suited to determine the validity of most development applications. The repeal of part 3A is an important step in restoring public confidence in the planning system and in getting New South Wales moving again.

I will expand particularly on the features of the bill in relation to the proposed State-significant development process that will replace part 3A of the Act for development proposals of genuine State significance, particularly in rural and regional New South Wales. The Coalition has always maintained that following the repeal of part 3A of the Act it will be necessary to put in place an open, transparent and fair assessment process to deal exclusively with genuinely State significant developments. The proposed process for State-significant developments outlined in this bill provides such a framework and strikes an appropriate balance between returning decision-making powers to local communities while providing certainty and efficiency that investors can rely on when it comes to large-scale priority projects of State significance.

First, a State environmental planning policy will outline classes of State-significant development and these classes will only pick up major development proposals with importance to the State. Residential, retail, commercial, coastal subdivisions and marina developments will no longer be specified classes of State-significant development. We propose to increase the financial thresholds for other remaining classes of development. These changes will halve the number of applications dealt with by the State and return fewer significant applications to councils for assessment. However, I am pleased to hear the new State and regional environmental planning policy will provide that major employment-generating and income-producing proposals will still be assessed by the State.

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It is quite appropriate for there to be a State-based assessment of major employment-generating industrial development, coalmining and other large-scale mining, resource and primary industry projects such as petroleum and extractive industries, timber milling, intensive livestock industries, aquaculture, agricultural and food processing as well as metal and chemical processing and major industrial manufacturing, storage, and distribution facilities. State-significant development will also pick up major social infrastructure projects valued at more than $30 million including large-scale hospitals and medical facilities, correctional centres, schools, TAFEs and universities, major sporting facilities and cultural facilities such as performing arts centres, museums and exhibition and convention centres.

State-significant development will also include certain infrastructure projects over $30 million mainly undertaken by private proponents such as electricity generation, port and wharf facilities, water supply works, sewage and wastewater treatment plants, private road and bridge projects, industrial heavy rail lines, rail freight and intermodal terminals and related rail corridor developments. As well, it is important that the State continues to take a role for major development with significant environmental impacts such as electricity generation, sewage treatment, water supply works and resource recovery, and waste facilities such as landfills if they are located in environmentally sensitive areas for category one remediation works.

This is a great step forward for industry and communities as both can have confidence that the State will continue to take an important role in the assessment of major private proposals that deliver jobs throughout rural and regional New South Wales. Increased transparency and integrity are consistent themes throughout this bill and the associated measures. In his agreement in principle speech the Minister for Planning and Infrastructure said although the bill provides for him to be the consent authority for State-significant development, that for State-significant development proposals he will delegate this function to the Planning Assessment Commission for proposals by private developers or to senior departmental officers for minor, less-controversial proposals to depoliticise approvals and to introduce far greater independence and integrity in the handling of such applications.

I understand it is anticipated that the majority of these projects—more than 80 per cent of State-significant development—will therefore not be determined by the Minister. By moving these responsibilities to the independent commission or to senior departmental officers the Minister has moved to restore public confidence in the planning system. This is a big win for the planning system and will go a long way to putting the problems of part 3A behind us. I note however that the Minister may also call in projects under State-significant development, but I am pleased to see that this power has been tightly constrained and will only be allowed after the Minister has obtained and made publicly available advice from the Planning Assessment Commission about the State or regional significance of the development.

In addition, I note from the bill that the Minister cannot approve a wholly prohibited development. I understand that if an application for prohibited development is proposed, a concurrent rezoning would be required to remove the prohibition and, to ensure that such proposals are dealt with at arm's length, only the Planning Assessment Commission will be able to make the proposed local environmental plan and determine the related development application. I note that the bill will strengthen the independence of the Planning Assessment Commission and expand its role and also includes establishing clear protocols and procedures to which the commission will operate.

