Bill introduced on motion by Ms Robyn Parker, read a first time and printed.

Second Reading

Ms ROBYN PARKER (Maitland—Minister for the Environment, and Minister for Heritage) [4.09 p.m.]: I move:

That this bill be now read a second time.

Coastal erosion is threatening at least 200 homes in New South Wales. It is estimated that there are at least 15 hotspots up and down the coast. A hotspot is defined as more than three affected properties. Red tape restrictions have prevented landowners from taking immediate action to protect their properties. Local councils have been under severe financial and regulatory constraints with ratepayers on this issue. Local councils have been desperately seeking help from the New South Wales Government. This Government is committed to giving these local communities certainty when it comes to managing coastal hazards. The vast New South Wales coastline stretches 2,137 kilometres.

The coastline, including its low-lying estuaries, needs to be sheltered from extreme weather events and landowners need to be able to protect their properties in the face of those events. The three main objects of this bill are: to seek to amend the Coastal Protection Act 1979 to ensure that landowners can more easily place sandbags to reduce the impact of coastal erosion, to remove the requirement for councils to include coastal hazard risk category information from coastal zone management plans on section 149 certificates and to reduce excessive penalties for offences relating to works protecting property. This bill is a key component of the Government's stage one coastal erosion reforms. This is a broad issue.

The Government is working long and hard on this issue to achieve solutions. As I commented earlier, more than two former Labor environment Ministers have warned me that this issue is too hard to deal with or to solve. This Government does not accept that. This Government has worked very hard. I heard the member for Shellharbour say there had not been consultation—that is incorrect. The Government has consulted with communities up and down the coast—whether the member for Shellharbour bothered to turn up I do not know. The member's speech has certainly been mentioned in Shellharbour.

The DEPUTY-SPEAKER (Mr Thomas George): Order! I remind the member for Shellharbour that she is on two calls to order. If she continues to interject she will be on three calls to order. Members will have an opportunity to make a contribution to the debate. I would like to hear what the Minister has to say and I am sure members would like to hear what the Minister has to say.

Ms ROBYN PARKER: Community consultation occurred up and down the coast before the process of a ministerial task force was embarked upon. The process involved having the Deputy Premier, and Minister for Regional Infrastructure and Services, the Minister for Local Government, and Minister for the North Coast, the Minister for Police and Emergency Services, the Minister for the Central Coast and I worked together around a table to get some

solutions. The members of the Liberal-Nationals who represent electorates up and down the coast understand how important the issue is. Each and every one of the Ministers around the table worked hard and is continuing to work hard to attain solutions.

The task force has been supported by senior officers from each department who have been energised by the opportunity to work together to support their Ministers because these are planning issues as much as they involve the environment. They are issues that relate to local government and emergency services and impact on each of those portfolios. I will have something more to say about the impact on planning and infrastructure later. The key role of the task force has been to examine the 2010 amendments enacted by the former Labor Government. They have been a cause of ongoing concern up and down the coastline. Part of the process, apart from having the task force of Ministers and staff, has been the establishment of an expert panel consisting of hydrologists, engineers, financial experts and local government experts that test every step of the work being undertaken.

The first stage of reform is proof that this Government, unlike its predecessor, has heard and responded to the needs of local coastal communities. The reforms announced by the Government include amendments to the Coastal Protection Act 1979 to clarify what information councils should put on section 149 certificates relating to projected sea level rise impacts. New guidelines will be prepared for councils by the Department of Planning and Infrastructure. That means that the Government will be resourcing councils in terms of this process. The bill will clarify the use of sea level rise benchmarks by councils. Following a report by the Chief Scientist and Engineer Professor Mary O'Kane, which identified the evolving nature of the science in this area, the Government will no longer recommend statewide sea level rise projections for councils to use.

It is not a denial that sea level rises exist—it does exist and has existed for thousands of years—sea levels have changed and continue to change. It is the fact that the science, in terms of the impact in different areas, is being debated, as are the issues and impact of settlement, mine subsidence and other issues. The Government will support local councils with information and expert advice on projections for future sea level rises relevant to local areas. The former Labor Government issued sea level rise projections that went up and down the coast and ignored local influences. This Government will make sure local councils have the correct information and will be developing a statewide hazard mapping methodology for councils to use for consistent coastal hazard mapping. These are stage one reforms. They are part of a larger two-stage process.

As transition occurs into further reforms it will be essential that clear and practical advice is given to councils. The task force will continue to meet and talk to councils and local communities—even in Shellharbour—to ensure that it is best placed to deal with coastal risks. It is important that the task force proposals are carefully developed in a way that is integrated within other Government reviews. That is why this is part one. The process needs to integrate with changes to the planning system and the review of the Local Government Act. The Government will announce further reforms and will continue to consult with the community and councils. The task force has had expert scientific and technical input and will continue to receive advice from the expert coastal panel.

