

## Second Reading

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [5.27 p.m.], on behalf of the Hon. John Robertson: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

### Leave granted.

The Protection of the *Environment Operations Amendment (Environmental Monitoring) Bill 2010* will ensure that essential environmental monitoring programs can be developed and implemented with adequate funding and in a timely manner. The bill addresses the shortcomings of current legislation in cases where a **cluster of industry** is having a **cumulative** environmental impact on communities and the environment.

In essence, the bill provides a regulation making power so that the Environment Protection Authority can levy environmental protection licensees to pay for strategic environmental monitoring programs, consistent with the "polluter pays" principle.

The need for the amendment was highlighted recently in the Upper Hunter region where there is considerable community concern about the impact of the power and coal mining industries on ambient air quality, dust impacts in particular.

While there was general agreement by industry that further environmental monitoring was required, it took almost two years for industry to sign a legally binding agreement that required licensees to pay for an air quality monitoring network. This caused significant and unnecessary delays to its implementation, leading to further delays in obtaining better information about air quality in the Upper Hunter, so that the impacts on public health and the environment can be addressed.

It may assist the House if I outline the process provided for in the bill before the power to levy licensees would be exercised.

First, the Environment Protection Authority would need to investigate the need for an environmental monitoring program. This may be on its own initiative, or at the direction of the Minister for Climate Change and the Environment.

A number of indicators could prompt the Environment Protection Authority to start this investigation. These may include escalating community concern about environmental or public health impacts from a group of industry within a region and/or apparent high levels of emissions of pollutants, such as national pollution inventory information or modelling from a number of environmental impact assessments.

If, after the investigation, the Environment Protection Authority considers that a strategic environmental monitoring program is required, it may develop such a program in consultation with the relevant industry stakeholders and the community.

As part of this process, the Environment Protection Authority is required to obtain, and take into consideration, advice from an independent person or body with relevant expertise as to the cost effectiveness of environmental monitoring programs in relation to the environment and human health. This is to ensure that value for money is achieved, and that the design of the environmental monitoring program is consistent with its objectives.

Before the Environment Protection Authority implements the environmental monitoring program, the Minister for Climate Change and the Environment must consult with the Minister for Primary Industries and the Minister for Transport if the proposal would impact on industries within their respective portfolios.

The Environment Protection Authority would also consult with the industry and community regarding the design of the environmental monitoring program. In particular, it would work closely with industry to develop a fair and equitable formula for sharing the cost of the environmental monitoring program. It is likely that the formula would refer to a geographical area, a class of licensee and a load of specific pollutants released or estimated to be released.

Once the issues raised in the independent report and consultation process have been considered, the Government will prepare a regulation to enable the Environment Protection Authority to levy licensees on a cost-recovery basis to pay for the environmental monitoring program, in accordance with the cost sharing formula.

The regulation may also make provisions for the environmental monitoring program, including requirements for the Environment Protection Authority to review and report on the program.

In accordance with the usual regulation making processes, the Environment Protection Authority will need to demonstrate that the better regulation principles have been applied when developing the regulation, and will need to satisfy the requirements under the *Subordinate Legislation Act 1989*.

If the environmental monitoring program is urgent or time critical, it can be implemented before the regulation itself

commences. However, licensees can only be levied once the regulation commences.

The bill also establishes an Environmental Monitoring Fund, which the levies will be paid into. The fund is under the control of the Environment Protection Authority. The money in the fund can only be used for: the costs of investigating the need for environmental monitoring programs; the costs of developing, implementing, operating and administering environmental monitoring programs; and other costs relating to environmental monitoring programs as directed by the Environment Protection Authority. Money from the fund can also be refunded to a licence holder in accordance with the regulations, for example, if the program costs less than it is initially estimated to cost.

A hypothetical example of where an environmental monitoring program could be established is a large water body where water quality is declining due to the licensed release of pollutants into the water body, including chemicals, salt and nutrients. In this case, the release of these pollutants would be resulting in a cumulative impact on the water body and the source of the impact would not be able to be attributed to a single premises. Industries potentially contributing to the declining water quality in this instance could be located in an area where industrial facilities are clustered together. Potential contributors could include petroleum and fuel production facilities, chemical production facilities, sewage treatment plants, iron or steel production plants and paper or pulp production facilities

Another example might be an environmental monitoring program to determine whether apparent impacts from organic air toxics emitted from an industrial estate are within acceptable levels. This information would be used to develop pollution reduction programs and other management responses where it is found that emissions need to be reduced.

I would like to assure the House that the mechanism would only be exercised when there appears to be a cumulative environmental impact developing, or likely to develop, from a group of industry within a region. Further, any levy would only apply to environmental protection licensees, as determined by the licensing thresholds under the *Protection of the Environment Operations Act 1997*.

Small scale enterprises, retail outlets, food outlets, offices, domestic premises, and farmers engaged in traditional farming practices, such as cropping and grazing, will not be affected. The only businesses that could be levied are those with environmental protection licences.

Further, there may be instances where diffuse sources of pollution (including particles from transport or nutrients from land-use change and stormwater run-off) appear to significantly contribute to cumulative impacts. If this is the case, a cost sharing formula would be developed to ensure that government also contributed to the costs of the network, in order to ensure that licensees only paid a fair proportion of the costs.

The ability to levy polluters for strategic environmental monitoring programs will help to ensure that the health of the New South Wales population (and the environment more broadly) is not being detrimentally impacted by human activity, including industry activity.

The need for the bill has been clearly demonstrated by the delay in implementing the environmental monitoring program in the Upper Hunter.

The levy will enable Government to respond to escalating community concerns in a timely and measured way, when the growth of industry is having a cumulative impact on environmental and human health, particularly near population centres.

I commend the bill to the House.