Another feature of State-significant development assessment will be heightened transparency and disclosure of decision-making including requiring the Department of Planning and Infrastructure to publish on its website State-significant development applications, environmental assessment requirements, environmental impacts statements, public submissions and other related documents and reports relevant to the proposal as soon as they become available. State-significant development applications will also require submission of an environmental impact statement that will provide a comprehensive assessment of the proposal. Relevant government agencies will be consulted early in the process about the assessment requirements for the environmental impact statements and their views will be sought on the proposal at inception rather than later down the track.

The DEPUTY-SPEAKER (Mr Thomas George): Order! There is too much audible conversation in the Chamber. It is difficult for Hansard to hear the member for Port Stephens.

Mr CRAIG BAUMANN: This integrated and holistic assessment approach also means that separate approvals and concurrences will not apply to State-significant development. This gives industry and investors greater certainty and will help get the State moving again. It also gives the community certainty at a much earlier stage about whether a project is feasible and that comprehensive mitigation measures will be put in place. As with local development, State significant development will be assessed under section 79C of the Act. Local development standards and controls can no longer be completely ignored or contradicted as they were under part 3A. Existing third party appeal rights will apply as will judicial reviews on points of law.

Importantly the bill will assist in slashing the number of development proposals dealt with by the State and depoliticising the determination of the remaining State-significant proposals by handing them to the Planning Assessment Commission or the Director General of the Department of Planning and Infrastructure for determination. These provisions strike an effective balance between the need to deliver security for investors, and jobs and housing for the people of New South Wales by assessing genuinely State-significant proposals at a State level and the need to ensure that communities have a real say at a local level about projects that should be determined at a local level.

Mr JAMIE PARKER (Balmain) [9.28 p.m.]: I speak on the Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011. The Greens welcome the repeal of part 3A of the Environmental Planning and Assessment Act. I acknowledge the Minister, the Minister's staff and departmental staff who have done a great deal of work to deliver this bill. Part 3A contains what many of us know was the discredited approval process that exposed this State's planning system to corruption and undermined public faith in the planning system. It has done enormous damage to local communities and the environment. It has also undermined the credibility and confidence of many in the planning industry who have stood up for their local communities, worked in local government throughout New South Wales and found their work undermined by the part 3A process. I trust this is the beginning of the reversal of many of the regressive changes introduced by the previous Labor Government, in particular heritage protection.

A major reason there are only 20 Australian Labor Party members in the House today is the corrosive impact, the dictatorial impact of the part 3A changes. In my local community part 3A has been used to exclude the community and Leichhardt council and has pushed development such as the White Bay cruise ship terminal, which I raised today in question time. Yesterday we heard this proposal will now cost close to $70 million, 35 per cent over the original estimate. This is an example of part 3A in action, a proposal that is not supported by the cruise ship industry, a proposal that is not supported by the Tourism and Transport Forum, the peak group representing travel and tourism bodies, not supported by local councils and not supported by the local community yet the former Government was proposing to spend close to $70 million to build a cruise ship terminal in White Bay that nobody wanted. It is absolute madness.

I am hopeful the Government will make a positive decision about White Bay, saving the Government money and ensuring that the tourism and cruise ship industry can prosper in its appropriate location of Barangaroo. I note the bays precinct will now fall under part 4, which is a great improvement on the former part 3, but it still withdraws the decision-making power from local government. I call on the Government to follow through on a promise the former Labor Government could not keep, a promise made to our community by former Premier Iemma in Balmain Town Hall at a community Cabinet when he committed his Government to a genuinely consultative master plan for the bay precinct, a genuinely open and inclusive master plan for what is one of our most precious resources in Sydney, our beautiful harbour. Many people who look at Australia look at Sydney and its harbour, but there is still no coordinated master plan for what happens in our harbour. That is a disgrace.
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Unlike the Government and the Opposition, The Greens and Independents opposed part 3A from its inception. In June 2005, Labor members, Liberal members and National Party members of this Parliament voted together for the introduction of part 3A. We know that when the bill reached the upper House, they changed their minds, but only The Greens and Independents consistently opposed the amendment. The Greens opposed it then and have sought to repeal it ever since. We have been working with our local communities to fight inappropriate development. We also have worked to promote sound planning decisions that have environmental and social considerations at the forefront of determinations, not exclusively the economic goals of a developer. We all knew then that part 3A would be a disaster, and our view has been vindicated.

