Speech by

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MEMBER FOR SURFERS PARADISE

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ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT BILL (NO. 2)

Mr LANGBROEK (Surfers Paradise—LNP) (6.14 pm): It is my pleasure to rise to speak to the Environmental Protection and Other Legislation Amendment Bill (No. 2) 2008. As the environment spokesman for the LNP is unable to be here, I am happy to stand in his place to speak to the bill. I note that this bill amends a number of acts: the Environmental Protection Act 1994, the Dangerous Goods Safety Management Act 2001, the Environmental Protection and Other Legislation Amendment Act 2007, the Integrated Planning Act 1997 and the Nature Conservation Act 1992. They are the main acts that will be amended, but I note that there are also consequential amendments to the Coastal Protection and Management Act 1995, the Industrial Development Act 1963, the Mineral Resources Act 1989, the State Development and Public Works Organisation Act 1971, the Water Act 2000 and the Wild Rivers Act 1995. I also note from the explanatory notes that—

The principal objectives of the Bill are to:

1. relocate the current offence provisions in the *Environmental Protection Regulation 1998*, the *Environmental Protection (Air) Policy 1997* and the *Environmental Protection (Water) Policy 1997* relating to environmental nuisance, water pollution, air pollution and fuel quality standards into the *Environmental Protection Act 1994;*
2. simplify administrative procedures by removing the distinction between level 1 and level 2 environmentally relevant activities (except mining and petroleum) in the *Environmental Protection Act 1994;*
3. insert a new chapter into the *Environmental Protection Act 1994* for a new direction notice which will apply to environmental nuisance and minor water pollution matters;
4. insert new provisions into the *Environmental Protection Act 1994* and the Dangerous Goods Safety Management Act 2001 to provide for clean-up notices and cost recovery measures for contamination incidents;
5. amend the forest reserve sections of the Nature Conservation Act 1992 to provide for independent scientific assessment of the impacts of horse riding on horse riding trails in forest reserves in south east Queensland; and
6. make minor technical, administrative and grammatical corrections to the Acts—

which I have mentioned, starting with the Coastal Protection and Management Act 1995 and concluding with the Wild Rivers Act 1995. Of course, they are minor corrections to streamline agency business.

In summary, there are three main objectives. The first is to clarify the roles and responsibilities of local and state governments under the Environmental Protection Act. I note that in his second reading speech the minister, the honourable member for Hervey Bay, espoused the very clear principle that local governments will be responsible for managing environmental nuisance and minor water pollution while the EPA will continue to be responsible for managing more serious cases of environmental harm. The second objective is to provide a range of new enforcement tools, including clean-up notices and cost-recovery provisions to aid government and agencies incurring pollution and protecting the environment. The third objective is to establish a scientific advisory committee to oversee a study into the impacts of recreational horse riding in national parks in south-east Queensland.

At the outset, I indicate the LNP's support for the bill with some reservations and we will be introducing an amendment in that regard. We have concerns with the part of the bill that deals with

recreational horse riding. I will come to that later. I can say that we certainly support the provisions that will allow for clean-up notices to be provided, obviously because of our commitment to the environment and the responsibility that all people should have for maintaining it. I note too that the honourable minister has mentioned that councils had often requested many of these things. I would like the minister to explain whether the councils have asked for resources, are going to be appropriately resourced or, in his opinion, are already appropriately resourced to deal with the environmental issues that supposedly they are quite happy to take over. In the past, many councils have expressed to me concerns that state legislation has given them carriage of issues for which they have not been appropriately remunerated. I take the minister's word that councils have wanted this clear responsibility for managing environmental nuisance but that obviously, as he said in his second reading speech, the EPA will manage more serious cases of environmental harm.

I note that proposed part 5B deals with the new provisions in the Environmental Protection Act and the Dangerous Goods Safety Management Act to provide for clean-up notices and cost recovery measures for contamination incidents. A contamination incident is defined in proposed section 363F as an incident that has caused or is likely to cause serious or material harm to the environment. What is not so clear is what constitutes serious or material harm. Perhaps the minister could give us an explanation as to the actual definition of that.

Section 363H provides that a clean-up notice may be issued to a person responsible for the contamination under the act or prescribed persons as per section 363G, mandating that the person prevent or minimise contamination and rehabilitate or restore the environment among others. This effectively puts the onus on to persons responsible for the pollution to take all reasonable steps to mitigate damage to the environment and ensure the contamination does not persist. The Environmental Protection Agency will be responsible for issuing clean-up notices. Local governments will not have the authority to issue clean-up notices unless the EPA delegates their powers under the act.

