APPROVALS AND RELATED REFORMS (NO. 1) (ENVIRONMENT) BILL 2009

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 4: Section 45A amended —

Debated was interrupted after the clause had been partly considered.

Mr C.J. TALLENTIRE: Before question time I was just concluding my comments on these strategic assessments. I had been putting to the minister that we have had situations in which we have not done strategic assessments, but we could have benefited from strategic assessments. I was giving an example that is perhaps close to the minister's heart, which relates to Esperance and the idea that perhaps expansions of a facility, such as the Esperance Port Authority area, should be the subject of strategic assessments in the future. I was suggesting to the minister that the derived proposals that could come from that type of assessment would, hopefully, be looked at for all their environmental implications and that something like a proposal to shift lead out of Esperance, with all the different equipment that would be required, would not be deemed a derived proposal but a separate proposal, and that therefore the community would have the opportunity to provide the sort of comment on the project that it would desire. However, there is the possibility that the Environmental Protection Authority would say that it is a derived proposal, and that is why we need to retain this appeal point. I put again to the minister that this is a valuable check in the system. I think it would be one that would have been used by his own constituents in his electorate to ensure that their views were properly understood, had there been a situation of having strategic assessments about Esperance, had there been a situation in which a lead shipping proposal was considered a derived proposal and therefore not something worthy of further assessment. I put it to the minister that we need to have this system in place so that people can call for fuller assessments where they see fit.

Dr G.G. JACOBS: I thank the member again for bringing this close to home for me and the situation that impacted on my community. The situation for lead exports through the port of Esperance was a usual proposal and not a strategic proposal. There were checks and balances in that legislation. In practical terms there could have been some issues where the community was let down. However, that is another matter. The hypothetical position the member put is that if the port of Esperance had a strategic proposal to increase the number of berths or whatever, in that strategic proposal there would still be the ability for an appeal. I understand, of course, that his concern is that somehow a derived proposal would sneak in under a strategic proposal and, therefore, by this amendment, the derived proposal would not be able to be appealed. I hope that I have made it as clear as I could that the definitions under 39B of the Environmental Protection Act are clear enough that if there was anything that was separate, new or not previously mentioned in the strategic proposal, essentially there would be that check and balance in the system. Whether a proposal is a derived proposal or a normal proposal, it would be subject to the conditions set by the Minister for Environment and, therefore, an appeal point on a declaration that a proposal is a derived proposal is not necessary. I understand the member's concern. I must say that the experience that we have been through as a community means that I am concerned about the checks and balances, but this really does not reduce the check and balance of the hypothetical situation that he has put forward to Esperance. That situation would not be any different.

Mr C.J. TALLENTIRE: I thank the minister for expressing his view. I think, though, in his own argument he has made it plain that the opportunity for the community to appeal on a proposal and on ministerial conditions is absolutely vital. Perhaps I can use another case that we have as a live example at the moment; it relates to the Browse LNG precinct. At the moment the proponent for that proposal is the state of Western Australia in the form of the Department of State Development, which has published the "Preface to the Scope of the Strategic Assessment: Strategic Assessment for the Browse LNG Precinct". There is some useful information in that document that outlines how the project would proceed. However, the detail that is provided in paragraph 2.0 states —

> The State Minister for the Environment may then impose —

After a strategic assessment has been done —

> implementation conditions determined at the completion of the Strategic Assessment to each particular Derived Proposal.

How can that happen? I do not think the sequence of events here is particularly clear. If we have a strategic assessment, we do not know what proposals may come up as derived proposals, but it is not clear what the mechanism would be for the implementation of conditions on those derived proposals. I say again that this is another reason we need to have this appeal point. In that process of setting of conditions, because we have this lapse of time between the strategic assessment being done and something being determined to be a derived

proposal, there will be things that will get confused and forgotten about. It is a vital check in the system to be able to access that community knowledge through this appeal provision. How can we ensure that the community has the opportunity to properly comment on strategic assessments and the derived proposals if we remove this appeal point?

