Speech by

Robert Messenger

MEMBER FOR BURNETT

Hansard Tuesday, 7 March 2006

RECREATION AREAS MANAGEMENT BILL

Mr MESSENGER (Burnett—NPA) (2.30 pm): The Recreation Areas Management Bill before this House comprises nine parts and 154 pages. This piece of legislation fundamentally concentrates overwhelming legislative and regulatory power in the hands of the environment minister by, firstly, abolishing the Queensland Recreation Areas Management Authority and also the board, which is contained in clauses 233 and 234, and, secondly, delegating ministerial powers to Public Service officers, which is contained in part 10, division 3, clause 225.

The Recreation Areas Management Bill is not consistent with fundamental legislative principles. This is reflected in the unusual and, what I believe to be, unprecedented comments in the Scrutiny of Legislation Committee's—a bipartisan committee comprising both Labor and conservative members of this House—latest *Alert Digest* at page 19 point 3 where it reads—

... these provisions impinge in many ways upon the rights and liberties of individuals who enter, or wish to enter, such areas.

That is a phrase that we will continually hark back to. It must ring alarm bells for members of this House. The areas we are talking about are Green Island, Moreton Island, Fraser Island, Bribie Island and Inskip Point. The rights and liberties of individuals such as the campers, the tourists, the permanent residents and the mums and dads of Queensland will be affected.

Alarm bells should be sounding right now for members of this House who value the principles of social justice because this bill, if it passes this chamber, will give rangers and EPA officers the equivalent of police powers without the proper checks and balances, without the training. A renowned lover of social justice and former member of this House and Labor Premier Wayne Goss would never have allowed this legislation to come before this place because it breaches the Legislative Standards Act 1992 and fundamentally undermines the liberties, civil rights and freedoms of Queenslanders.

Then Premier Goss introduced the Legislative Standards Act 1992 which established at part 2 section 4 the meaning of fundamental legislative principles, which states—

For the purposes of this act, 'fundamental legislative principles' are the principles relating to legislation that underlie a parliamentary democracy based on the rule of law.

It requires that any legislation must have sufficient regard to the rights and liberties of individuals and the institution of parliament. Deciding whether the legislation has sufficient regard to the rights and liberties of individuals depends on (a) whether the legislation makes rights and liberties or obligations dependent on administrative power only if the power is sufficiently defined and subject to appropriate review. In relation to the RAM bill the minister and the department head have those rights. There is no mention of them being subject to appropriate review.

The Legislative Standards Act further states that legislation must be (b) consistent with principles of natural justice. Natural justice principles are something that seem to be lacking under this legislation before the House.

The act goes on to state that the legislation must (c) allow the delegation of administrative power only in appropriate cases and to appropriate persons. Again the legislation before this House overextends

the delegation of administrative powers as it now applies to the world at large and does not limit it to appropriate cases and persons.

The act goes on to state that legislation (d) must not reverse the onus of proof in criminal proceedings without adequate justification. Again this legislation before the House reverses the onus of proof in that it allows the rangers to apply charges to an individual, including fines, without having to prove that they had reasonable grounds. Therefore, the individual is guilty; not innocent until proven guilty.

It continues with legislation must only (e) confer powers to enter premises and search for and seize documents or other property only with a warrant issued by a judge. Once again, the RAM bill confers powers to enter without a warrant or the owner's permission.

The act goes on to state that legislation must (f) provide appropriate protection against self-incrimination. The legislation before this House denies the right to silence and the right to protect oneself from incrimination.

The act further states that legislation must not (g) adversely affect rights and liberties or impose obligations retrospectively. This bill imposes rights and obligations on individuals and affects their liberties.

It continues by stating that legislation must (i) provide fair compensation for property. The RAM bill makes no allowance for compensation. The individual has to seek compensation via the courts.

Further, legislation must (j) have sufficient regard to Aboriginal tradition and Island custom. These are the forgotten people in this RAM bill. There is no mention in the RAM bill of having any regard to or acknowledging Indigenous customs and traditions or the Murri Court.

Why would this Labor minister introduce to this House, an institution where the flame of democracy and freedom rages, a bill where the umpire—I remind the House that the umpire has said this—the Scrutiny of Legislation Committee has said in an unprecedented way that the RAM bill will impinge in many ways on the rights and liberties of individuals? Why is this Beattie Labor government so eager to impinge on the rights and liberties of our mums and dads and tourists and permanent residents who choose to live, for example, on Fraser Island?

It does so because it is locked into an inflexible, stupid ideology which says that the best way to manage our environment is to lock it up and the only way we can lock it up is by giving our EPA officers illegal policing powers. Make no mistake, if this legislation passes this place it will—and this is a statement of fact—impinge in many ways on the rights and liberties of individuals who enter or wish to enter a RAM designated area.