The DEPUTY-SPEAKER (Mr Thomas George): Order! There is too much audible conversation in

the Chamber. Debate will conclude sooner if the member is heard in silence.

Mr JAMIE PARKER: One of those who voted against the introduction of part 3A was Ms Sylvia Hale, a former member of the Legislative Council and The Greens spokesperson on planning. Ms Hale described part 3A as little more than a State-run extortion racket, designed to raise millions of dollars in political donations from property developers for the New South Wales Labor Party. I believe that view is widely held within and throughout our community. The Greens welcome the repeal of part 3A.

I note that the Government is seeking to improve accountability and transparency of the Planning Assessment Commission, which The Greens welcome. We urge the Government to implement that as soon as possible to ensure that current developments which will be considered by the Planning Assessment Commission will benefit from the Government's proposed changes. However, we believe that more can be done to improve accountability of the Planning Assessment Commission to enable its democratisation. The Greens will outline detailed proposals for change in the other place.

The Greens have some concerns about the bill that I will draw to the attention of the House. Firstly, I am concerned about how little time members have been given to consider such important legislation. I acknowledge that the bill is an interim measure and that the Government intends to undertake a comprehensive review of the planning system, which The Greens welcome, but this bill establishes an approval process for potentially billions of dollars worth of developments over that interim period. Yet there has been little public consultation about the content of the bill. Even members of Parliament received the details of the bill only tonight. It is my view and the view of The Greens that that approach is not optimal for decision-making.

Part 3A has discredited the planning system in this State. The system that replaces it must build public confidence in the planning system. While giving members so little time to consider the detail of the bill is not a positive step towards restoring public confidence in the planning system, there are two points relating to the bill that I must discuss. One relates to joint regional planning panels. I welcome the return to local councils of determining most coastal and designated developments and large subdivisions, and the increase in the general development threshold from $10 million to $20 million. I acknowledge the presence in the House of the Minister for Planning and Infrastructure and the work that the Government has done on planning reform.

Government members: Hear! Hear!

Mr Gareth Ward: That is good.

Mr JAMIE PARKER: I probably will not give the Government a lot of credit, but when it is due I will. I should declare that I am a former member of a joint regional planning panel. I question whether there is a legitimate and ongoing role for joint regional planning panels, and why local councils do not deal with all developments that are not either genuinely State significant, or genuinely State-significant infrastructure. I hope that will be addressed by the review of joint regional planning panels. I understand that the panels will continue in the interim, but their composition should be changed. As I stated earlier, The Greens will address that issue in another place.

I will conclude my speech by referring to the other problem—the number of active industry representatives who are members on joint regional planning panels. That has potential for conflicts of interest to emerge. While the property development industry is large in terms of investment, it is relatively small in terms of people. Many industry representatives who are appointed to joint regional planning panels may have worked in the planning field in the past, and may reasonably expect to work in the future with an applicant who is before a joint regional planning panel. That can present the industry representative with a potential conflict of interest. What has most discredited the planning system in the eyes of the public are apparent or potential conflicts of interest in the planning approval process. Allowing the potential for conflicts of interest on joint regional planning panels to continue is not the way to rebuild public confidence.

I foreshadow that The Greens will be seeking to amend the bill in the upper House to overcome some of the concerns with this bill. Finally, I again recognise the work of staff, in particular ministerial staff, and the work of this Government. I encourage the Minster to hear the voices of many community groups in New South Wales who have had their trust in the planning system shattered. I encourage the Minister to increasingly empower local government—the bodies that are

democratic and accountable—and ensure that they are central to the future of planning in New South Wales.

The DEPUTY-SPEAKER (Mr Thomas George): Order! Opposition members and Government members will remain silent. Hansard is having difficulty hearing what is being said.

