

Select Committee on the Agistment of Horses at Yaralla Estate

Agistment of horses at Yaralla Estate

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How to contact the committee

Members of the Select Committee on the Agistment of Horses at Yaralla Estate can be contacted through the Committee Secretariat. Written correspondence and enquiries should be directed to:

The Director

Select Committee on the Agistment of Horses at Yaralla Estate

Legislative Council

Parliament House, Macquarie Street

Sydney New South Wales 2000

Internet www.parliament.nsw.gov.au

Email yarallaestateinquiry@parliament.nsw.gov.au

Telephone 02 9230 3534

Facsimile 02 9230 2981

Terms of reference

That the Select Committee on the Agistment of Horses at Yaralla Estate inquire into and report on the current and future agistment of horses at Yaralla Estate, also known as the Dame Eadith Walker and Thomas Walker Estate, and in particular:

1. the actions of the Sydney Local Health District
2. the eviction of community members whose horses are agisted on the Estate lands
3. the “independent audit of the site” referred to in a 19 April 2013 media release issued by the Sydney Local Health District, and
4. any other related matter.¹

¹ *Minutes*, Legislative Council, 27 June 2013, p 1877.

Committee membership

The Hon Robert Borsak MLC	Shooters and Fishers Party	<i>Chair</i>
The Hon Trevor Khan MLC	The Nationals	<i>Deputy Chair</i>
The Hon Luke Foley MLC	Australian Labor Party	
Dr John Kaye MLC	The Greens	
Mr Scot MacDonald MLC	Liberal Party	
The Hon Dr Peter Phelps MLC	Liberal Party	
The Hon Ernest Wong MLC	Australian Labor Party	

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Chair's foreword

I am pleased to present the report of the Select Committee on the Agistment of Horses at Yaralla Estate. The Committee was established in response to community concerns regarding the decisions made by the trustees, the Sydney Local Health District (SLHD), about the future of the Estate, and in particular the eviction of horses owned by members of the community.

The Yaralla Estate is an integral part of the Concord community. The Committee learnt that there is a strong community connection to this site and to the horses formerly agisted on the Estate.

It is understandable that the community has been angered by the series of decisions made by the SLHD. The first decision was to terminate the agistment licence with Mr Colin Wale and evict the horses from the Estate. The second decision was when the SLHD entered into an agreement with the NSW Police Force Mounted Police Unit, which was perceived to impact on community access to the Estate, but was later cancelled. The third decision involved the SLHD opening the agistment licence to what appeared to be a biased tender process but again abandoning the process. The final decision under question concerns the announcement by the SLHD to convert the Estate's paddocks into public parklands, with no future for horses on the site.

The Committee found that the SLHD did not undertake genuine community consultation before making any of these decisions about the future of the Estate. This demonstrates a lack of respect for the connection the locals have to this well frequented recreational space.

The majority of evidence we received indicated that the SLHD and previous health agencies have been poor managers of the Estate and that is why we have recommended that the management be given to a more appropriate agency that has expertise in managing public parklands with heritage significance and experience in equestrian services, rather than an agency that focuses on the provision of health services.

The analogy made by the Minister for Health, the Hon Jillian Skinner MP, that the Yaralla Estate should become the Centennial Parklands of the inner west, is fitting as we propose that an agency such as the Centennial Parklands Trust take over the management of the Estate.

In keeping with the bequest of Dame Eadith Walker we propose that the main buildings on the Yaralla Estate, such as the mansion, remain in use by the SLHD for providing health services.

Importantly, based on the overwhelming community support for the return of horses, we have recommended that the agistment of horses be restored to the Yaralla Estate. This includes charging appropriate commercial rates to community agistors and reconsidering the option of a co-tenancy arrangement with the NSW Police Force Mounted Police Unit. This approach will contribute to funding the necessary remediation and maintenance of the Estate. Following on from this, we have recommended that the SLHD abandon its plans to convert the paddocks to public parklands.

In addition to a change in management, we have recommended that public access be maintained; that a genuine community consultation mechanism, such as a community consultative committee, be established; and that a full heritage report be undertaken for the NSW State Heritage listed site. We have also recommended that the Legislative Council consider referring claims the Committee heard in relation to dealings between some contractors and the Liberal Party to ICAC.

This report provides the NSW Government with an opportunity to create an excellent recreational resource and ensure the community get a voice in future plans for the Yaralla Estate.

On behalf of the Committee, I extend my gratitude to all the participants in this Inquiry, including those who made submissions and shared their views with us at the public forum. My thanks also go to my fellow Committee members for their constructive and considered contributions to this Inquiry. I would also like to thank Teresa McMichael, Rebecca Main, Anna Perkins and Vanessa Viaggio of the Committee Secretariat for their support throughout the Inquiry.

I commend the report to the Government.



The Hon Robert Borsak MLC
Committee Chair

Committee findings

Committee finding 1

22

The Committee finds that the Sydney Local Health District did not undertake genuine community consultation before making decisions about the future of the Yaralla Estate, and that it poorly managed the decision making process.

Committee finding 2

59

The Committee finds that the Sydney Local Health District continued to make decisions about the future of the Yaralla Estate without waiting for the recommendations of the Committee's report.

Summary of recommendations

- Recommendation 1** **29**
That the NSW Legislative Council consider referring the claims in respect to Blue Vision Management and Conrad Capital to the Independent Commission Against Corruption, pursuant to section 73 of the *Independent Commission Against Corruption Act 1988*.
- Recommendation 2** **44**
That the NSW Government ensure public access is maintained to the Yaralla Estate and that no future legislative changes are made to the *Walker Trusts Act 1938* that would limit public access or public ownership.
- Recommendation 3** **44**
That the NSW Government ensure that any future plans or proposals for changes in management or operations for the Yaralla Estate are clearly communicated to the local community well in advance and that there are adequate opportunities for community engagement.
- Recommendation 4** **44**
That the NSW Government commission a full heritage report of the Yaralla Estate, including all buildings, structures and lands, and that this report be made public.
- Recommendation 5** **51**
That the NSW Government amend the *Walker Trust Act 1938* to provide for a change in management of the Yaralla Estate to a more appropriate agency, such as the Centennial Parklands Trust, and that any changes ensure that:
- the Sydney Local Health District still has use of buildings such as the Yaralla Mansion for the purposes of providing health services;
 - the new agency has expertise in heritage preservation of parklands and ideally provision of equestrian services; and
 - the new agency establish a genuine consultation mechanism, such as a community consultative committee, to represent community interests in future decisions involving the Estate.
- Recommendation 6** **55**
That the NSW Government ensure that the agistment of horses is restored to the Yaralla Estate and that:
- the proposal for the NSW Police Force Mounted Police Unit and horses owned by members of the community to share the use of the paddocks under a co-tenancy arrangement be reconsidered; and
 - commercial rates be charged for the agistment of horses on the Estate.
- Recommendation 7** **59**
That the NSW Government abandon its plans to convert the Yaralla Estate paddocks to public parklands and enter into genuine public consultation before developing any further plans for the future of the paddocks.

Chapter 1 Introduction

This chapter provides an overview of the establishment of the Select Committee on the Agistment of Horses at Yaralla Estate and its terms of reference. It also describes the way in which the Inquiry was conducted and provides an outline of the structure of this report.

Background to the Inquiry

- 1.1 Yaralla Estate, also known as the Dame Eadith Walker Estate and the Thomas Walker Estate, is located on the Parramatta River at Concord approximately 13 kilometres from the city of Sydney. For the purposes of this report the Dame Eadith Walker Estate will be referred to as the 'Yaralla Estate'.
- 1.2 Following the deaths of Thomas Walker and his daughter, Dame Eadith Walker, in 1886 and 1937 respectively, Yaralla Estate became vested in the Crown under the *Walker Trusts Act 1938* (hereafter 'the Act') in accordance with Thomas Walker's will and codicil. The Act provides that the Sydney Local Health District (SLHD), as trustee of the land vested in the Crown, is responsible for the management, control and administration of Yaralla Estate.
- 1.3 Section 19B of the Act relates to the lease or licence of the trust land. It provides that the SLHD must lease or licence part of the land for particular purposes. These purposes include 'for public hospital or other public health purposes, for the purpose of public open space or for the purpose of the agistment of horses...'.²
- 1.4 Part of the Yaralla Estate had been subject to a licence agreement between the SLHD and a private individual for some years for the purpose of providing horse agistment, predominantly to local horse owners.
- 1.5 In late 2012, the SLHD made a decision to change the arrangements and terminate the licence, which in turn led to the eviction of privately owned horses on the Estate.
- 1.6 In April 2013, SLHD entered into an agreement with the NSW Police Force. The purpose of the agreement was to allow the NSW Mounted Police Unit to agist its horses at the Estate.
- 1.7 The actions of the SLHD in entering into an agreement with the NSW Police Force resulted in anger and concern by affected parties, which subsequently led to the agreement being cancelled.
- 1.8 Further decisions regarding the use of the Estate have since been made by the SLHD, including putting the agistment licence to open tender, which was later abandoned, and announcing that the Estate will become public parklands with no plans for horses on the site.

² *Walker Trusts Act 1938*, s19B.

Establishment of the Committee

- 1.9** In response to a motion moved by the Hon Luke Foley MLC, on 27 June 2013 the Legislative Council established the Select Committee on the Agistment of Horses at Yaralla Estate to inquire into and report on the current and future agistment of horses at Yaralla Estate.³
- 1.10** The Committee is comprised of seven members. The names of the Committee members are set out on page v. The resolution establishing the Committee identified the Hon Robert Borsak MLC as the Chair of the Committee and the Hon Trevor Khan MLC was elected as Deputy Chair at the Committee's first meeting.

Terms of reference

- 1.11** The Committee was established to inquire into and report on the current and future agistment of horses at Yaralla Estate. The terms of reference require the Committee to have particular regard to the actions of the SLHD, the eviction of community members whose horses are agisted on the Estate lands and the "independent audit of the site" referred to in a 19 April 2013 media release issued by the Sydney Local Health District.⁴
- 1.12** The full terms of reference are set out on page vi.

Conduct of the Inquiry

Timeframe

- 1.13** The Committee was originally due to report by 27 August 2013. Three extensions were approved by the Legislative Council leaving a final reporting date of 24 October 2013.⁵

Submissions

- 1.14** The Committee invited submissions by advertising in the *Inner West Courier*, *Gladesville Weekly Times* (also known as *The Weekly Times* (Ryde)), and *Burnwood Scene*. A media release announcing the Inquiry was also sent to all New South Wales media outlets.
- 1.15** The Committee wrote to key stakeholders inviting them to make a submission to the Inquiry. The closing date for submissions was Wednesday 31 July 2013.
- 1.16** The Committee received a total of 55 submissions. Responses were received from a range of stakeholders including horse owners who had been evicted from the Estate, local community members, the Heritage Council of NSW, the former licensee of the Estate, Sydney Local

³ *Minutes*, Legislative Council, 27 June 2013, p 1877.

⁴ Media Release, Sydney Local Health District, 'Police sign deal to move horses to Concord', 19 April 2013.

⁵ *Minutes*, Legislative Council, 21 August 2013, p 1905; *Minutes*, Legislative Council, 11 September 2013, p 1972; and *Minutes*, Legislative Council 19 September 2013, p 2019.

Health District, the NSW Police Force and the City of Canada Bay Council. A list of submissions is set out in Appendix 1.

- 1.17** In addition, the Committee received 45 pro forma statements from individuals. The pro forma statement raises concerns with the actions of the SLHD and future public access to the Yaralla Estate, and supports the return of the horses owned by members of the community to the Estate. A list of persons who submitted pro formas is provided at Appendix 2.

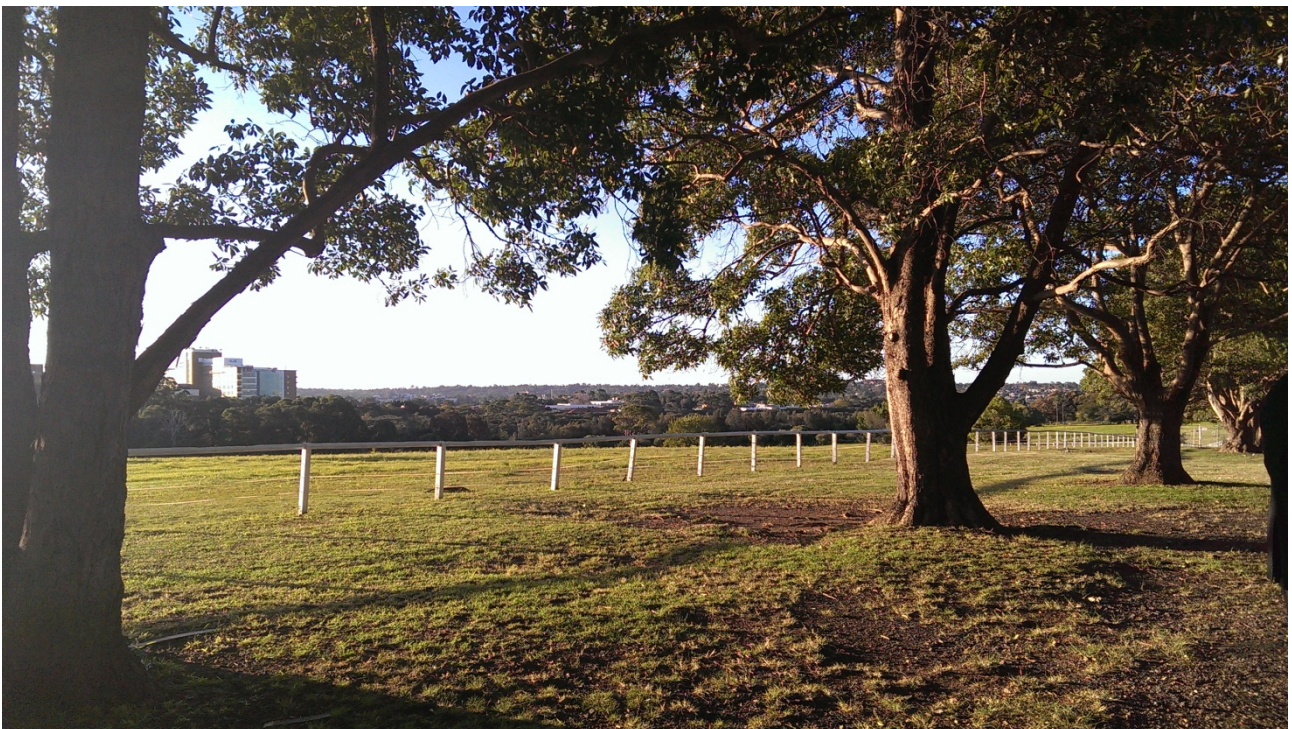
Hearings, site visit and public forum

- 1.18** The Committee held two public hearings on 5 and 7 August 2013. Witnesses at the public hearings included representatives of the Sydney Local Health District, Blue Visions Management Pty Ltd, NSW Police Force and the City of Canada Bay Council. A full list of witnesses who appeared at the hearings is set out in Appendix 3 and the transcripts are available on the Committee's website.
- 1.19** In addition, a public forum was held in Concord at the Concord RSL and Community Club on the evening of 5 August 2013, which was attended by over 120 people. During the forum, 21 individuals raised their concerns with the Committee regarding the decision of the SLHD to change arrangements at the Estate, the tender process, heritage aspects of the Estate and the future use of the site. Appendix 4 sets out the names of all participants at the public forum.
- 1.20** The Committee also conducted a site visit to Yaralla Estate on 5 August 2013, which was guided by a Heritage Officer from the Office of Environment and Heritage, to gain a better understanding of the issues raised by inquiry participants.
- 1.21** The Committee wishes to thank all the stakeholders who provided written submissions to the Inquiry, gave evidence at public hearings and who participated in the public forum.

Select Committee on the Agistment of Horses at the Yaralla Estate inspecting the Estate



The paddocks at the Yaralla Estate – Committee site visit



Select Committee on the Agistment of Horses at the Yaralla Estate inspecting the Estate



Public forum at the Concord RSL and Community Club



Structure of report

- 1.22** This report is comprised of five chapters.
- 1.23** Chapter 2 provides a brief history on the establishment of the Yaralla Estate, including the heritage status of the site. The current management of the Estate by the SLHD is discussed, as are the relevant provisions of the *Walker Trusts Act 1938*.
- 1.24** Chapter 3 looks at the various decisions made by the SLHD to change arrangements at the Yaralla Estate. The level of community consultation regarding these decisions is discussed and the Agistment Facility Report undertaken by Blue Visions Management is examined.
- 1.25** In Chapter 4 the community's stories about Yaralla are presented. The impacts of the decision by the SLHD to evict the horses owned by members of the community from the Estate are considered, along with possible future impacts, such as reduced public access and development of the site. The heritage significance of the Yaralla Estate is also discussed.
- 1.26** Chapter 5 considers options for the future use and management of the Yaralla Estate. This includes a proposal to share the agistment facilities between the NSW Police Force Mounted Police Unit and the private agistors. The appropriateness of a health agency, such as the SLHD, being the trustee of the Yaralla Estate is also discussed and recommendations are made in this regard.

Timeline of events relating to the agistment of horses at Yaralla Estate

Date	Event
December 1938	Walker Trusts Bill passed by Parliament. ⁶
1 July 1996	Formal licence agreement was made between Mr Colin Wale and the then Central Sydney Area Health Service for the agistment of horses on the Yaralla Estate. ⁷
January 2011	Sydney Local Health District (SLHD) was formed and acquired role as trustee of Yaralla Estate. ⁸
October 1997	<i>Walker Trusts Amendment Act 1997</i> passed by Parliament. This amendment Act inserted section 19B into the <i>Walker Trusts Act 1938</i> . ⁹
August 2012	Noise disturbances made by licensee's relatives were reported by neighbours to SLHD. ¹⁰
31 August 2012	Residential lease between SLHD and Mr Wale terminated with six months notice to vacate (but later extended until May 2013). ¹¹
September 2012	SLHD received notice from Canada Bay Council and State Heritage Office regarding the standard of care of agistment paddocks. This included unauthorised works on paddocks, such as the removal of protected trees by one horse owner. ¹²
26 September 2012	Horses found grazing in the Concord Repatriation General Hospital helipad zone (the owner of these horses was the person that removed the protected trees). ¹³
3 October 2012	SLHD requested that Mr Wale evict the horse owner involved in the September 2012 incidents. Mr Wale evicted the horse owner shortly after. ¹⁴
November 2012	SLHD issued a termination of licence notice to Mr Wale. ¹⁵
December 2012	Mr Wale issued termination advice to horse agistors. ¹⁶

⁶ *Minutes*, Legislative Council, 8 December 1938.

⁷ Submission 49, Sydney Local Health District, p 10.

⁸ Evidence, Dr Teresa Anderson, Chief Executive, Sydney Local Health District, 7 August 2013, p 2.

⁹ *Walker Trusts Amendment Act 1997*.

¹⁰ Submission 49, Sydney Local Health District, p 11.

¹¹ Submission 49, Sydney Local Health District, p 11.

¹² Submission 49, Sydney Local Health District, p 12.

¹³ Submission 49, Sydney Local Health District, p 12.

¹⁴ Submission 49, Sydney Local Health District, p 12.

¹⁵ Submission 49, Sydney Local Health District, p 5.

¹⁶ Submission 49, Sydney Local Health District, p 5.

Date	Event
Mid-December 2012	SLHD met with Mr Wale and horse agistors. SLHD advised that the termination of the agistment licence will not be enforced until a condition report is undertaken. ¹⁷
December 2012	SLHD commissioned Blue Visions Management to undertake a condition report (the Blue Visions Agistment Facility Report, hereafter referred to as the 'Blue Visions Report'). ¹⁸
Early January 2013	Blue Visions Management discussed with SLHD the possibility of use of the site by NSW Police Force Mounted Police Unit (NSWMP). ¹⁹
Early January 2013	Blue Visions Management contacted NSWMP to determine if it was interested in using site. ²⁰
14 January 2013	Blue Visions Management provided the draft Blue Visions Report to SLHD, which identified four options for future management. One option was for the NSWMP to take up the licence to agist its horses on the Estate. ²¹
18 January 2013	SLHD and NSWMP met at Yaralla Estate. ²²
4 February 2013	SLHD received the final Blue Visions Report from Blue Visions Management. ²³
Mid February	SLHD approached the Health Minister's office to ask if it was reasonable to have discussions with the NSWMP. ²⁴
15 February 2013	A meeting occurred between NSWMP, Blue Visions Management and SLHD at the Royal Prince Alfred Hospital. ²⁵
March 2013	The Licence agreement with Mr Wale formally ended. ²⁶
5 March 2013	An on site meeting between SLHD, NSWMP and Blue Visions Management occurred to inspect the site and discuss details of an agreement. ²⁷
28 March 2013	SLHD met with Mr Wale and horse agistors to present the findings of the Blue Visions Report. Horse agistors were advised to remove

¹⁷ Submission 49, Sydney Local Health District, p 13.

¹⁸ Submission 49, Sydney Local Health District, p 13.

¹⁹ Answers to questions on notice, Mr Ron Turner, Senior Project Manager, Blue Visions Management, 20 August 2013, p 2.

²⁰ Answers to questions on notice, Mr Turner, p 2.

²¹ Evidence, Dr Anderson, 7 August 2013, p 18.

²² Submission 50, NSW Police Force, p 1.

²³ Submission 49, Sydney Local Health District, p 14.

²⁴ Evidence, Dr Anderson, 7 August 2013, p 8.

²⁵ Submission 50, NSW Police Force, p 2 and Answers to questions on notice, Mr Turner, p 2.

²⁶ Submission 49, Sydney Local Health District, p 15.

²⁷ Answers to questions on notice, Mr Turner, p 2.

Date	Event
	their horses by 31 May 2013. ²⁸
18 April 2013	SLHD and NSW Police Force signed an agreement for the NSWMP to agist horses at Yaralla Estate. ²⁹
29 April 2013	SLHD attended a public meeting held at Concord RSL and Community Club to provide information to the community. ³⁰
13 May 2013	Tierney Page Kirkland, on behalf of SLHD, undertook a risk assessment workshop relating to the delay of evicting horses and the different scenarios for future management and produced a report. ³¹
14 May 2013	SLHD cancelled the agreement with NSWMP and decided to go to open tender for the agistment licence. ³²
15 May 2013	SLHD held a meeting with stakeholders to discuss the results of the risk assessment report. SLHD advised that vacant possession of the site was needed to undertake the necessary remediation works. ³³
21 May 2013	Horse owners bring their horses to NSW Parliament to demonstrate against the SLHD decision to remove horses owned by members of the community from the Yaralla Estate. ³⁴
27 May 2013	At the request of City of Canada Bay Council, SLHD met with the Council and horse owners to discuss an alternate proposal for the Council to manage the agistment licence. ³⁵
28 May 2013	A further risk assessment workshop was undertaken to consider the alternate proposal of management by the Council. However, Council advised at the workshop that it was unable to manage the agistment at that time. ³⁶
31 May 2013	Deadline for all horses to be removed from Yaralla Estate. ³⁷
3 June 2013	Last horse removed from Yaralla Estate. ³⁸
4 June 2013	SLHD issued a media release indicating upgrade plans for the Estate and stated that, once works are complete and a successful tenderer is appointed, horses will return to the Estate. ³⁹

²⁸ Submission 49, Sydney Local Health District, pp 15-16

²⁹ Submission 49, Sydney Local Health District, p 17.

³⁰ Submission 49, Sydney Local Health District, p 17.

³¹ Submission 49, Sydney Local Health District, p 18.

³² Submission 49, Sydney Local Health District, p 20.

³³ Submission 49, Sydney Local Health District, pp 20-21.

³⁴ Submission 47, Ms Bianca Kinnear and Ms Kathryn Hall, p 15.

³⁵ Submission 49, Sydney Local Health District, p 22.

