



# Biofuel (Ethanol Content) Bill 2007

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Extract from NSW Legislative Council Hansard and Papers Wednesday 27 June 2007.

### Second Reading

**The Hon. TONY KELLY** (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [6.26 p.m.]: I move:

That this bill be now read a second time.

I am proud to speak on this bill, which is the result of the combined efforts of Country Labor in getting ethanol firmly on the political agenda. For years there has been a lot of talk about ethanol; indeed, the Federal Government has made an art form out of it, with round tables, unenforceable targets, mountains of press releases but no real action. In the words of the Premier earlier this year, the time for talk on ethanol is over.

This bill fulfils a commitment we took to the election in March. It is a solid, first step towards getting more and more biofuel. The bill demonstrates our commitment and leadership on biofuels. I am confident that the bill will be a catalyst in forcing real change in the fuel industry in New South Wales and across the nation. The other States are looking to New South Wales for a lead on biofuels and, in the absence of Federal leadership, it will be up to the States to work together on a national biofuel strategy.

I know that members of The Nationals and the Liberal Party privately acknowledge the efforts of Country Labor in introducing this bill. Speakers in another place, despite contradictory remarks, basically applaud the Government's actions. It stands in stark contrast to the Federal Government, which has no real plan, merely a lazy, market-based approach that has failed to attract the major oil companies and real biofuel production in New South Wales.

The unenforceable \$350 million litre mandate is clearly seen as a joke by most stakeholders. All we have from the Federal Government is wishy-washy statements such as calling in the major oil companies and no doubt asking them nicely to recommit to the target. The Federal Government's laissez-faire approach is clearly not working, and the bill shows the way forward in getting action on biofuel.

Over the past couple of months I have had extensive discussions with the major oil companies and they are firmly on board. Already there are 150 service stations, so by the end of the year we expect there will be close to 300 service stations that will be able to supply biofuels. BP is making a concerted effort to have 100 service stations. It is working to have blending facilities as quickly as possible. For some time Caltex has had a large program of rolling out those facilities and it will continue to do so. Shell is doing the same, while Mobil has been talking with the Government and is committed to having blending facilities. Also, I have had discussions with Woolworths and Coles. Woolworths sells 20 per cent of the fuel in New South Wales. All those firms are committed to getting on board. This bill has formed the impetus for them to get moving, and I congratulate them on the way they are moving forward.

I would ask the Federal Government to extend its \$10,000 subsidy that goes to 1 October to help service stations to convert. I ask that because there will now be a lot of pressure to get service stations converted between when this comes in and 1 October. Clearly they will not be able to get enough done by then. If we can get an extension it will stop some of that mad rush.

**The Hon. Melinda Pavey:** Have you written to the Federal Government?

**The Hon. TONY KELLY:** I have asked it publicly. That is a good idea: I will write tomorrow to the Federal Government. The bill's 2 per cent target is achievable and will provide a shot of confidence for the entire industry. It also puts New South Wales ahead of the pack when it comes to capturing the benefits and opportunities presented for our State on biofuels. Besides the immediate benefits, research into the next generation of biofuels is already occurring—right across the globe. So-called second-generation biofuels—which can potentially produce fuel from a wide range of biomass—have even greater potential in terms of jobs, production levels and environmental benefits. We have already had discussions with one company that is setting up in the north of the State to do just that.

**The Hon. Melinda Pavey:** Gunnedah?

**The Hon. TONY KELLY:** This one is on the coast, looking at forest floor biomass, waste products. The lemma Government is committed to ensuring that New South Wales is well placed to be at the forefront of this new potential source of alternative fuel well into the future. While this bill focuses on ethanol, let me make it clear that the Government will continue to examine strategies for other renewables—like biodiesel. In my discussions with industry stakeholders there is a clear acknowledgment that biodiesel has an important role to play in addressing issues such as fuel security, cleaner fuel, and regional jobs.

While the Federal Government has dealt a savage blow to biodiesel production through its changes to the Fuel Act, we need to continue to explore ways to promote biodiesel. I will ask the expert panel to take into consideration wholesalers' efforts and initiatives in other biofuels when it comes to reviewing their requirements under the mandate. I ask that the balance of the second reading speech, which is the same as that given in the lower House, be incorporated in *Hansard*.

### **Leave granted.**

I am very proud to introduce the Biofuel (Ethanol Content) Bill 2007 to the House. The bill marks an important step forward in our efforts to promote renewable biofuels in Australia. It is the first mandate of its kind in Australia and fulfils a commitment given by the Premier in February this year that a re-elected lemma Government would introduce a mandate requiring 2 per cent of the total volume of sales of petrol in New South Wales to be ethanol.

Members may be surprised to know that the history of ethanol as a fuel goes back to the earliest days of the automobile industry. Henry Ford's T Models were designed to run on both petrol and ethanol. After prohibition killed off ethanol in the 1920s, ethanol disappeared, only to be brought back as a fuel source in the Second World War. Cheap, and some may now say, unsustainable petrol prices up to the 1970s made ethanol uncompetitive. The oil crisis of the 1970s sent shockwaves throughout the industrialised west. That is where the modern history of ethanol starts.