Dr G.G. JACOBS: In the example of the strategic proposal that the member for Gosnells has presented, the right to appeal remains.

Mr C.J. Tallentire: On the strategic assessment?

Dr G.G. JACOBS: Absolutely. I suppose the concern the member has is if something came out that was not within the strategic proposal. Could I say that the derived proposal that is considered in and under the strategic proposal will get all the assessment rigour, if one likes, in that proposal; it is just the issue of appeal on the derived proposal under the strategic proposal, which no doubt is what the member is concerned about. It is true that we need to know what the proposals are, and any amendments to the conditions of the derived proposal would be via inquiry. Section 39B(6) of the Environmental Protection Act reads —

> If the Authority declares the referred proposal to be a derived proposal, it is not to assess the proposal except for the purposes of conducting an inquiry under section 46(4).

Mr C.J. TALLENTIRE: I was not particularly clear on which sections the minister was referring to, so perhaps he might guide me again. Section 46 is headed "Amendment of implementation conditions by inquiry". Is the minister referring to subsection (4)?

Dr G.G. Jacobs: By interjection, Madam Acting Speaker (Ms L.L. Baker), I just quoted subsection (6) of section 39B, "Derived proposals" —

> If the Authority declares the referred proposal to be a derived proposal, it is not to assess the proposal except for the purposes of conducting an inquiry under section 46(4).

Section 46(4) reads —

> Without limiting subsection (1), if a proposal is declared under section 39B to be a derived proposal, the Authority may inquire into whether or not the implementation conditions relating to the proposal, or any of them, should be changed.

Mr C.J. TALLENTIRE: I thank the minister for that clarification. Section 39B does not help us when we look at something as enormous as a strategic assessment. By their nature, strategic assessments will be very big. For example, determining an LNG hub precinct, as this particular strategic assessment has been designed to do, has all sorts of complexities. I might say that the weight of responsibility on this particular strategic assessment has been loaded up because, of course, the Barnett government saw fit to cut through the previous site selection process for the Browse Basin LNG hub, whereas under the previous government a very rigorous site selection process was going on. I find it disappointing that this government ignored the original framework that was developed under the previous government. The Barnett government may live to regret that decision because of all the tensions that will come up because it did not stick to a well-determined process that was well thought out and had a whole lot of stakeholder input. However, the point that is relevant to this clause is how we make sure that the breadth of a strategic assessment picks up all the details—those important things that can go wrong at an individual project level of environmental impact assessment. That is where we need to have the guarantee that a project will be properly assessed should the Environmental Protection Authority or the community, or both of them, come together and decide that something is perhaps 90 per cent a derived proposal. Even if it is 99 per cent consistent with what the strategic assessment outline was all about, and just one per cent of a proposal is outside the bounds of a strategic assessment, that is where we are likely to have problems and that is why we need to have this appeal opportunity. That is where the minister has to provide more than a guarantee that the provisions of section 39B(4) will ensure that the EPA properly determines whether something is a derived proposal. We need more than that section, and in other parts of the EP act we have those sorts of provisions and there is that check and balance in the system. The minister needs to explain two things: one, how we can be absolutely sure that those very obscure things will be picked up; and, two, why this is not consistent with the appeal provisions in the other parts of the act.

Dr G.G. JACOBS: I thank the member for Gosnells for his rigour in this debate. What can I add? The EPA is the expert in all of this in determining the environmental impact. The EPA has criteria, as I have said. It is the EPA's role, as the WA environmental body, if one likes, to make the decision. I have to say that there will continue to be appeal points through the assessment process, including the EPA's report of the assessment of the strategic proposal. The government believes that this particular appeal point on the derived proposal is not necessary. The act is very specific that we will not get anything out of left field that is not under the strategic proposal, and, as I have quoted, section 39B(4)(a), (b) and (c) states quite clearly that the authority may refuse to

declare the referred proposal to be a derived proposal if it considers that there is any significant new or additional information that justifies reassessment of the issues raised by the proposal, there is a significant change in environmental factors, or the environmental issues raised by the proposal were not adequately assessed when the strategic proposal was assessed. Considering the EPA is the expert in this area, the government does not believe that an appeal process in that derived proposal area under the strategic proposal, which has an appeal process, is necessary, and it does not weaken the environmental watchdog component, if one likes.