³⁶ Submission 49, Sydney Local Health District, p 22.

³⁷ Submission 49, Sydney Local Health District, p 23.

³⁸ Submission 49, Sydney Local Health District, p 24.

Date	Event
27 June 2013	The Select Committee on Agistment of Horses at the Yaralla Estate was established. ⁴⁰
31 July 2013	Submissions to the Inquiry closed.
1 August 2013	A tender process for the Yaralla Estate Agistment Licence opened. ⁴¹
7 August 2013	The Select Committee requested that SLHD abandon the tender process. ⁴²
15 August 2013	SLHD agreed to abandon the tender process and await the outcome of the Inquiry. ⁴³
22 August 2013	SLHD announced the 13 hectares of horse paddocks would become public parklands with no plans for future horse agistment on the site. ⁴⁴

³⁹ Media Release, Sydney Local Health District, 'Yaralla upgrade plans released', 4 June 2013.

⁴⁰ *Minutes*, Legislative Council, 27 June 2013, p 1877.

⁴¹ Health Share NSW, Tender Documents for Dame Eadith Walker Agistment Licence, p 1.

⁴² Correspondence from Chair to Dr Teresa Anderson, Chief Executive, Sydney Local Health District, 7 August 2013.

⁴³ Correspondence from Dr Teresa Anderson, Chief Executive, Sydney Local Health District to Chair, 15 August 2013.

⁴⁴ Media Release, Sydney Local Health District, 'Yaralla to become a public park for all', 22 August 2013.

Chapter 2 Background – the Yaralla Estate

This chapter provides a brief history on the establishment of the Yaralla Estate, including the heritage status of the site. The current management of the Estate by the Sydney Local Health District is discussed, as are the relevant provisions of the *Walker Trusts Act 1938*. There is also information relating to the former agistment arrangements, such as the cost of agistment and the number of horses that were on the Estate.

Brief history of the Yaralla Estate

- 2.1 The Yaralla Estate has direct historical links with the early days of the colony of New South Wales as it incorporates a 1797 land grant to Isaac Nichols, an ex-convict. After his death in 1819, the land was sold off by his family over a number of years. By the 1860s most of it had been purchased by Thomas Walker, who built the mansion “Yaralla” on the land.⁴⁵
- 2.2 When Thomas Walker died in 1886 the Estate was left to his daughter, Dame Eadith Walker. Following her death in 1937 without being married, Dame Eadith Walker’s assets, which had been left to her in trust by her father, were divided in accordance with the provisions of his will of 1886. One half was bequeathed to relatives, the other half was bequeathed to charity and administered by the Perpetual Trustee Company. The Yaralla mansion and the lands surrounding it were purchased by the trustee company and vested in the Crown under the *Walker Trusts Act 1938* (hereafter referred to as ‘the Act’) for the purposes of establishing a convalescent hospital for men.⁴⁶
- 2.3 The Royal Prince Alfred Hospital was the original trustee of the Estate. The trustee has changed over the years to the current trustee, the Sydney Local Health District (SLHD). The Act now provides that the SLHD, as trustee of the land vested in the Crown, is the administration authority of Yaralla Estate.⁴⁷
- 2.4 The Estate, in particular the mansion, has been used for various public health purposes over the years. Originally established as the Dame Eadith Walker Convalescent Hospital for Men, later use included a renal dialysis facility and currently it is a facility for people with HIV/AIDS dementia.⁴⁸
- 2.5 Yaralla Estate is located on the Parramatta River at Concord and comprises approximately 38 hectares of land, including approximately 13 hectares of grazing paddocks (see Figure 1 on following page).⁴⁹ The agistment of horses on the grazing paddocks of the Yaralla Estate pre-dates the arrival of the former licensee in 1982.⁵⁰

⁴⁵ Concord Heritage Society, *A tour of the grounds and mansion of the Yaralla Estate*, 2001, p 3 and p 5.

⁴⁶ Concord Heritage Society, ‘Who actually gave Yaralla to the people of New South Wales’, *Nurungi, July 2013 Newsletter*, p 2 and *Walker Trusts Act 1938*, Preamble.

⁴⁷ Submission 49, Sydney Local Health District, p 9.

⁴⁸ Submission 49, Sydney Local Health District, p 4.

⁴⁹ Submission 49, Sydney Local Health District, pp 9-10.

⁵⁰ Reference is made in Submission 20, Mr Colin Wale, former licensee, of agistment occurring on the Yaralla Estate prior to his arrival in 1982.

Figure 1 Map of Yaralla Estate⁵¹



⁵¹ Submission 49, Sydney Local Health District, Attachment 2. Please note this map indicates some future works the District is proposing to undertake.

- 2.6 The Committee had the opportunity to visit the Estate on 5 August 2013 to gain a better understanding of the issues raised by stakeholders in this Inquiry.

Heritage status

- 2.7 The Heritage Council of NSW advised that the Yaralla Estate is listed on the NSW State Heritage Register and, therefore, the Council is a consent authority for alterations to the Estate:

Yaralla, or the Dame Eadith Walker Convalescent Hospital, is listed in its entirety on the NSW State Heritage Register (SHR) under the *Heritage Act 1977* (NSW). Thus the Heritage Council of NSW is a statutory consent authority for development or alterations to the estate.

The estate's listing and significance includes its rarity and completeness as a self-supporting Edwardian rural estate, now nationally rare so close to a modern city. Part of that significance includes the survival and use of paddocks, grazing, stables and the like.⁵²

- 2.8 The heritage significance of the Yaralla Estate paddocks is outlined below:

The paddocks formed an important part of the Estate's rural function in providing a grazing area for the cattle and horses in the farm activities. Cattle was shown at the Royal Easter Show and provided milk for the Estate and area for the horses used when buggys were the major form of transportation.⁵³

- 2.9 The Heritage Council supported the continued use of the Estate's paddocks for horse grazing as an effective link to the original use of the property: '[t]he grazing plays an active role in maintaining and interpreting Yaralla's heritage values, now and in the future.'⁵⁴
- 2.10 The impact of heritage values on the management of the Estate is further considered in Chapters 4 and 5.

The Estate and its current management

- 2.11 The Yaralla Estate is managed in accordance with the *Walker Trusts Act 1938*. The SLHD, as the current trustee, held a license agreement with Mr Colin Wale for the agistment of horses on the paddocks of the Estate. This section discusses these aspects.

⁵² Submission 26, Heritage Council of NSW, p 1.

⁵³ Submission 26, Heritage Council of NSW, Attachment A.

⁵⁴ Submission 26, Heritage Council of NSW, p 1.

The *Walker Trusts Act 1938*

- 2.12** The *Walker Trusts Act* was passed in 1938 to handle the dispersal of the Walker assets. Amendments to the Act have been made over the years to reflect changes in the trustees, moving from the Royal Prince Alfred Hospital to local area health service organisations, reflecting changes in the management of health services in the State.⁵⁵
- 2.13** The most notable amendment made to the Act, for the purposes of this Inquiry, was contained in the *Walker Trusts (Amendment) Act 1997*. This amendment act inserted section 19B into the Act which now reads:

19B Lease of licence of the trust land

(1) The Sydney Local Health District, as trustee of land vested in the Crown by this Act and dedicated for the purposes of the Dame Eadith Walker Hospital, or any successor as trustee, must lease, or grant a licence of, part of that land for public hospital or other public health purposes, **for the purpose of public open space or for the purpose of the agistment of horses**, [emphasis added] or for purposes ancillary to public hospital, public health, public open space or horse agistment purposes, if directed to do so by the Minister.⁵⁶

- 2.14** Prior to this amendment there was no reference in the Act to public access or horse agistment on the Yaralla Estate.

Sydney Local Health District

- 2.15** According to SLHD, its primary purpose under the *Health Services Act 1997* is to: ‘promote, protect and maintain the health of the community and to provide relief to sick and injured people through care and treatment.’⁵⁷
- 2.16** The SLHD comprises the eight local government areas of Ashfield, Burwood, Canada Bay, Canterbury, part of the City of Sydney, Leichhardt, Marrickville and Strathfield. The health services for this district include four medical hospitals, a dental hospital and a number of other community health and family centres. It is a \$1.3 billion organisation with around 10,000 staff providing healthcare services to over 580,000 people.⁵⁸
- 2.17** The SLHD has been the trustee for the Yaralla Estate since its formation in July 2011. Prior to this, other recent trustees were Sydney South West Area Health Service from 2005 to 2010 and Central Sydney Area Health Service from 1996 to 2004.⁵⁹
- 2.18** Being the trustee, SLHD has administrative authority over the land.⁶⁰ The SLHD advised that in accordance with the Act:

⁵⁵ See for example the *Walker Trusts (Amendment) Act 1983*.

⁵⁶ *Walker Trusts Act 1938*, s19B. Please note this also includes amendments made in 2011 to reflect the Sydney Local Health District as the appropriate trustee.

⁵⁷ Submission 49, Sydney Local Health District, p 7.

⁵⁸ Submission 49, Sydney Local Health District, p 4 and pp 7-8.

⁵⁹ Submission 49, Sydney Local Health District, p 9.

⁶⁰ Submission 49, Sydney Local Health District, p 9.

... all monies received by SLHD from rentals on the Estate including residential houses, the agistment licence, filming and photography etc. are deposited into the SLHD Trust account. The SLHD maintains both the Dame Eadith Walker Estate and the Thomas Walker Estate from these monies in the Trust account.⁶¹

- 2.19** In response to correspondence from the Committee, the SLHD advised that the balance of the Trust account is \$3,222,124 as at 14 October 2013.⁶²
- 2.20** It was indicated by SLHD that these funds cover essential maintenance of buildings and grounds of the site, including roads, landscaping, and gardening for those areas outside of the paddocks.⁶³
- 2.21** The SLHD reports to its Board – the Sydney Local Health District Board. The SLHD and its Board is responsible to the Ministry of Health through service agreements. The Ministry for Health is responsible to the Minister for Health.⁶⁴

Former licensee

- 2.22** Mr Colin Wale, former licensee, advised that in April 1982 he moved, with his family, into Boronia cottage in the grounds of the Yaralla Estate, and in 1987 he took over the management of the horse paddocks.⁶⁵
- 2.23** In 1996 the then Central Sydney Area Health Service (former trustee) formally entered into a licence with Mr Wale to provide horse agistment on the site for a nominal annual sum of \$16,000. This annual licence fee was credited to the Trust account.⁶⁶
- 2.24** Mr Wale continued as the licensee until the final termination of the licence in March 2013.⁶⁷ Events that led to the termination of the licence are discussed in the following chapter.

Costs of agistment and number of horses

- 2.25** Under the licence agreement between Mr Wale and the SLHD, the maximum number of horses to be agisted on the Yaralla Estate was 28.⁶⁸ Some evidence to the Inquiry indicates that immediately before the termination of the licence there were more than this number agisted on the Estate. This will be discussed in the next chapter.

⁶¹ Submission 49, Sydney Local Health District, p 5.

⁶² Correspondence from Dr Teresa Anderson, Chief Executive, Sydney Local Health District to Chair, 15 October 2013.

⁶³ Submission 49, Sydney Local Health District, p 10.

⁶⁴ NSW Ministry of Health, *Our organisational chart*, (7 March 2013), <http://www.health.nsw.gov.au/about/ministry/Pages/chart.aspx>.

⁶⁵ Submission 23, Mr Colin Wale, p 1.

⁶⁶ Submission 49, Sydney Local Health District, p 5 and p 10.

⁶⁷ Submission 49, Sydney Local Health District, p 15. It is noted that some horses remained on the paddocks till 3 June 2013. This issue is discussed in Chapter 3.

⁶⁸ Submission 49, Attachment 4, Part 6.1 (l), p 4.

- 2.26** The cost of agisting the horses was not provided by Mr Wale in his submission, however, some horse owners who previously agisted their horses on the Estate advised that the cost of agistment ranged from \$170 to \$200 per horse, per month.⁶⁹
- 2.27** The SLHD advised that it, and previous trustees, did not receive any proceeds from the agistment fees, only monies from the annual licence fee of \$16,000.⁷⁰

Public access to the Estate

- 2.28** Another important use of the Estate is general public access. For example, a number of local residents who made submissions to the Inquiry indicated that they would often visit the Estate for recreational purposes, including walking, dog walking and to visit and interact with the horses – something very rare to do so close to the city. The Committee heard that these activities have contributed to a strong sense of community in the area.⁷¹
- 2.29** The impacts to public access regarding changes to the arrangements of the Estate are discussed in Chapter 4.

⁶⁹ Submission 47, Ms Bianca Kinnear and Ms Kathryn Hall, p 31.

⁷⁰ Submission 49, Sydney Local Health District, p 10.

⁷¹ See for example, Submission 27, Ms Catherine Webster; Submission 29, Mrs Tracy Bucciarelli; Submission 30, Mr John Rosier; and Submission 33, Ms Gina Rizakos.

Chapter 3 **The decisions of Sydney Local Health District**

This chapter looks at the various decisions made by the Sydney Local Health District (SLHD) to change arrangements at the Yaralla Estate. These include: the termination of the agistment licence with Mr Colin Wale; the eviction of the horses from the Estate; the agreement with the NSW Police Force Mounted Police Unit; the recent tender process; and finally, the decision to convert the Estate's paddocks into public parklands. The level of community consultation regarding these decisions is discussed and the Agistment Facility Report undertaken by Blue Visions Management is examined. The roles of the NSW Police and City of Canada Bay Council in some of the decisions are also outlined.

The decisions

- 3.1** This section briefly outlines the decisions made by the SLHD to change arrangements at the Yaralla Estate.

Decision to terminate agistment licence

- 3.2** As noted in the previous chapter the SLHD, as trustee of the Yaralla Estate, held a licence agreement with Mr Colin Wale for the agistment of horses on the Estate. The licence agreement had been in place since 1996.⁷² Mr Wale subsequently leased the paddocks to a number of horse owners to agist their horses on the land.⁷³
- 3.3** According to the SLHD, the decision to terminate Mr Wale's license was based on concerns the District had since January 2011. Dr Teresa Anderson, Chief Executive, SLHD, advised that these concerns included noise complaints, unauthorised civil works and horses breaking through fence lines:

Since its formation in January 2011, the district has become increasingly concerned about the operator's (licensee) ability to fulfil the terms of the agistment licence. These mounting concerns included a series of complaints from neighbours about excess noise at night, a notice from the City of Canada Bay Council and the Heritage Branch regarding unauthorised civil works and the removal of protected trees by one of the agistors, horses breaking through fence lines and two horses found grazing on the helipad of Concord Hospital, a principal tertiary referral hospital which provides specialist burn services and which needs to be accessible 24 hours a day, seven days a week, 365 days a year...⁷⁴

- 3.4** Dr Anderson stated that Mr Wale was issued with a termination of licence notice in November 2012, due to 'persistent problems':

⁷² Submission 49, Sydney Local Health District, p 10.

⁷³ Submission 20, Mr Colin Wale, p 3.

⁷⁴ Evidence, Dr Teresa Anderson, Chief Executive, Sydney Local Health District, 7 August 2013, p 2.

These persistent problems finally led to the operator being issued with a termination of licence notice in November 2012. In turn, the operator issued termination advice to the horse agistors in December 2012.⁷⁵

- 3.5** The SLHD commissioned an expert report with the aim of ‘finding a long-term solution to the problem.’⁷⁶ Blue Visions Management was engaged to undertake this expert report. The Blue Visions Agistment Facility Report (hereafter referred to as the ‘Blue Visions Report’) is discussed in detail later in this chapter.

Decision to enter agreement with the NSW Police Force Mounted Police Unit

- 3.6** A recommendation in the Blue Visions Report was to offer an agistment licence on the Yaralla Estate to the NSW Police Force Mounted Police Unit (NSWMP).⁷⁷
- 3.7** The SLHD believed this to be the best option for the future of the Estate and after a few months of discussions entered into an agreement with the NSW Police Force on 18 April 2013 for the agistment of police horses on the Estate.⁷⁸
- 3.8** Due to growing opposition by members of the community about the decision to agist police horses on the Estate and remove the horses owned by members of the community, this agreement was cancelled on 14 May 2013.⁷⁹
- 3.9** The concerns raised by the community are outlined later in this chapter.

Decision to go to tender

- 3.10** As part of the decision to cancel the agreement with the NSWMP, the SLHD decided to go to tender for the agistment licence for the Yaralla Estate and opened a public tender process on 1 August 2013.⁸⁰
- 3.11** However, inquiry participants raised concerns with the tender process, claiming the tender was written in such a way as to ensure the NSWMP would be the successful applicant. There were also concerns with the timeframe given to lodge applications for the tender and issues with the make up of the tender panel.⁸¹ These are discussed later in this chapter.

⁷⁵ Evidence, Dr Anderson, 7 August 2013, p 2.

⁷⁶ Evidence, Dr Anderson, 7 August 2013, p 2.

⁷⁷ Evidence, Dr Anderson, 7 August 2013, p 18.

⁷⁸ Submission 49, Sydney Local Health District, p 15.

⁷⁹ Submission 49, Sydney Local Health District, p 20.

⁸⁰ Evidence, Dr Anderson, 7 August 2013, p 3.

⁸¹ See for example Submission 8, Ms Jacqueline Puz, p 1; Public Forum, Mr Clayton James, 5 August 2013, p 6 and Submission 42, Ms Alexandra Gavel, p 4.

- 3.12** On 7 August, the Committee wrote to the SLHD requesting that it abandon the tender process until the Committee reported to the Legislative Council on 19 September 2013. The SLHD agreed to the Committee's request, abandoning the tender on 15 August 2013.⁸²

Decision to create public parklands

- 3.13** On 22 August 2013 the SLHD announced the 13 hectares of horse paddocks will become public parklands with no plans for future horse agistment on the site.⁸³ This decision will be examined in Chapter 5.

Consultation with community

- 3.14** As can be seen from the timeline on page 7, there were at least five occasions that the SLHD met with community members and/or the owners of horses agisted on the Yaralla Estate.

- 3.15** It is noted that in addition to these meetings there was also an open letter to the community distributed to local media on 31 May 2013. This letter addressed issues including access to the Estate, use of the land, site management and the decisions reached at the risk assessment workshop.⁸⁴

- 3.16** The SLHD told the Committee that its senior management allocated a significant amount of time responding to correspondence from the public which raised concerns with issues pertaining to the eviction of the horse owners, the public announcement of the agreement with the NSWMP and access to the Yaralla Estate.⁸⁵

- 3.17** According to the SLHD, it has attempted to keep stakeholders informed:

The SLHD has a deliberate policy and practice of communicating and engaging with its local communities in a responsible manner and has attempted throughout this process to keep all stakeholders fully informed.⁸⁶

- 3.18** Dr Anderson added that communication with the community is important but getting the facts reported has been challenging:

Communication with the community is critical but it is hard. We have had numerous conversations with the local media and it was very difficult to get the facts out and it was important to reassure the community that there has never been any intention—and you will see from all of the documentation that we have provided—there is no evidence at all that the district or NSW Health has wanted to do anything other than

⁸² Correspondence from Dr Teresa Anderson, Chief Executive, Sydney Local Health District to Chair, 15 August 2013.

⁸³ Media Release, Sydney Local Health District, 'Yaralla to become a public park for all', 22 August 2013.

⁸⁴ Submission 49, Sydney Local Health District, p 23.

⁸⁵ Submission 49, Sydney Local Health District, p 17.

⁸⁶ Submission 49, Sydney Local Health District, p 26.

make sure that that property is safe for the community and safe for my patients...
And safe for the horses—and fulfils the Trust.⁸⁷

Inquiry participants' views on the level of consultation

- 3.19** Many inquiry participants, however, argued that there was an inadequate level of consultation. For example, according to Ms Megan Webster, an owner of horses previously agisted at the Yaralla Estate, the community – who is directly impacted by the SLHD decision – had not been consulted:

This is a decision that has a direct impact on community, in light of it concerning the use of land left in essence for the purposes of the general public, yet there has been no community participation in the decision-making process. From discussion with hundreds of local members of the community since 28 March 2013, it is clear the majority of the public are both opposed to the proposed change and shocked to have been denied the right, as a minimum, to be consulted with throughout the decision-making process.⁸⁸

- 3.20** Ms Gina Rizakos, a local resident, insisted that the community should have a say in the decision making about the Estate:

As a long term resident of Concord West I would like to be assured that the local community has a strong say in the decisions that are made by faceless individuals who did not grow up here and have no interest in Concord West other than making some profit ... There needs to be more transparency... It appears that the 'change management' of the use of Yaralla Estate has been handled badly, particularly with regards to the local residents, the horse agistment lease holders, the former caretakers(s) who have been falsely maligned and generally, to the people of NSW who know and love Yaralla Estate just the way it is...⁸⁹

- 3.21** Mr Garry McIlwaine, former local member of Parliament for Yaralla, agreed that there was a 'total failure of consultation':

There has been a total failure of consultation; major decisions have often been made which impacted not only the local residents but the general community was well.⁹⁰

- 3.22** Dr Renata Bali, local resident, similarly raised concerns with the SLHD's approach to community consultation:

I have noted over the past few years that the Sydney Local Health District (SLHD) takes a very heavy-handed approach to decision-making at Yaralla Estate. Community consultation does not seem to be part of their *modus operandi*.⁹¹

⁸⁷ Evidence, Dr Anderson, 7 August 2013, p 6.

⁸⁸ Submission 45, Ms Megan Webster, p 5.

⁸⁹ Submission 33, Ms Gina Rizakos, pp 2-3.

⁹⁰ Submission 34, Mr Garry McIlwaine, p 1.

⁹¹ Submission 24, Dr Renata Bali, p 2.

- 3.23** Ms Megan Webster further noted that the SLHD had made the decision to enter into the agreement with the NSWMP before giving horse owners an opportunity to present their concerns:

Without having consulted with the horse owners, it was communicated that SLHD had arrived at the conclusion that the horse owners would not cooperate so it would not be a viable solution to reduce horse numbers and alter paddock arrangements to suit the future plans for Yaralla ... negotiations with the NSW Mounted Police were already underway. The decision having apparently already been made, the horse owners were afforded no opportunity to discuss the concerns raised, respond to the allegations, present their case or otherwise influence the decision of SLHD.⁹²

- 3.24** This was reiterated by Ms Elizabeth Webster, community member, who said that there was no broader community consultation prior to the agreement with NSWMP:

No community consultation was sought in this matter. We were instead told that a signed contract with the Mounted Police had already been made and as such nothing could become if the community was unhappy with this new arrangement.⁹³

- 3.25** Mr John Adam, who previously cared for horses on the Estate, noted that Dr Anderson commented that she had not been legally obliged to consult with the community about the agreement with NSWMP:

When asked why the deal between the NSW Police Mounted Unit and Sydney Local Health District was done secretly and not openly, Teresa Anderson had replied that legally she hadn't been obliged to do otherwise. This was met with howls of derision and community anger.⁹⁴

- 3.26** The City of Canada Bay Council also observed that the SLHD did not engage with private agistors prior to the agreement with NSWMP:

The SLHD did not engage with the community agistors prior to meetings with the Royal Mounted Police and entering into a Memorandum of Understanding. Nor did the SLHD engage with the agistors following the audit report referred to in the media release of 19 April 2013.⁹⁵

- 3.27** However, the SLHD indicated that it did consult with the community and horse owners on 28 March 2013, after the Blue Visions Report was finalised.⁹⁶

- 3.28** While the SLHD did attend public meetings and meet with horse owners and the licensee, a number of inquiry participants, including the horse owners and other members of the community, are of the view that this was not sufficient.

⁹² Submission 45, Ms Megan Webster, pp 2-4.

⁹³ Submission 39, Ms Elizabeth Webster, p 1.

⁹⁴ Submission 46, Mr John Adam, p 4.

⁹⁵ Submission 43, City of Canada Bay Council, p 3.

⁹⁶ Submission 49, Sydney Local Health District, p 15.