Until recently Brazil has been the major driver of ethanol use internationally. During the Organisation of Petroleum Exporting Countries [OPEC] oil crisis, Brazil decided

to embrace ethanol as a petrol substitute. The modern ethanol industry that has emerged in Brazil is testimony to those decisions made in the mid-1970s. In the last decade, with talk of peak oil, concerns over greenhouse gases and climate change and ongoing instability in the Middle East, the importance of energy security has moved to the top of the political agenda across the world. Most industrialised nations have turned to a number of fossil fuel alternatives to begin to address and meet the future energy needs of their people. Biofuels is one aspect of that broader strategy.

The bill is a strong commitment to the future of biofuel in New South Wales and reflects a lot of the public policy work that is taking place in jurisdictions across the world. The world is catching up with the pioneering work of Brazil. The United States of America has embraced ethanol and biofuel and has enshrined its greater uptake through the Energy Policy Act of 2005, which will double the use of ethanol and biodiesel by 2012. The European Union is calling for higher levels of biofuel use, as are other major trading partners such as India, China and Japan.

The bill sets a clear path for the future of ethanol use in New South Wales, and mirrors movements taking place all around the developed world. A number of benefits can flow from a greater uptake of ethanol. A number of proposed ethanol plants are currently on the drawing board, with 10 or so plants in the planning stages across the State. The mandate will send a strong signal to the biofuel industry that provides the impetus for further investment in rural and regional New South Wales, as well as around Australia, generating hundreds of jobs. This is yet another example of the Lemna Government's commitment to generate jobs in the regions and country areas of New South Wales. A sustainable ethanol industry right here in New South Wales could offer many other benefits, from added income for our primary producers and added value from the double use of grain products to spin-off benefits for industries such as fertilisers and stock feed.

In addition, a 2 per cent mandate is a good start toward greater fuel security and less reliance on fossil fuels. Less fossil fuels means less greenhouse gas emissions, which is good for the environment and for us all. Federal Government trials that are currently under way will provide more information on the environmental impacts of ethanol-blended fuels. With motorists getting hit for six at the petrol pump, and with the world apparently locked into ever-increasing oil prices, ethanol-blended fuel is not only increasingly competitive, but these days costs more than 40¢ a litre less to produce than the average terminal gate price for petrol. This translates to savings at the petrol pump in the order of 2¢ to 3¢ a litre cheaper than unleaded petrol.

Another reason we need to turn to domestically produced fuel is the impact on our balance of payments. The nation's trade fuel deficit has spiralled out of control under the Howard Government over the last few years. With local oil supply dwindling and the price of imported fuel likely to remain high, supporting locally produced fuel products like ethanol is a step in the right direction when it comes to improving our balance of payments and increasing the nation's fuel security. The initial 2 per cent volumetric mandate is both realistic and achievable. At the same time it sends a strong message to industry and motorists alike that the State Government supports and, more importantly, promotes the use of ethanol as fuel and is willing to act on that. The mandate provides a signal to this emerging industry, which needs tangible support to create a long-term sustainable future.

The legislation proposes a mandate that sends a strong, positive message to consumers, producers, and wholesalers. But it is a mandate that is workable and

flexible enough to react to a variety of situations, both foreseen and unforeseen. It is all well and good to say we are introducing a 2 per cent mandate, but good governance is about coming up with legislation that can adapt to ever-changing conditions and circumstances. More of this will come later. A recent Queensland report found that a 10 per cent mandate would lead to several operating plants, creating hundreds of direct and indirect jobs. However, to simply say we are going straight to a 10 per cent mandate, while it may be possible, would not be responsible without further detailed investigation.

The last thing we need is an unworkable mandate that leads to price shocks or supply constraints. This is why the Premier established a task force last year to report back to him later this year on the feasibility of a 10 per cent ethanol mandate, as well as the broader use of other biofuels such as biodiesel. Rather than throwaway lines, the lemma Government will be guided by the evidence and stakeholder feedback before any decision beyond the 2 per cent level is taken. I go back to the current proposal. As I said, the mandate contained within the bill is workable and achievable. It will operate not simply in a vacuum but in conjunction with the prevailing economic, environmental, and commercial climate of the day. The 2 per cent mandate will commence operating from 1 October this year, which will require wholesalers to furnish their first quarterly reports to the Government by the end of January 2008. Part 2 of the bill provides that a primary wholesaler must ensure that the volume of ethanol sold by the wholesaler during the relevant period is no less than 2 per cent of the total volume of all petrol sold by the wholesaler during the relevant period. It is important at this point to clarify the Government's intention. Reports in the media have tended to confuse the Government's intentions. The Government recognises that you simply cannot put ethanol-blended fuel into many engine types. Some examples where ethanol is not suitable include pre-1986 vehicles; motorcycles, as I found out through a sad experience; aeroplanes, about which I do not intend to find out through a sad experience; and lawnmowers—and I shall not use a lawnmower again!