Mr C.J. TALLENTIRE: I understand the minister to be saying that we have to get it right at the strategic assessment stage, and that that has to be done so rigorously and so thoroughly that we consider all the potential derived proposals that could come up in the future because all the assessment is done at that front stage. I wonder, then, whether in fact we are creating a situation in which there will be so many appeals on strategic assessments that we will find that by removing the appeal point on the derived proposal decision, people will take what one might call a precautionary approach, feeling that they have to appeal on every conceivable aspect of a strategic assessment because that is the only way they will have to determine the full extent of potential projects that could come up as a result of the strategic assessment going through. That is a great shame; the removal of this appeal point would be counterproductive to the whole point of having strategic assessments. That in itself is very different.

I would also like to put to the minister another scenario in which strategic assessments may be used. They might not always be used in a geographical sense; they might be used in a more thematic sense. Perhaps, for example, we could do a strategic assessment of the state's greenhouse gas emissions. If that were the case, how would subsequent projects deemed to be derived proposals be treated, when it will be quite likely that the extent of projects is beyond whatever the strategic assessment might determine as a reasonable limit for industrial greenhouse gas emissions?

Dr G.G. JACOBS: The member for Gosnells is now taking another tack; the strategic proposal is now very onerous because we have to consider all possibilities of proposals in and under it. The activities in and under a strategic proposal are considered on their merits and are appealable. As I have said, if there is anything new that does not fall under that strategic proposal, there is a check and balance under section 39B of the Environmental Protection Act. The act defines "strategic proposal" in section 37B, which in part states —

> (2) A proposal is a ***strategic proposal*** if and to the extent to which it identifies —
>
> (a) a future proposal that will be a significant proposal; or
>
> (b) future proposals likely, if implemented in combination with each other, to have a significant effect on the environment.

I am advised that the assessment of greenhouse gases does not fall within the definition of strategic proposal.

Mr C.J. TALLENTIRE: I think it is interesting that the minister is saying that an assessment of the state's greenhouse gas emissions would not fall under the definition of a strategic assessment; but obviously within the framework of a strategic assessment, such as the strategic assessment of the Browse Basin LNG hub, we would imagine that there would be consideration of greenhouse gas emissions. Could the minister clarify that point, please?

Dr G.G. JACOBS: It is not directly part of a strategic proposal. There are obviously other ways that those issues could be considered, but it does not fall under the pure definition of a strategic proposal.

Mr C.J. TALLENTIRE: I am now quite concerned by what the minister is saying. We know that when proposals are referred to the Environmental Protection Authority and assessed, a list of environmental factors are considered by the EPA. Certainly, for any project that is going to create greenhouse gas emissions, those emissions will be a serious factor in the consideration of the assessment of the project. If I have understood the minister correctly, he is saying that strategic assessments will not be looking specifically at greenhouse gas emissions. Then we have been told that strategic assessments will cover all the different issues and environmental factors that could arise from derived proposals. However, we have also been told that greenhouse gas emissions, just to use that example, would not be considered at the derived proposal stage. In fact, by pursuing the strategic assessment approach, especially when there is no recourse to appeal on a decision regarding a derived proposal, we are eliminating the chance for there to be proper consideration of one of the most serious environmental factors that we have in this state.

Dr G.G. JACOBS: Section 37B states, in part —

> (2) A proposal is a ***strategic proposal*** if and to the extent to which it identifies —
>
> …

(b) future proposals likely, if implemented in combination with each other, to have a significant effect on the environment.

That picks up what the member is saying about greenhouse gas emissions. If the greenhouse gases are emitted as part of the proposal, it could be part of a strategic proposal. If it is just a general policy issue in Western Australia, it is not about a particular project and does not fall under section 37B(2).