Committee comment

- 3.29** The Committee notes that the SLHD did attend public meetings and engage with the community and the horse agistors at certain points in time. However, what is significant is that the engagement or consultation that did happen occurred *after* the initial decision to change arrangements at Yaralla was made and again *after* the agreement with the NSWMP was made. The Committee believes that this is not proper consultation.
- 3.30** Regardless of whether there is a requirement or not to consult on these decisions, given the level of community use of the Yaralla Estate by community horse owners and the community in general, the level of consultation should have been better. It is obvious to the Committee that any change to such a central community space is likely to impact on the community, therefore real consultation and engagement with the community should have been undertaken before any decisions were made. The decision making process was poorly managed by SLHD.
- 3.31** The notion that the SLHD has ‘a deliberate policy and practice of communicating and engaging with its local communities in a responsible manner’ does not appear to have been adhered to regarding the future use of the Yaralla Estate, both in regard to the decision to lease the paddocks to the NSWMP and in the more recent decision to turn the Yaralla Estate into public parklands with no plans for future horse agistment on the site.
-

Committee finding 1

The Committee finds that the Sydney Local Health District did not undertake genuine community consultation before making decisions about the future of the Yaralla Estate, and that it poorly managed the decision making process.

- 3.32** This lack of community consultation by SLHD gives further support to the Committee’s recommendations in Chapter 5 regarding the future management of Yaralla Estate.

The Blue Visions Management Agistment Facility report

- 3.33** A significant concern for numerous inquiry participants has been the findings of the Blue Visions Report. This section outlines the findings of the report and presents the concerns of inquiry participants.
- 3.34** On 7 December 2012, the SLHD sought a fee proposal from Blue Visions Management for the development of a business case and management plan for the agistment of horses on the Yaralla Estate. In particular the brief requested that Blue Visions provide the SLHD with a plan for the management of the agistment licence and that it should include, but not be limited to:
- a condition report
 - a schedule of recommended site works, and

- recommendations for leasing.⁹⁷

3.35 The brief also requested that Blue Visions Management include an option to prepare documentation for tender and possible assistance with tender evaluation.⁹⁸

3.36 According to the SLHD, the final report was submitted by Blue Visions Management on 4 February 2013. It contained the results of a property condition investigation, a schedule of required maintenance works and four options for future management by subsequent operators. The SLHD stated that:

The Blue Visions report identified significant concerns regarding the poor condition of the property utilised for agistment, and the subsequent threat to the welfare and safety of the public, SLHD staff and horses being agisted on the site.⁹⁹

3.37 The Blue Visions Report indicates that the previous licensee operated a sub-lease arrangement of individual paddocks to horse owners. The report stated that this is contrary to the conditions of the 1996 licence which provides for agistment of horses only. The report advised:

Agistment means that stock are taken onto the property and the agistor, in exchange for payment, agrees to take reasonable care of the stock. Under the current [now previous] arrangement, the Licensee operates by providing the paddock space for a fee, but does not care for stock. While the difference between the two arrangements may appear only slight, it is the absence of a single person in control with sole responsibility for reasonable care of the stock and the property which has caused many of the issues outlined below [in the report].¹⁰⁰

3.38 The report was prepared by Mr Ron Turner, Senior Project Manager, Blue Visions Management, who inspected the Yaralla Estate on 20 and 28 December 2012. Mr Turner inspected the general paddock area, adjacent trotting track and small ancillary buildings. These areas include a small stable block with two stalls and a store shed used for storing tack (saddles, rugs and the like). The caretaker's house, gate house and the old diary shed were not inspected but are included in the options the report presents for future use.¹⁰¹

3.39 The report outlines the requirements under the 1996 Licence for the licensee to maintain fencing, control weeds and maintain the condition of the paddocks. According to the report, this was not occurring.¹⁰²

3.40 Some specific issues outlined in the report include that:

- the general condition of the ground soil and grass was very poor

⁹⁷ Answers to questions on notice, Mr Ron Turner, Senior Project Manager, Blue Visions Management, 20 August 2013, Attachment 2: SLHD Brief.

⁹⁸ Answers to questions on notice, Mr Turner, Attachment 2: SLHD Brief.

⁹⁹ Submission 49, Sydney Local Health District, p 14.

¹⁰⁰ Submission 49, Sydney Local Health District, Attachment 6, Blue Visions, Sydney Local Health District Dame Eadith Walker Estate Agistment Facility Report, p 4.

¹⁰¹ Submission 49, Sydney Local Health District, Attachment 6, p 5.

¹⁰² Submission 49, Sydney Local Health District, Attachment 6, p 6.

- the entire property was infested with a significant amount of fireweed, a serious pasture weed that can be detrimental to horses
- loose electrical fencing was on the ground and there were star pickets cut off above ground level and other items that represented a significant risk to the stock
- there was no reliable/suitable water supply
- existing fences were in ‘very poor condition and require total replacement.’¹⁰³

3.41 In terms of the condition of the horses on the Estate, Mr Turner said: ‘I made a very brief observation that the animal welfare was mixed. Some appeared to be in reasonably good condition while others less so. It was not the focus of my report.’¹⁰⁴

3.42 The report outlined a scope of works in relation to the replacement of fencing, installation of a water supply system, program of weed spray, fertilizing and other pasture remediation works.¹⁰⁵

3.43 The report identified four options for the future management of agistment. These were:

- continue under existing arrangements
- enter into a licence agreement with the NSWMP
- self management by SLHD; or
- go to open tender to attract an experienced operator.¹⁰⁶

Inquiry participants’ issues with the Blue Visions Report

3.44 Some inquiry participants raised issues with the Blue Visions Report including concerns with the professionalism and independence of Blue Visions Management.

3.45 For example, Dr Renata Bali, local resident who is also an environmental consultant with 30 years experience writing and reviewing independent assessments, raised the following concerns with the Blue Visions Report:

I read the entire report with no preconceived notions and, though I am not an expert in horse husbandry, I was left with an underlying feeling that the report was unprofessional and that the author was not an expert in this area. For example, I would expect an audit to robustly and systematically sample conditions on site and to compare the data to some recognized standards. Instead the expressions used are vague and unscientific...¹⁰⁷

¹⁰³ Submission 49, Sydney Local Health District, Attachment 6, pp 6-9.

¹⁰⁴ Evidence, Mr Ron Turner, Senior Project Manager, Blue Visions Management, 5 August 2013, p 17.

¹⁰⁵ Submission 49, Sydney Local Health District, Attachment 6, pp 11-12.

¹⁰⁶ Submission 49, Sydney Local Health District, p 14.

¹⁰⁷ Submission 24, Dr Renata Bali, p 3.

- 3.46** Ms Bianca Kinnear and Ms Kathryn Hall, owners of horses formerly agisted at the Estate, argued that the report does not identify the failings of the previous licensee or those of the SLHD as trustees of the land:

There are many issues raised by the so “called independent consultant report” by BlueVisions management. It does not identify ultimately the failings of the previous licensee in complying with the licence requirements for management of the Yaralla Paddocks and again an even larger failing of the SLHD in adhering and complying with the duty of care that has been ordained upon them as trustees of the Yaralla estate.¹⁰⁸

- 3.47** Ms Kinnear and Ms Hall further argued that the report lays the blame of a number of issues on the horse owners, for example, horse owners allowing access for uncertified fill to be dumped, the condition of the paddocks, allowing their horses to graze on fireweed and failure to take appropriate care of the horses. Ms Kinnear and Ms Hall refuted this and argued that ‘the arrangement between horse owners and the previous licensee was that owners cared for their horses and all grounds maintenance was carried out by the licensee’.¹⁰⁹

- 3.48** Mr John Adam, who previously cared for some horses on the Estate, argued that the Blue Visions Report had few objective measures of assessment:

The first part of the report is damning in its findings. But the evidence presented is almost entirely confined to photographs, personal impression and suggestion. There are few if any objective measures of assessment. For example, the most serious criticism made by the report is that both soil and pastures have been seriously degraded by current management practices. But no laboratory tests or on-site measurements of soil quality and the standards against which they are assessed are presented.¹¹⁰

- 3.49** In reply to the initial findings of the Blue Visions Report, Mr Adam provided the Committee with an independent report he commissioned. The report was completed by Mr Peter McMaugh, a turf culture expert who has frequently done work for agistment businesses. According to Mr Adam, Mr McMaugh’s report ‘shows that the paddocks are actually in good condition considering the local soil type, climate and intended use.’¹¹¹

- 3.50** The McMaugh report claimed:

The report by [B]lue Vision could almost be labelled a ‘blue sky’ report with a wilful vision of apocalyptic proportions. It is clearly not a document prepared with care over an extensive time frame but rather a spot check from which totally invalid conclusions are drawn...¹¹²

- 3.51** The McMaugh report was also provided to the Committee by other inquiry participants.¹¹³

¹⁰⁸ Submission 47, Ms Bianca Kinnear and Ms Kathryn Hall, p 46.

¹⁰⁹ Submission 47, Ms Bianca Kinnear and Ms Kathryn Hall, pp 49-52.

¹¹⁰ Submission 46, Mr John Adam, p 6.

¹¹¹ Submission 46, Mr John Adam, p 6.

¹¹² Submission 46, Mr John Adam, Attachment, p 17.

¹¹³ Submissions that also attached this report included Submission 6, Mr Vincent Silvestro, Submission 20, Mr Colin Wale and Submission 44, Mr William Adam.

- 3.52** In evidence Mr Turner advised the Committee that a further detailed report on the condition of the soil was commissioned by Blue Visions in May 2013:

My inspection in late December and subsequent inspections revealed that it has very poor ground cover with a lot of weeds content. Subsequently, we commissioned a detailed report. We engaged landscape architects and they took 29 or 30 soil samples and did an analysis of them and confirmed our suspicions that the ground was in very poor condition with a low carrying rate.¹¹⁴

- 3.53** This later report was undertaken by Sydney Environmental and Soil Laboratory (SESL) and indicated that ‘the present soil condition of the agistment facility is poor’ and that ‘[t]he grounds require substantial work to rectify the long-term effects of overgrazing, overdue maintenance and weed control.’¹¹⁵

Relationship between Blue Visions Management and SLHD

- 3.54** Another issue raised by some inquiry participants was an alleged link between the company Blue Visions Management and the Liberal Party. Ms Kinnear and Ms Hall alleged:

It is known that blueVisions is a front company for AMK Holdings PTY LTD who in 2010-2011 secretly funnelled the liberal party \$30,000 in “donations”. AMK Holdings PTY LTD is also known to engage Liberal Party lobbyist Michael Photios. The company blueVisions, is based in North Sydney and following the Liberal parties NSW State election win this project management company became a prequalified tender company listed on state government schedules. This is seen from our public lay person point of view as close to corruption that you can get without having an ICAC inquiry called. It identifies that there is the major risk that any report devised by BlueVisions (alter ego AMK Holdings PTY LTD) is unlikely to be independent as a direct conflict of interest exists between blueVisions and any liberal party government department.¹¹⁶

- 3.55** Dr Bali also alluded to ‘alleged links between Blue Visions Management and the Liberal Government’.¹¹⁷

- 3.56** Dr Anderson responded to these concerns, stating that she is not aware of any connections between SLHD contractors and political parties:

I am not aware of any connections of my contractors with any political party. It would be inappropriate for me to investigate what connections people have. I go to the pre-qualification panel for any procurement under \$150,000, as per the government procurement guidelines, which have been in place for some time...

I have only just recently seen reports in relation to this matter when the discussions were occurring in the media. I had not seen, and had no knowledge of, any relationship prior to being advised through the media.¹¹⁸

¹¹⁴ Evidence, Mr Turner, 5 August 2013, p 16.

¹¹⁵ Answers to questions on notice, Mr Turner, Attachment 3: SESL, Soil conditions, analysis and recommendations: Dame Eadith Walker Estate, p 1.

¹¹⁶ Submission 47, Ms Bianca Kinnear and Ms Kathryn Hall, p 47.

¹¹⁷ Submission 24, Dr Renata Bali, p 3.

¹¹⁸ Evidence, Dr Anderson, 7 August 2013, p 8.

3.57 The SLHD advised that Blue Visions Management had been engaged on the Yaralla Estate since 2010, managing the renovation of the Yaralla mansion for the HIV/AIDS Supported Accommodation Unit. Therefore SLHD stated that Blue Visions Management already ‘had a thorough knowledge of the site as well as the heritage and Trust requirements, and more importantly the project manager had a good understanding of horse agistment processes and management.’¹¹⁹

3.58 As such, the SLHD held the view that the contracting of Blue Visions Management was a logical appointment:

The contracting of Blue Visions for the condition report was considered a logical appointment to obtain the best possible advice regarding the site and to explore recommendations for future management of the Estate.¹²⁰

3.59 In response to the Committee’s questions regarding the direct appointment of Blue Visions Management, without going to tender, the SLHD advised the Committee that Blue Visions is listed on the NSW Government Prequalification Scheme and therefore only one fee proposal is required:

Blue Visions consultancy is listed on the NSW Government Prequalification Scheme Performance and Management Services, and has been for many years. Under this scheme the District is permitted to contract directly without calling for tenders. Only one fee proposal was required under this Scheme.¹²¹

3.60 The ‘NSW Government Prequalification Scheme: Performance and Management Services’ streamlines the competitive tendering process for NSW Government agencies by pre-qualifying service providers with demonstrated track records in the provision of certain performance and management services, including project management.¹²²

3.61 Under the Scheme the following minimum levels of competition apply:

- Where the estimated cost of a project is less than or equal to \$150,000 (including GST), an engagement can be made directly from the Scheme by inviting one written quotation from a service provider prequalified under the Scheme.
- Where the estimated cost of a project is more than \$150,000 (including GST), an engagement can be made from the Scheme by inviting a minimum of three service providers, prequalified under the Scheme, to submit quotations. Open invitations to tender are required.¹²³

3.62 Under certain circumstances the Scheme allows for additional or flow on engagement of the same service provider. A service provider who has undertaken an initial engagement may be

¹¹⁹ Submission 49, Sydney Local Health District, p 13.

¹²⁰ Submission 49, Sydney Local Health District, pp 13-14.

¹²¹ Submission 49, Sydney Local Health District, p 14.

¹²² NSW Department of Finance and Services, *Prequalification Scheme: Performance and Management Services, Guidelines for Agencies*, May 2013, pp 3-6.

¹²³ NSW Department of Finance and Services, *Prequalification Scheme: Performance and Management Services, Guidelines for Agencies*, May 2013, pp 3-6.

invited by the agency to submit a proposal for further work, provided the following criteria are met:

- satisfactory performance
- demonstrated knowledge and expertise developed during the first engagement; and
- value for money for additional related engagements.¹²⁴

3.63 The total value of the first and related flow on engagements is not to exceed the lesser of:

- three times the value of the first engagement; or
- \$500,000 (including GST); or
- where flow on engagements are likely to exceed the applicable limit, a minimum of three service providers from the Scheme should be invited to provide quotations unless exceptional circumstances can be demonstrated. Where there are exceptional circumstance, these must be approved by the Minister, the Board, Chief Executive Officer or authorised person at the agency in line with delegations for this particular purpose.¹²⁵

3.64 According to SLHD, it has paid Blue Visions Management \$341,960 for the project management of the Dame Eadith Walker Refurbishment Project in 2010.¹²⁶ Based on further information the Committee has received from the SLHD, this initial engagement took place under the Prequalification Scheme.¹²⁷ Therefore, the additional \$96,263 paid to Blue Visions Management for the flow on engagement for the agistment project is in accordance with the Scheme as the total for the initial and flow on engagements is below the \$500,000 threshold.

Committee comment

3.65 The Committee acknowledges the findings of the Blue Visions Report and the concerns of inquiry participants regarding these findings. We also acknowledge the concerns of Ms Kinnear and Ms Hall noted earlier regarding the lack of responsibility taken by the SLHD for the condition of the Estate outlined in the Blue Visions Report. The lack of inspections of the site by SLHD and previous health authorities causes great concern for the Committee. This is further discussed in Chapter 5.

3.66 The Committee notes that concerns were raised by some inquiry participants about relationships between Blue Vision Management, the Liberal Party and certain members of the Liberal Party.

¹²⁴ NSW Department of Finance and Services, *Prequalification Scheme: Performance and Management Services, Guidelines for Agencies*, May 2013, pp 3-6.

¹²⁵ NSW Department of Finance and Services, *Prequalification Scheme: Performance and Management Services, Guidelines for Agencies*, May 2013, pp 3-6.

¹²⁶ Answers to questions on notice, Dr Teresa Anderson, Chief Executive, Sydney Local Health District, 2 September 2013, p 2.

¹²⁷ Correspondence from Dr Teresa Anderson, Chief Executive, Sydney Local Health District to Chair, 26 September 2013.

Conrad Capital

3.67 Another firm, Conrad Capital and Consulting, also provided advice to the SLHD on the eviction of horses from the Yaralla Estate. Documents returned to the Legislative Council pursuant to an Order for Papers under Standing Order 52, reveal that Dr Anderson sought and received advice from Richard McKinnon, Executive Chairman, Conrad Capital, on 27 April. On 29 April Mr McKinnon provided advice on how SLHD could best present its case to the community.¹²⁸

3.68 Dr Anderson was questioned about the engagement of Conrad Capital. She gave evidence that:

The district engaged Conrad Capital some time ago. I met the consultant through a committee that I am on. The committee is about educating our staff on the new funding reform. I have been on that committee for over 18 months now.¹²⁹

3.69 Dr Anderson advised the Committee that in 2012/13 SLHD paid Conrad Capital \$105, 600. The Committee notes that the Chair of the SLHD, Mr Ron Phillips, has publicly admitted that ‘Richard worked for me in health when I was the minister’.¹³⁰

Committee comment

3.70 The Committee expresses concern at the engagement of Conrad Capital Consulting in two respects:

- the payment of funds from the SLHD budget for what appears to be limited communications advice
- the relationship between Conrad Capital and certain members of the Liberal Party.

Recommendation 1

That the NSW Legislative Council consider referring the claims in respect to Blue Vision Management and Conrad Capital to the Independent Commission Against Corruption, pursuant to section 73 of the *Independent Commission Against Corruption Act 1988*.

NSW Police Force Mounted Police Unit

3.71 Upon questioning from the Committee, Mr Turner revealed that discussions between SLHD and NSWMP regarding the agistment of police horses at the Yaralla Estate started in early January¹³¹ (see also timeline on page 7). It is noted that these discussions occurred before the Blue Visions Report was finalised.

¹²⁸ Return to order for papers, 13 June 2013, Email, SLHD, Document (a) 440.

¹²⁹ Evidence, Dr Anderson, 7 August 2013, p 9.

¹³⁰ Answers to questions on notice, Dr Anderson, p 2 and ‘Gladys Berejiklian’s mate’s firm won health contract with Liberal connection’, Daily Telegraph 2 October 2013.

¹³¹ Answers to questions on notice, Mr Turner, p 2.

3.72 Committee questioning also revealed that, after some issues arose with the horses on the Estate (which began in late 2012), Dr Anderson asked her staff to consider if there was another government agency that could assist with the issues the SLHD had with the agistment of horses on site:

... when we had the issues with the horses, I asked: Is there somebody in a government department who would be able to give me advice and support on the agistment of horses ... If, for instance, the Centennial Park Authority came in and said that they had expertise to give me. I do not have expertise in this area. I am a health professional and my job is to pull in advice from the people who are expert. I am not an expert in the agistment of horses.¹³²

3.73 The Blue Visions Report was subsequently finalised on 4 February 2013. One of the recommendations in the report was that ‘discussions continue between SLHD and NSWMP with a view to establishing a new licence for up to 10 years with a right of renewal for a further 5 years’.¹³³

3.74 The NSWMP currently agists horses at six separate locations including Goulburn, Helensburgh, Menai, Sans Souci and Tocal.¹³⁴ According to the NSW Police Force: ‘NSWMP had been scoping proposals for agistment paddocks since March 2009 and the property at Concord was deemed suitable for the needs of NSWMP’.¹³⁵

3.75 On 18 January 2013 NSWMP attended the Yaralla Estate with the SLHD to view the property and its suitability for NSWMP. As a result of the inspection, NSWMP deemed the property to be suitable for the agistment and training of its horses.¹³⁶

3.76 The NSW Police Force listed the following advantages of agisting its horses at the Estate:

- a dramatic reduction in the travelling times for spelling horses (being only 15 kilometres from Redfern)
- consolidation of spelling paddocks from six locations to one
- closer location to operational jobs in the South West and North West Regions
- not having to exercise/ride horses as often on a daily basis, as currently horses have to be exercised twice daily at Redfern due to no paddocks or ability to self exercise
- reduction in work health safety riding accidents from horses being self worked as opposed to ridden
- as NSWMP do not spell all their horses at one time, paddock usage would be on a rotating basis, which would thereby allow paddock regeneration at the site.¹³⁷

¹³² Evidence, Dr Anderson, 7 August 2013, p 19.

¹³³ Submission 49, Sydney Local Health District, Attachment 6, p 15.

¹³⁴ Evidence, Mr Aidan Hughes, Director, Finance and Business Services, NSW Police Force, 5 August 2013, pp 3-4.

¹³⁵ Submission 50, NSW Police Force, p 1.

¹³⁶ Submission 50, NSW Police Force, p 1.

¹³⁷ Submission 50, NSW Police Force, pp 1-2.

- 3.77** The NSW Police Force advised the Committee that it would require agistment facilities for up to 20 horses.¹³⁸
- 3.78** The NSW Police Force advised that it signed an ‘offer to licence’ (Heads of Agreement) with SLHD for the agistment of land and lease of some buildings located at the Yaralla Estate. The NSW Police Force commented that ‘[t]his agreement was made between two government agencies which is a normal and usual process... The agreement was negotiated between March and April 2013 with finalisation of the agreement reached and signed on 18 April 2013.’¹³⁹
- 3.79** In terms of community consultation, the NSW Police Force stated that it was their ‘understanding that any consultation with the stakeholders was the responsibility of SLHD.’ In addition, the NSW Police Force indicated that the agreement was not signed prior to the announcement to the horse agistors at a meeting on 28 March 2013.¹⁴⁰
- 3.80** According to Mr Aidan Hughes, Director, Finance and Business Services of the NSW Police Force, the cost of the licence would have been \$24,400 (plus GST) per year.¹⁴¹
- 3.81** Due to community pressure, the SLHD cancelled the agreement with NSWMP on 14 May 2013 and decided to go to open tender for the agistment licence.¹⁴²

Committee comment

- 3.82** Based on the evidence received during this Inquiry, it appears likely to the Committee that there may have been a foregone conclusion regarding the recommendation in the Blue Visions Report for the NSWMP to take up the agistment licence at the Yaralla Estate. In reaching our conclusion we note in particular that discussions started in early January before the report was finalised in February 2013.
- 3.83** We note that Dr Anderson asked her staff to consider if there was ‘somebody in a government department who would be able to give me advice and support on the agistment of horses.’¹⁴³ It appears likely that this was the impetus for the SLHD to consider a government agency, such as the NSWMP, to take over the agistment facilities on the Estate.
- 3.84** The Committee appreciates the need of the NSWMP for agistment facilities. The Committee makes no criticism of the actions of the NSW Police Force in this matter. In seeking to agist NSWMP horses at the Yaralla Estate, the NSW Police Force acted properly at all times.

¹³⁸ Answers to questions on notice, NSW Police Force, 27 August 2013, p 6.

¹³⁹ Submission 50, NSW Police Force, pp 2-3.

¹⁴⁰ Submission 50, NSW Police Force, p 3.

¹⁴¹ Evidence, Mr Hughes, 5 August 2013, p 10.

¹⁴² Submission 49, Sydney Local Health District, p 20.

¹⁴³ Evidence, Dr Anderson, 7 August 2013, p 19.