Mr GARETH WARD (Kiama) [9.35 p.m.]: I had not intended to join in debate on the bill, but given the enthusiastic address by the Minister how could one resist. I support the Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011 and acknowledge that its provisions seek to return planning and development powers to local communities. If there was one issue that was raised more often than others as I consulted throughout my electorate, it was the loss of the community's control over the future of its affairs. As a former Deputy Mayor and member of Shoalhaven City Council and a member of the Local Government Association of New South Wales, I saw a raft of reforms by the former Government that took away powers from local councils, and that was certainly a key concern in the community.

There is no doubt that planning legislation should have a provision for major projects to be considered. That was previously the case under the 1979 Act, which operated very effectively. However, in time it was patched and prodded to the extent that we now have a mishmash of legislation that does not provide certainty in the State's planning system. While we could not imagine the Mayor of North Sydney and the Mayor of Sydney negotiating on how to build the Sydney Harbour Bridge, the harbour bridge is an example of major infrastructure that is appropriately dealt with by Government. However, part 3A was being used for subdivisions for blocks of flats and golf courses, and that is not something that the community considered to be appropriate for a State Government to deal with. One example of that approach is the Calderwood proposal in the Kiama electorate which involved a massive development of floodplain and prime crop and pastoral land. Approval was given to that development in direct conflict with the Illawarra Regional Strategy.

In spite of the fact that the development was not intended to go ahead for many years, the proposal leapfrogged the Illawarra Regional Strategy and was placed on the Minister's desk. At the time, the Minister for Planning was the former Premier, Kristina Keneally, who gave support and life to the proposal at the concept plan stage as part of the rezoning. Donations were involved, which resulted in the matter being reported to the Planning and Assessment Commission. The donations were discovered by Nicole Hasham from the *Illawarra Mercury* and exposed during the 2011 election campaign. That is an example of the local community having lost its right to have a say in the future of its urban environment. Local councils that under normal circumstances would have dealt with the development were taken out of the process.

The legislation before the House represents a commitment as part of the Government's 100 Day Action Plan to ensure that local communities have a say in their future. What we saw from the former Labor Government was more and more power being taken away from local councils. This Government is confident that local communities are the best people to make decisions. We do not believe we should shy away from local people having a hands-on involvement in what should be happening in their local communities in relation to the size, bulk, scale and degree of development. This Government has confidence that local councils and local representatives can be held accountable to deliver certainty in the planning system and outcomes that local people want in their areas.

Mr RAY WILLIAMS (Hawkesbury—Parliamentary Secretary) [9.39 p.m.]: I inform the House that I am speaking as the member for Hawkesbury in debate on the bill, and not in reply. I participate in debate on the Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011 because tonight we complete a journey that was commenced in 2008 by the former Minister for Planning, Frank Sartor, when part 3 of the Environmental Planning and Assessment Act 1979 was amended. Members who were present during that debate will recall that debate ensued until 2.15 a.m. and that many members of the then Opposition and the crossbench spoke against that insidious amendment to the Act. In 2008, the amending bill took away control from local government. As a product of local government and as a councillor of one of the busiest councils in Sydney, The Hills Shire Council, I must say that I was incensed by that amendment because I knew full well that development would be taken away from local councils and out of the hands of local communities.
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I drove a very public campaign, with the help of my dear friend and Australia's greatest broadcaster, Alan Jones of 2GB. I appreciated his support, as the Opposition appreciated his

support. The one thing that the Opposition did not learn from all those days ago was the adverse effect of these changes on the Environmental Planning and Assessment Act. It drove a nail into the coffin by taking away the rights of the community. The passage of this bill fulfils another commitment by the O'Farrell Government to repeal part 3A of the Environmental Planning and Assessment Act.

In conclusion, I commend the Minister for Planning and Infrastructure for introducing this bill to the Parliament in the first term of the O'Farrell Government. The Minister wanted to fulfil this major commitment and he is a person of great integrity and experience. He has been charged with the responsibility of ensuring that we restore planning outcomes on behalf of the community of New South Wales. We made that commitment, which, in turn, will help restore this great State to being the premier State. I commend the bill to the House.