Section 363H also outlines what the notice must contain, including disclosure of penalties and offences created under proposed section 363I. Failure to comply with a clean-up notice may attract a fine of up to $150,000 for individuals and $300,000 for corporations. If the clean-up notice is not complied with, the state may take action by subrogation under section 363K. However, proposed part 5C provides for cost recovery, giving the state a course of action against a prescribed person who refuses to pay the cost of the clean-up. The bill will equip the EPA and its agencies with the necessary powers to effect a clean-up, including the power of entry under section 363J and any other powers granted under the Environmental Protection Act such as emergency powers.

I note that a contentious issue is who are the prescribed persons for a contamination incident and persons from whom costs are recoverable. I note the definitions included in the bill are that the prescribed person includes a person who has caused or allowed or is causing or allowing the contamination incident; or an occupier of a place from which a contamination incident has occurred or is occurring; or the owner, or person with control, of a contaminant involved in the contamination incident. If any of the above is a company and the company fails to comply with a clean-up notice, then a prescribed person will also include a parent company of the first company and a director of the company. In the explanatory notes the minister outlines that this is needed to ensure that an industry is not restructured so that a valueless company is the occupier of contaminated land, making it difficult to recover costs. It is intended that the liability for costs for cleaning up following an incident is attached to a person who has derived some commercial benefit from the enterprise rather than the state being responsible for cleaning up an incident.

I note too that the penalty provisions contained in the bill are below those in other states. I note that the explanatory notes state on page 30 that maximum penalties are designed to be commensurate with the current New South Wales penalties. I note that the current maximum New South Wales penalties are: individuals may be liable for fines up to $250,000, which may be increased up to $60,000 for each day the offence continues; companies may be liable for fines up to $1 million plus $120,000 for each day the offence continues. As I have already said, our fines in Queensland under this legislation are going to be $150,000 for individuals and $300,000 for corporations. So it does seem that polluting in Queensland is less costly and therefore by deduction a less serious offence than it is in New South Wales, particularly in light of the fact, as I have mentioned, that the minister's objective was to bring Queensland offences and penalties for environmental damage into line with those of other states. So I ask the honourable member for Hervey Bay to explain why Queensland appears to be soft on pollution compared to other states.

The LNP supports these provisions that will make individuals and business owners more responsible for their actions which may negatively affect the environment. In this age of increased environmental consciousness, and as we look to ways that we can reduce our carbon footprint and mitigate the damage humans are doing to the environment, it is important that people are held responsible for their actions. This bill gives the state government the legislative means to ensure accountability either by forcing businesses and individuals to clean up after themselves or ensuring that they foot the bill if they leave it to someone else. That said, a number of concerns have been raised in relation to cost recovery notices.

While proposed subsection 363N(2) refers to reasonable expenses incurred in the clean-up of an incident, there is some uncertainty in the community about how the state government will ascertain the reasonable cost of a clean-up. Indeed, in the explanatory notes the minister states that the administering authority can recover both external and internal costs if there is noncompliance with a clean-up notice. The concern is that this provision could end up being another revenue raiser for a Labor government trying to service a crippling $65 billion debt.

While external costs can be easily quantifiable by reference to quotes and receipts, internal costs are far more difficult to put a dollar value on, and in some cases can be grossly inflated. This inflation of internal costs is often used as a deterrent for freedom of information applicants. There are a number of cases of which I am aware where the state government has sought to levy tens of thousands of dollars on the applicant if they want access to documents. The justification for these high price tags is internal costs which are rarely itemised. To this end, I seek clarification from the minister as to what measures will be in place to ensure that only reasonable costs are passed on to the perpetrator of pollution and whether any formal avenues for appeal will be available to persons affected by this provision.

I turn to the final major objective of the bill—the most contentious as far as the LNP is concerned—and that is the provision for the establishment of a scientific advisory committee to oversee a study into the impacts of recreational horse riding in national parks in south-east Queensland. Clause 95 of the bill seeks to amend the Nature Conservation Act 1992 to require the chief executive to review areas within state forest reserves that comprise horse riding trails in the south-east Queensland horse riding trail network defined by sections 70B and 70BA by reference to EPA maps. Section 70JA states that in conducting the review the chief executive must oversee the assessment by an independent scientific advisory committee provided for in section 70JB and section 132 of the act.

I note that the horse trail scientific advisory committee comprises eight members. The areas of expertise to be represented on the committee are (1) protected area management; (2) conservation and wildlife biology; (3) aquatic systems (water quality); (4) soil science (erosion); (5) botany natural resource management (weeds); (6) sustainable tourism and recreation; (7) social science; and (8) statistics and data analysis. The members of the committee according to the areas of expertise above are: Dr Marc Hockings from the University of Queensland, who will chair the committee; Associate Professor Darryl Jones from Griffith University; Professor Angela Arthington from Griffith University; Professor Calvin Rose from Griffith University; Dr Rachel McFadyen from the Cooperative Research Centre for Australian Weed Management; Dr David Newsome from Murdoch University; Dr Joseph Reser from James Cook University; and Dr Sama Low Choy from the Queensland University of Technology.