The role of the local Council

- 3.85** The role of the City of Canada Bay in the decision making process has been minimal as they are not a consent authority.¹⁴⁴ However, there has been some consultation with the Council which seems to have taken place later in the piece. For example, Councillor Angelo Tsirekas, Mayor of the City of Canada Bay, advised that the first time the Council became aware of changes to the agistment at the Yaralla Estate was when a local resident and agistor approached him in early April 2013. Councillor Tsirekas stated that ‘he would like council to be involved with assisting the agistors. I certainly was very happy to be part of the process of trying to negotiate between the parties to see if we could get some resolution.’¹⁴⁵
- 3.86** It is understood that on 27 May 2013, at the request of the City of Canada Bay Council, SLHD met with the Council and horse owners to discuss an alternate proposal for the Council to manage the agistment licence.¹⁴⁶ Then on 28 May 2013 the SLHD held a further risk assessment workshop to consider the alternate proposal of management by the Council. However, the Council advised at the workshop that it was unable to manage the agistment at that time.¹⁴⁷

Committee comment

- 3.87** The Committee notes that the local Council is not a consent authority, however, it would seem appropriate to consult or involve the local Council in discussions regarding such a large amount of public land that involve such significant changes. The Committee believes that this is again a demonstration of the SLHD’s poor consultation methods around the use of the Yaralla Estate.
- 3.88** The Committee also notes that the City of Canada Bay Council advised that it would be unable to manage agistment on the Estate at that time.

Tender process

- 3.89** As mentioned at the beginning of this chapter, the SLHD decided to go to tender for the agistment licence for the Yaralla Estate and opened a tender process on 1 August 2013.¹⁴⁸
- 3.90** Dr Anderson, SLHD, advised that: ‘Following the concerns raised by the community in May 2013, the District made the decision to go to public tender to give the local horse agistors and others an opportunity to submit a tender for the agistment of horses.’¹⁴⁹

¹⁴⁴ Evidence, Councillor Angelo Tsirekas, Mayor of the City of Canada Bay, 5 August 2013, p 35 and p 38.

¹⁴⁵ Evidence, Councillor Tsirekas, 5 August 2013, p 35 and p 39.

¹⁴⁶ Submission 49, Sydney Local Health District, p 22.

¹⁴⁷ Submission 49, Sydney Local Health District, p 22.

¹⁴⁸ Evidence, Dr Anderson, 7 August 2013, p 3.

¹⁴⁹ Evidence, Dr Anderson, 7 August 2013, p 3.

3.91 However, inquiry participants raised concerns with the tender process, claiming the tender was written in such a way as to ensure the NSWMP would be the successful applicant. Ms Jacqueline Puz, local resident, alleged:

In response to community outrage SLHD said they would tear up the contract with the Mounted Police and put the agistment licence out to tender. However the community believes that this is just a motion to quell public anger, and the tender will nonetheless be geared in favour of the Mounted Police.¹⁵⁰

3.92 Mr John Rosier, local resident, stated: 'It has been reported that the lease will now go to tender and will [be] awarded to the best applicant. Unless government agencies are excluded from the process it will be a sham tender.'¹⁵¹

3.93 Ms Alexandra Gavel, local resident and horse agistor, also questioned whether the outcome of the tender was already decided:

... there is no certainty that the communities concerns will be considered. How can we be sure that the [tender] criteria set by SLHD does not favour a certain applicant such as the MPU? How can we know that the Mounted Police Unit won't just happen to be the 'most ideal' and preferred applicant identified by an O'Farrell government/SLHD panel.¹⁵²

3.94 Similarly, Ms Carolyn Hartley, local resident, argued that the tender documents have been prepared to ensure that the NSWMP would be successful:

Now the tender is officially open for public application as from last Thursday. It has been written in a way that is near impossible for any applicant, other than the Police Mounted Unit to be successful. The stipulations have been unrealistically set.¹⁵³

3.95 Ms Megan Webster, local resident and horse agistor, also believed that the tender process was aimed at the NSWMP, noting that the tender had excluded options for recreational horse riding and commercial horse racing:

Having had a look at the tender now, they have not only banned things like recreational horse riding, which would obviously rule out a lot of community members who want their children to be able to learn to ride and that sort of thing, but also gotten rid of the possibility of commercial horse racing or anything like that. Essentially it's not going to be commercially viable for pretty much anyone. So it does seem that it is very much targeted towards mounted police, which seems a little bit of a stitch up.¹⁵⁴

3.96 According to Deputy Commissioner Kaldas, at the time it was advertised the NSW Police Force was interested in putting in a tender for the agistment licence.¹⁵⁵

¹⁵⁰ Submission 8, Ms Jacqueline Puz, p 1.

¹⁵¹ Submission 30, Mr John Rosier, p 3.

¹⁵² Submission 42, Ms Alexandra Gavel, p 4.

¹⁵³ Public Forum, Ms Carolyn Hartley, 5 August 2013, p 2.

¹⁵⁴ Public Forum, Ms Megan Webster, 5 August 2013, p 15.

¹⁵⁵ Evidence, Deputy Commissioner Nick Kaldas, NSW Police Force, 5 August 2013, p 9.

3.97 There were also concerns with the timeframe given to lodge applications for the tender and issues with the composition of the tender panel. For instance, Mr Clayton James, local resident, argued that the timeframe was inadequate:

Furthermore, as the mayor just said, within the period of time there is no way that council, any group, the Yaralla community or the horse owners could achieve a tender response with effect and covering the requirements within that tender. They are automatically precluded and excluded from that tender process.¹⁵⁶

3.98 In regard to the composition of the tender panel, it was revealed that the author of the Blue Visions Report, Mr Ron Turner, was one of the panel members.¹⁵⁷

3.99 Dr Anderson advised the Committee that the SLHD considered Mr Turner's membership on the tender panel to be appropriate. She stated:

The district does not believe it was inappropriate to have Mr Turner on the tender review committee given his expertise and knowledge of the estate, and this is consistent with government tender guidelines.¹⁵⁸

3.100 However, in response to concerns raised during this Inquiry regarding Mr Turner's appointment on the panel, Dr Anderson later announced that he would be replaced by a person nominated by the Chief Procurement Officer, NSW Health.¹⁵⁹

3.101 As noted earlier, due to the significant level of community concern regarding the nature of the tender documents, the Committee requested that the SLHD abandon the tender process. The SLHD agreed to this request and abandoned the tender on 15 August 2013.¹⁶⁰

Committee comment

3.102 The Committee believes that the initial participation of Mr Turner on the tender panel was inappropriate, given that he is the person who initiated and recommended that the NSWMP take up the agistment licence at the Yaralla Estate.

3.103 The Committee has not made recommendations in relation to this issue or the issues regarding the tender process given that the tender has been abandoned and the SLHD has announced the future plans for the Estate to become public parklands. The Committee's views on the future of the Estate are discussed in Chapter 5.

¹⁵⁶ Public Forum, Mr Clayton James, 5 August 2013, p 6.

¹⁵⁷ Evidence, Dr Anderson, 7 August 2013, p 3.

¹⁵⁸ Evidence, Dr Anderson, 7 August 2013, p 3.

¹⁵⁹ Evidence, Dr Anderson, 7 August 2013, p 3.

¹⁶⁰ Correspondence from Dr Teresa Anderson, Chief Executive, Sydney Local Health District to Chair, 15 August 2013.

Chapter 4 Community connection to Yaralla Estate

There has been a significant amount of community concern and anger regarding the changes at the Yaralla Estate. This is based on a strong community connection to the Estate that was well demonstrated to the Committee in the evidence to the Inquiry. This chapter relays the community's stories about Yaralla and discusses the impacts of the decision by the Sydney Local Health District (SLHD) to evict the horses owned by members of the community from the Estate. The most obvious impact has been on the owners of the evicted horses, and the horses themselves. There are also a number of possible future impacts that the community are concerned may result from the decision by the SLHD to remove the horses, such as reduced public access and development of the site. The chapter also considers the heritage significance of the Yaralla Estate.

Impact on horse owners

- 4.1** A number of horse owners whose horses were evicted from Yaralla Estate described the strong personal and community connection they had to the Estate and the impact the eviction has had on them and their horses.
- 4.2** Ms Carolyn Hartley, local resident and evicted horse agistor, described the close connection she and her family had with the Yaralla Estate over the years and how this has been lost:

I owned my first horse when I was 13, agisted him at different places for a few years before, finally, a vacant spot was available at Yaralla. My life really began there... Over the years I have developed many longstanding friendships that still continue to this day with people I have met at Yaralla ... Sadly, my father passed away in 1997 on Yaralla Estate after suffering a major heart attack whilst helping me tend my horse. As said at his funeral and in his eulogy, if he had a choice of where he wanted to pass away, it would have been at Yaralla Estate: his little bit of country. My mother has since passed away, too, suffering from a longstanding kidney disease that saw her on dialysis four times a week. She also, for a period of time, had her dialysis treatment at Yaralla House when it was a kidney unit. She loved the estate and enjoyed her time there, even if it was for dialysis treatment. She would also tell me she felt close to dad there, which helped her through her illness. I have three children, all of whom have learnt to be with horses, ride them, have them in their life and learn the responsibilities and get "horse dirty". I love the fact that my kids were all happy and healthy, being outdoors and being active, riding our horse, Murphy. In the past few years I have become a single mother of my three children. Their life and mine went through so many changes in the past few years, but I was always comforted to feel that the routine of caring, riding and socialising with our horse at Yaralla did not change—until now.¹⁶¹

- 4.3** Ms Alexandra Gavel, local resident and evicted horse agistor, described the impact of the eviction on her and her horse and the reduced time they now have to spend together:

At 17 years old, I got my first horse, Whiskey. After living at Yaralla for 11 years, he now lives just under two hours away from me. This has been a difficult transition for Whiskey and me as it has impacted on the amount of time we get to spend together.

¹⁶¹ Public Forum, Ms Carolyn Hartley, 5 August 2013, p 2.

Whiskey is 19 years old this year. He is not the youngster he used to be, so as his human comrade I owe it to him to ensure he is kept fit and healthy to give him maximum quality of life. This has been made more difficult for me to do on my own, especially due to the recent move. A round trip of over three hours of travel means I am only able to see him twice a week.¹⁶²

4.4 Ms Linda O'Neill, local resident and evicted horse agistor, explained the benefits to her sick daughter of having her horse close by at the Yaralla Estate:

Our daughter, who is 21, has a serious lung condition and is extremely unwell. She probably spends 90 per cent of her time in bed and walks less than 100 metres.

Just over 12 months ago we managed to get a spot at Yaralla and we brought her horse to Sydney. Our farm is three hours away and it was impossible for her to get to the farm. She has been evacuated by helicopters and ambulances, so it is quite dangerous to have her there. I brought her horse to Sydney so that she could see her horse every day. She is not able to ride at all at the moment, so every day we would go for coffee in Concord and then we would see the horse. Some days she was not well enough to get out of the car, so I would bring the horse out of the paddock and she would talk to her horse through the window ... The best thing about having the horse at Yaralla was the health benefits to our daughter by being able to see the horse every day.¹⁶³

4.5 Ms Meagan Webster, local resident and evicted horse agistor, stated it has been 'devastating' to no longer have frequent contact with her horse:

I had a horse there [Yaralla Estate] for half of my life. My horse lived there for more than half of his life. He is my life. It has been absolutely devastating to lose that aspect of my life. For me growing up he was everything for me. I used to go there every single day, twice a day whenever I could. That was not even to ride him... but he was just that pet that you could go and spend time with to keep you sane in this crazy world that we live in. I went up to see him last weekend and it was just the best thing ever, but I only get to see him every three weeks or so because it is a five-hour round trip and I work full time. So it has just been absolutely devastating for all of us to lose that. I know that I sound like a privileged horse owner, because I know that a lot of people do just agist elsewhere, but it was a bit different for us because we did get our horses relying on the fact that there was this place nearby.¹⁶⁴

4.6 Ms Webster also described the impact of changing agistment locations on her horse:

My horse arrived at this alternate location, 2.5 hours from Yaralla, at 11pm on Sunday 2 June 2013. He had gone from being visited twice daily for feeding and rugging/unrugging, to no care whatsoever. His subsequent loss of condition, and accrual of various maladies is unsurprising. I am aware other horses have likewise suffered as a consequence of being forced from Yaralla without time for suitable long term alternatives to be investigated.¹⁶⁵

¹⁶² Public Forum, Ms Alexandra Gavel, 5 August 2013, p 2.

¹⁶³ Public Forum, Ms Linda O'Neill, 5 August 2013, p 2.

¹⁶⁴ Public Forum, Ms Meagan Webster, 5 August 2013, p 2.

¹⁶⁵ Submission 45, Ms Meagan Webster, p 8.

- 4.7 Ms Anna Laios, local community member, commented on the impact of moving the horses on the horses themselves:

Horses are very emotional animals, can you imagine how they must feel not seeing their human and equine friends now that they are scattered all over Sydney? How would we feel if we were evicted from our homes and not given a choice to fight and stay in our rightful home? They have no voice, so we are their voice.¹⁶⁶

Impact on community members

- 4.8 A number of local community members, other than horse owners, also discussed their strong connections to the Estate. During the Inquiry they shared the fond experiences that their families have had with the Estate and the horses. For example, local resident, Ms Juliet Mazzone, told the Committee:

I have lived in Concord for 34 years. My children have grown up being able to see horses and see the remains of an Edwardian farm still working in the centre of Sydney. It is precious to me beyond expression. Since the horses went, I have not had the courage to go back and look at the place because it is empty and I just cannot bear to see it without those horses that I have come to know. I have no interest in them personally. I do not have anybody who rides in the family, but there is something about seeing those horses there. I have seen grandchildren with their grandparents and children with their parents and the children have giggled with delight to be able to see animals there. We do not get a chance to do that in the city and I think it is very important—if we ever want to do something about our environment—that the small ones learn to love animals. This is a very good way of doing it.¹⁶⁷

- 4.9 Similarly, local resident, Mr Clayton James, outlined his and his children's personal attachment to the Estate:

It is a unique place in New South Wales and since that time 13 years ago myself and my wife have had two children. They have grown up in the grounds of Yaralla, they have had the opportunity to ride the horses, to feed the horses, to get to know the beautiful Storm which I know many of you know today. When I found out that this beautiful place was to be taken away from the people of Canada Bay and potentially the people of New South Wales I became involved with the good people from the save Yaralla campaign ... Now every time I walk down that path, that road, I am in tears. Every time I walk down to that place it is not the same and I do not want to go back there.¹⁶⁸

- 4.10 Mrs Nina Hartley, local resident, described the long term connection she and her family has had with the Estate as well as her visitors:

I have lived in the Concord area for forty years and have visited both the Walker Estates [Yaralla Estate] many times over that period. Many times I have taken overseas, interstate and country visitors to our "little bit of country" in the city, with its grazing horses and stately home at Dame Eadith Walker which always made an

¹⁶⁶ Submission 4, Ms Anna Laios, p 1.

¹⁶⁷ Public Forum, Ms Juliet Mazzone, 5 August 2013, p 2.

¹⁶⁸ Public Forum, Mr Clayton James, 5 August 2013, p 4.

impression. I have also had a greater connection in later years, because of a family member's horse being agisted there for many years. Over the past eighteen years the paddocks have come to mean a great deal to three of my grandchildren as they have developed a love of horses and a sense of how to be responsible for a large animal as have any other children there. That comradeship, sense of responsibility and maturity has now been denied them by the actions of bureaucrats who have no idea of history, local feelings or respect for the ordinary people in this area.¹⁶⁹

- 4.11** Ms Caela Hartley, local resident, commented on the bond she had with the Estate and the impact of evicting the horses:

It angers me so much that people with power want to change things such as a beautiful piece of country paradise in the middle of the city where families come to be together and just be happy. It was generally a happy and peaceful place. I went down to the paddocks the other day and I realized that there is no love there anymore, you don't see as many community members walking their dogs, you don't see people riding their horses around the paddocks ... it's so sad, all the happy memories are gone, and to think when I have kids I won't be able to show them where I use[d] to ride, the place that had inspired me to do so much...¹⁷⁰

Impact on public access

- 4.12** Other community members were worried that the impact of the SLHD decision to remove the horses would also affect public access to the Yaralla Estate. For example, Ms Diana Irving, local resident, was concerned that public access will be prevented:

My concern regarding the Dame E[a]ldith Walker's Yaralla Estate is that the public will be prevented from walking and using the grounds and garden of the estate. Like many local residents we have no garden only a small courtyard and the Walker Estate provided a valuable play area for my children as they were growing up. In Dame E[a]ldith's beautiful garden my children were free to climb trees, fossick for shells, run, hide, explore, observe wildlife, horses, river traffic and memorably jump in puddles right up to their middles. The estate is a safe place free from cars and noise and allowed them to play freely.¹⁷¹

- 4.13** Similarly, Mrs Tracy Bucciarelli, local resident, requested that the public access for families remain. She stated:

My submission really centres around the use of Yaralla by my family which includes a 3 year old boy and a 9 month old girl... It is such an oasis in the middle of the city and whilst we can walk the streets, my son has so far grown up visiting the animals at Yaralla that included all the horses, chickens, dogs and at one point a goat... It is so lonely there now, but we hope that it still stays open to the public to enjoy this open space... I really hope my 9 month old will enjoy as much as we have in the past and I can tell my 3 year old "look the horses are back"! That would be great.¹⁷²

¹⁶⁹ Submission 13, Mrs Nina Hartley, p 1.

¹⁷⁰ Submission 32, Ms Caela Hartley, p 1.

¹⁷¹ Submission 15, Ms Diana Irving, p 1.

¹⁷² Submission 29, Mrs Tracy Bucciarelli, p 1.

- 4.14** Ms Diane Lyons, local resident, advised that one of the reasons her family chose to live in Concord was the amount of green space in the suburb. She urged the Government to keep the land open to the community:

The grounds of Yaralla have provided my family with a green space that is both valuable and valued. Having the horses there for a pat or a short ride has allowed my children to experience a little piece of country in the city ... Bring the horse back to Yaralla. Keep the land open to the community. Help us preserve the life we chose in the place we chose it.¹⁷³

- 4.15** A number of local residents, called for a 'stop [to] the coordinated and planned reduction of public access to the Yaralla Estate'.¹⁷⁴

- 4.16** Some community members highlighted the health benefits for the public and patients accessing the Estate. For example, Mr John Adam, local resident, commented:

Dame Eadith Walker left Yaralla to the public of New South Wales as a hospital and public benefit. But it should be remembered that public health is not attended to in hospitals alone. The horses and semirural landscapes of Yaralla for years have provided the public with a health benefit that is, in the words of Nathan Rothschild, "as necessary as bread". The population of Sydney will inevitably increase and there will be a resulting increase in housing densities. This will be bearable only if there are places like Yaralla for people to escape to and refresh themselves. It is vitally important that they are not lost to satisfy short-term expediencies...¹⁷⁵

- 4.17** Similarly, Mr Claude Stanizzo stated that: 'Public access to the estate help[s] bring medical relief for those who are suffering in physical and mental pain as well as the patients of Concord Hospital, as you can see it helps everyone from young to old for all people from all walks of life to enjoy.'¹⁷⁶

- 4.18** It is also noted that a number of inquiry participants were concerned that if the NSW Mounted Police Unit were to agist its horses at the Yaralla Estate then public access to the Estate may be threatened due to the security needs to protect the police horses.¹⁷⁷ This is discussed further in Chapter 5.

Heritage significance

- 4.19** The important heritage significance of the Yaralla Estate was also raised during the Inquiry.

¹⁷³ Submission 23, Ms Diane Lyons, pp 1-2.

¹⁷⁴ See for example, Submission 33, Ms Gina Rizakos, p 1; Submission 52 Mrs Ann and Mr Bill Johnston; Submission 48, Mrs Helena and Mr Scott Kinnear; Submission 28, Mr Douglas Smith; Submission 36, Mr Patrick Webster; Submission 21, Mr David Tracy and Submission 17, Ms Helen Erken.

¹⁷⁵ Public Forum, Mr John Adam, 5 August 2013, p 4.

¹⁷⁶ Submission 31, Mr Claude Stanizzo, p 1.

¹⁷⁷ See for example, Submission 8, Ms Jacqueline Puz, p 2 and Submission 24, Dr Renata Bali, p 2.

4.20 As noted in Chapter 2, the Estate is listed on the NSW State Heritage Register and the Heritage Council of NSW supports the continued use of the property and its key paddocks for horse grazing as an effective link to the original use of the property.¹⁷⁸

4.21 Ms Lois Michel, local resident and member of the City of Canada Bay Heritage Society, emphasised that even though the horses are not there, the heritage significance of the Estate is still a reason to visit the site:

Another thing that concerns me here at this meeting and at the previous public meeting, is all these people who profess their love of Yaralla and then say, "I will not go there again". The horse paddocks are only a part of Yaralla. There are the buildings, the grounds and the gardens which are the main part of the estate. If all these people would come out and support us, we could make a huge difference to the area. If they love it, they should support it. We have spent thousands of man hours physically doing work there. We have spent over \$100,000 on restoring properties that the Health Department cannot spend money on. We can always use help and, if you love the estate, come and learn about it.¹⁷⁹

4.22 Ms Gina Rizakos, local resident, also highlighted the important heritage value of the site and expressed concern regarding the future of the Estate:

I would like to be assured that Yaralla Estate will remain intact and in the state Dame Eadith Walker bequeathed it to the People of NSW. Yaralla Estate is part of the heritage of NSW and an important historical legacy to everyone in Australia, residents and visitors alike. I have taken many visitors to Yaralla Estate who have commented how wonderful it is to see an Edwardian estate within an urban environment and how conducive to health to have such a place close to the city.¹⁸⁰

4.23 Mr John Webster, local resident, questioned whether recent upgrades at the Estate met heritage guidelines:

Given the historic and heritage classification of the site, I am concerned whether the recently commenced "upgrades" meet heritage guidelines for changes to such properties. To whom has SLHD submitted the proposed changes for validation...¹⁸¹

4.24 The SLHD announced on 4 June 2013 that there would be upgrades to the Yaralla Estate. This includes replacement of fencing, paddock regeneration works, driveway repairs, tree removal and replacement, off the leash dog area and signage. The SLHD commented that: '[t]hese changes are aimed at upgrading the property and making it more user friendly.'¹⁸²

¹⁷⁸ Submission 26, Heritage Council of NSW, p 1.

¹⁷⁹ Public Forum, Ms Lois Michel, 5 August 2013, p 8.

¹⁸⁰ Submission 33, Ms Gina Rizakos, p 1.

¹⁸¹ Submission 35, Mr John Webster, p 1.

¹⁸² Submission 49, Sydney Local Health District, p 25 and Evidence, Dr Teresa Anderson, Chief Executive, Sydney Local Health District, 7 August 2013, p 5.

Development on site

- 4.25** There was also some concern in the local community that the Yaralla Estate would be developed. For example, Ms Rizakos relayed her fears that developers may take over the site:

So of course as an adult now it saddens me that we have reached this point where we all have to come together with a fear that this is probably the thin edge of the wedge of developers getting hold of this heritage-listed estate. I think that is why most of us are quite passionate about this matter and why we are all concerned. We have been putting our names down on petitions and sending submissions in. I hope that that is not the case and that, in a few years' time, we do not see this estate sold off. I hope we here in the western suburbs can see something similar to what Vaucluse has in Vaucluse House out in the eastern suburbs. I think that would be a great way of protecting this property. It would still be in the hands of the public, we would still have animals on the property and we would still have it as a health-giving property.¹⁸³

- 4.26** Mr Max and Mrs Val Wilson commented that: 'If the public are pushed off the estate it will be the start of the process to sell the entire area to developers.'¹⁸⁴

- 4.27** According to one local resident, Mr Adam, the Yaralla Estate is on a government list of 'under-performing assets':

The current State Government has stated its intention of selling "under-performing assets" and has set up a working group to identify these assets. It has been revealed that the Yaralla Estate is on this list. The sale of one half of the Estate would reap hundreds of millions of dollars. Most of this money would be reaped, not by the tax payer, but by private corporate interests.¹⁸⁵

- 4.28** Another inquiry participant commented that they did not want to see the Yaralla Estate broken up or developed:

No one in the area wishes to see Yaralla Estate broken up or developed into some kind of 'Breakfast Point version 3'. I would also be interested to know whether any political or government representatives have been approached by local or international building developers with regards to Yaralla Estate.¹⁸⁶

- 4.29** The 44 pro forma statements from individuals, predominantly local residents, that the Committee received all raised the concern regarding the possibility of future development of the Yaralla Estate. These suggested that fear has risen in the community as Blue Visions Management, the company that undertook the Agistment Facility Report, specialises in development projects.¹⁸⁷

- 4.30** However, the local member, Mr John Sidoti MP, Member for Drummoyne, adamantly refuted the claims about the Yaralla Estate being developed:

¹⁸³ Public Forum, Ms Gina Rizakos, 5 August 2013, p 8.

