Agreement in Principle

Mr PAUL McLEAY (Heathcote—Minister for Mineral and Forest Resources, Minister for Ports and Waterways, and Minister for the Illawarra) [10.49 a.m.]: I move:

That this bill be now agreed to in principle.

The Plantations and Reafforestation Amendment Bill 2010 makes a number of necessary amendments to the Plantations and Reafforestation Act 1999. These amendments will clarify the operation of the Act. In particular, they will improve the process for authorising plantations. The amendments also will improve the enforcement and compliance provisions of the Act.

The Plantations and Reafforestation Act 1999 and the Plantations and Reafforestation (Code) Regulation 2001 provide the regulatory framework for plantation operations in New South Wales. The Act establishes a streamlined and integrated authorisation process for plantation operations. The code contains the detailed requirements for the establishment, management and harvesting of plantations. Importantly, it provides for the conservation and management of native vegetation, and the protection of Aboriginal places and objects. It also codifies environmental standards. As the name suggests, plantations are areas of land which have been planted with trees or shrubs for timber production. Plantation trees can be natives, such as eucalypts, or exotic species, such as radiata pine. There are more than two million hectares of plantations across Australia. New South Wales represents 19 per cent of this total, with a plantation estate of more than 450,000 hectares.

Forestry is worth approximately $2 billion to the New South Wales economy, and plantations are a sizeable component of the forestry sector. The plantation timber industry is therefore a significant industry for this State, and an important source of employment in regional New South Wales. Since the Act and code came into force in 2001 more than 181,500 hectares of plantation have been authorised under the Act. Most of those plantations are in the Northern Rivers, Murray and Murrumbidgee regions. This includes more than 70,500 hectares of softwood, more than 93,600 hectares of hardwood and more than 7,400 hectares of cabinet timber. Plantations authorised under the forerunner to the Act, the Timber Plantations Harvest Guarantee Act 1995, are also regulated under the Plantations Act. The environmental record of the industry is a sound one. More than 35,000 hectares of retained native vegetation can be found within authorised plantation operations in New South Wales. In addition, more than 9,380 hectares have been authorised as "environmental plantings", for carbon sequestration and other purposes.

Before I go into the details of the bill I will give the House some of the background to how the amendments were developed. The amendments arise out of a statutory review of the Act and the code which commenced in 2005. The review recommended various changes to the Act and the code to improve the operation of the legislation. A comprehensive and lengthy consultation process with industry, councils and the community then followed. A number of interagency working groups were established to develop the proposed changes to the Act and code. This was important because the Act establishes an integrated regulatory framework which covers environmental, planning, heritage, soil conservation and bush fire matters. An Industry Reference Group comprising major plantation companies and industry groups was also established to provide input on the proposed changes to the Act and the code.

An exposure draft of the Plantations and Reafforestation Amendment Bill and the Plantations and Reafforestation (Code) Amendment Regulation were then released for public consultation. Submissions were received from a range of stakeholders including industry, local councils, non-government organisations and the community. The bill and the proposed amendments to the code were then revised to take into account issues raised during the public consultation period. The bill before the House is a result of this lengthy and comprehensive consultation process. It represents a sensible outcome; a reasonable balance between the needs of industry, communities and the environment.

I turn now to the amendments in the bill. At present the Act is unclear about when a change in the ownership or management of a plantation affects the authorisation of that plantation. This is a problem from an administration and enforcement and compliance point of view. The bill makes it clear when a change in the ownership or management of a plantation will affect an authorisation. An authorisation will be affected only when both the ownership and the management of part of the plantation changes. In those circumstances a new authorisation will be required for each part of the land on which plantation operations will continue. This is to make sure the terms and conditions which are imposed under an authorisation remain appropriate for that part of the land and that compliance with those conditions relates only to that part of the land. The Government will examine options to ensure that the process for obtaining new authorisations in those circumstances is not onerous. For example, consideration will be given to charging a flat fee for these authorisations.