That panel gives advice on coastal engineering, coastal planning, strategic planning, local government issues and landholder issues. The Chief Scientist and Engineer Professor Mary O'Kane provided a report and it is available on the chief scientist's website. I encourage

members to read it. As highlighted by the *Australian* newspaper today there is a need to continue to examine the science behind projected future sea level rise. Australian National University Professor Kurt Lambeck has received the prestigious Balzan Prize for his work on climate change. His findings echo those of the New South Wales chief scientist. Professor Lambeck talks about the uncertainty surrounding the science of sea level rise and the need for further study in this area. These findings are supported by the work of two of Australia's leading researchers in the field, Dr John Church, from the CSIRO, and Josh Willis in their paper "Regional Sea-Level Projection" published in the journal *Science*.

Willis and Church argue that more accurate projections of regional sea levels are needed to inform adaptation and mitigation planning; and, notably, that efforts to compare different modelling approaches could result in more reliable scenarios being developed to project rising seas. The bill is a sensible start to this process; so the Opposition ought to support it. Some of the 11 environment Ministers in the former Labor Government did not try to grapple with the issues, while others at least had a go at trying to get answers although they ended up making things worse. I will now provide details of the bill to the House. An important aspect of the bill will be to cut red tape associated with temporary coastal protection works. Some members opposite misunderstand what that really means. The former Labor Government's 2010 amendments to the Coastal Protection Act 1979 allowing landowners to place emergency coastal protection works were too restrictive on where and when these works can be placed, tying up landowners in unnecessary red tape.

This bill takes a common-sense approach; it expands the opportunities for private landowners to place these works, particularly on their land. The bill continues the arrangements whereby a private landowner does not require regulatory approval under the Coastal Protection Act or any other law for temporary coastal protection works that comply with the requirements under this Act. This means that landowners will continue to not require development consent under the Environmental Planning and Assessment Act 1979 for those temporary works. In the past, a landowner could take action only when coastal erosion was imminent or actually occurring. Not only was that too late, it was clearly dangerous to adopt such a restrictive approach. This bill strikes a more reasonable balance between empowering landowners and ensuring that appropriate checks and balances are in place, and that the safety of landowners is not put at risk.

The bill replaces the term "emergency coastal protection works" with the new term "temporary coastal protection works", to emphasise that these works should no longer be placed in an emergency, when erosion is occurring on a beach and the impacts of waves mean that can be hazardous to anyone working on a beach. The bill will allow landowners to place the works at any time on public or private land; as I have said, landowners will no longer need to wait until erosion is occurring or is imminent. The current restrictions limit private landowners placing these works on their land only once, and only for 12 months, will be lifted to give landowners the opportunity to reinstate works if needed.

At the moment landowners could place those works, but then have their hands tied behind their backs and feel quite powerless because they could not make changes. They could place those works for only 12 months. These changes represent a practical removal of barriers that have impeded the use of these existing provisions. The bill makes it clear that temporary protection works on private land are no longer required to be authorised by a pre-existing certificate issued by an emergency works authorised officer from council or the Office of Environment and Heritage. Landowners will still need to obtain a certificate for works to be

placed on public land; so they cannot just roll up and undertake these works without any supervision of what they are doing. This is to ensure appropriate use of public land for these purposes.

The bill makes a number of amendments relating to the use and occupation of public land for placing temporary coastal protection works. Landowners will continue to not require a lease, licence, permit, or an easement or right-of-way when placing these works on private land, provided they meet all of the requirements under the Act. That will ensure that landowners will continue to avoid the need to obtain permission under public land management legislation, including the Crown Lands Act, continuing the Government's commitment to minimising red tape. However, we recognise the importance of public land to the community. Therefore, the bill continues the current requirement that a certificate allowing the works to be placed on public land cannot be issued unless the issuing authority is satisfied that all reasonable measures have been taken and will be taken to avoid using the public land and to ensure reasonable public access to the beach is maintained.

In addition, it will be a condition of such a certificate that the holder of the certificate must take all reasonable measures: (a) to avoid damage to assets and vegetation on the public land; (b) to minimise risks to the public on the public land; and (c) to minimise disruption of the public use of the beach concerned. These are reasonable requirements—we all want to share our beaches—and they are currently in the Act but in a different form. They clearly demonstrate the Government's commitment to both supporting landowners and looking after the interests of the community. The amendments will double the time landowners can place works on public land to two years—because the current 12-month limit is too restrictive. These are expensive operations; and having to go back to them after 12 months is simply ridiculous. Landowners will have two years to put these temporary works in place. At least this will give landowners peace of mind for that longer period.