Mr C.J. TALLENTIRE: I do not think the minister has really clarified the point. What if we had a strategic proposal within which there was a decision that we could accept emissions of 30 million tonnes of carbon dioxide a year? That is probably the magnitude that we would be looking at with the LNG hub at James Price Point. That might be the limit, but what then happens when the derived proposals that come through are well beyond the scope of that initial allocation? It might have been sought through the strategic assessment, but then we might have individual projects that go beyond that. I can imagine that the minister's first response would be that that would mean that the project was not actually a derived project because it would fail to meet the definition set out under section 39B(4). However, the problem really arises when there are a number of projects, all claiming to be derived projects. It will be known that some of those projects will not succeed, but others will; that is where we need to maintain the flexibility to appeal, should there be, for example, three projects, each worth 15 million tonnes, but then a further project comes up that would exceed the initial 30 million tonne quota. What happens then? We will have lost the capacity to appeal that, just because there has been an initial strategic assessment that enabled the projects to proceed as derived proposals. If it was subsequently found that they were no longer derived proposals because of various time lapses, and they were proposals that were in train in the assessment process, we will have lost the opportunity to appeal. This is not just a matter of community interest; losing this appeal point will deprive the state of a useful ability to constrain projects where necessary so that the parameters of a strategic assessment are respected.

Dr G.G. JACOBS: I understand the scenario outlined by the member for Gosnells. The strategic proposal mentions 30 million tonnes of CO_2. The member is concerned that we might get a derived project under that proposal that belches out 60 million tonnes of CO_2, which we do not want and which would not have had the environmental scrutiny that it should have had. If a derived proposal that belched CO_2 was not mentioned under the strategic proposal, it would be caught under section 39B(4) of the Environmental Protection Act, which states —

> Despite subsection (3), the Authority may refuse to declare the referred proposal to be a derived proposal …

Section 39B(4)(c) states that the authority may refuse to declare the referred proposal to be a derived proposal if —

> there has been a significant change in the relevant environmental factors since the strategic proposal was assessed.

The authority may also refuse to declare the referred proposal to be a derived proposal if it receives significant new or additional information. The appeals process is quite a small part of the process in this case and does not abrogate all the environmental checks and balances in assessing these proposals.

Clause put and a division taken with the following result —

Ayes (27)

Mr P. Abetz	Dr E. Constable	Dr G.G. Jacobs	Mr C.C. Porter
Mr F.A. Alban	Mr M.J. Cowper	Mr R.F. Johnson	Mr D.T. Redman
Mr I.C. Blayney	Mr J.H.D. Day	Mr A. Krsticevic	Mr A.J. Simpson
Mr J.J.M. Bowler	Mr J.M. Francis	Mr W.R. Marmion	Mr M.W. Sutherland
Mr T.R. Buswell	Mr B.J. Grylls	Mr P.T. Miles	Mr T.K. Waldron
Mr G.M. Castrilli	Mrs L.M. Harvey	Ms A.R. Mitchell	Mr J.E. McGrath *(Teller)*
Mr V.A. Catania	Mr A.P. Jacob	Dr M.D. Nahan	

Noes (25)

Ms L.L. Baker	Mr J.C. Kobelke	Mr E.S. Ripper	Mr P.B. Watson
Dr A.D. Buti	Mr F.M. Logan	Mrs M.H. Roberts	Mr M.P. Whitely
Ms A.S. Carles	Mr M. McGowan	Ms R. Saffioti	Mr B.S. Wyatt
Mr R.H. Cook	Mr M.P. Murray	Mr T.G. Stephens	Mr D.A. Templeman *(Teller)*
Ms J.M. Freeman	Mr A.P. O'Gorman	Mr C.J. Tallentire	
Mr J.N. Hyde	Mr P. Papalia	Mr P.C. Tinley	
Mr W.J. Johnston	Mr J.R. Quigley	Mr A.J. Waddell	

Pairs

Mr I.M. Britza	Mrs C.A. Martin
Mr C.J. Barnett	Ms M.M. Quirk

Clause thus passed.