The bill makes a number of amendments to the plantation authorisation process. The bill clarifies what matters local councils and neighbours can address in submissions on non-complying plantation proposals. Sensibly, the

submissions will be restricted to the non-complying aspects of the proposal. In addition, the bill extends the existing power in the Act to impose conditions on non-complying plantations to management and harvesting operations. Currently conditions can only be imposed in relation to establishment operations. The bill also amends object (c) of the Act to insert a reference to "best practice" environmental standards. This will ensure the Act more accurately reflects the original intent of the Act, which was to maintain high environmental standards.

The bill makes some important changes to ensure the enforcement and compliance framework in the Act is effective. Currently the powers of compliance officers to enter premises, and to issue stop work orders and remedial directions apply only to authorised plantations. They do not apply to plantations that are in breach of the requirement to be authorised. The bill extends these powers to those plantations as well. The bill makes an important change to the Act to ensure compliance officers can effectively monitor suspected cases of environmental damage. In circumstances where a compliance officer considers there is a risk of significant harm to the environment an attempt to contact a plantation owner or manager constitutes reasonable notice.

Compliance officers can currently request information or documents from a plantation owner or manager only when they are actually physically on the plantation. The amendments will allow compliance officers to issue a written request before or after a site inspection. Compliance officers are referred to as "authorised officers" under the Act. The bill will make it an offence for a person to obstruct an authorised officer in the exercise of his or her functions, unless they have a reasonable excuse. The bill also introduces a protection for authorised officers from personal liability in relation to actions done in good faith while exercising their functions under the Act. Finally, the limitation period for bringing proceedings for an offence under the Act will be brought into line with other land management legislation. The bill will enable proceedings for an offence to be brought within two years of the alleged offence or within two years of the date when evidence of the alleged offence first came to the attention of an authorised officer.

I will briefly mention something that will not go forward in this bill. The exposure draft of the bill included a proposal for an alternative transport contribution system. The system required plantation owners to reimburse local councils for damage to roads caused by plantation harvesting trucks. Industry, councils and members of the community all raised strong objections to the proposed system during the public consultation period. Industry objected to the proposal on the basis that other agricultural industries are not subject to similar changes. They also objected to the fact that the proposal will duplicate charges to be imposed on heavy vehicles under the Commonwealth's Road Reform Plan. Furthermore, industry believed that the contribution requirements would make the New South Wales plantation industry uncompetitive with the industry in other States.

Council and community objections focused on the complexity of the proposed scheme. In addition, several councils raised concerns about whether the contributions justified the extra work involved in issuing and collecting them. A new model for heavy vehicle charging is being developed under the Council of Australian Governments Road Reform Plan. Under that model, funds raised through heavy vehicle levies are expected to flow directly to State and local governments. The new model is expected to be implemented from 2012. Taking all those factors into account, the Government has decided not to proceed with the alternative transport contribution scheme.

It is important for the House to be aware that the Government also proposes to make significant amendments to the Plantations Regulation and Code arising from the review process I outlined above. The code will include a new suite of fire standards, which will provide a safer operating environment for fire fighters and plantation workers. These new requirements will be phased in for existing plantations. However, they will apply immediately to new plantations. The soil and water protections in the code will be updated to current best practice standards, and in some cases to clarify the original intent of the provisions. The provisions relating to harvesting operations are not comprehensive and in some cases do not represent best environmental practice. Some new provisions are proposed, and some of the existing provisions will be strengthened. The requirements for the management of retained native vegetation and habitat trees within plantations will also be strengthened.

It is also proposed to adopt the definition of regrowth vegetation in the Native Vegetation Act 2003 in place of the current definition in the code to achieve consistency between the two Acts. Application fees will also be introduced to cover the costs of assessing and issuing plantation authorisations. The amendments in this bill and the changes to the regulation and code have been developed in tandem. For that reason it is proposed to commence the amendments in the bill on proclamation. This will enable the amendments to the regulation to commence at the same time. The Plantations Act and code play an important role in promoting and facilitating the development of timber plantations on essentially cleared land in New South Wales. These amendments will strengthen the regulatory framework for plantations and provide clarity for industry. I commend the bill to the House.