The two-year period can be extended if a development application under the Environmental Planning and Assessment Act 1979 for consent to construct coastal protection works on the same land is pending. This ensures that landowners are not unfairly disadvantaged while their development application is being assessed. In other words, landowners will not have to remove works while their development application is being assessed. The current Act limits the ability to place works to reduce the impact or likely impact of erosion on a building being lawfully used for residential, commercial or community purposes. This is unnecessarily restrictive; and so the bill allows landowners to place the works to reduce erosion impacts on any private land, even if the land is vacant. I have seen parts of the coastline where this is necessary; and property further back from the coastline could be impacted if that action is not taken.

New section 55VB in schedule 1 [20] to the bill continues the operation of section 55Z (3) to provide that a public authority must not unreasonably refuse a person access to the public authority's public land to enable the person to lawfully place temporary coastal protection works. This is an important provision that ensures that landowners that act in a reasonable and responsible way have the right to use public land to place these temporary works. The current arrangements where a certificate obtained by a landowner to place temporary works can be transferred to a subsequent landowner has been retained and updated to reflect that these certificates will now only be required for works on public land.

Section 55Z (2) of the Act, which relates to the use and occupation of adjacent private land

for the placing or maintaining temporary works, is retained in a slightly modified form as section 55Z in schedule 1 [26] to the bill. This ensures that a landowner can continue to make arrangements to place temporary works on a neighbour's land, with the neighbour's agreement. If a landowner who is undertaking work on his or her property comes to an arrangement with the neighbour that is beneficial to both of them those works can take place. These measures are an important step forward. However, it is important to recognise—and important for those opposite to listen to what is being said about this—that temporary coastal protection works involving sandbags will, by their nature, only provide protection from erosion during minor storm events. We are not under any illusion that this is a measure to deal with major storm events. It is certainly a temporary protection measure.

Another issue—one that I think some do not understand—is that the bill does not affect the current rights of landowners to seek planning approval for larger or permanent works. These measures relate to temporary protection; larger or more permanent works can be applied for. The bill also retains the current powers in the Act for the Office of Environment and Heritage and councils to order the removal of temporary protection works that are causing erosion to neighbouring land or presenting a public safety risk. That is an important safeguard; we do not want someone building temporary protection works on their property and then finding that those works are having adverse impacts on neighbouring properties or properties further away. There must be a mechanism to ensure that that does not occur.

Some of the technical requirements for these temporary works are specified not only in the bill but also in a statutory code of practice under the Coastal Protection Act 1979, which was gazetted under the Coastal Protection Regulation 2011. The important role of the code is to identify locations where temporary coastal protection work can be installed. I heard a wild claim that this will happen ad hoc up and down the coastline. That is not the case. The code identifies 14 authorised locations where these works can be placed. The Government considers that this is overly restrictive and that work should be allowed across erosion-prone areas. For example, there are places where erosion has a huge impact and yet those places would not be identified traditionally under the hotspots definition.

We will update the code after the bill has been passed to further relax the requirements for private landowners for temporary coastal protection works, but it will be done in a considered way. The update will be within the bounds of the code and it will ensure that there is no impact on other locations and other properties. As part of the update we will ask the University of New South Wales Water Research Laboratory to provide advice on whether the allowable height of these temporary works can be increased above the current limit of 1.5 metres without increasing the risk of these works causing erosion of adjoining land. Part of our discussions have been that we need to have these temporary protection works in place but we need to be sure that they will be safe and we need to ensure that landowners put in place something that does not have an unintended consequence.

Once the bill is passed and the code updated we will also update a guide for landowners so that they can easily understand all of the requirements. As I have mentioned, but it is worth reiterating, these amendments will make it easier for landowners to place temporary works. Landowners will also be able to continue lodging development applications for larger and more permanent works. Other aspects of the bill relate to what the previous Government applied. The previous Government increased maximum penalties under the Act to a level that was excessive for offences related to the inappropriate use of sandbags on beaches. In particular, these penalties were for offences relating to placing sandbags without appropriate

approvals, section 55K; failing to comply with an order to remove works that are causing erosion or that present a public safety risk, section 55ZC; and failing to remove the works at the end of their allowable time, section 55Y—that offence now applies only to works placed on public lands.

The bill will halve the penalties for these offences—in this place we do not often hear about penalties being halved instead of increased. The maximum penalties will be reduced from $495,000 for a corporation and $247,500 for an individual to $247,500 for a corporation and $123,750 for individuals. The current penalties will remain for offences such as the unlawful dumping of rocks or construction debris on beaches or the failure to comply with an order to remove those materials, which can cause erosion and risk public safety. Another aspect of the bill that has had a huge impact on the Central Coast—and I know that our Central Coast members have struggled with this as well as councils up and down the coastline—is the section 149 certificates.