¹⁸⁴ Submission 5, Mr Max and Mrs Val Wilson, p 1.

¹⁸⁵ Submission 46, Mr John Adam, p 10.

¹⁸⁶ Submission 37, Name suppressed, p 2.

¹⁸⁷ 44 pro formas statements from individuals. See Appendix 4 for list of individuals that submitted a pro forma.

I then read that there are posters up in community areas suggesting that there will be a Breakfast Point style development. Anybody in this room who thinks that will ever happen is just 100 per cent wrong. There will never be any development there and if anyone even suggests that there is to be a development there, they are really mistaken ... There will be no Breakfast Point style development; there will be no development at all. It is a fact. It is legislated for. That is just another mistruth that has been circulated.¹⁸⁸

- 4.31** As described above, the Committee took evidence of community disquiet about the future of the Yaralla Estate, including rumours of disposal of the Estate. Responding to this allegation, the CEO of SLHD commented in hearings, she thought the Mayor of Canada Bay was responsible for this misinformation. In response to a question from the Committee, SLHD advised that \$3,345.98 was spent on an advertisement correcting what the SLHD saw as misinformation.¹⁸⁹

Asbestos on site

- 4.32** A further issue raised by community members was the discovery of asbestos on part of the Yaralla Estate and the lack of responsiveness from the SLHD when it was discovered.
- 4.33** Ms Bronnen Croker, the former licensee's daughter and local resident, advised that she contacted the authorities to report the asbestos:

I have actually contacted the Environment Protection Authority [EPA] on several occasions and asked them to go down and have a look at it. They went down and the black fencing went up. Then the signs went up saying that there is asbestos there. These guys [SLHD] need to be made accountable for what they have done, or what they have not done. They did not inspect the dirt turning up. They did not come down and look at the grounds.¹⁹⁰

- 4.34** Similarly, Ms Elizabeth Webster, community member, raised concerns with asbestos on the site, including the public being exposed to the waste:

I also understand that members of the public, myself included, have been exposed to asbestos dumped on the site. While I cannot begin to see how this could have been allowed to occur in the first place, I am aware as I walked past the area which was simply bordered with a flimsy plastic tape with no signage, that inadequate actions and responses were taken when this knowledge was made clear. In fact, when I walked by a couple of days later this tape had come away... and members of the public including very young children were walking across this hazardous area. I cannot even begin to describe my disgust with their dealings in this matter. No effort was made to protect OR advise the public of this danger.¹⁹¹

- 4.35** Mr William Adam, owner of a horse formerly agisted on the Yaralla Estate, was also very concerned about being exposed to the asbestos on the site:

¹⁸⁸ Public Forum, Mr John Sidoti MP, Member for Drummoyne, 5 August 2013, p 8.

¹⁸⁹ Evidence, Dr Anderson, 7 August 2013, p 9 and Answers to questions on notice, Dr Anderson, p 1.

¹⁹⁰ Public Forum, Ms Bronnen Croker, 5 August 2013, p 8.

¹⁹¹ Submission 39, Ms Elizabeth Webster, p 2.

Many people have been exposed to this asbestos contamination. Will SLHD set up a register so that anybody unfortunate enough to suffer health consequences can trace the origin of contamination? Myself, my family and friends were exposed daily since 2007 as the asbestos contaminated waste is on the ground at the entry point to the paddock that I agisted my horses in.¹⁹²

- 4.36** In response to these concerns Dr Teresa Anderson, Chief Executive of the SLHD, acknowledged that asbestos was identified on part of the Estate and advised that it had been removed appropriately:

We recently identified that there was some asbestos there During that site inspection, on 16 May, SESL identified areas adjacent to the private road that were suspected of having contaminated material. We were notified and we notified the lessee and asked him to contact the agistors because he has the contact details of the agistors; the District does not. That is the normal process.

The results were forwarded to us on 20 May. As soon as we were advised, we put fencing around the area and we instructed the removal contractor as soon as possible and that process is under way. WorkCover inspected the site. We had an email sent to MPK Asbestos and Demolition confirming there were no breaches, and they were satisfied with the removal process. It is my understanding that asbestos can be underneath the soil. With rain and movement it can come to the surface so we will continue to review that.¹⁹³

Committee comment

- 4.37** The Committee recognises the strong community connection to the Yaralla Estate and acknowledges the significant amount of community concern and anger regarding the changes at the Estate.
- 4.38** The Committee notes that the community fears about the future of the Yaralla Estate may have been exacerbated by the debate that appears to have been politically motivated.
- 4.39** There has been a considerable and direct negative impact on the owners of the evicted horses from the decision by the SLHD to evict the horses owned by members of the community from the Estate. The loss of horses owned by members of the community has also been felt by local residents, a number of whom have expressed additional fears that there may be possible changes to public access or development of the site. It is clear to the Committee that poor community consultation by SLHD has not helped allay the community's fears regarding the future of the Estate. The Committee adduced no evidence that would support the fears that the site would be subject to private development.
- 4.40** The Committee notes that according to the *Walker Trusts Act 1938*, the Yaralla Estate must be used for the provision of health services and public space or horse agistment.¹⁹⁴ There is no provision to allow for development of the site.

¹⁹² Submission 44, Mr William Adam, p 5.

¹⁹³ Evidence, Dr Anderson, 7 August 2013, p 6.

¹⁹⁴ *Walker Trusts Act 1938*, s19B(1).

- 4.41 With regard to the asbestos found on part of the Estate, we understand that the SLHD has removed the contaminated waste and will be reviewing the area in the future. We urge the NSW Government to ensure that a future review of the site for asbestos contamination be undertaken, especially in light of its recent announcement that the paddocks will convert to public parkland.
- 4.42 In acknowledging the strong community connection to the Yaralla Estate, the Committee recommends that the NSW Government ensure public access is maintained and that no future legislative changes are made to the *Walker Trusts Act 1938* that would limit public access. We also recommend that future plans for the Estate be clearly communicated to the local community.
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Recommendation 2

That the NSW Government ensure public access is maintained to the Yaralla Estate and that no future legislative changes are made to the *Walker Trusts Act 1938* that would limit public access or public ownership.

Recommendation 3

That the NSW Government ensure that any future plans or proposals for changes in management or operations for the Yaralla Estate are clearly communicated to the local community well in advance and that there are adequate opportunities for community engagement.

- 4.43 The Committee is also concerned about recent and future use of the Yaralla Estate and possible impacts from this use on the heritage values of the site. We are aware that SLHD has carried out works inside the Yaralla Mansion and would like to ensure these works have not impinged on the heritage value of the building.
- 4.44 Additionally, in regard to the remediation works at the Estate proposed by SLHD, it is not clear if these plans have been or need to be considered by the NSW Heritage Council before being undertaken. It is noted that some of these works have already begun.
- 4.45 The Committee therefore recommends that the NSW Government carry out a full heritage report of the Yaralla Estate, including all buildings, structures and lands to ensure that any previous use or changes made by any health authorities over the years and any new proposed changes by the SLHD have and will not impact on the heritage status of the Estate. Such a report may also be useful for the maintenance of the Estate into the future.
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Recommendation 4

That the NSW Government commission a full heritage report of the Yaralla Estate, including all buildings, structures and lands, and that this report be made public.

Chapter 5 Future use and management of Yaralla Estate

This chapter examines issues with the management of the Yaralla Estate and considers a proposal to change the Estate's management. The recent announcement by the Sydney Local Health District (SLHD) to convert the paddocks to public parklands is discussed and options for returning horses to the Estate are canvassed.

Estate management issues

- 5.1 Concerns were raised during the Inquiry that the SLHD and former health trustees have not properly managed the Yaralla Estate. A number of inquiry participants highlighted the lack of inspections of the property and insufficient monitoring of the former agistment licensee as demonstrative of the poor management of the site.
- 5.2 As noted in Chapter 2, the SLHD (and former health agencies), as trustee of the Yaralla Estate, has administrative authority over the land.¹⁹⁵ The trustee held an agistment licence with Mr Colin Wale from 1996 until March 2013.¹⁹⁶
- 5.3 The SLHD advised that the decision to terminate Mr Wale's licence was based on concerns with his ability to fulfil the terms of the agistment licence.¹⁹⁷ The Blue Visions Report commissioned by SLHD also found that Mr Wale was not meeting the requirements under the 1996 licence to maintain fencing, control weeds and maintain the condition of the paddocks.¹⁹⁸
- 5.4 In response to these allegations, Mr Wale stated that, to his knowledge, no inspections of the property took place and he never received complaints about his management of the paddocks:

Under the terms of this licence I had to maintain the premises, which I was already doing. The licence also stated that they would **inspect** the paddocks from time to time and would advise me if any repairs/replacements/fertilising etc needed to be done and that I would have seven days to do it. To my knowledge no inspections ever took place until January 2013, and I certainly never received any complaints about my management of the property or requests to make repairs etc from them.¹⁹⁹

- 5.5 When asked about whether inspections had occurred, Dr Teresa Anderson, Chief Executive, SLHD, responded that her focus has been on the provision of health services but that the District should have carried out inspections:

The Sydney Local Health District came into being on 1 January 2011 as a local health district and I was appointed Chief Executive at that time, so I cannot really speak for

¹⁹⁵ Submission 49, Sydney Local Health District, p 9.

¹⁹⁶ *Walker Trusts Act 1938*, s19B and Submission 49, Sydney Local Health District, p 10 and p 15.

¹⁹⁷ Evidence, Dr Teresa Anderson, Chief Executive, Sydney Local Health District, 7 August 2013, p 2.

¹⁹⁸ Submission 49, Sydney Local Health District, Attachment 6, Blue Visions, Sydney Local Health District Dame Eadith Walker Estate Agistment Facility Report, p 6.

¹⁹⁹ Submission 20, Mr Colin Wale, p 1.

inspections prior to that. However, the licence is actually very clear that the responsibility for the maintenance of the paddocks and fences is with the licensee. It does say that the District may inspect—in hindsight it would have been wise to do that. I have to say though over the past two years my focus, being a very large organisation, has been on the provision of health care.²⁰⁰

- 5.6** The majority of inquiry participants commented that responsibility for the current poor state of the paddocks should lie with the SLHD due to its lack of inspections of the property, and indeed the lack of inspections by any health agency since 1996.²⁰¹ For instance Ms Alexandra Gavel, owner of a horse formerly agisted on the Yaralla Estate, argued:

There is still a bigger issue at hand. As a community we cannot just overlook the gross negligence that SLHD have demonstrated over the past 17 years. As trustees of the Estate there is simply no excuse for the poor dilapidated condition that they allowed the main estate building fall into, regardless of their very recent attempts to prepare it for its new purpose. There is absolutely no excuse for the lack of care, lack of inspections and lack of support for the condition of the paddocks.²⁰²

- 5.7** Similarly, Ms Bianca Kinnear and Ms Kathryn Hall, owners of horses formerly agisted on the Yaralla Estate, also argued that the SLHD failed in its duty to monitor the licensee:

It is clear, that the licensee has managed Yaralla poorly over the last 17 years. It is also very clear that SLHD failed to adequately monitor the licensee's performance and failings at the estate. It is extremely difficult to understand how one of the largest local health districts in Sydney failed to have any form of management system or annual review/audit process to monitor what was happening at Yaralla.²⁰³

- 5.8** Local resident, Ms Gina Rizakos, pointed to evidence that suggested the SLHD failed in the duty of care as trustees of the Estate:

I have also learnt from the campaign that there is overwhelming evidence of SLHD failing in their duty of care as Trustees of the Yaralla Estate. It is the government and the health department that has allowed one of the most historic and iconic crown lands areas in Sydney Metropolitan to fall into reported state of disrepair, yet SLHD and its bureaucrats have shirked any accountability for the lack of due care of the estate.²⁰⁴

- 5.9** Mr John Rosier, local resident, questioned why the SLHD allowed the licensee to operate contrary to the licence agreement:

It has been reported that the Blue Visions report found that the current arrangements whereby paddocks are sub-let to horse owners was “contrary to the conditions” of the

²⁰⁰ Evidence, Dr Anderson, 7 August 2013, p 14.

²⁰¹ See for example, Submission 52, Mrs Ann and Mr Bill Johnston; Submission 48, Mrs Helena and Mr Scott Kinnear; Submission 28, Mr Douglas Smith; Submission 36, Mr Patrick Webster; Submission 21, Mr David Tracy; Submission 17, Ms Helen Erken; Submission 12, Mr Rob Hartley; Submission 7, Ms Suzanne Bertoldo; Submission 25, Ms Sue Ferris and Submission 40, Mr Nicholas Boerma.

²⁰² Submission 42, Ms Alexandra Gavel, p 5.

²⁰³ Submission 47, Ms Bianca Kinnear and Ms Kathryn Hall, p 5.

²⁰⁴ Submission 33, Ms Gina Rizakos, p 1.

original 1996 licence which specified a single operator of the agistment services. If this was the case why did SLHD allow it to continue for up to 17 years? It is inconceivable that the SLHD was unaware of the sub-letting.²⁰⁵

- 5.10** Mr Vincent Silvestro, local horse owner, declared at the public forum that the condition of the Estate is the responsibility of the SLHD:

It is their [SLHD's] responsibility not our responsibility. They are supposed to tell us, 'Okay, we're not happy with this; you need to fix it up.' But they didn't, did they? So they are trying to blame the horse owners; they are trying to blame the licensee; they are blaming anyone but themselves.²⁰⁶

- 5.11** One inquiry participant stated: 'The reported shabby fencing and state of disrepair of the place shows that SLHD has neglected their duties as trustees of the estate and the government and health department are to blame for letting this place go.'²⁰⁷

- 5.12** There has been some suggestion that the management of the Estate should be given to a more appropriate agency than a health focussed agency, for example, an agency that has expertise in managing public parks and heritage buildings. Mr Garry McIlwaine, former member for Yaralla, suggested an alternative organisation would be better placed to administer the Estate:

It is my suggestion that the Committee considers making recommendations that a Memorandum of Understanding be developed between the Department of Health and the National Parks and Wildlife Service, or equivalent organisation, which would see the physical, but not the legal title of the land given to such organisation which is much better placed to properly administer these historic lands in the interests of the State, rather than the Department of Health.²⁰⁸

- 5.13** Similarly, Mr John Webster, local resident, suggested that a heritage organisation should manage the Yaralla Estate:

Clearly it is time to enact legislation to remove these properties to benevolent control of a Heritage protecting organisation. In the Yaralla case, the Walker desire for the place to be used for medical services could thereafter be satisfied by assigning the use of the main house (as now) to SLHD...²⁰⁹

Committee comment

- 5.14** The Committee acknowledges the views of inquiry participants that there has been a lack of proper management of the Yaralla Estate by SLHD and former health agencies. This is of particular significance given the current state of the paddocks and the need for costly remediation works as noted in Chapter 3. The Committee has not received evidence that indicates if any inspections of the Estate, the paddocks in particular, took place since the start of the agistment licence in 1996. This is of great concern to the Committee and leads us to

²⁰⁵ Submission 30, Mr John Rosier, p 2.

²⁰⁶ Public forum, Mr Vincent Silvestro, 5 August 2013, p 13.

²⁰⁷ Submission 10, Name suppressed, p 1

²⁰⁸ Submission 34, Mr Garry McIlwaine, pp 1-2.

²⁰⁹ Submission 35, Mr John Webster, p 3.

believe there was not proper management and oversight of the former agistment licensee by any health agency.

- 5.15** This gives support to the proposal by some inquiry participants for a change in management of the Yaralla Estate. The Committee supports this proposal. We acknowledge that the management of such an Estate is not and should not be the business of a health agency. Their focus and funds should be for the provision of health services. Options for an alternative manager of the Yaralla Estate are considered in the following section.

Alternative management options

- 5.16** Aside from the respective suggestions from Mr McIlwaine and Mr Webster for the Yaralla Estate to be managed by the National Parks and Wildlife Service or a heritage organisation, the Committee received little other evidence regarding alternative management options for the Estate. Nonetheless, we are aware that other organisations, such as the Historic Houses Trust (HHT), the Centennial Park and Moore Park Trust and the Parramatta River Regional Park, manage sites that are similar to the Yaralla Estate in terms of heritage value and public access, and could therefore be suitable options. The duties and functions of these organisations are outlined below.

Historic Houses Trust

- 5.17** The HHT manages and opens to the public 12 historic properties across New South Wales including Vaucluse House, Government House, The Mint and Rouse Hill House and Farm. It also maintains 38 hectares of land including public spaces, farmland and gardens, as well as infrastructure such as roads, farm dams, kilometres of fences and gates. The principal landscapes include the formal historical colonial gardens, public park and beach at Vaucluse House and 18 hectares of farm and open land at Rouse Hill House and Farm.²¹⁰
- 5.18** In 2011–12 the HHT generated 27 per cent of its total income through commercial activities, paid admissions and non-recurrent allocation such as grants, sponsorship and donations from individuals, companies or government.²¹¹
- 5.19** The HHT is governed by nine Trustees, appointed by the NSW Governor on the recommendation of the Minister for Environment and Heritage. The day-to-day management of the organisation is overseen by the Director of the HHT who, in addition to reporting to the Board of Trustees, has a reporting line through the Office of Environment and Heritage (part of the Department of Premier and Cabinet).²¹²

Centennial Park and Moore Park Trust

- 5.20** The Centennial Park and Moore Park Trust (also known as the Centennial Parklands Trust) is a NSW Government agency which manages the Centennial Parklands. The Trust is

²¹⁰ Historic House Trust, *Annual Report 2011-2012*, p 33.

²¹¹ Historic House Trust, *Annual Report 2011-2012*, p 33.

²¹² Historic House Trust, *Annual Report 2011-2012*, p 47.

responsible for the long-term strategic planning of the Parklands, as well as the operational day-to-day management of the Parklands.²¹³

- 5.21** Centennial Parklands encompasses Centennial Park, Moore Park and Queens Park, in total around 360 hectares. The three main parks are listed on the State Heritage Register of NSW, and various components within the Parklands are of national, state or local heritage significance.²¹⁴ Centennial Parklands also has an Equestrian Centre.
- 5.22** The responsibility for Centennial Parklands falls within the Office of Environment and Heritage, under the Department of Premier and Cabinet.²¹⁵
- 5.23** There is a Centennial Parklands Community Consultative Committee, which is an advisory body which has a role to represent a broad range of community interests to the Centennial Park and Moore Park Trust. According to the Trust, '[i]t is instrumental in providing a forum for communication, input and relationship building between the Trust and the Parklands' many constituencies.²¹⁶
- 5.24** The Parklands are almost self-funded, with 94 per cent of overall operating costs funded by Trust revenue of \$19.3 million for 2011-2012. It raises revenue from fees and charges for a range of facilities including public programs, parking, sports field hire, functions and events, filming and photography, Moore Park Golf and the Equestrian Centre.²¹⁷
- 5.25** The Centennial Parklands Equestrian Centre has 200 stables, and charges from \$340/month for stabling only (agistment services are at additional cost).²¹⁸

Parramatta River Regional Park

- 5.26** Parramatta River Regional Park is located at Bedlam Bay in Gladesville, approximately 10 kilometres (km) north west of the Sydney Central Business District (CBD) and 16 km east of Parramatta CBD. The Park is located on the foreshore of the northern side of the Parramatta River, west of Gladesville Bridge. The Park was gazetted as a Regional Park on 25 May 2001.
- 5.27** Before the Park was transferred to the National Parks and Wildlife Service in 1998, it was owned and managed by the then named NSW Department of Health (now NSW Ministry of Health). The Park formed part of the southern section of the former Gladesville Hospital site that commenced construction in the late 1830s to care for the mentally ill. The area that now forms the Park was used to access the hospital by boat, for the production of vegetables and

²¹³ Centennial Parklands Trust, *Centennial Park and Moore Park Trust*, (11 July 2013), http://www.centennialparklands.com.au/about/centennial_park_and_moore_park_trust.

²¹⁴ Centennial Parklands Trust, *Centennial Parklands*, (10 July 2013), http://www.centennialparklands.com.au/about/centennial_parklands.

²¹⁵ Centennial Parklands Trust, *Centennial Park and Moore Park Trust*, (11 July 2013), http://www.centennialparklands.com.au/about/centennial_park_and_moore_park_trust.

²¹⁶ Centennial Parklands Trust, *Annual Report 2011-2012*, p 20.

²¹⁷ Centennial Parklands Trust, *Annual Report 2011-2012*, p 9 and pp 22-24.

²¹⁸ Centennial Parklands Equestrian Centre, *On-site Facilities*, (10 August 2013) http://www.cpequestrian.com.au/facilities/onsite_facilities and *Equestrian Centre Rate Card*, (13 June 2013) http://www.cpequestrian.com.au/__data/assets/pdf_file/0020/63065/CPEC_Pricebook_2013-2014.pdf.

as a location for formal gardens, provided access to the river for bathing and other sport and recreational activities and provided a location for sewerage infrastructure.

5.28 Regional parks are reserved under the *National Parks and Wildlife Act 1974 (NPW Act)* to protect and conserve areas in a natural or modified landscape that are suitable for public recreation and enjoyment.

5.29 Under the Act (section 30H), regional parks are managed to:

- provide opportunities for recreation and enjoyment in natural or modified landscapes;
- identify, interpret, manage and conserve the Park so as to maintain and enhance significant landscape values;
- conserve natural and cultural values;
- promote public appreciation and understanding of the Park's natural and cultural values;
- provide for sustainable visitor or tourist use and enjoyment that is compatible with conservation of natural and cultural values; and
- provide for sustainable use (including adaptive reuse) of any buildings or structures or modified natural areas having regard to conservation of natural and cultural values.

5.30 Provisions in the *NPW Act* permit leasing within a reserve and establishment of a trust for management of a regional park or parts of a regional park.

5.31 The Parramatta River Regional Park provides respite from city living and recreation opportunities on the shores of the iconic landscape of Sydney Harbour including a lookout for view appreciation, public toilets, picnic facilities, walking tracks with interpretation of the Aboriginal and European history of the Park and asylum, and a sports oval. The Park:

- provides “on-leash” dog walking opportunities, and
- is part of a regional walking corridor known as the Parramatta River Walk that commences at Woolwich Wharf and circulates along the northern side of the Harbour, through Bedlam Bay to Parramatta and further afield via a network of open spaces. The Park also forms part of the Harbour Circle Walk.²¹⁹

Committee comment

5.32 The Committee believes that the heritage significance of the Yaralla Estate would be better preserved if the Estate was managed by an agency such as the HHT, who has expertise in this area, or similarly the Centennial Parklands Trust or Parramatta River Regional Park, who also has expertise in managing public parks with heritage significance. The Centennial Parklands Trust also has expertise in managing equestrian facilities, which is relevant for the management of the Yaralla Estate.

²¹⁹ *Parramatta River Regional Park Draft Plan of Management*, Office of Environment and Heritage, pp 1-4 and p 38.

