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# MINORITY REPORT

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**Senator Nick Sherry**  
**Australian Labor Party**

## **OVERVIEW**

The Opposition does not support the majority recommendation that the bill be passed in its current form.

Whilst Labor does not oppose this legislation, the Opposition members are of the view that the policy underlying this Bill is seriously flawed in a number of aspects.

The evidence presented to the Committee has reinforced that view. Accordingly Labor will be recommending a number of amendments to the Bill.

## **DISCUSSION**

This Bill seeks to enact the measures announced by the Treasurer in his Press Release of 14 February 1997, namely the immediate termination of the Infrastructure Borrowings (IB) tax concession arrangements. The Opposition considers that the announcement was a gross-over-reaction to the situation faced by the Development Allowance Authority (DAA) and was certainly not the only sensible reform option that could have been pursued.

This Government increasingly categorises tax concessions which are being effective as being rorts. This was the same scare campaign that was raised in the debate on the research and development concession. When the Opposition pursued actual evidence to justify the Treasurer's claim that the concessions were being rorted none was provided.

Similarly, there has not been substantive evidence provided either by the Treasurer at his press conference nor in evidence before the Committee yesterday of actual rorting on a scale to justify the complete abolition of the IB arrangements. Despite these limitations, the Opposition does accept that the provisions could be abused and consequently will not oppose the Government's proposal to redesign the IB tax concession.

That said, there remains a significant issue concerning the equitable treatment of those projects who would, in the normal course of events, have been certified by the DAA. These projects, referred to hereafter as transitional projects, have been unreasonably affected by the pre-emptive announcement of the Treasurer.

The Opposition sees two distinct categories of transitional projects. 1) Those which had applied to the DAA before 14 February 1997 and have had their application certified after 14 February 1997; and 2) those which had applied to the DAA before 14 February 1997 which still await certification.

Evidence provided to the Committee shows that six projects fit into category one; namely the Parkeston Power Station, the Brisbane Airport Rail Link, the Bairnsdale Co-generation project, the Port Stephens Sewage Processing Facility, the Redbank Power Station, and the Oakey Power Station.

That is, these projects have complied fully with the law and have been certified as such by the relevant authority. Despite this, the Bill seeks to retrospectively nullify the certification of all of these projects except for the two projects which had section 93P letters from the DAA prior to the Treasurer's announcement on 14 February 1997. These two projects are the Bairnsdale Co-generation project and the Brisbane Airport Rail Link.

The Opposition does not accept the rationale proposed in the Bill.

We regard it as unarguable that the de-certification of projects under this legislation amounts to retrospective legislation. Whilst there is sometimes justification for moving retrospectively against blatant tax avoidance, there is no justification for undertaking this extraordinary step in the case before the Committee.

Understandably the project proponents are appalled at the way they have been treated. Many of these category one projects were approaching commencement and some had even entered into contractual arrangements. Now they are facing a completely different regulatory regime.

The Opposition members notes that evidence given to the Committee yesterday was that one of the projects, the Redbank Power project, would have actually commenced construction on Monday 26 May 1997. That is, at least one of the se projects would have actually commenced by now had it not been for the over-reaction of the Treasurer.

Evidence before the Committee indicated that around 1,000 jobs, jobs that are sorely needed in the Hunter Valley - especially given the tragic decision regarding the future of the steel industry in Newcastle - have now been put at risk due to the proposed de-certification of the Redbank project.

Clearly the Bill has already cost jobs and will continue to cost Australia jobs unless it is amended.

The Opposition is concerned that the de-certification of the other projects mentioned above will involve further job losses which will impact on regional development. Accordingly, we will be moving to amend the legislation to ensure that all category 1 projects will be able to retain that certification.

Secondly, the Opposition is concerned that other projects which fall within category 2 will also be unfairly disadvantaged by the current Bill. Many of these projects are especially important in the context of regional development.

Evidence was provided concerning one such project at the Committee hearings, namely the Central West New South Wales Gas Pipeline. Planning for this project has now been severely interrupted due the decision to exclude such projects from eligibility.

The Opposition opposes the blanket exclusion of this and all other category 2 projects from the IBs program. We note the Government's intention that these projects will be able to qualify for the new IB arrangements, however, given the inadequate funding and the inevitable delay involved in any new arrangements the Opposition remains sceptical of the Government's proposals.

We do recognise, however, that not all of the applications lodged with the DAA should be automatically certified. Accordingly, arrangements need to be made to allow certification to proceed for those category 2 projects.

## **RECOMMENDATIONS**

That the bill be amended to ensure

- 1) that all projects which have been certified by the DAA retain that certification
- 2) that there be a further opportunity for certification for those projects which are important for regional development and regional employment, do not involve aggressive tax structures and which will be ready to commence within a reasonable timeframe.

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