We know—because of the minister's 'lock it up and do not talk to the locals' policy—that there has been a serious breakdown in the relationship between EPA officers and the community. Members do not have to take my word for it; all they have to do is get out into the community and meet with Queenslanders who have some common sense. We just have to leave the spin doctors behind. We have only to visit places like Inskip Point, Rainbow Beach, Tuncumba, Happy Valley and Fraser Island and ask the people there what is happening on the ground.

Because of the Labor Party's flawed policies the relationship between the community and rangers is dysfunctional and the rangers have become the meat in the sandwich. This legislation will not improve the matter. This legislation will create more distrust. As we will find out in the course of this debate, this law has more holes in it than Swiss cheese.

The ancient Romans, from where many of our laws and legal terminology originate, had a phrase for such legislation—lex nous lex—which is Latin for an unjust law. This is not a just law. It is bad law which fundamentally reverses the onus of proof, making people who are deemed by EPA officers to have committed offences under this legislation guilty and they have to prove their innocence.

It does not allow for open, independent, transparent or public scrutiny of ministerial decisions relating to internal reviews. That can be found in division 3, clauses 206 to 209. How do we gauge if the bill is achieving its goals and objectives if there is no accountability? Nor does the bill allow for an independent, open and transparent system of review in relation to EPA officers' decisions. Under the legislation—clauses 143 to 195—they have been given unprecedented police powers. It limits the basic tenements of access to justice that is the keystone of the legal system and a democratic, independent government as it forces individuals to pursue their concerns through the courts and at their expense.

Four times in the explanatory notes this legislation is described as breaching fundamental legislative principles. On page 2 in relation to regulatory signage the explanatory notes state—

This provision might be considered to breach fundamental legislative principles relating to delegation of power ...

At page 4 the explanatory notes state with regard to powers of authorised officers for compliance and investigation—

... these provisions might be considered to breach fundamental legislative principles relating to laws conveying power to enter premises ...

Again at page 4 under 'Powers of authorised officers to give directions' the explanatory notes state—

These provisions might be considered to breach fundamental legislative principles relating to delegation of powers ...

At page 5 under 'Responsibility of executive officers' the explanatory notes state—

This provision might be considered to breach fundamental legislative principles that a law should not reverse the onus of proof in criminal proceedings without adequate justification.

It is for those elementary reasons that I find this legislation grossly flawed, and the Queensland coalition will not support its passage through this place. The Queensland coalition cannot accept a piece of legislation which undermines people's basic legal rights while at the same time increases government powers, reduces its public accountability and denies an open and transparent government.

How many people will be affected by this legislation? On Bribie Island, for example, there were 12,747 camper nights from declaration from 3 June 2005 to 15 February 2006. The revenue raised was $18,000. The revenue for 2005-06 is expected to be $350,000. On Fraser Island revenue of $3,637,000 was raised and there were 311,401 camper nights. Persons carried by commercial operators in 2004-05 numbered 174,619. On Moreton Island revenue of $899,000 was raised with 122,303 camper nights. Persons carried by commercial operators in 2004-05 numbered 67,844. On Green Island revenue of $683,000 was raised with over 390,000 day visitors, because there is no camping on Green Island. Persons carried by commercial operators numbered 389,820. With regard to Inskip peninsula, revenue of $445,000 was raised with 60,159 camper nights.

The aims of the proposed legislation are (1) to improve procedures for management plans and implementing them; (2) to define appointments for officers and identity cards; (3) to increase officer law enforcement ability under the State Penalties Enforcement Act; (4) for visitor conduct to be regulated in the bill; (5) the management and regulation of recreational activities; (6) the collection of funds to spend on the management and facilities; (7) to create a consistent permit regime and visitor management; and (8) to allow continued management of the recreation areas.

This bill raises several areas of concern. Firstly, there are issues associated with the representation of non-state landowners and administrative arrangements to manage this act. Based on the briefing I received on the issue of private landowners, I was informed that currently there are no private landowners who have agreed to enter into this RAMs agreement. The Green Island resort, which is in the middle of the RAMs area, rejected approaches by the EPA to participate in the RAMs agreement as these agreements are currently very open-ended and at the discretion of the minister as to the terms of the agreement between the private landowner and the state.

The issue of commercial activities is not limited to the act but includes the Nature Conservation Act. This requires two forms of compliance for commercial businesses to address, as opposed to one. Therefore, there needs to be consistency with the Nature Conservation Act, the Police Powers and Responsibilities Act, the Forestry Act 1959, the Workplace Health and Safety Act, the State Penalties Enforcement Act, the noise pollution act, the Magistrates Act 1991, the Bail Act, the Evidence Act, the Justices Act 1886, the Financial Administration and Audit Act 1977 and the Mineral Resources Act.