- 5.33** As highlighted in Chapter 4, the community has a strong connection with the Yaralla Estate and we believe that any plans for its future must include genuine community input and consultation. A mechanism similar to that of the Centennial Parklands Community Consultative Committee would be invaluable for the Yaralla Estate. This would ensure long-term involvement of the community regarding public access to the site. As will be seen later in this chapter, the SLHD has proposed establishing a Community Advisory Committee for the Yaralla Estate. However, there are some issues with the level of community representation proposed in its membership. This is discussed later in this chapter.
- 5.34** While the Committee supports that the management of the Yaralla Estate be changed from the SLHD to a more appropriate agency, it does believe that the SLHD should still have the use of the buildings, such as the Yaralla Mansion, for the provision of health services in accordance with Dame Eadith Walker's bequest. Other buildings relating to equestrian needs, such as the carriage house, stables and dairy building should be managed by the new agency.
- 5.35** The Committee therefore recommends that the *Walker Trust Act 1938* be amended to provide for a change in management of the Yaralla Estate to a more appropriate agency, such as the Centennial Parklands Trust, and that any changes ensure that:
- the SLHD still has use of buildings such as the Yaralla Mansion for the purposes of providing health services
 - the new agency has expertise in heritage preservation of parklands and ideally provision of equestrian services
 - the new agency establish a genuine community consultation mechanism, such as a community consultative committee.

Recommendation 5

That the NSW Government amend the *Walker Trust Act 1938* to provide for a change in management of the Yaralla Estate to a more appropriate agency, such as the Centennial Parklands Trust, and that any changes ensure that:

- the Sydney Local Health District still has use of buildings such as the Yaralla Mansion for the purposes of providing health services;
 - the new agency has expertise in heritage preservation of parklands and ideally provision of equestrian services; and
 - the new agency establish a genuine consultation mechanism, such as a community consultative committee, to represent community interests in future decisions involving the Estate.
-

Future agistment on the site

- 5.36** The previous chapter demonstrated the strong connection the local community has with the Yaralla Estate. This connection includes the association with horses on the Estate. This section considers a proposal to restore the agistment of horses to the site.

5.37 The most logical option presented during this Inquiry for future agistment on the site has been the proposal for the NSW Police Force Mounted Police Unit (NSWMP) and horses owned by members of the community to share the use of the paddocks under a co-tenancy arrangement.

5.38 The lay out of the horse paddocks lends itself to this sharing option with the main drive down the centre and paddocks on either side (see site map on page 12). This could allow the NSWMP to use one side and the other could be licensed to an agistment provider for the purposes of horses owned by members of the community.

5.39 While some inquiry participants were supportive of the sharing proposal, others expressed concerns with it. Local resident, Mr Clayton James supported the idea:

If we cannot bring all of our horses back let us have a 50-50 split, let us share this land for our community, for the people of New South Wales and for the New South Wales police, the mounted police, who obviously need a home as well. I am sure that this can be done and I hope the panel can recommend this to the Government.²²⁰

5.40 Councillor Angelo Tsirekas, Mayor, City of Canada Bay Council, advised that the Council would also be supportive of a sharing arrangement between the NSWMP and local horses.²²¹

5.41 Dr Teresa Anderson, Chief Executive, SLHD, advised the Committee that one of the risk assessment reports commissioned by the District ruled out the option for sharing:

That is my understanding. I had asked that question. As I have said, I have very little knowledge of horses, although I have to say it has been growing by the day, but my understanding from the experts—I did not participate at all in the risk assessment; it had experts on the management of horses et cetera present and that included our insurers: TMF—they were very clear that there was an issue in terms of a shared lease ... it is very difficult when you have got two managers to understand who is going to be responsible. Also if it was shared with the mounted police there would be concerns about cross contamination, vaccination et cetera and also about how the facilities like the feed et cetera would be managed. The District itself did not rule that out; the experts said it was a problem. However, the District is happy to review that again with people who are expert in this field to see if there is a way of being able to do that.²²²

5.42 There was some concern from inquiry participants that if NSWMP horses were to be situated on the Yaralla Estate, sharing the Estate or otherwise, there may be a significant reduction in the public access to the site. For example, Dr Renata Bali suggested:

Despite assurances that public access would not be restricted around police horses... I for one do not believe it for a minute. Police horses are valuable assets and the risk of them coming to harm from the actions of the public or their dogs (either accidental or otherwise), would be considered too high...²²³

²²⁰ Public forum, Mr Clayton James, 5 August 2013, p 15.

²²¹ Evidence, Councillor Angelo Tsirekas, Mayor, City of Canada Bay Council, 5 August 2013, p 38.

²²² Evidence, Dr Anderson, 7 August 2013, p 15.

²²³ Submission 24, Dr Renata Bali, p 2.

- 5.43** Similarly, Ms Jacqueline Puz expressed fears that access would be eroded due to potential security needs for the NSWMP:

Over time I fear access will continue to be eroded due to various ‘security’ issues (real or imagined) with Mounted Police horses, until finally all public access to the estate is denied.²²⁴

- 5.44** Mr Michael Stavrou likewise commented at the public forum that, even if the sharing option was possible, public access may be reduced if the NSWMP horses were on site:

I have lived here for over 50 years. I am not a horse owner, but there were a few comments made earlier about sharing the property—and could there be a possibility of sharing it between the police horses and the local horses. My concern there around sharing it with the police horses is that, with the police thoroughbred horses, I am pretty sure they are going to be locked up and public access will not be allowed there.²²⁵

- 5.45** However, according to the NSW Police Force, ‘[o]f the 16 paddocks in total [that its horses are currently agisted at], there have been no additional security measures put in place other than the original risk assessment procedures applied to the paddocks’ functionality and suitability to agist NSWMP horses.²²⁶

- 5.46** In addition, the NSW Police Force advised that while the public would not be allowed to enter the paddocks with the police horses, they could still pat the horses:

...there would be a ‘risk management’ assessment for signage warning members of the public to not enter inside the fence lines of the paddocks. However, the NSWMP have no objections or issues with members of the public patting our horses from outside of the enclosed paddock. NSWMP would however place stringent security and checking processes in place on any buildings, machinery or vehicles held on site which form part of the DEDE [Yaralla Estate] lease.²²⁷

- 5.47** However, upon consideration of the sharing/co-tenancy proposal, the NSW Police Force indicated that it is not agreeable to cohabitation of the agistment paddocks for a number of reasons:

The NSWMP is not agreeable to cohabitation of the agistment paddocks with other horses. No issues arise with sharing of the property with SLHD patients and members of the community, though the cohabitation between horses presents a multitude of risks to NSWMP horses, personnel and any other horses on the property with respect to a number of areas including:

- Health management of NSWMP horses
- Insurances – horses and property and personal
- Paddock maintenance and accessibility
- Fodder, equipment and chemical storage
- Loading and unloading of horses

²²⁴ Submission 8, Ms Jacqueline Puz, p 2.

²²⁵ Public forum, Mr Michael Stavrou, 5 August 2013, p 15.

²²⁶ Answers to questions on notice, NSW Police Force, 27 August 2013, p 3.

²²⁷ Answers to questions on notice, NSW Police Force, 27 August 2013, p 4.

- Security and parking of motor vehicles.²²⁸

5.48 Drawing on previous experience with sharing paddocks, the NSW Police Force commented that it prefers to avoid these situations:

In general, and based on past experience, the NSWMP avoids situations where police horses will share paddocks with other horses. Shared agistment occurred in the past at Tocal Agricultural College, however, this has required significant risk management and care... Accordingly, shared agistment is a highly undesirable option.²²⁹

5.49 According to the NSW Police Force, '[i]f the only option was a partial lease, the NSWMP would need to carefully assess the option to determine whether it would be viable. However, and based on external advice, equine expertise and previous experience, it is not considered likely that a partial lease would be viable for the NSWMP.'²³⁰

Committee comment

5.50 The Committee recognises that the primary function of the Yaralla Estate is the provision of health services. Moreover, the SLHD is not in a position to provide agricultural or sporting services.

5.51 The Committee fully supports the continuation of the agistment of horses on the Yaralla Estate. This is based on the overwhelming community support for the return of horses to the Estate and also to preserve the historical significance of the paddocks as grazing land, not public parklands.

5.52 Despite the concerns the NSWMP raised with a co-tenancy/sharing arrangement, the Committee nonetheless believes that this proposal should still be considered as an option to restore agistment on the site by the new agency that the Committee has recommended to manage the Estate.

5.53 In addition, it is important that lease charges, licence fees and/or agistment fees be set at a commercial rate. As noted in Chapter 2, the previous agistment licence was \$16,000 per year from 1996 with no increase over 12 years. Also, as noted in Chapter 3, the proposed lease fee for the NSWMP was to be approximately \$24,000 per year. Taking into account CPI inflation for 12 years this figure is below the equivalent of the \$16,000 originally charged in 1996. Further, the agistment fees charged by the former licensee were in the vicinity of \$200 per month (which compare poorly to the \$340 per month at the Centennial Parklands Equestrian Centre). It is clear these fees are below market value. These fees form the funding base for the necessary remediation works and maintenance of the Yaralla Estate and should therefore be charged at commercial rate. This should be considered by the new agency proposed to manage the Estate.

²²⁸ Answers to questions on notice, NSW Police Force, 27 August 2013, p 6.

²²⁹ Answers to questions on notice, NSW Police Force, 27 August 2013, p 5.

²³⁰ Answers to questions on notice, NSW Police Force, 27 August 2013, pp 6-7.

5.54 The Committee therefore recommends that the agistment of horses be restored to the Yaralla Estate and that the new agency proposed to manage the Estate (or, if our recommendation for a new manager is not accepted, the SLHD):

- reconsider the proposal for the NSW Police Force Mounted Police Unit and horses owned by members of the community to share the use of the paddocks under a co-tenancy arrangement, and
- ensure that commercial rates are charged for the agistment of horses on the Estate.

Recommendation 6

That the NSW Government ensure that the agistment of horses is restored to the Yaralla Estate and that:

- the proposal for the NSW Police Force Mounted Police Unit and horses owned by members of the community to share the use of the paddocks under a co-tenancy arrangement be reconsidered; and
 - commercial rates be charged for the agistment of horses on the Estate.
-

Future public parklands at Yaralla Estate

5.55 On 22 August 2013 the SLHD announced the 13 hectares of horse paddocks will become public parklands with no plans for future horse agistment on the site.²³¹

5.56 During question time, the Minister for Health, the Hon Jillian Skinner MP indicated that ‘... it will be something along the lines of Centennial Park for the inner west ... This will increase access to the estate for the wider community, rather than the previous limited use of the paddocks by a small private group for horse agistment.’²³²

5.57 The announcement also suggested that the SLHD would establish a Community Advisory Committee of key stakeholders and residents to advise on how best to use the parkland.²³³

5.58 In response to the announcement by the SLHD, the Committee received a late submission from the Save Yaralla Horses group that related specifically to this latest decision by the SLHD to convert the paddocks to public parklands. It raised the following issues that are also of concern to the Committee:

- making a decision on the future of the Estate before the Committee has reported
- no future plans for the agistment of horses on the Estate, despite SLHD giving an earlier commitment otherwise

²³¹ Media Release, Sydney Local Health District, ‘Yaralla to become a public park for all’, 22 August 2013.

²³² *Hansard*, Legislative Assembly, 22 August 2013, p 41 (Jillian Skinner).

²³³ Media Release, Sydney Local Health District, ‘Yaralla to become a public park for all’, 22 August 2013.

- no community consultation regarding this latest decision
- a lack of planning and funding for the future of the Estate.²³⁴

5.59 In regard to the decision being made before this Committee has reported, an email dated 16 August 2013 from the Chair of the SLHD Board, the Hon Ron Phillips, stated that the SLHD had agreement from the Minister for Health's office to make an announcement about the future of the Estate before the Committee was due to report on 19 September 2013. This is indicative that the SLHD was not waiting for the Committee to report before advancing plans or otherwise for the Yaralla Estate, as the Committee believes was implied in correspondence from Dr Teresa Anderson to the Chair of the Committee on 15 August 2013.²³⁵

5.60 This was criticised by the Save Yaralla Horses group who suggested that the 'most recent move, yet again pre-empted the findings of an upper house committee'.²³⁶

5.61 The second issue of concern to the Committee is that, based on this announcement there are now no future plans for the agistment of horses on the Estate, despite SLHD previously giving a public commitment otherwise. The Save Yaralla Horses group argued that the SLHD is renegeing on its promise to keep horses on the Estate:

Once again SLHD have back flipped and are withdrawing on their promise that "Horses would always be on the estate" (Media Release, SLHD 2013). Not only have they again reneged on their promise they are also changing the long time use of the historical site and converting the jewel of the inner west to common parkland, very unlike the 70 years of constant horse agistment that made it a unique parkland unlike any other in the metropolis of Sydney.²³⁷

5.62 Two SLHD documents provided during the inquiry highlighted that, as at 12 August 2013, 'it has always been the intention of the SLHD to continue the agistment of horses at Yaralla...' and 'The District as trustee... is committed to ongoing access for the community and the agistment of horses on the Estate.'²³⁸ However, 10 days later this proved not to be the case with the announcement to convert the paddocks to public parklands with no plans for future agistment of horses on the Estate.

5.63 As with previous announcements regarding the future of the Yaralla Estate that were outlined in Chapter 3, there was again no community consultation conducted by the SLHD before making this announcement to convert the paddocks to public parklands. The Save Yaralla Horses group reiterated that the SLHD has not listened to the community and 'once again

²³⁴ Submission 55, Save Yaralla Horses, p 1.

²³⁵ Return to order for papers, 12 September 2013, Email, Sydney Local Health District, Document a (19) and correspondence from Dr Teresa Anderson, Chief Executive, Sydney Local Health District, to Chair, 15 August 2013.

²³⁶ Submission 55, Save Yaralla Horses, p 1.

²³⁷ Submission 55, Save Yaralla Horses, p 1.

²³⁸ Return to order for papers, 12 September 2013, Report, Sydney Local Health District, Document a (105) and Return to order for papers, 12 September 2013, Health Briefing Note, Sydney Local Health District, Document a (106).

they have been found to be making decisions without community consultation that affect us the public.²³⁹

5.64 As mentioned earlier, as part of the SLHD announcement there was a proposal for a Community Advisory Committee for the Yaralla Estate. The proposed membership of the Community Advisory Committee consists of the following:

- Chief Executive, SLHD (Chair)
- General Manager, Concord Hospital
- Senior Clinician, Royal Prince Alfred Hospital
- Concord Heritage Society Representative
- NSW State Heritage Office Representative
- Local Resident and Neighbour of Yaralla
- General Concord Community Member
- Concord Hospital Community Participation Network Representative
- Horticulturalist/Botanist
- City of Canada Bay Council Representative
- Centennial Parkland Authority Representative.²⁴⁰

5.65 It would appear from the draft proposal that of the 11 members, only three or four are community members while the remaining majority are members from the NSW Government or local government organisations. This could be seen as a further example of how there is not an appreciation of the need for genuine community input into the future of the Yaralla Estate.

5.66 The Committee is also concerned that this latest announcement was made without forward planning and without any consideration given to how to fund the conversion of the paddocks to public parklands.

5.67 For example, the Committee has seen a number of documents that point to the lack of planning behind the latest decision to convert the paddocks to public parklands. Emails from Ms Deborah Flood, Director of Capital Asset and Contract Services, SLHD to internal and external stakeholders indicated that there was no prior planning undertaken before the announcement. With comments like ‘the plan is in its infancy at the moment and there is not much to give you’ made on 27 August 2013, along with ‘The District is now formulating a plan on how this may work’ made on 29 August 2013 (a week after the announcement on 22 August 2013) are telling.²⁴¹

²³⁹ Submission 55, Save Yaralla Horses, p 3.

²⁴⁰ Return to order for paper, 12 September 2013, Email with attachment, Sydney Local Health District, Document b (11).

²⁴¹ Return to order for papers, 12 September 2013, Email, NSW Ministry of Health, Document (d) 28 and Return to order for papers, 12 September 2013, Email, Sydney Local Health District, Document d (17).

- 5.68** The important issue of funding for the conversion and upkeep of the Yaralla Estate as public parklands was raised by the Save Yaralla Horses group. The group argued that:

The recent proposal of Yaralla becoming what the Health minister coined “the Centennial Park of the inner west” will require significant investment of resources in order to convert the 13 hectares of horse paddocks and undulating grazing land to parkland ... Concerns have been raised by the community as to how the health department and SLHD intend on paying for this parkland conversion of Yaralla? Additionally, what sustainable plan do they have to ensure the cost of maintenance that they have failed to uphold for the last 17 years is completed in the future parkland area? Will Yaralla become a community burden with the raising of local council rates to balance the expenditure required or will valuable health dollars be spent on tasks involving the up keep of parkland?²⁴²

- 5.69** The Save Yaralla Horses group proposed that in bringing back the horses owned by members of the community there is potential to ensure the adequate upkeep of the Yaralla Estate:

The money and effort provided by the local horse owners and agistors has the real potential of ensuring a well maintained property with the unique heritage value and land protected and preserved at no cost to community. Local horses in Yaralla paddocks do generate positive funds, and an option involving horses in the future would clearly be giving what the community want, Yaralla and its horses as it was for all of the public to enjoy.²⁴³

Committee comment

- 5.70** The Committee understands that under section 19B of the *Walker Trust Act 1938* the conversion of the paddocks of the Yaralla Estate to public parklands is permissible and we note that the agistment of horses has only formally been in place since 1996 (although we understand it was carried out on an informal basis previous to this). However, the paddocks have been grazing paddocks for many years and as advised by the Heritage Council of NSW the continued use of the key paddocks for horse grazing is an effective link to the original use of the property.²⁴⁴ The conversion of the paddocks to public parklands will result in this historic link being lost.
- 5.71** The way this last decision was made gives further weight to the Committee’s finding in Chapter 3 (Committee finding 1) that the SLHD did not undertake genuine community consultation before making decisions about the future of the Yaralla Estate. It also gives further weight to the Committee’s view that the SLHD is not the appropriate agency to manage the Estate and that the management should be handed over to another organisation as outlined in Recommendation 5. The decision demonstrates a lack of community consultation, no forward planning and no consideration as to how to fund the conversion to parklands and future upkeep of the Estate.
- 5.72** The Committee was of the understanding that the SLHD would await the Committee’s report before taking any further action, but it nevertheless went ahead and made a significant

²⁴² Submission 55, Save Yaralla Horses, p 2.

²⁴³ Submission 55, Save Yaralla Horses, p 3.

²⁴⁴ Submission 26, Heritage Council of NSW, p 1.

decision to change the future of the Estate by converting the paddocks to public parklands. We can see no genuine reason why this latest decision had to be made in such haste before the Committee reported 19 September 2013. This has resulted in the Committee extending the Inquiry to seek further information regarding the decision.

Committee finding 2

The Committee finds that the Sydney Local Health District continued to make decisions about the future of the Yaralla Estate without waiting for the recommendations of the Committee's report.

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- 5.73** The Committee believes, as recommended earlier, that the agistment of horses should be restored to the Yaralla Estate with commercial rates charged to agistors that will then contribute to funding the necessary remediation and maintenance of the Estate. As the future plans to convert the paddocks to public parklands appear unlikely to be maintainable and clearly not financed, we recommend that these plans be abandoned.

Recommendation 7

That the NSW Government abandon its plans to convert the Yaralla Estate paddocks to public parklands and enter into genuine public consultation before developing any further plans for the future of the paddocks.

Appendix 1 Submissions

No	Author
1	Confidential
2	Mr Julian Fernandez
3	Ms Wendy Watkins
4	Ms Anna Laios
5	Mrs Val & Mr Max Wilson
6	Mr Vincent Silvestro
7	Ms Suzanne Bertoldo
8	Ms Jacqueline Puz
9	Mr John Pasqua
10	Name suppressed
11	Mr Anthony Sullivan
12	Mr Rob Hartley
13	Mrs Nina Hartley
14	Name suppressed
15	Ms Diana Irving
16	Name suppressed
17	Ms Helen Erken
18	Confidential
19	Ms Carolyn Hartley
20	Mr Colin Wale
21	Mr David Tracy
22	Ms Sydnee Sallivan
23	Ms Diane Lyons
24	Dr Renata Bali
25	Name suppressed
26	Heritage Council of NSW
27	Ms Catherine Webster
28	Mr Douglas Smith
29	Mrs Tracy Bucciarelli
30	Mr John Rosier
31	Mr Claude Stanizzo
32	Ms Caela Hartley

No	Author
33	Ms Gina Rizakos
34	Mr Garry McIlwaine
35	Mr John Webster
36	Mr Patrick Webster
37	Name suppressed
38	Mrs Vicky Dallas
39	Ms Elizabeth Webster
40	Mr Nicholas Boerma
41	Miss Andrea Limbo
42	Ms Alexandra Gavel
43	City of Canada Bay
44	Mr William Adam
45	Ms Megan Webster
46	Mr John Adam
47	Ms Bianca Kinnear and Ms Kathryn Hall
48	Mr Scott Kinnear and Mrs Helena Kinnear
49	Sydney Local Health District
50	NSW Police Force
51	Ms Juliet Mazzone
52	Mrs Ann Johnston & Mr Bill Johnston
53	Mrs Linda O'Neill
54	Mr Vincent Silvestro, John Adam & William Adam
55	Save Yaralla Horses Group

Appendix 2 Pro forma statements

No.	Author
1	Grace Hartley
2	James Thom
3	Michael Carbone
4	Ian Russell
5	Laurel Russell
6	Bonnie Russell
7	Jennifer Case
8	Natalie Fazio
9	Maria Sandai
10	J. Corcoran
11	Anastasia Gavalas
12	Jessie Heldebrand
13	Nicholas Iannello
14	A. Nigro
15	Cathy Nigro
16	Gary Case
17	M. Puglisi
18	A Spierewka
19	Nazei Bazouni
20	Tina Carebeta
21	William O'Connor
22	K. Azize
23	Meeta Zivanovic
24	Emily Mattick
25	Ben Williams
26	Joe Scaravilli
27	Joseph Sucfaro
28	Robert Williams
29	Michael Gallagher
30	Name illegible
31	Name illegible
32	Peter Vrljic

No.	Author
33	Nick Alvaro
34	Ken Leven
35	Lorraine Park
36	Daniel Desouza
37	Roberta Goulding
38	Julie Mandato
39	W. Goulding
40	Margaret Watson
41	Emma Watson
42	Radisha Zivanovic
43	Name illegible
44	N. Fazio

Appendix 3 Witnesses at hearings

Date	Name	Position and Organisation
Monday 5 August 2013 Macquarie Room Parliament House	Mr Nick Kaldas APM	Deputy Commissioner, Field Operations, NSW Police Force
	Mr Aidan Hughes	Director, Finance and Business Services, NSW Police Force
	Mr Ron Turner	Senior Project Manager, Blue Visions Management Pty Ltd.
	Clr Angelo Tsirekas	Mayor, City of Canada Bay Council
Wednesday 7 August 2013 Macquarie Room Parliament House	Dr Teresa Anderson	Chief Executive, Sydney Local Health District

Appendix 4 Participants at public forum

Date	Name
Monday 5 August 2013	Carolyn Hartley
Concord RSL and Community Club	Alexandra Gavel
	John Adam
	Juliet Mazzone
	Clr Angelo Tsirekas
	Clayton James
	Colin Wale
	Linda O'Neill
	John Sidoti
	Lois Michel
	Bronnen Coker
	Tony Connolly
	Kate Foot
	Elizabeth Webster
	Noelene Woo
	Vincent Silvestro
	Gina Rizakos
	John Murphy
	Megan Webster
	Michael Stavrou
	Helen Tsormokos

Appendix 5 Answers to questions on notice

The Committee received answers to questions on notice from:

- NSW Police Force
- Sydney Local Health District
- Canada Bay City Council
- Blue Visions Management Pty Ltd.