Mr McNamara: An eminent group.

Mr LANGBROEK: An absolutely eminent group. I take that interjection from the minister. The only point I would like to note about that is that I do not see too many horse riders there. Then again they may be horse riders within their little group, but there is no inclusion of people who are actually from horse riding groups who I know would feel that they should have had some input into this as obviously important stakeholders. I know there are a lot of other committees around the state—

Mr McNamara: It is not a stakeholder group; it is a scientific group.

Mr LANGBROEK: It is a scientific group, but they have been given a time frame that goes for a number of years—17 years, until 2025—to look into this matter. I would have thought it would be fairly easy and in fact very inclusive from a government that prides itself on consultation and inclusiveness to include someone from a horse riding group. The honourable member for Hervey Bay will of course acknowledge that if they had one vote out of eight they could not control the outcome anyway. I would have thought that as a man who can do the numbers like he can he would have accepted that and would be happy to have just one person representing the actual stakeholders who might use these horse riding trails. But I will come to that more in our amendment.

Sitting suspended from 6.30 pm to 7.30 pm.

Mr LANGBROEK: Before the dinner break I was referring to clause 95 of the bill, which will establish a scientific advisory committee. I also referred to the definitions of 70B and 70BA. I also said that section 70JA states that, in conducting the review, the chief executive must oversee the assessment by an independent scientific advisory committee provided for in section 70JB and section 132 of the act. The clause states—

The assessment must be of the impact, on horse riding trails and adjacent areas, of horse riding use.

I made the point that on the Dental Board and Medical Board there are often consumer representatives. I and the other members of the LNP think some consideration should be given to having people who ride horses on these trails be a part of this committee.

Under the provision, members of the committee should be independent, according to the minister, and have expertise in relevant disciplines for the assessment. I have been through the list of people who are currently on the committee. It provides a number of examples of relevant disciplines and includes experts on aquatic science, conservation biology and conservation management to name a few. What it

does not provide for, as I mentioned before, is the inclusion of interest groups and stakeholders, such as the performance and pleasure horse industry group. I know that the honourable member for Noosa will make a contribution about that, as I know other members will. The clause specifically precludes non-government entities that might reasonably be perceived to be particularly interested in decisions affecting horse riding in forest reserves from participating in the review.

As I have said before, the LNP is concerned about the assessment process. Whilst we appreciate that the task of the community is to assess the impact of recreational horse riding on state reserves rather than assess the merits of arguments for and against horse riding on state land, we are concerned that the government is not consulting with industry and interest groups to fully inform them of the issues at stake here.

I note, too, that the committee has been allocated $150,000 per year until 2025 to complete the review. That is $2.55 million over the lifetime of the study. There are a number of problems with this. Firstly, it seems that stakeholders will not be able to provide feedback on the environmental aspect of recreational horse riding until the assessment is completed in 17 years time. Secondly, there has been no funding allocated by the government for remedial action on impacted trails. This means that the committee may identify environmental issues but it will not have the means to remedy the problems.

As I said, we are concerned about the intent of the review. The intent seems to be to close down a number of horse trails in south-east Queensland, further narrowing the opportunity of recreational horse riders to enjoy our hinterland regions. We are concerned that these stakeholders are not being given a chance to voice their views in light of the make-up of the scientific advisory committee. We would like to see greater representation on the committee, including sporting experts and/or people from the pleasure horse riding industry. We will address this issue later in the consideration in detail stage in where I will move an amendment.

Apart from the environmental impact of recreational horse riding, there are many more issues at stake here, including the social implications of potentially closing down horse riding tracks and the impact it will or may have on tourism. As I said, I will be moving an amendment seeking better representation on the committee. I am hopeful that members opposite will support the LNP's push for openness and accountability.

Briefly, I note that the bill contains a raft of amendments to legislation, many of which aim to clarify the respective obligations of local councils and the state government with respect to environmental protection and maintenance under the act. I am pleased that this issue is being addressed, as I think there has been a lot of confusion between the relevant local government departments and the EPA over who is responsible for a range of environmental issues. There is a tendency to deflect responsibility to the other agency. This bill will provide greater clarity and certainty about which level of government is responsible for environmental challenges such as environmental nuisances.

Finally, one of the issues that this legislation addresses is wild rivers. I thought it apt to point out that the ALP-turned-Greens member for Indooroopilly comments that he has been pushing for the protection of wild rivers for years and that the Beattie-Bligh government has been all spin and no substance. It is quite interesting that members from Labor's own ranks are recognising this government for what it is: all spin and no substance. With the aforementioned reservations noted, the LNP will support the bill.