That the bill might conflict and overlap with the federal government World Heritage areas and legislation is another concern. It could cause conflict and confusion for the businesses and individuals in the areas in question and the bill's objectives might not be achieved. Another area of concern is that, because of the nature of the areas in question, a stand-alone bill relating to Fraser Island would be of more benefit and allow better management of an individual area in conjunction with the federal government World Heritage listing.

Commercial activities will only be issued under tourism in protected areas—TIPA. That is based on sustainable visitor capacity. This presents a number of concerns including site capacity. How will it be measured and will this limit the type of activities? Another concern is the distribution of access to all parties based on site capacity. How will consultation occur and decisions be made? Is there a right of appeal in relation to any decisions that may be considered unfair and unreasonable?

Another area of concern is that the 10-year commercial agreements could also be offered to community groups for a minimum of three years, unlike the proposed one year offered in this legislation. There is the issue of fees—that commercial activities might receive preference over community interests and that community fees should be varied from the commercial fees as they are not income producing and are education based. Also, the three-year commercial agreements should run concurrently—a three by three-year option as opposed to a 10-year limit. This legislation further disenfranchises and ignores the wisdom of local communities. In its response to this legislation the Queensland Outdoor Recreation Federation also made the same point.

In the past, local governments and private landholders may have been reluctant to hand over responsibilities to a board on which they are not represented. The proposed changes to the RAM act, with the dissolution of the Queensland Recreation Areas Management Authority and board, with their functions and powers to be vested in the Minister for Environment, Local Government, Planning and Women and

chief executive of the EPA, in no way improves the situation. The minister may establish advisory committees to obtain the views of government entities, individuals, community entities and other non-government entities about the recreation area, and that is stated in division 3, at clause 244. The Queensland Outdoor Recreation Federation rightly points out that the establishment of such advisory committees is not guaranteed. It is completely at the minister's discretion.

What we are getting with this legislation is less community consultation and more power in the hands of government officers—more power in the hands of bureaucrats with an inadequate method of appeal. As I stated earlier, it limits access to justice as there is no cheap, easy method of appeal if one has a dispute with this government. As described in division 3, at clause 206, one can start an appeal process with an internal review. One is not guaranteed an independent review consisting of a tribunal containing some peers. It is similar to, say, the Building Services Tribunal.

What we will get with this bill is Caesar judging Caesar. If there is to be public confidence in the administration of justice, it is vital that a government's independence is not compromised, as it is being compromised in this case. If you do not agree with a ruling by an EPA officer who is acting under the authority that this legislation gives he or she and you want to appeal that decision, then you had better have deep pockets. Under this legislation you are deemed guilty and the onus is on you to prove your innocence as there is no independent tribunal or third-person mediator to assess the ruling. In order to prove your case you must do that as described in division 4 section 210 by appeal to the Magistrates Court.

In many cases innocent people will choose to pay the fines imposed on them for a breach of these rules, because they will not be able to afford the cost of the legal fight. Even if they win in the Magistrates Court, there is no guarantee that costs will be awarded to them, as referred to in division 2 section 214. The court may make an order for costs if it considers it appropriate. Unfortunately, for many members of the Queensland public, a legal fight with this government is an unwelcome reality and, of course, must be considered very much like a David versus Goliath battle.

Common sense in decision making by this minister is a very, very rare commodity. We do not have to cast our minds back all that far to think of examples where community common sense and wisdom backed up by an optimistic course of action was ignored and replaced by a pessimistic, rigid and ideologically driven environmental philosophy. Dolphin feeding at Tin Can Bay is a classic case in which common sense within the EPA went out the window and was replaced by a frightening ignorance and arrogance. If we asked the people of the Tinnanbar dolphin feeding centre if the minister for environment and her officers needed more legislative power, we would find that they will wholeheartedly say no.

Currently, this legislation is proposed to cover five main areas: Fraser Island, Green Island, Inskip peninsula, Moreton Island and Bribie Island. Fraser Island is one of the iconic travel destinations in Australia. It stretches over 123 kilometres along the southern coast of our beautiful state. With an area of 184,000 hectares, Fraser Island is the largest sand island in the world. It is a must-see for international tourists visiting Australia. It has been voted one of the world's top 10 tropical islands by *Conde Nast Traveller* readers for three years running. The entire island is listed as one of the world's 10 best beaches by the USA cable network's Travel Channel. Fraser Island's World Heritage listing ranks with Australia's Uluru, Kakadu and the Great Barrier Reef. As I mentioned, it is one of Australia's iconic destinations for overseas visitors. When they come to our shores they want to see the coathanger at Sydney Harbour, the rock, the reef and the island, which, of course, is Fraser Island.