Appendix 6 Site visit

Monday, 5 August 2013

Dame Eadith Walker Estate (Yaralla Estate), Concord West

The Committee visited the Dame Eadith Walker Estate and was escorted on the tour by Mr Stuart Read, Heritage Officer, Heritage Officer, Office of Environment and Heritage.

Appendix 7 Minutes

Minutes No. 1

Thursday 27 June 2013

Select Committee on the Agistment of Horses at Yaralla Estate

Members' Lounge, Parliament House, 4:30pm

1. Members present

Mr Borsak, *Chair*

Mr Khan, *Deputy Chair*

Mr Foley

Mr MacDonald

Dr Phelps

Mr Wong

2. Apologies

Dr Kaye

3. Tabling of resolution establishing the Committee

According to Standing Order 213(1), the Committee Clerk declared the meeting open.

4. Election of Deputy Chair

The Chair called for nominations for the Deputy Chair.

Dr Phelps moved: That Mr Khan be elected Deputy Chair of the Committee.

There being no further nominations, the Chair declared Mr Khan elected Deputy Chair.

5. Suggested procedural resolutions

Resolved, on the motion (*in globo*) of Mr MacDonald: That unless the Committee decides otherwise, the following procedures apply for the duration of the Inquiry:

Filming, broadcasting and still photography of public proceedings

That the Committee authorises the filming, broadcasting and still photography of the public proceedings of the Committee, in accordance with the resolution of the Legislative Council of 18 October 2007.

Publishing transcripts of evidence

That the Committee authorise the publication of transcripts of evidence taken at public hearings.

Publishing answers to questions on notice

That the Committee authorise the publication of answers to questions on notice.

Publishing submissions

That the Committee authorise the publication of all submissions to the inquiry, subject to the Committee Clerk checking for confidentiality, adverse mention and other issues and, where those issues arise, bringing them to the attention of the Committee for consideration.

Media statements

That media statements on behalf of the Committee may be made only by the Chair.

Inviting witnesses

That arrangements for inviting witnesses are to be left in the hands of the Chair and the Committee Clerk, after consultation with the Committee.

6. Conduct of the Inquiry**6.1 Tabling date**

Resolved, on the motion of Mr Foley: That the Committee seek an extension from the House to extend the reporting date until Thursday 19 September 2013.

6.2 Press release announcing Inquiry

Resolved, on the motion of Mr Foley: That a media release be issued by the Chair which indicates that the Committee will seek an extension for the House to extend the reporting deadline, and call for submissions to the Inquiry.

6.3 Call for submissions

Resolved, on the motion of Mr MacDonald: That the closing date for submissions be Wednesday 31 July 2013.

Resolved, on the motion of Mr MacDonald: That the secretariat email members with a list of stakeholders to be invited to make written submissions, and that members have until 5pm Thursday 4 July 2013 to nominate additional stakeholders.

6.4 Advertising

Resolved, on the motion of Mr Wong: That the inquiry and call for submissions be advertised in the week commencing 8 July 2013 in the *Inner West Courier*, *The Weekly Times* (Ryde) and the *Burwood Scene*.

6.5 Hearing dates

Resolved, on the motion of Mr Khan: That the Committee hold a half day public hearing at Parliament House and a site visit and public forum at Concord on Monday 5 August 2013 and Wednesday 7 August 2013 if needed.

6.6 Questions on notice

Resolved, on the motion of Mr Foley: That the Committee require that answers to questions taken on notice during the hearings be provided to the Secretariat within 7 to 14 days.

7. Adjournment

The Committee adjourned at 4:44pm *sine die*.

Beverly Duffy

Clerk to the Committee

Minutes No. 2

Monday 5 August 2013

Select Committee on the Agistment of Horses at Yaralla Estate

Macquarie Room, Parliament House, 9:50 am

1. Members present

Mr Borsak, *Chair*

Mr Khan, *Deputy Chair*

Dr Kaye

Mr Foley

Mr MacDonald

Dr Phelps

Mr Wong

2. Previous minutes

Resolved, on the motion of Mr Khan: That draft Minutes No. 1 be confirmed.

3. Correspondence

The Chair noted the following correspondence:

Received

- 24 July 2013 - From Mr Ian Willock, Principal External Relations Officer, NSW Health, on behalf of Dr Mary Foley, Director General, NSW Health, declining invitation to appear as a witness (D13/19507).
- 29 July 2013 – From Mr Ron Johnson, Manager, Secretariat, Office of the Commissioner, NSW Police Force, advising that Deputy Commissioner Nick Kaldas APM will represent Commissioner Scipione at the public hearing, and confirming that Mr Aidan Hughes will also attend (D13/19893).

Sent

- 29 July 2013 - Letter from Chair to Mr John Sidoti MP, Member for Drummoyne, informing him of the Committee's site visit to Yaralla Estate and public forum at Concord RSL Club on Monday 5 August (D13/19888).

4. Submissions

The Committee noted that Submission Nos. 2-17 and 19-45 were previously published under the authorisation of the Committee's resolution of 27 June 2013.

The Committee also noted the receipt of 45 pro formas.

Resolved, on the motion of Dr Phelps: That Submission Nos. 1, 18 and 47, the attachment of Submission No 38, and page 4 of Submission No. 50 and its attachment remain confidential.

5. Appearance of Dr Teresa Anderson

Mr Foley moved: That the Committee recall Dr Teresa Anderson, Chief Executive of the Sydney Local Health District, to re-appear as a witness at a later date, as the Committee has had insufficient time to consider the Sydney Local Health District's submission.

Mr Khan moved: That the motion of Mr Foley be amended to instead postpone the appearance of Dr Anderson at today's public hearing and invite Dr Anderson to appear before the Committee at a later date.

Amendment put and passed.

Original question, as amended, put and passed.

Resolved, on the motion of Mr Foley: That Dr Anderson be invited to appear as a witness on Wednesday 7 August 2013, from 11am – 12.30pm.

6. Answers to questions on notice

Resolved on the motion of Mr Khan: That answers to questions on notice taken during the hearings be provided to the Secretariat within 14 days.

Resolved on the motion of Dr Kaye: That the secretariat request a copy of the deed that established the Yaralla Trust from the Sydney Local Health District.

7. Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses from the NSW Police Force were sworn and examined:

- Mr Nick Kaldas APM, Deputy Commissioner, Field Operations

- Mr Aidan Hughes, Director, Finance and Business Services

The evidence concluded and the witnesses withdrew.

The following witness from Blue Visions Management Pty Ltd was sworn and examined:

- Mr Ron Turner, Senior Project Manager

The evidence concluded and the witness withdrew.

The following witness from the City of Canada Bay Council was sworn and examined:

- Clr Angelo Tsirekas, Mayor

The evidence concluded and the witness withdrew.

The public hearing concluded and the public and media withdrew.

8. Site visit

The Committee members travelled to Yaralla Estate (Dame Eadith Walker Estate) for a general tour of the Estate by Mr Stuart Read, Heritage Officer, Office of Environment & Heritage.

9. Public Forum – Concord RSL & Community Club, Concord

The public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and the forum proceedings.

The following individuals appeared before the Committee:

- Ms Carolyn Hartley
- Ms Juliet Mazzone
- Ms Alexandra Gavel
- Mr John Adam
- Clr Angelo Tsirekas
- Mr Clayton James
- Mr Colin Wale
- Ms Linda O'Neill
- Mr John Sidoti MP
- Ms Lois Michael
- Ms Bronnen Coker
- Mr Tony Connelly
- Ms Kate Foot
- Ms Elizabeth Webster
- Ms Noelene Woo
- Mr Vincent Silvestro
- Ms Gina Rizakos
- Mr John Murphy MP
- Ms Megan Webster
- Mr Michael Stravou
- Ms Helen Tsoromokos.

The public forum concluded and the public and media withdrew.

10. Adjournment

The Committee adjourned at 7:33 pm until 10:50 am, Wednesday 7 August 2013 (public hearing).

Rebecca Main

Clerk to the Committee

Minutes No. 3

Wednesday 7 August 2013

Select Committee on the Agistment of Horses at Yaralla Estate

Macquarie Room, Parliament House, 10.50 am

1. Members present

Mr Borsak, *Chair*

Mr Khan, *Deputy Chair*

Dr Kaye

Mr Foley

Mr MacDonald

Mr Wong

2. Apologies

Dr Phelps

3. Previous minutes

Resolved, on the motion of Mr McDonald: That draft Minutes No. 2 be confirmed.

4. Correspondence

The Chair noted the following correspondence received:

- 5 August 2013 – Email from Ms Clair Bowdler, NSW Police Force, confirming that their Submission No. 50 and the attachments provided are the complete submission.
- 6 August 2013 – Email from Dr Phelps indicating he will be an apology for the public hearing on 7 August 2013.

5. Submissions

The Committee noted that Submission Nos. 51 and 52 were previously published under the authorisation of the Committee's resolution of 27 June 2013.

Resolved, on the motion of Dr Kaye: That Submission No. 53 remain confidential.

6. Supplementary questions on notice

Resolved, on the motion of Mr Foley: That the Committee provide any supplementary questions on notice by close of business two days after the public hearing.

7. Meeting to consider Chair's draft report

Resolved, on the motion of Mr Khan: That the Committee meet to consider the Chair's draft report at 11:00 am on Monday 16 September 2013.

8. Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness from the Sydney Local Health District was sworn and examined:

- Dr Teresa Anderson, Chief Executive

The Chair adjourned the hearing in order for the Committee to deliberate.

The witness, public and media withdrew.

Resolved, on the motion of Mr Foley:

- that the Chair write to the Chief Executive of the Sydney Local Health District and request that the current tender for the Dame Eadith Walker Estate Agistment Licence be abandoned,
- that no further tender with respect to the future agistment of horses at the Estate be undertaken by the Sydney Local Health District until the Committee reports to the Legislative Council on 19 September 2013, and
- that the Committee seek a reply from the Chief Executive of the Sydney Local Health District by close of business Friday 9 August 2013.

Resolved, on the motion of Dr Kaye: That the Committee extend the period for members to provide supplementary questions on notice to the secretariat for Mr Ron Turner until close of business Friday 9 August 2013 and that answers be provided within 7 days from the date the questions are sent.

Resolved, on the motion of Dr Kaye: That the Committee write to individuals adversely mentioned in today's public hearings inviting them to respond.

Resolved, on the motion of Dr Kaye: That the Chair read the motions of Dr Kaye and Mr Foley to the audience upon the resumption of the public hearing.

Witnesses, the public and the media were re-admitted.

The Chair announced the Committee's resolutions agreed to in the deliberative meeting.

The following witness from the Sydney Local Health District resumed giving evidence:

- Dr Teresa Anderson, Chief Executive.

The evidence concluded and the witness withdrew.

The public hearing concluded and the public and media withdrew.

9. Adjournment

The Committee adjourned at 12.58 pm until Monday 16 September 2013 (report deliberative).

Rebecca Main

Clerk to the Committee

Minutes No. 4

Wednesday 28 August 2013

Select Committee on the Agistment of Horses at Yaralla Estate

Member's Lounge, Parliament House, 2:15 pm

1. Members present

2. Mr Borsak, Chair

Mr Khan, Deputy Chair

Dr Kaye

Mr Foley

Mr MacDonald

Mr Wong

3. Previous minutes

Resolved, on the motion of Dr Kaye: that draft Minutes No. 3 be confirmed.

4. Correspondence

The Committee noted the following items of correspondence:

Received

- 9 August 2013 – Letter from Dr Teresa Anderson, Chief Executive, Sydney Local Health District, to Chair, advising that the Committee’s request to abandon the tender for the agistment licence at the Yaralla Estate has been referred to the Finance, Risk and Performance Subcommittee of the Board, which will meet on Monday 12 August 2013, and that the SLHD will respond following this meeting.
- 15 August 2013 – Letter from Dr Teresa Anderson, Chief Executive, Sydney Local Health District, to Chair, advising that the tender process for the agistment licence at the Yaralla Estate has been abandoned.
- 20 August 2013 – Letter from Mr Ron Turner, Blue Visions, responding to adverse comments made about him during the public hearing on 7 August 2013.
- 20 August 2013 – Letter from Mr Ron Turner, Blue Visions, providing answers to questions taken on notice and supplementary questions.
- 28 August 2013 – Letter from Deputy Commissioner Nick Kaldas, providing answers to questions taken on notice.
- 28 August 2013 – Letter from Councillor Angelo Tsirekas, Mayor, City of Canada Bay Council, providing answers to questions taken on notice.

Sent

- 7 August 2013 – Letter from Chair to Dr Teresa Anderson, Chief Executive, Sydney Local Health District, requesting that the SLHD abandon the current tender and that the SLHD not undertake any further tender with respect to the future agistment of horses at Yaralla Estate, until the Committee reports on 19 September 2013.
- 13 August 2013 – Letter from Chair to Mr Stuart Read, Heritage Officer, thanking him for showing the Committee around the Yaralla Estate.
- 13 August 2013 – Letter from Chair to Mr Ron Turner, Blue Visions, providing an opportunity to respond to adverse comments made about him during the public hearing on 7 August 2013.
- 13 August 2013 – Letter from Chair to Dr Teresa Anderson, Chief Executive, Sydney Local Health District, requesting a response to the Committee’s request of 7 August 2013.

5. Confidential submissions to become partially confidential

Resolved, on the motion of Mr Foley: That Submissions Nos. 47 and 53 be published with identifying photographs and contact information removed.

6. Answers to questions on notice

Resolved, on the motion of Mr Foley: That the sections in red in the NSW Police Force answers to questions taken on notice be kept confidential, at the request of the author.

7. Announcement by Sydney Local Health District regarding public parklands at Yaralla Estate and future conduct of the Inquiry

The Chair noted that he gave a notice of motion in the House today for an order for papers relating to the announcement made by the Sydney Local Health District to convert the paddocks at Yaralla Estate into public parklands. If the motion is agreed to by the House the return date for the papers will be 13 September 2013.

The Committee discussed extending the reporting date to enable review of the ordered papers and possible public hearing.

Resolved, on the motion of Mr Khan: That the Committee seek an extension from the House to extend the reporting date until Tuesday 15 October 2013.

8. Adjournment

The Committee adjourned at 2.27pm until 11.00am Monday 16 September 2013, Room 1153.

Rebecca Main
Clerk to the Committee

Minutes No. 5

Monday 16 September 2013

Select Committee on the Agistment of Horses at Yaralla Estate

Room 1153, Parliament House, 11.00 am

1. Members present

Mr Borsak, Chair

Mr Khan, Deputy Chair

Mr Foley

Mr MacDonald

Dr Phelps

Mr Wong

2. Apologies

Dr Kaye

3. Previous minutes

Resolved, on the motion of Dr Phelps: that draft Minutes No. 4 be confirmed.

4. Correspondence

The Committee noted the following items of correspondence:

Received:

- 30 August 2013 – Letter from Dr Teresa Anderson, Chief Executive, Sydney Local Health District, providing answers to questions taken on notice and supplementary questions.
- 3 September 2013 – Letter from Dr Teresa Anderson, Chief Executive, Sydney Local Health District, providing clarification on her request to keep some answers to questions taken on notice confidential.

Sent:

- 3 September 2013 – Email from Principal Council Officer to Dr Teresa Anderson, Chief Executive, Sydney Local Health District, seeking clarification on her request to keep some answers to questions taken on notice confidential.

5. Answers to questions on notice

Resolved, on the motion of Mr Foley: That the answers to questions on notice provided by the Sydney Local Health District be published, notwithstanding the author's request to keep some answers confidential.

6. Future conduct of the Inquiry

The Committee discussed the future conduct of the Inquiry and agreed to move into report drafting phase and the secretariat canvass appropriate dates for a report deliberative.

7. Adjournment

The Committee adjourned at 11.32 am *sine die*.

Rebecca Main

Clerk to the Committee

Draft Minutes No. 6

18 October 2013

Select Committee on the Agistment of Horses at Yaralla Estate

Room 1153, Parliament House, 9.30 am

1. Members present

Mr Borsak, Chair

Mr Khan, Deputy Chair

Dr Kaye

Mr Foley

Mr MacDonald

Dr Phelps

Mr Wong

2. Previous minutes

Resolved, on the motion of Mr MacDonald: That draft Minutes No. 5 be confirmed.

3. Correspondence

The Committee noted the following items of correspondence:

Sent:

- 24 September 2013 – Letter from Chair to Dr Teresa Anderson, Chief Executive, Sydney Local Health District, advising that the Committee has not agreed to the request to keep answers to questions on notice confidential and seeking further information regarding the engagement of Blue Visions Management.
- 11 October 2013 – Letter from Chair to Dr Teresa Anderson, Chief Executive, Sydney Local Health District, requesting information regarding the Trust accounts.

Received:

- 26 September 2013 – Letter from Dr Teresa Anderson, Chief Executive, Sydney Local Health District, to the Chair providing additional information regarding the engagement of Blue Visions Management.
- 4 October 2013 – Letter from Ms Catherine Ferla to the Committee providing a late submission to the Inquiry.
- 9 October 2013 – Letter from Mr John Adam to the Committee providing a late submission to the Inquiry.
- 10 October – Email from Mr Ian Harvey to Mr John Sidoti MP and copied to the Committee commenting on the conversion of the Yaralla Estate to public parklands.
- 15 October – Letter from Dr Teresa Anderson, Chief Executive, Sydney Local Health District, to the Chair providing information relating to the Trust accounts.

Resolved, on the motion of Mr Khan: That the correspondence from Mr John Adam be published with the exception of paragraph 6, which is to be kept confidential due to adverse comments.

4. Consideration of Chair's draft report

The Chair submitted his draft report entitled, 'The agistment of horses at Yaralla Estate', which, having been previously circulated, was taken as being read.

Chapter 1 read.

Resolved, on the motion of Dr Phelps: That paragraph 1.9 be amended by omitting 'community unrest' and inserting instead 'a motion moved by the Hon Luke Foley MLC'.

Resolved, on the motion of Dr Phelps: That, throughout the report, the words 'community horses' and 'community owned horses' be omitted and inserting instead 'horses owned by members of the community'.

Resolved, on the motion of Dr Phelps: That, throughout the report, the words ‘community agistors’ be omitted and inserting instead ‘private agistors’.

Resolved, on the motion of Mr MacDonald: That Chapter 1, as amended, be adopted.

Resolved, on the motion of Mr Khan: That additional entries be inserted into the Timeline (p 7) regarding the passing of the *Walker Trusts Act 1938* and *Walker Trust (Amendment) Act 1997*.

Resolved, on the motion of Dr Phelps: That the Timeline, as amended, be adopted.

Chapter 2 read.

Resolved, on the motion of Mr Khan: That paragraph 2.14 be amended by omitting ‘Previous’ and inserting instead ‘prior’ and omitting ‘the requirement to provide’.

Resolved, on the motion of Mr Kaye: That paragraph 2.19 be amended by inserting ‘In response to correspondence from the Committee, the SLHD advised that the balance of the Trust account is \$3,222,124 as at 14 October 2013. FOOTNOTE: Correspondence, Dr Teresa Anderson, Chief Executive, Sydney Local Health District to Chair, 15 October 2013’.

Resolved, on the motion of Dr Phelps: That Chapter 2, as amended, be adopted.

Chapter 3 read.

Resolved, on the motion of Dr Phelps: That paragraph 3.8 be amended by omitting ‘community anger’ with ‘growing opposition by members of the community’.

Dr Phelps moved: That the final sentence of paragraph 3.29, paragraphs 3.30 to 3.32 and Committee Finding 1 be omitted.

Question put.

The Committee divided.

Ayes: Mr Khan, Mr MacDonald, Dr Phelps

Noes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong.

Question resolved in the negative.

Mr Khan moved: That paragraphs 3.54 to 3.56 be omitted.

Question put.

The Committee divided.

Ayes: Mr Khan, Mr MacDonald, Dr Phelps

Noes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong.

Question resolved in the negative.

Dr Phelps moved: That paragraph 3.65 be amended by omitting all words and inserting instead: ‘The Committee acknowledges the findings of the Blue Visions Report and rejects the concerns of inquiry participants regarding these findings. We consider the attempt to blame SLHD for the condition of the Estate outlined in the Blue Visions Report misses the fact that the responsibility for the area’s maintenance clearly lay with the lessee, not the lessor.’

Question put.

The Committee divided.

Ayes: Mr Khan, Mr MacDonald, Dr Phelps

Noes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong.

Question resolved in the negative.

Dr Phelps moved: That paragraph 3.66 be amended by omitting all words and inserting instead: ‘The Committee rejects any allegations by inquiry participants about a possible political relationship between Blue Visions Management and the SLHD. No credible evidence was adduced to support this assertion; and the engagement of Blue Visions Management prior to the March 2011 state election actively disproves any political interference in the initial selection of the firm. Moreover, SLHD clearly operated within the existing rules for contracted work by retaining Blue Visions Management for the subsequent report into horse agistment at Yaralla.’

Question put.

The Committee divided.

Ayes: Mr Khan, Mr MacDonald, Dr Phelps

Noes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong.

Question resolved in the negative.

Mr Foley moved: That paragraph 3.66 be amended by omitting all words and inserting instead ‘The Committee notes that concerns were raised by some inquiry participants about relationships between Blue Vision Management, the Liberal Party and certain members of the Liberal Party.’

Question put.

The Committee divided.

Ayes: Mr Borsak, Dr Kaye, Mr Khan, Mr Foley, Mr Wong

Noes: Mr MacDonald, Dr Phelps.

Question resolved in the affirmative.

Resolved, on the motion of Mr Foley: That the following paragraphs be inserted after paragraph 3.66:

Conrad Capital

Another firm, Conrad Capital and Consulting, also provided advice to the SLHD on the eviction of horses from the Yaralla Estate. Documents returned to the Legislative Council pursuant to an Order for Papers under Standing Order 52, reveal that Dr Anderson sought and received advice from Richard McKinnon, Executive Chairman, Conrad Capital, on 27 April. On 29 April Mr McKinnon provided advice on how SLHD could best present its case to the community. FOOTNOTE: Return to order for papers, 13 June 2013, Email, SLHD, Document (a) 440.

Dr Anderson was questioned about the engagement of Conrad Capital. She gave evidence that,

The district engaged Conrad Capital some time ago. I met the consultant through a committee that I am on. The committee is about educating our staff on the new funding reform. I have been on that committee for over 18 months now. FOOTNOTE: Evidence, Dr Anderson, 7 August 2013, p 9.

Dr Anderson advised the Committee that in 2012/13 SLHD paid Conrad Capital \$105, 600. The Committee notes that the Chair of the SLHD, Mr Ron Phillips, has publicly admitted that ‘Richard worked for me in health when I was the minister’. FOOTNOTE: Answers to questions on notice, Dr Anderson, p 2 and ‘Gladys Berejiklian’s mate’s firm won health contract with Liberal connection’, Daily Telegraph 2 October 2013.

Mr Foley moved: That the following ‘Committee comment’ be inserted after the newly inserted paragraphs:

Committee comment

The Committee expresses concern at the engagement of Conrad Capital Consulting in two respects:

- the payment of funds from the SLHD budget for what appears to be limited communications advice

- the relationship between Conrad Capital and certain members of the Liberal Party.

Question put.

The Committee divided

Ayes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong

Noes: Mr Khan, Mr MacDonald, Dr Phelps

Question resolved in the affirmative.

Mr Foley moved: That a new recommendation be inserted after the newly inserted Committee comment:

‘Recommendation x:

That the NSW Legislative Council consider referring the claims in respect to Blue Vision Management and Conrad Capital to the Independent Commission Against Corruption pursuant to section 73 of the *Independent Commission Against Corruption Act 1988*.’

Question put.

The Committee divided

Ayes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong

Noes: Mr Khan, Mr MacDonald, Dr Phelps.