Mr JONATHAN O'DEA (Davidson) [9.41 p.m.]: I, too, make a brief contribution in debate on the Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011, mainly to put on the record the appreciation and thanks of my local community for the speedy action of the Minister for Planning and Infrastructure and the Cabinet of the new Government in getting rid of part 3A. I congratulate the Minister as this was the first decision of the new Cabinet. The community of Davidson, and I am sure I speak on behalf of the Premier in saying the community of Ku-ring-gai, will be delighted that concrete action has been taken, as promised before the election. There is no rail transport at St Ives and part 3A has been used inappropriately in areas like Lindfield and St Ives to consider residential dwelling developments that really should have been considered by either joint regional planning panels [JRPPs] or local councils, resulting in a denial of local democracy and local input.

This fantastic bill contains welcome changes to joint regional planning panels that increase the threshold from $10 million to $20 million and provide a more consultative chairperson appointment process. I note for the record the Minister's advice that the joint regional planning panels will be examined further in the context of a broader review of the planning legislation and that further improvements will be made. In conclusion, I reply to a comment by the shadow Treasurer, which was implicitly critical of the people of the Ku-ring-gai council area for not wanting development of a high rise nature. That demonstrates again why the Labor Party does not understand or care for my part of Sydney or value its heritage and environmental value—an area that has accepted more than its fair share of new dwellings under the Metropolitan Strategy. Perhaps that reflects why the seats of Davidson and Ku-ring-gai are held by the Liberal Party with two-party preferred votes of 86.5 per cent and 87 per cent. It reflects the disdain and contempt that people in my area have for the Labor Party. That is reciprocated by the Labor Party as demonstrated by the shadow Treasurer's comments tonight.

Mr BRAD HAZZARD (Wakehurst—Minister for Planning and Infrastructure, and Minister Assisting the Premier on Infrastructure NSW) [9.44 p.m.], in reply: It is a great day for New South Wales, it is a great day for the people, who want a return of transparency, integrity and honesty, and it is a great day to tell Labor that what it has done for the past 16 years will no longer be tolerated in New South Wales.

Mr Charles Casuscelli: Where's Noreen?

Mr BRAD HAZZARD: Where is she when we need her? I thank all members who have contributed to the debate tonight. In the spirit of goodwill I thank the member for Maroubra, the shadow Treasurer, but also the members for Pittwater, Tamworth, Sydney, Campbelltown, Lake Macquarie, Port Stephens, Balmain, Kiama, Hawkesbury and Davidson. What is interesting is that all members want a repeal of part 3A. Even the Labor Party appears to be keeping silent; we merely had concern about breeds of dogs from the member for Maroubra. The matter is a little more substantive than that; this is a serious issue because for 16 years the former Labor Government was absolutely rotten in the way in which it dealt with planning issues. Since 2005 members opposite could have qualified for post-graduate degrees in rotten planning issues.

Mr Gareth Ward: Masters.

Mr BRAD HAZZARD: Masters degrees, PhDs in dealing with planning issues. Their actions have been unacceptable. The Liberal-Nationals Government clearly states to the people of New South Wales tonight that this is all finished. The planning system will be open, transparent and honest. The member for Maroubra stated that the Government had briefed him. In fact, I spent nearly half an hour briefing the shadow Minister this morning and I spent another half an hour with the

member for Maroubra this afternoon. At one point I offered a briefing to another Opposition member who, at that point, was likely to be leading for the Opposition. We did everything possible to ensure that the Opposition was well informed about what was going on. Even so, I note that the member for Maroubra indicated that the "Minister will just call in projects". In other words, he cannot see that life has now changed in New South Wales. That is totally erroneous, fallacious and stupid. We made it very clear that the Minister will only call in projects following advice from the independent Planning Assessment Commission—that is it; no more. That is what happens. The stringent controls around that will be entirely different to the ones that operated under Labor. We now have a different set of rules and the passage of this bill will guarantee that the people of New South Wales can have confidence in our planning system. With those comments I again thank the House and trust that the Legislative Council will deal with the bill and ensure that we have this law in place next week because New South Wales needs a new planning system.

Question—That this bill be now agreed to in principle—put and resolved in the affirmative.

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.