Fraser Island has a rich cultural history. Aboriginal history claims the island as K'Gari—and I apologise if that pronunciation is not quite correct—meaning paradise. The last Indigenous people there, the Butchulla tribe, left the island in 1904 when the Indigenous mission at Bogimbah was closed. They were transported to Yarrabah, near Cairns, and Durundur, near Caboolture. Once again, we will find out in the consideration in detail stage just how disenfranchised the Indigenous people of Fraser Island are when they visit the island. We have seen a complete erosion of personal rights, liberties and freedoms by this legislation.

The European history of Fraser Island is rich with tales of shipwrecks, logging and sandmining. Fraser Island is a precious part of Australia's natural and cultural heritage. We all want to protect it to enjoy it. Who could forget the island's exceptional beauty, with its long uninterrupted wide beaches flanked by strikingly coloured sand cliffs and over 100 freshwater lakes—some tea coloured. The people who have visited the island will know of the island's striking blue freshwater lakes and sandy beaches.

A lot of people enjoy fishing on Fraser Island because of 75 Mile Beach. It provides some of the best beach fishing action in the world. There are plenty of surf gutters along the ocean beaches and they provide all-season angling. People can catch whiting and bream. In the warmer months they can catch a nice feed of swallowtail. The tailor season in winter sees dozens of fishing groups along the beach. All the usual rock species can be caught off the headlands from Indian Head to Waddy Point.

The legislation has a direct impact on tourism and the tourism operators on the Fraser Coast. Damien Massingham from the Fraser Coast South Burnett Tourism Board estimates that tourism injects

approximately $360 million a year into the Fraser Coast economy. The latest statistics by the Hervey Bay City Council estimate that figure as $500 million per year. As well, recently Queensland Treasury developed an economic model that shows that for every 167 domestic overnight visitors and for every 65 international visitors, one full-time equivalent job is created. Therefore, based on that model, there are approximately 8,914 full-time equivalent jobs, or up to 15,000 people employed in tourism on the Fraser Coast.

Concerns have been expressed to me by permanent residents of Fraser Island about this government's poor management policies regarding the island. This legislation does not look as though it is going to improve those policies. I have been told that the decision-making process is flawed and that user and community groups should be involved. That does not occur at the individual camper or community level and/or with interest groups. The management plan was reviewed without public consultation, as promised by the minister and the Premier. The public consultation should be at the user's level, not with a select few who do not inform the residents and let them have a say and make a decision as to what they believe is right or wrong.

Fraser Island is being taken away from the traditional family camper with the almost total ban on the traditional camp fire even for cooking purposes. Camp fires are a traditional part of Australian camping life and should be allowed in all areas—weather permitting, of course, and common sense should apply.

I have also been told by the residents of Happy Valley that the Waddy Point camping ground booking system is a farce. The new booking regulations for the Waddy Point camping area are greatly reducing family camping numbers. A sign at Champagne Pools does not advise campers of the alternative camping area north of Orchid Beach if they have not prebooked at Waddy Point. This is seen as a way of deterring campers from Orchid Beach and containing tourists towards the southern part of the island. One can look up the availability of camping spots and see that Waddy Point is not booked out, although visitors are deterred from coming to Orchid Beach and Waddy Point. They need to go to the EPA web site and from there go to step 3, 'availability', and they will see that the Queensland Parks and Wildlife Service is turning people away from going to that location when there are plenty of camping spots available. The residents of Happy Valley would like to know if that is due to laziness on the part of the QPWS or if they are just trying to close it down.

I have also been informed that there is concern that there is not a sign near the Champagne Pools indicating the direction to Orchid Beach and what is available there. Orchid Beach is the largest freehold township, with 140 blocks of land. It has a shop, garage, fuel, rental homes, accommodation, great camping areas on the beach plus two camping areas at Waddy Point, where toilets and showers are available. Everything is there for the tourists, so why are they not allowed to go there? Why are they being discouraged from going there? The impression of those residents is that all management decisions are made to assist tourism on the southern half of the island.

The proposed closure of the beach from Hook Point north to almost Dilli Village will make accessing the northern part of the island more difficult because of impending delays accessing and traversing. The track, or road, proposed from Hook Point to just south of Dilli Village is poorly constructed and will become congested in busy times, causing major problems for all, especially heavy vehicles carrying bulk fuel and stores and all vehicles travelling further north with the tide factor. Who will be accountable for any deaths caused on this road when people are forced to use this road against their wishes and taken off a perfectly good and safe highway, namely the beach? The residents would also like me to inform this place that birds do not nest below the high tide mark. This was a decision made before 1991. The influx of traffic to the island since that decision was made has increased beyond safety for this type of road and the quantity of traffic.