The Coastal task force has heard loud and clear that the way some councils have conveyed information about future coastal hazards has been very unclear. Therefore, a number of steps need to be taken to address that problem. The Department of Planning and Infrastructure will issue updated guidance to councils. We will not leave councils without advice or support; we will give them advice about notations on their section 149 planning certificates relating to coastal hazards. That is one of the benefits of working this out with a ministerial task force: we had the Department of Planning and Infrastructure in the room with the Office of Environment and Heritage and we were able to sort out these solutions, many of which were planning solutions.

In conjunction with this updated guidance, the bill will roll back another of the former Labor Government's inappropriate amendments to the Coastal Protection Act 1979, which required councils to include information about coastal hazard categories on section 149 certificates once they had completed their coastal zone management plans. We have seen the distress that poorly worded section 149 certificates can cause to local communities, particularly on the Central Coast. Central Coast members know about ridiculous restrictions. Councils have been obliged to make these notations because they have been concerned about their position. We will ensure that councils are supported.

The bill also repeals the corresponding provisions in part 4 of the Coastal Protection Regulation 2011. These provisions have never been used and are ill-conceived. Rather than stigmatising land with a hazard category label, a more sensible approach is to support councils so that they can provide clear, factual information about current and future coastal hazards. It is important to emphasise that the current requirements relating to notations on section 149 certificates under the Environmental Planning and Assessment Act and the Environmental Planning and Assessment Regulation will continue to apply. The bill also makes consequential amendments to the Coastal Protection Regulation 2011. Those amendments relate primarily to changing references to emergency coastal protection works to the new term of "temporary coastal protection works". The bill also makes minor consequential amendments to other legislation, including the Local Government Act. Those amendments also focus on updating the terminology to "temporary coastal protection works".

There has been and there will continue to be ongoing consultation on these issues. I know that the coastal communities up and down the coast who have been dealing with the issues will be pleased to see that this is part one of a sensible reform, which rolls back a number of

issues created by past Governments. I will also give those coastal communities an undertaking that our job is not finished; we intend moving forward with this and we intend ensuring that our coastline and those who live along our coastline are protected. We will ensure that those who live along our coastline are able to live sensibly and that councils have the right sort of scientific support and advice about planning. We will certainly ensure that when there are emergencies people can take precautions and can respond. This legislation will work very well with other areas such as planning and emergency measures.

This bill removes the former Labor Government's unreasonable requirements and its heavy-handed approach. I noted earlier that it had been mentioned that we were taking away a number of protections. That is not the case. We have given councils an extra 12 months to come up with their coastal plans. This has been such a difficult issue for councils that they have sought extensions of time from me since I have been Minister, as well as from previous Ministers. We provide funding and support for estuary management and coastal planning, and we will continue to do that, but no coastal plans have been submitted to me since I have been the Minister.

Giving councils an extension of time will help them deal with these issues, and understand the ongoing nature of consultation and this Government's reform agenda in order to get it right in relation to coastal erosion and sea level issues. This is a reformist Government. It is certainly the case that we cannot prevent coastal erosion, but it is certainly the case that we need to give landowners, whether public or private, an opportunity to protect their property and plan appropriately for the future. We have to ensure that their councils are well supported and have the right evidence to understand what might happen, what the projections might be, so that they can plan accordingly with their community at heart. As Australians we love our coastline. We want to make sure that our beaches are there for the future and that people up and down the coast are able to have a reasonable life.

This bill rebalances the interests of vulnerable landowners and beach users. It will give councils an opportunity to take action rather than throw their hands up and say it is all too hard, as some of them did in the past. They came up with the policy of planned retreat and nothing else. The measure of planned retreat received a great deal of criticism. The Government will ensure that this issue is not too hard for councils and we will be there to assist vulnerable landowners.

I refuse to accept the wild claims made by Opposition members that this bill is all about wealthy people living on the coast. That is far from the truth. In fact, if not protected, many coastal properties will impact on properties further inland. Certainly a number of properties are owned by people who have lived in them for many years and in many cases they have lived humbly. They need to be able to protect their property and maintain the value of their property. They understand that this Government has listened to their concerns and is prepared to take action. I know that the members who represent the electorates of Port Macquarie and Myall Lakes and other electorates along the coast have been grappling with these issues. I am sure the Deputy-Speaker has been grappling with this issue in parts of his electorate of Coffs Harbour. The community will be pleased to know that this bill is part one and the Government will continue to work on this issue. I commend the bill to the House.

Debate adjourned on motion by Mr Nick Lalich and set down as an order of the day for a future day.