Let me make it clear that this legislation is not about putting 2 per cent ethanol in all petrol sold in New South Wales. Rather, it is about setting a mandatory level of 2 per cent of the total volume of petrol sold in New South Wales each quarter. It would be timely for me to remind members that the maximum allowable amount of ethanol to be blended into neat petrol is 10 per cent—sometimes referred to as E10. In today's terms, that roughly translates into about 125 million litres of petrol. If that amount were sold through E10, it would work out to be approximately 1.25 billion litres of ethanol-blended fuel, that is, approximately one in five litres of all petrol sold in New South Wales. The Government is not going to tell industry the best way to reach the mandated levels. It is up to industry to work out how to best reach those levels.

Part 5 of the bill establishes an expert panel to advise my colleague the Minister for Regional Development on the application of the mandate over any particular period. The expert panel will comprise the Chief Executive Officer of State and Regional Development in the capacity as chair of the panel and the chief executive officers of Primary Industries, Environment and Climate Change, and Commerce. The expert panel will advise the Minister on whether the 2 per cent mandate will be effective for any one quarter and whether total or partial exemptions can be made to any wholesaler. The expert panel will take into account the widest possible range of considerations before it makes any recommendation to the Minister.

Some of the issues that will need to be considered by the expert panel and the

Minister are the price of producing ethanol compared with the average terminal gate price of petrol over any quarter, the availability of ethanol to be blended, the availability of water or feedstock to produce ethanol, consumer acceptance, matters pertaining to health or public safety, or any other extraordinary reason. Clauses 12 and 13 of part 3 of the bill set out in broad terms the basis behind the granting of any suspension or exemption from the mandate over any particular period. The regulatory system is designed to be as simple as possible, with primary wholesalers required to submit returns to the Government. Part 2 of the bill provides for returns from primary wholesalers, who will be required to provide the total volume of petrol sold, including ethanol-blended petrol; the total volume of ethanol sold in the form of ethanol-blended fuel; as well as any other relevant information that may be required by regulation.

Reporting compliance will be simple and streamlined, with the information required by the Office of Biofuels replicating information already required by Federal bodies. The expert panel will make recommendations to the Minister for Regional Development on whether the mandate will operate in any particular quarter, and if so, at what level. For example, it may be decided for a particular quarter that only a 1 per cent mandate should apply. It will make recommendations on whether the mandate is to operate and, if so, whether there are any justifiable grounds for the Minister to grant whole or partial exemptions to any wholesaler. Part 3 of the bill deals with penalty provisions applicable to wholesalers who have failed to comply and have not been able to justify an exemption, or have failed to furnish returns or keep records. They range from the Minister publishing the names of those who have failed to meet requirements and the nature of their transgression, through to tough financial penalties ranging from \$11,000 to \$110,000. Part 4 of the bill deals with enforcement. But I stress at this stage that it is the Government's hope that mandatory levels can be reached in a spirit of cooperation. The flexibility of the bill and recognition of factors that may make it inappropriate for the mandate to operate is a sign of our good faith to work with industry and consumers to promote the greater uptake of ethanol and other biofuels. The Government will review the Act after three years to ensure the policy objectives remain valid and whether the terms contained within the Act continue to be appropriate.

We are operating within a fairly dynamic environment when it comes to biofuel. Members would be aware that the Premier's E10 taskforce will report back to the Premier later in the year about the viability of extending the mandate to 10 per cent by 2011. The Government's biofuel strategy is both short-term and long-term. In the short term, we want to get right behind a sustainable, long-term alternative fuel industry in New South Wales. We want to help to position New South Wales to be able to capture and benefit from the biofuel revolution. The mandate is a tangible step in that direction. Through departments such as State and Regional Development, Primary Industries, and Environment and Climate Change we are working with stakeholders in the industry in exploring proposals already on the drawing board, as well as investigating so-called second-generation technologies. This emerging technology could lead to more diverse forms of biomass used as inputs to create biofuel.

The Biofuel (Ethanol Content) Bill 2007 is about putting words into concrete action. For too long there has been a lot of talk about biofuel and getting behind our fledgling biofuel industries. The New South Wales Government is deeply committed to pursuing a number of strategies to promote the domestic production and use of

biofuels such as ethanol. Back in the early 1980s the Wran Government had the foresight to lead the nation in mandating unleaded petrol. Although in its early days, biofuel, like ethanol, represents a largely untapped source of opportunity—for jobs, for the environment and our own fuel security, to name but a few. The Biofuel (Ethanol Content) Bill 2007 is a first step down that long path. New South Wales is leading the nation, but is doing so in an incremental, cautious, evidence-based way. The mandate will send a strong signal to motorists, investors and the fuel industry that the lemma Government is serious on renewable fuels. I commend the bill to the House.