Clauses 5 to 17 put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

DR G.G. JACOBS (Eyre — Minister for Water) [3.28 pm]: I move —

That the bill be now read a third time.

MR C.J. TALLENTIRE (Gosnells) [3.28 pm]: I rise to speak to the third reading of the Approvals and Related Reforms (No. 1) (Environment) Bill 2009 and express my strong disappointment that the government does not understand the wisdom of the community regarding the assessment of environmental proposals. That reflects very poorly on the government, which seems to believe that the ultimate fount of knowledge about the Western Australian environment and projects that impact on the environment is to be found in only either the government or the business sector. That is not the case. In this day and age when we have such a high turnover of staff and when people move from company to company and from company to government with such pace and rapidity that they do not get to fully know and understand regions of the state and the sorts of projects that are coming up in different regions, they do not get to fully realise the history associated with many projects. That is why we need to access this third area of our community that we call the community sector—the non-government sector—in which there is so much knowledge and so much ability, to bring out issues that perhaps are not being properly contemplated by those who may be operating with the very best of intentions and who may be very keen to ensure that their mining proposal is as benign as possible, or that their project makes a valid contribution to the state of Western Australia. Sometimes those people who are responsible for those projects do not have the knowledge and background to do so. When we go around to different mine sites, we are struck by the low average age of many environmental officers—the young people who are putting together projects supporting a particular proposal, suggesting that it is fine to go straight through the system and suggesting that it is a derived proposal and therefore does not need to be subject to a separate assessment because of a previous strategic assessment. That is where the whole system begins to fall down. People with good intentions want to do their best, but they are operating in a system that has always been proponent driven. That is how we set up our Environmental Protection Act. We recognise that proponents have a right to develop a proposal, to contract the consultants that they wish and to have the argument presented in a way that would be favourable to their particular case. We recognise that it is a legitimate right of proponents to be able to do that.

To counterbalance things when we have this huge weight of capacity to develop very complex reports, arguments and justifications for projects, we had a system that had several appeal points. We have a situation in which the Barnett government wants to remove three crucial appeal points. That is a really sad moment in the environmental assessment history for Western Australia because it is depriving the whole process of one of its balancing features, one of the opportunities we have to get better outcomes. By eliminating appeals, we remove the opportunity for good community comment.

During consideration in detail we focused on the appeals relating to whether a project is a derived proposal from a strategic assessment. In focusing on that area, we really demonstrated that it is an unnecessary risk, especially when we consider the number of appeals involved, which is absolutely tiny. There is no real efficiency gain from these changes at all. In fact, if anything, I think we will see a slowing down of the whole assessment process, especially in relation to those strategic assessments, because people will have to act in a precautionary way and lodge appeals at the strategic assessment stage. What is going on is really quite counterproductive. We are not only depriving the process of one of its enriching features—those appeal points—but also forcing the community to lodge appeals at an earlier stage. That will have the consequence of making proponents think that the strategic assessment process is not one that they want to play by. They will prefer to have their own project put up for individual assessment under the more conventional Environmental Protection Act part 4 assessment process—a process that is triggered by a referral to the EPA under section 38 of the act. That is how I think most proponents will feel that they have certainty over the assessment of their project. They will not want to get caught up in a strategic assessment process. That is defeating this potentially very useful tool of strategic assessment under which we would be able to ensure that proper consideration is given to the suite of proposals that might emerge from the development of a particular part of the state.

I come back to the proposal for the LNG hub at James Price Point. It is quite reasonable to expect that at James Price Point there would be an LNG hub with various forms of downstream processing. I think it is a good thing that we have strategic assessment of that kind of project wherever it is in the state. I use the example of James Price Point because I understand that is the one strategic assessment that is in the system at the moment. What are the implications for a number of other projects that would come along following the creation of the LNG hub? We need to be able to do that. If we scare off proponents from being part of it in the future, we will weaken the overall assessment process. It is really a missed opportunity. It is a great shame that we are weakening the process in this way, but it has revealed something about the Barnett government's attitude towards environmental impact assessment and the knowledge that is in the community. It shows that the Barnett government does not believe that the community sector has strengths and contributions to make. That is a very sad thing. The community sector can make our state better by making sure that environmental impacts are properly considered, issues that perhaps the experts in the Environmental Protection Authority, as wonderful and knowledgeable as they are, may have overlooked—those things can be brought to the surface through these appeals mechanisms.