Question resolved in the affirmative.

Resolved, on the motion of Mr Foley: That the following paragraph be inserted after paragraph 3.79:

‘The Committee appreciates the need of the NSW Mounted Police Unit for agistment facilities. The Committee makes no criticism of the actions of the NSW Police Force in this matter. In seeking to agist NSWMP horses at the Yaralla Estate, the NSW Police Force acted properly at all times.’

Resolved, on the motion of Mr MacDonald: That all defeated resolutions be recorded as divisions, unless otherwise indicated.

Dr Phelps moved: That paragraph 3.82 be amended by omitting all words and inserting instead ‘The intervention of Cr Tsierekas – a member of the Labor Party and previously a Labor candidate the state seat of Drummoyne – appears to have been purely political, designed to boost his own profile and advance his political career. His offer to be an arbiter was unsolicited and, ultimately, unwanted. Moreover, when he was in a position to offer genuine assistance to help private agistors, through his Council assuming the management of the agistment paddocks, including the financial and insurance burden that that would have entailed, he refused to do so.’

Question put.

The Committee divided.

Ayes: Mr Khan, Mr MacDonald, Dr Phelps

Noes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong.

Question resolved in the negative.

Mr Khan moved: That the final sentence of paragraph 3.82 be omitted.

Question put.

The Committee divided.

Ayes: Mr Khan, Mr MacDonald, Dr Phelps

Noes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong.

Question resolved in the negative.

Dr Phelps moved: That paragraph 3.97 be amended by omitting all words after 'was' and inserting instead 'appropriate'.

Question put.

The Committee divided.

Ayes: Mr MacDonald, Dr Phelps

Noes: Mr Borsak, Dr Kaye, Mr Khan, Mr Foley, Mr Wong.

Question resolved in the negative.

Mr Foley moved: That Chapter 3, as amended, be adopted.

Question put.

The Committee divided

Ayes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong

Noes: Mr Khan, Mr MacDonald, Dr Phelps

Question resolved in the affirmative.

Chapter 4 read.

Resolved, on the motion of Mr MacDonald: That the following paragraph be inserted after paragraph 4.30 'As described above, the Committee took evidence of community disquiet about the future of the Yaralla Estate, including rumours of disposal of the Estate. Responding to this allegation, the CEO of SLHD commented in hearings, she thought the Mayor of Canada Bay was responsible for this misinformation. In response to a question from the Committee, SLHD advised that \$3,345.98 was spent on an advertisement correcting what the SLHD saw as misinformation.'. FOOTNOTE: Evidence, Dr Anderson, 7 August 2013, p 9, Answers to questions on notice, Dr Anderson, p 1.

Mr MacDonald moved: That the following paragraph be inserted into the 'Committee comment':

'The Committee notes that the community fears about the future of the Yaralla Estate may have been exacerbated by the debate that appears to have been politically motivated.'

Question put.

The Committee divided.

Ayes: Mr Borsak, Dr Kaye, Mr Khan, Mr MacDonald, Dr Phelps

Noes: Mr Foley, Mr Wong.

Question resolved in the affirmative.

Dr Phelps moved: That paragraph 4.36 be amended by omitting the words 'the significant amount of community concern and anger' and inserting instead 'concerns among some people in the local community and private agistors'.

Mr Khan left the meeting.

Question put.

The Committee divided.

Ayes: Mr MacDonald, Dr Phelps

Noes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong.

Question resolved in the negative.

Mr Khan returned to the meeting.

Dr Phelps moved: That paragraph 4.37 be amended by omitting the final sentence and inserting instead ‘These fears about private development are totally unfounded, and no evidence has been adduced to support them. Rather, these fears appear to have formed as the result of a local anonymous political campaign in which the Mayor of Canada Bay, if he were not directly involved in formulating, certainly did nothing to dissuade local residents from believing.’

Dr Kaye moved: That the motion of Dr Phelps be amended by preserving the final sentence of the original paragraph and omitting from Dr Phelps motion ‘These fears about private development are totally unfounded, and no evidence has been adduced to support them’ and inserting instead ‘The Committee adduced no evidence that would support the fears that the site would be subject to private development’.

Amendment put.

The Committee divided.

Ayes: Mr Borsak, Mr Foley, Dr Kaye, Mr MacDonald, Mr Wong

Noes: Mr Khan, Dr Phelps.

Question resolved in the affirmative.

Dr Kaye moved: That the motion of Dr Phelps be further amended by omitting ‘Rather, these fears appear to have formed as the result of a local anonymous political campaign in which the Mayor of Canada Bay, if he were not directly involved in formulating, certainly did nothing to dissuade local residents from believing.’

Amendment put.

The Committee divided.

Ayes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong

Noes: Mr Khan, Mr MacDonald, Dr Phelps.

Question resolved in the affirmative.

Original question, as amended, put and passed.

Resolved, on the motion of Mr Foley: That paragraph 4.39 be amended by omitting the words ‘decision to increase public access to the Estate by creating public parklands’ and inserting instead ‘announcement that the paddocks will convert to public parkland’.

Resolved, on the motion of Dr Kaye: That Recommendation 1 be amended by inserting at the end ‘or public ownership’.

Resolved, on the motion of Dr Kaye: That Recommendation 2 be amended by omitting ‘That the NSW Government ensure that future plans for the Yaralla Estate are clearly communicated to the local community’ and inserting instead: ‘That the NSW Government ensure that any future plans or proposals for changes in management or operations for the Yaralla Estate are clearly communicated to the local community well in advance and that there are adequate opportunities for community engagement.’

Resolved, on the motion of Mr MacDonald: That Chapter 4, as amended, be adopted.

Chapter 5 read.

Resolved, on the motion of Mr Foley: That the introductory paragraph be amended by omitting ‘decision’ and inserting instead ‘announcement’.

Dr Phelps moved in globo:

That paragraph 5.14 be amended by omitting all words and inserting instead ‘The Committee rejects the views of inquiry participants that there has been a lack of proper management of the Yaralla Estate by SLHD and former health agencies. The current poor state of the paddocks and surrounding infrastructure is substantially, if not wholly, the fault of the previous lessee, Mr Wale, who failed to

abide by the conditions of the 1996 licence, thereby occasioning the need for costly remediation works as noted in Chapter 3. It is of great concern to the Committee that there now appears to be a high degree of blame-shifting on to SLHD for the mismanagement of Mr Wale. If Mr Wale knew himself to be unable to meet the requirements of the licence without constant supervision from SLHD, then he should have informed SLHD of this managerial incapacity at the time of the initial grant of the licence, or at some subsequent period prior to 2013. Moreover, if agistors were aware of the poor condition of the paddocks and infrastructure, as it appears from the testimony they were, they should have made their concerns known to Mr Wale or to SLHD at some earlier point in time when such matter may have been remedied by strict enforcement of the licence, or by the termination and transfer to a new lessee.'

That paragraph 5.15 be amended by omitting the first two sentences.

Question put.

The Committee divided.

Ayes: Mr Khan, Mr MacDonald, Dr Phelps

Noes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong.

Question resolved in the negative.

Resolved, on the motion of Mr Foley: That paragraph 5.16 and the 'Committee comment' be amended by inserting 'Parramatta River Regional Park' after 'Centennial and Moore Park Trust'.

Resolved, on the motion of Mr Foley: That the following paragraphs be inserted after paragraph 5.25:

'Parramatta River Regional Park

Parramatta River Regional Park is located at Bedlam Bay in Gladesville, approximately 10 kilometres (km) north west of the Sydney Central Business District (CBD) and 16 km east of Parramatta CBD. The Park is located on the foreshore of the northern side of the Parramatta River, west of Gladesville Bridge. The Park was gazetted as a Regional Park on 25 May 2001.

Before the Park was transferred to the National Parks and Wildlife Service in 1998, it was owned and managed by the then named NSW Department of Health (now NSW Ministry of Health). The Park formed part of the southern section of the former Gladesville Hospital site that commenced construction in the late 1830s to care for the mentally ill. The area that now forms the Park was used to access the hospital by boat, for the production of vegetables and as a location for formal gardens, provided access to the river for bathing and other sport and recreational activities and provided a location for sewerage infrastructure.

Regional parks are reserved under the National Parks and Wildlife Act 1974 to protect and conserve areas in a natural or modified landscape that are suitable for public recreation and enjoyment.

Under the Act (section 30H), regional parks are managed to:

- provide opportunities for recreation and enjoyment in natural or modified landscapes;
- identify, interpret, manage and conserve the Park so as to maintain and enhance significant landscape values;
- conserve natural and cultural values;
- promote public appreciation and understanding of the Park's natural and cultural values;
- provide for sustainable visitor or tourist use and enjoyment that is compatible with conservation of natural and cultural values; and
- provide for sustainable use (including adaptive reuse) of any buildings or structures or modified natural areas having regard to conservation of natural and cultural values.

Provisions in the *NPW Act 1974* permit leasing within a reserve and establishment of a trust for management of a regional park or parts of a regional park.

The Parramatta River Regional Park provides respite from city living and recreation opportunities on the shores of the iconic landscape of Sydney Harbour including a lookout for view appreciation, public toilets, picnic facilities, walking tracks with interpretation of the Aboriginal and European history of the Park and asylum, and a sports oval.

- The Park provides “on-leash” dog walking opportunities.
- The Park is part of a regional walking corridor known as the Parramatta River Walk that commences at Woolwich Wharf and circulates along the northern side of the Harbour, through Bedlam Bay to Parramatta and further afield via a network of open spaces. The Park also forms part of the Harbour Circle Walk.

FOOTNOTE: Parramatta River Regional Park Draft Plan of Management, Office of Environment and Heritage, pp 1-4 and p 38.’

Dr Phelps moved in globo:

That paragraph 5.27 be omitted.

That all words after ‘health services’ in paragraphs 5.29 be omitted.

That Recommendation 4 be omitted.

Question put.

The Committee divided.

Ayes: Mr Khan, Mr MacDonald, Dr Phelps

Noes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong.

Question resolved in the negative.

Resolved, on the motion of Dr Phelps: That the following new paragraph be inserted before paragraph 5.44:

‘The Committee recognises that the primary function of the Yaralla Estate is the provision of health services. Moreover, the SLHD is not in a position to provide agricultural or sporting services.’

Dr Phelps moved: That paragraph 5.44 be omitted.

Question put.

The Committee divided.

Ayes: Mr Khan, Mr MacDonald, Dr Phelps

Noes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong.

Question resolved in the negative.

Dr Phelps moved in globo:

That paragraph 5.46 be amended by omitting ‘in addition’ and inserting instead ‘if agistment were to be restored to the site’.

That paragraph 5.47 be amended by omitting all words and inserting instead:

The Committee therefore makes no recommendation either for or against the future agistment of horses on the Yaralla Estate. If a new agency is proposed to manage the Estate (but not the SLHD) it should:

- reconsider the proposal for the NSW Police Force Mounted Police Unit and privately owned horses to share the use of the paddocks under a co-tenancy arrangement, and

- ensure that commercial rates are charged for the agistment of horses on the Estate.

That Recommendation 5 be omitted.

Question put.

The Committee divided.

Ayes: Mr Khan, Mr MacDonald, Dr Phelps

Noes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong.

Question resolved in the negative.

Mr MacDonald moved: That Recommendation 5 be amended by omitting all words and inserting instead 'That the NSW Government facilitate the utilisation of Yaralla Estate for amateur equine activities by the public funded by fees paid by the users at commercial rates.'

Question put.

The Committee divided.

Ayes: Mr Khan, Mr MacDonald, Dr Phelps

Noes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong.

Question resolved in the negative.

Mr MacDonald moved: That a new recommendation be inserted after Recommendation 5 to read:

'Recommendation X: That the proposal for the NSW Police Force Mounted Police Unit to share the use of the paddocks under a co-tenancy arrangement be reconsidered.'

Question put.

The Committee divided.

Ayes: Mr Khan, Mr MacDonald, Dr Phelps

Noes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong.

Question resolved in the negative.

Resolved, on the motion of Mr Foley: That paragraph 5.56 be amended by omitting the word 'decisions' and inserting instead 'announcements'.

Resolved, on the motion of Mr Foley: That paragraph 5.56 be amended by omitting the word 'decision' and inserting instead 'announcement'.

Dr Phelps moved in globo:

That paragraph 5.58 be omitted.

That paragraph 5.59 be omitted.

That paragraph 5.60 be omitted.

That paragraph 5.63 be amended by omitting all words and inserting instead 'The Committee understands that under section 19B of the *Walker Trust Act 1938* the conversion of the paddocks of the Yaralla Estate to public parklands is permissible and we note that the agistment of horses has only formally been in place since 1996 (although we understand it was carried out on an informal basis previous to this). Thus there are a range of options legally available to the government for the future use of this land.'

That paragraph 5.64 be omitted.

That paragraph 5.65 be amended by omitting all words and inserting instead 'The Committee was of the understanding that the SLHD would await the Committee's report before taking any further

action, but it nevertheless recognises that as an executive agency it is not constrained from taking action it deems to be necessary for the successful operation of its core business, including making the significant decision to change the future of the Estate by converting the paddocks to public parklands’.

That paragraph 5.66 be amended by omitting all words and inserting instead ‘The Committee, as stated earlier, makes no recommendation either for or against the future agistment of horses, however should agistment be restored to the Yaralla Estate it should be done so only with commercial rates charged to agistors that will then contribute to funding the necessary remediation and maintenance of the Estate.’.

Question put.

The Committee divided.

Ayes: Mr Khan, Mr MacDonald, Dr Phelps

Noes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong.

Question resolved in the negative.

Resolved, on the motion of Dr Kaye: That Recommendation 6 be amended by inserting at the end of the sentence ‘and enter into genuine public consultation before developing any further plans for the future of the paddocks’.

Dr Kaye moved: That Chapter 5, as amended, be adopted.

Question put.

The Committee divided.

Ayes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong

Noes: Mr Khan, Mr MacDonald, Dr Phelps.

Question resolved in the affirmative.

Dr Kaye moved: That the draft report, as amended, be the report of the Committee and that the Committee present the report to the House.

Question put.

The Committee divided.

Ayes: Mr Borsak, Dr Kaye, Mr Foley, Mr Wong

Noes: Mr Khan, Mr MacDonald, Dr Phelps.

Question resolved in the affirmative.

Resolved, on the motion of Dr Kaye:

- That the transcripts of evidence, submissions, tabled documents, answers to questions on notice, minutes of proceedings and correspondence relating to the Inquiry be tabled in the House with the report, and
- That upon tabling, all transcripts of evidence, submissions, tabled documents, answers to questions on notice, minutes of proceedings and correspondence relating to the Inquiry not already made public, be made public by the Committee, except for those documents kept confidential by resolution of the Committee.

Resolved, on the motion of Dr Phelps: That any dissenting statements be provided to the Secretariat by close of business, 21 October 2013.

Resolved, on the motion of Mr Khan: That the report be tabled on Thursday 24 October 2013.

Resolved, on the motion of Dr Kaye: That the Committee Secretariat be commended for the efforts in managing the Inquiry and supporting the Committee.

5. Adjournment

The Committee adjourned at 12.11 pm *sine die*.

Rebecca Main

Clerk to the Committee

Appendix 8 Dissenting statements

The Hon Trevor Khan MLC, The Nationals

This Inquiry came about on the Motion of the Honourable Luke Foley. At the time of the passing of the Motion, a number of assertions were gaining currency in the community including:

- a) That the original deed establishing the Trust provided for agistment upon the Trust land; and
- b) the Government's intention was to remove the horse owners and thereafter sell the land for redevelopment.

The Inquiry has clearly established that neither of these assertions was correct.

The Report being tabled before the House has however sadly failed to appropriately address a number of key issues including:

1) Were the paddocks used for the agistment of horses in poor condition?

A number of participants have disputed that the agistment paddocks were in poor condition.

Whilst dispute has arisen as to some aspects of the Blue Visions Report, photographs contained in the Report demonstrate amongst other things:

- a) the poor maintenance of fencing; and
- b) the very low quality of water supply available to the horses.

Both of these items are clear indicia that the facilities available to horses had deteriorated over time.

The evidence given by Mr Colin Wale at the Public Forum held at the Concord RSL and Community Club demonstrate that he is a proud and passionate man, attempting to do his best, but perhaps, with the passing of the years, the task of agisting the horses and maintaining the property had got beyond him.

In summary, on the evidence, the paddocks used for the agistment of horses were in poor condition, and the actions of the SLHD in terminating the agistment agreement, were justified.

2) Who was responsible for ensuring that the paddocks remained in good order and repair?

The Report fails to clearly identify the responsibility for the maintenance of the paddocks.

The agistment agreement entered into in 1996 by Mr Wale clearly places the responsibility upon him to maintain the paddocks, not the SLHD.

Nevertheless, unlike the Hon. Peter Phelps, it is my view that the SLHD retained a secondary responsibility, as the trustee, to ensure that the property was maintained.

This secondary duty, whilst opening up the SLHD for justified criticism for allowing matters to deteriorate to the extent they had, also justified the SLHD in finally moving to terminate to agistment agreement.

It might also be noted that criticism can also be placed at the feet of the SLHD in allowing an agistment agreement to remain in place which did not have an annual CPI escalation clause in it with respect to rent, and no formal review mechanism of the rent.

Once again the absence of these common clauses in almost all commercial agreements warranted the termination of the existing agreement.

In summary, whilst some criticism can fall at the feet of the SLHD, that criticism should be clearly identified as its failure to ensure compliance with the agistment agreement, and that the agreement produced an appropriate ongoing income stream from the trust property. In short, the principal criticism of the SLHD should be that it failed to terminate the contract sooner than it did.

3) Was there evidence of political favouritism in the appointment or tender processes?

Much has been made in the Report about the relationship between Blue Visions Management and SLHD.

What is clear, from the evidence, as opposed to speculation and innuendo, is that:

- a) Blue Visions were first appointed by SLHD, pursuant to accepted guidelines, prior to the March 2011 election; that is during the time of the previous Labor Government.
- b) SLHD acted within established guidelines in appointing Blue Visions to undertake an assessment of the horse paddocks and agistment arrangements.
- c) The evidence is that the SLHD had no knowledge whatsoever that Blue Visions, or any related company, had allegedly made a donation, or donations, to the Liberal Party.

In short, there is absolutely no evidence that SLHD acted improperly in appointing Blue Visions to undertake the Report.

It should be noted that the O'Farrell Government has, since coming to power introduced sweeping electoral donations reform in the form of the Election Funding, Expenditure and Disclosures Amendment Act 2011. This Bill prohibited donations from corporations, and placed severe limits upon donations from individuals. The Bill was opposed by both the ALP and the Shooters and Fishers Party in the Legislative Council.

In summary, the recommendation that the relationship between Blue Visions, SLHD and the Liberal Party should be referred to the ICAC for investigation is without merit and undermines the reliability and objectivity of the Report.

4) Should SLHD have retained Conrad Consulting?

As with the recommendation that SLHD and Blue Visions be referred to the ICAC, the recommendation that SLHD and Conrad Consulting should be referred to the ICAC by the Legislative Council undermines the credibility of the Report.

There is no evidence that procurement guidelines have been breached, and nor is there credible evidence that SLDH has acted improperly, yet alone corruptly in retaining the services of Conrad Consulting.

In summary, the recommendation to refer SLHD and Conrad Consulting, once again undermines the integrity and objectivity of the Report

Trevor Khan MLC
Chair - Privileges Committee
New South Wales Legislative Council

The Hon Dr Peter Phelps MLC and Mr Scot MacDonald MLC, The Liberal Party

This is arguably the most useless inquiry conducted in the NSW Parliament.

These are the key questions, and how they should have been answered:

Who was responsible for the poor condition of the land?

The views of inquiry participants that there has been a lack of proper management of the Yaralla Estate by SLHD and former health agencies is not sustainable. The current poor state of the paddocks and surrounding infrastructure is substantially, if not wholly, the fault of the previous licensee, Mr Wale, who failed to abide by the conditions of the 1996 licence, thereby occasioning the need for costly remediation works as noted in Chapter 3 of this report.

However, there now appears to be a high degree of blame-shifting on to SLHD for the mismanagement of Mr Wale. If Mr Wale knew himself to be unable to meet the requirements of the licence without constant supervision from SLHD, then he should have informed SLHD of this managerial incapacity at the time of the initial grant of the licence, or at some subsequent period prior to 2013. Moreover, if agistors were aware of the poor condition of the paddocks and infrastructure, as it appears from the testimony they were, they should have made their concerns known to Mr Wale or to SLHD at some earlier point in time when such matter may have been remedied by strict enforcement of the licence, or by the termination and transfer to a new lessee.

To blame SLHD for the condition of the land and infrastructure is as ridiculous as blaming a landlord if a tenant trashes the house.

Was there any intention to sell and/or develop the land?

No. The fears about private development were totally unfounded, and no evidence has been adduced to support them. Rather, fears appear to have formed as the result of a local anonymous political campaign in which the Mayor of Canada Bay, if he were not directly involved in formulating, certainly did nothing to dissuade local residents from believing.

The subsequent intervention of the Mayor – a Labor Party member and previously the Labor candidate for the state seat of Drummoyne – appears to have been purely political, designed to advance his own political career. His offer to be an arbiter was unsolicited and, ultimately, unwanted. Moreover, when he was in a position to offer genuine assistance to help private agistors, through his Council assuming the management of the Yaralla paddocks, including the financial burden that that would have entailed, he refused to do so.

Is there any validity to the criticism of the Blue Visions Report?

No. The findings of the Blue Visions Report are entirely reasonable and the concerns of inquiry participants regarding these findings are unsubstantiated. The subsequent attempt to blame SLHD for the condition of the Estate outlined in the Blue Visions Report misses the fact that the responsibility for the area's maintenance clearly lay with the Mr Wale, not the SLHD.

Is there any evidence of political favouritism in the appointment or tender processes?

No, but there is rumour, slander and fear-mongering. While there have been allegations by inquiry participants (and the Labor Party) about a possible political relationship between Blue Visions Management and the SLHD, no credible evidence was adduced to support this assertion. Indeed, the very timing of the engagement of Blue Visions Management - prior to the March 2011 state election - actively disproves any political interference in the initial selection of the firm. Moreover, SLHD clearly operated within the existing rules for contracted work by retaining Blue Visions Management for the subsequent report into horse agistment at Yaralla.

Moreover, having a principal of Blue Visions Management on 2013 tender panel was appropriate, given that he had the best understanding of the land and the problems associated with the previous poor management of the area, and could ensure that such problems would not arise in the future.

What should be the future use for the land?

Clearly, the SLHD is not an equestrian organisation. Its core business is health. We need to recognise that the continuation of the agistment of horses on the Yaralla Estate is of less importance than the maintenance of a health facility – at the current time being used to assist HIV/AIDS patients with dementia.

Indeed, it was their initial commitment to this core work which prompted SLHD to get out of the horse agistment business and seek to offload the day-to-day management of the land onto a responsible organisation, namely the NSW Police Force Mounted Unit.

The simple fact is that ‘horse agistment’ has no special protection. Under section 19B of the *Walker Trust Act 1938* the conversion of the paddocks of the Yaralla Estate to public parklands is permissible and it is notable that the agistment of horses has only formally been in place since 1996 (although it was carried out on an informal basis previous to this). Thus there are a range of options legally available to the SLHD for the future use of this land.

It remains my view that the Committee should make no recommendation either for or against the future agistment of horses. However, should agistment be restored to the Yaralla Estate - including to the NSW Police - it should be done so only at commercial rates charged to agistors that will then contribute to funding the necessary remediation and maintenance of the Estate.

Was the SLHD wrong to act before the report was handed down?

No. We need to recognise that as an executive agency SLHD is not constrained from taking action it deems to be necessary for the successful operation of its core business, including making the decision to change the use of the Estate by converting the paddocks to public parklands.

PETER PHELPS

SCOT MacDONALD