I have recently been contacted by small business operator Mr Gerry Geltch of Air Fraser and I have advocated on his behalf to the Premier. He is another gentleman who will be affected by this legislation. Mr Geltch's business is affected by not only the legislation but, more importantly, the interpretation of this legislation by the EPA officers. There appears to be a will or policy by senior departmental officers to restrict Mr Geltch's ability to land on Fraser Island which is partly covered in division 5, clause 132 'Unauthorised landing of aircraft'.

I wrote to the Premier on 19 January this year—as yet I have had no reply from the Premier—asking for his assistance on this urgent matter involving a Fraser Island flight charter service and its commercial beach operation permit, which is currently being revised to the detriment of the business. I have been approached by the owners of Air Fraser Island, Mr Gerry and Mrs Terrina Geltch, who currently run the successful flight charter service to and from Fraser Island and have done so over the past 13 years. It is also important to note that their family has been collectively operating this service since 1974. The service has been praised over the years and has received numerous tourism awards on a local and state level.

Air Fraser Island is a well-respected and highly valued service to many, including the Queensland Police Service. Air Fraser Island has assisted the Queensland Police Service on a number of occasions, including assisting in searching for vehicles and camp sites and reporting numerous traffic accidents and

other related offences. The flight charter service also provides a free service to visitors on the island in need of prescription medications and assists in flying people off the island in emergencies. The Queensland Ambulance Service is also assisted by the company in the evacuation of medical injuries from traffic accidents on the island on a voluntary basis, and I have cited a letter of support from the emergency services minister, who is very grateful for the service Air Fraser Island provides.

The Queensland Parks and Wildlife Service also utilises the services of Air Fraser Island to search and check for fires, particularly when it is burning off. Bearing this in mind, I find it inconceivable that Air Fraser Island's commercial beach operation permit, as per the Queensland Parks and Wildlife Service's instructions, is to be revised by, amongst other things, changing and completely closing down landing areas and increasing ground staff to unreasonable levels. Ultimately, these adjustments to the permit will make Air Fraser Island's business completely unviable by decreasing turnover by a minimum of 60 per cent and increasing running costs by approximately $150,000 per annum. If these changes were to be enforced, Air Fraser Island would have no choice but to cease operations.

The Queensland Parks and Wildlife Service states that its reasoning behind the permit restriction guidelines is due to safety. However, the Queensland department of transport and the Civil Aviation Authority, which is responsible for aircraft safety, have both conducted safety audits and have found no concerns with its operations and are satisfied with its level of safety. In fact, I flew to Fraser Island with Gerry Geltch and landed on the beach. He is a very, very experienced operator. Never for one moment did I feel unsafe.

The owners of Air Fraser Island are appealing to the Premier to ensure that they are given a fair deal and ask that he assist them in attempting to keep their commercial beach operation permit as it stands at present. In the correspondence I sent to the Premier, I provided copies of the Queensland Police Service letter of support for Air Fraser Island and a letter from Kingfisher Bay Resort and Village for his consideration. Mr Geltch wrote a letter to me saying—

At this point I would like to bring to your attention a meeting that was held mid 2004 in QPWS rooms in Maryborough. The meeting was attended by Charles Hammond (QPWS), Michelle Grimes (QPWS), Terrina and myself.

I intended to apply for an additional landing area to be added to our existing Beach Landing permit. The requested area was Cornwell's Break Road.

The ability to utilise this area would reduce the aircraft movements in the northern high use areas north of Happy Valley.

After several attempts to identifying Cornwell's Break Road correctly, Mr Hammond totally refused to consider the suggestion of this additional area.

He pointed out that he was totally unhappy with current aircraft activities of Air Fraser island "hopping up the beach with tour buses" and in the words along the lines of "I will make it one of my priorities to stop these activities."

I fear that the revised permit is to faze out prematurely aircraft landing north of Happy Valley as per Great Sandy Region Management Plan. This plan need not be implemented until 2010, if at all necessary.

This is another example, in this whole saga that Mr Geltch has gone through over the last few months, of the narrow-mindedness and limited forward planning by the minister's department.

I turn to other areas of concern relating to this legislation. According to the briefing I received, the estimated revenue from permits in the RAMs areas is $5 million to $6 million. I would like the minister to detail where that money is going to be used. Estimates of revenue available to government under the proposed legislation are $38.8 million. These estimates are based on a 'consumer surplus' projection. There is also the issue that a declaration of a recreation area does not change the right of underlying land tenures and does not affect the rights and obligations, including government agencies, except to the extent of any agreement between the landholder and the board.

Other concerns are that the legislation enshrines an authority consisting of one minister and a board constituted by two departmental heads. This lacks the necessary transparency for accountable processes and governance. It is difficult to judge a process if there is no openness and therefore there is no way to judge if the bill is achieving its goals, aims and objectives.

Any appeal has to be considered through the Magistrates Court, making access to justice limited. It is not the appropriate forum for these forums and an alternative needs to be considered. Also, in relation to any matters considered by the board, it needs to be clear that the matters will be the matters that are already listed and should only be relevant to the issue at hand. A role for the local community groups should also be considered in the legislation. At present there is no real public input into the management of these areas in question.

At part 1 of the Recreation Areas Management Bill 2005, clause 4 'Purpose of Act' does not define the interests of the area landowners in relation to the act and the expectations of the landowners in relation to the purpose of the act. Part 1, clause 4(2)(a) does not allow provision for the permanent creation of a consultation body with a view to having regard to all of the interested parties. Part 1, clause 4(2)(e) does not indicate if the fees are regulatory or CPI linked or subject to a department or ministerial whim.

I turn to part 2, recreation areas, and division 1, establishing recreation areas. Clause 6 concerns agreement for inclusion of land in recreation areas. Questions raised in relation to this area include

whether there is any benefit for a private individual to enter into agreement with the government to have their land included in a recreation area—for example, financial incentives or a reduction in rates. What compensation is the government offering these people for the use of their land? What money has the government set aside for private landowners' compensation? There is also the issue of public liability in relation to the use of private land for public use. Is the government prepared to compensate the landowners for the necessary insurance or in the event that they are sued? Will Parks and Wildlife Service officers manage the land for weeds and pests? Will the government provide increased funding for the necessary personnel? What plans does the government have for increasing staff numbers in this area if it is responsible for the management of private land included in the recreation areas? Or will it pay private landowners to maintain the land in question? These are all questions that the minister might like to answer.

Do landowners still have unlimited freehold rights to the land and the property in question by becoming part of the agreement? Who still pays for the rates on the private property after the agreement is signed? Who is responsible for the control of stock and fencing on the properties? Will the government compensate the landowner for any loss of grazing or cropping? Under subclause (3) concerning recreation area agreements, paragraph (e) should be added to cover the following—whether the freehold land is included in a recreation area agreement, the length of the agreement, the number of years, the tenure of the lease and whether it passes on with the sale of the property. Also, is the sale of the property affected by it? Does it reduce the value and saleability of the property in question? Can the new owner seek to have it removed without having to acquire the minister's consent?

I turn to clause 9—revoking recreation areas. There is no choice in the matter in relation to the landowner. This is not in keeping with informed decision making or giving the landowner the right to appeal or argue their case.

I turn to division 4—effect of declaration on landholders and native title rights. There is no mention of air rights over RAM areas. Under part 3, management plans, division 1, preparing and approving management plans, clause 19 concerns the public notice of draft management plans. How are they advertised? Is there a set format? Are they to be advertised in the *Courier-Mail*, the *Government Gazette* or perhaps a local community paper? The content of the draft management plan should also include the parties' names and details and an address where objections can be lodged; the right of appeal details and point of contact; the time of implementation of the management plan; what the plan entails and encompasses and size of the area in question; what communities have been consulted and included in the draft plan; and any community suggestions or concerns that might impact economically, socially or environmentally. Any legal implications, the costings of the management plan and what support is to be provided to create this management plan and any review of plans intended on this date should also be included. This is partially addressed in clause 52 and clause 71.

When an approved management plan takes effect should also include the date advertised in the appropriate media—the *Courier-Mail* for example—public notices and the local area newspaper to create community awareness instead of just limiting it to *Government Gazette* notices. The idea is advertising to the community at large instead of limiting public access. Under clause 33 the chief executive may enter into a cooperative arrangement for an approved management plan. At present, it is limited to Aboriginal and Torres Strait Islander groups. There is a need to consider native title implications and the federal government World Heritage implications. The federal government and the relevant department should be involved and consulted on any management plans in sensitive areas such as Fraser Island. A separate government body to look at cooperative arrangements for management plans might need to be considered.

I turn to part 4—access to, and permits for, recreation areas. Division 1 deals with permitted activities. Clause 35—terms of permits—is a real issue of concern. There needs to be further clarity on this matter. Subclause (2)(c) should not limit group activity permits to one year. There should be an option for three-year permits, as there is with commercial permits, with a review in relation to insurance carried out every year. Subclause (d) deals with commercial activity permits. There needs to be greater clarity as to exactly what a commercial permit entails and how the option for renewal in 10 years is considered. The bill attempts to address this in clause 52—deciding application for commercial activity permit. There is no right of appeal or ability to challenge a decision in relation to the deciding of an application and this should also be included. Under clause 59, steps to be taken after a permit application is decided other than a commercial activity permit, subsection (2)(b) states—

... for any other permit—tell the applicant about the refusal.

In what nominated time frame? The bill does not state or allow for alternative appeal or lodgement of an alternative. Under section 62, amendments by application, there is no mention of what the fee is. Is it an annual fee? Is it a fee for the term of the permit? Is it a legislative fee or a regulatory fee? Is it CPI linked and can it be amended? Under part 5, division 2, expression of interest process, clause 74 deals with invitation for submissions. How is the expression of interest raised? Is it invited or advertised? Is it by tender or personal approaches by the community or individuals? Are the applications for submissions advertised to the community once again at large, or are they just limited to the *Government Gazette*? How

are the sustainable numbers for the submissions reached in relation to the RAMs legislation and how are they distributed? Who decides if the applicant is a fit and proper person? Just what are the requirements that a commercial operator needs to meet in relation to a fit and proper person? Is it the same standard that is required by the Supreme Court regarding the admission of a solicitor or an individual in the community at large?

Under division 3, application process, clause 81 deals with applying for commercial activity agreements. Again, there is no mention of fees. It needs to be clear as to what the fees are and the ongoing costs. Are the fees prescribed under regulation and how are these fees decided? Section 85, which deals with the application of section 51 to commercial activity agreements, needs to include public notice of application in the appropriate media—for example, the *Courier-Mail* or the local newspaper.

I turn to division 4—requirements applying to and nature of agreements. Clause 88 deals with the term and review of commercial activity agreements. Are the reviews regulated or based on an internal time line? The reviews must be reasonable and fair, and conducted within a reasonable time frame which must be indicated. Matters to be considered at the review should be informed prior to the review to allow the parties in question the ability to address the matters. Is there a set standard of matters that will be raised at the reviews along with other topics or matters that might be raised?

I turn to division 5, amendment, termination and suspension of agreement by chief executive, and clauses 90 and 91. This division raises the issue of the safety of the person or a person's property. Is this under the guise of workplace health and safety? Therefore, should it be actioned under the Workplace Health and Safety Act in relation to the suspension?

Clause 93 outlines the process for cancelling or suspending under section 92. Again, this clause needs to include a time line which will take into account and inform the parties about the decision. When does the cancellation take effect?

Under division 6—transfer of authorisations under commercial activity agreements—does the sale or transfer of a business fall under the 10-year limit or does the change or transfer, despite the business remaining the same, reset the 10-year time line for the business concerned? Also, what is the time line for approval regarding the sale or transfer of a business to assist with the commercial transaction and due diligence test? Most businesses need between 21 and 90 days for financial considerations, due diligence and the necessary searches to be conducted, along with the transfer of property and the interlocutory exchange of documents between legal representatives. When is an information noticed issued? Does it come into force immediately? What is the breakdown of fees in relation to the transfer and sale of a business? These need to be shown to allow commercial transactions to proceed uninhibited to allow the costings of a sale.

I turn to part 7, 'Offences', division 1, 'Access to, using and conduct in recreation areas'. This is an area of real concern as some of the powers of enforcement, bailment, penalties and compliance in relation to the parks officers have been upgraded to include similar powers to the police under the State Penalties Enforcement Act. This raises the question: do these new powers now fall under the Police Powers and Responsibilities Act? They have the same effects and penalties, so who is monitoring these parks officers? Is there a right of appeal in relation to their decisions? Is there a control on the ability of the parks officers to act in a reasonable and fair manner without the threat of their turning into little dictators?

I turn to division 4, 'Pollution and waste'. What disposal alternatives are available if a receptacle is not provided? Individuals should then be required to collect and remove their own rubbish. What is the penalty if they do not? I remember hearing a story from Fraser Island residents about how over the Christmas and new year break the rubbish bins became full and the EPA officers sealed them shut. As a result, campers took their rubbish and waste and dumped it in bags beside the bins. What happened after that? The dingoes started scavenging around the bins, totally defeating the purpose of not feeding the dingoes. Once again, we have seen a failure in policy.

I turn to division 5, 'Other conduct'. In relation to disturbance by radio, tape or sound system, does this fall under the noise pollution act, which is now incorporated in the Police Powers and Responsibilities Act? Clause 133, entitled 'General misconduct', should include a paragraph (c) 'or the property of another person in the area'.

Clause 139 is entitled 'Commercial activity agreement must be available for inspection'. What is the time line needed for notice of inspection in relation to commercial activity? What does the inspection entail in relation to the commercial activity apart from (2)(a) and (2)(b)? What are the implications of not producing it immediately?

I turn to division 6, 'Demerit points for offences'. Does incurring a certain number of demerit points trigger a loss of a commercial activity permit? What are the consequences and outcomes for the individuals and business operators concerned? For example, is there a right of appeal of the loss of commercial licence? What is the length of time regarding the loss of permit? As we will raise during

consideration in detail, will people's driver's licences be able to be taken away if they accumulate enough demerit points?

I turn to part 8, division 2, 'Powers of authorised officers'. This represents an upgrade of the officers' powers and allows them to issue warrants, conduct searches and conduct property seizures. It gives powers of entry to a property without the consent and authorisation of the property owners and gives powers after entry.

There is an issue in relation to any damage that an officer might cause as the bill relies on the officer to report any damage caused to the property. The seizure issue and the disposal of items or property might also fall under the bailment act, which currently allows for seizures and the sale of seized property by a court appointed sheriff. Does it fall under the guise of the bailment act? Is there any form of compensation available for property seized? Is it a department process or a regulation procedure? What process is in place for an appeal? How is it assessed? There is also the issue of training in relation to the parks officers pursuant to the new upgrade of their powers. Will the minister provide an accredited training program similar to what the police undergo? Parks and Wildlife officers are authorised to use force in the normal course of their day. Will the officers be trained in the use of force? Will we have them doing martial arts courses? When does the training commence? How long is the course? What will the course entail? Is it held in conjunction with the police? Has it been costed? Where is the money coming from? Where is the training to be held? With regard to compensation, how can an individual or business make an application in relation to a notice of damage? Is there an appeal process? How is the compensation assessed?

There are so many concerns about this legislation. This is flawed and fundamentally bad legislation. The powers of EPA officers will be dramatically increased by clauses 157 to 181 of this legislation. Instead of spending money and focusing on enforcement, the Beattie government could work with the local communities and use local wisdom and knowledge to cooperatively solve our environmental problems.

The DNRMW officers were once the respected friends of rural families and their communities, but under the management of this Beattie Labor government they have become hated and distrusted. They have become the tree police. Sadly, the same process is taking place within the EPA. If this legislation gains the approval of this place then EPA officers, who have always enjoyed the respect of the majority, will become hated and distrusted and will become the environmental police. On 20 January 1961, John F Kennedy said in his famous inaugural speech—

And yet the same revolutionary beliefs for which our forebears fought are still at issue around the globe—the belief that the rights of man—

and woman—

come not from the generosity of the state but from the hand of God.

In relation to the RAMs legislation, it appears that not only has Queensland generosity to the rights of its citizens run out but also this minister and her Labor colleagues' appreciation and understanding of our history has run out. Our country has waged war many times against corrupt, unjust regimes whose dictators and despots would be proud of the Labor Party RAMs legislation before this House. This RAMs legislation diminishes our citizens' God-given right to be innocent until proven guilty in a tribunal of fact—not, as Peter Beattie would have us believe, proven unjustly guilty on the whim of a government official and then having to prove their innocence.

In closing, I would like to draw the attention of this House to UN resolution 217A(111), which was adopted by the General Assembly of the United Nations on 10 December 1948. The resolution's original 30 articles sought to define the fundamental rights of every person on the planet. Article 11(1) says—

Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

Once again, I remind members of what the government's own explanatory notes state in relation to clauses 202 to 205—

This provision might be considered to breach fundamental legislative principles that a law should not reverse the onus of proof in criminal proceedings without adequate justification.

Any person charged under this legislation—and that is probably business owners, campers, four-wheel drivers, tourists or local residents—will have their basic human rights violated by this Labor government, which will presume them guilty. Those people will then have to prove their innocence.

The government has been caught out by its own words. This proposed law is unjust. I remind members again of the saying 'lex nous lex'—an unjust law is not law. It is just like other natural resources legislation that has been condemned by the conservative side of this House and passed by the Labor dominated chamber. Noted law professor Suri Ratnapala, writing a report entitled *Constitutional vandalism under green cover* for the Samuel Griffith Society, states—

There are growing concerns that aspects of environmental law and policy have unacceptably high costs in terms of their impact on civil liberties. Among the concerns are the following features of environmental legislation:

- Regulatory decisions affecting rights being taken in breach of natural justice by structurally based tribunals, that deny rights holders reasonable opportunities to present their cases.
- Uncertainty of laws defining environmental offences that make compliance difficult and costly.
- Investigatory powers that are intrusive and compromise due process.
- Negation of traditional procedural and evidentiary safeguards in prosecutions for environmental offences, including the reversal of evidentiary burdens usually borne by prosecutors.

Before voting on this bill, all members in this House would do well to reflect on Professor Suri Ratnapala's words—

... aspects of environmental law and policy have unacceptably high costs in terms of their impact on civil liberties.

I yearn for the days when personal freedoms and civil liberties are respected in legislation brought before this House. The Queensland coalition does not support this fundamentally flawed and ideologically driven piece of legislation.