In the second reading debate we touched on the other appeals points relating to land clearing that are being eliminated. The justification was that we do not need to be able to appeal a decision by the Environmental Protection Authority if it is a project that will be assessed under the land-clearing provisions. The minister suggested that those land-clearing provisions provide for a level of assessment that is almost as good as the part 4 formal environmental assessment process. Obviously that is not the case; otherwise, why would we have an environmental impact assessment process if the land-clearing provisions are so comprehensive and capable of doing everything that the minister was suggesting? There is clearly a difference between the capacity of the land-clearing provisions and the assessment process within to assess things. There is a big difference between that and what a formal EPA assessment can provide. That is why we needed to retain that appeal provision for a land-clearing proposal to be appealed from the land-clearing sections of the act in the formal EPA assessment process.

I say again that we are not talking about large numbers of proposals. We are not talking about huge delays to the development of the state. We are talking about an erosion of the quality of assessment and a weakening of a system that had previously allowed for the assessment to be enriched by the contributions of the broader community. I will conclude my remarks on that point. I hope that at some point in the future we will not weaken appeals points and we can demonstrate our belief in a system that is proponent driven but can be enriched by community engagement. We should be able to resource that community engagement so it is as expert as it needs to be. In the future a funding mechanism should be found that enables third parties to be engaged in the process, with all the scientific knowledge that they may need to be active contributors, and that enables them to have the staffing levels they need to be involved in the process. We will need to come back to this Parliament to discuss that in the future. We need to talk about the benefits of having full community engagement in environmental impact assessment, the benefits that come through community engagement in social impact assessment, and a mechanism that enables us to have full community engagement in the economic benefits put forward by different proponents. There is cause for disappointment should this bill be passed by Parliament today, but I am optimistic that in the future the error of this bill will be properly understood and we will be back to revise things and make it possible for our system to allow community engagement in the future.

MS A.S. CARLES (Fremantle) [3.41 pm]: I rise to contribute to the third reading debate of the Approvals and Related Reforms (No. 1) (Environment) Bill 2009. I say from the outset, minister, that in the big picture we are looking at a world in which we have a deteriorating environment, an increasing population and more and more pressures on our precious natural resources —

The ACTING SPEAKER (Ms L.L. Baker): Member, we are having a bit of difficulty hearing.

Ms A.S. CARLES: You cannot hear me; it is a bit fuzzy. I will speak up a bit.

The ACTING SPEAKER: Perhaps now that I have said that, the people, the little munchkins, who operate the audio equipment will fix it.

Ms A.S. CARLES: Fine. I will quickly start again.

We live in a world with a deteriorating environment, an increasing population, increasing consumption and increasing waste and with more and more pressures being placed on our precious natural resources. We are in a vicious cycle of environmental destruction and this is not the time to be weakening our environmental legislation.

Turning to the legislation before us, I am very concerned about the loss of the three appeal rights with the enactment of clause 5(1) of the bill, which takes away three distinct legal rights of review and replaces them with merely an administrative ability to comment. That is quite staggering because we are not talking about removing appeal rights for community members or those the minister may regard as ratbags—although that certainly is not how I regard them, I know there is a perception that there are people who interfere and delay these processes. We are talking about removing appeal rights for any decision-making authority, responsible authority, proponent or other person who disagrees with an Environmental Protection Authority assessment in terms of the level of assessment, the scoping of the assessment and whether it is a derived proposal. This will affect proponents; that is, if they disagreed with the level of assessment, too bad.

One of the practical effects of this bill that I am very concerned about is the transference of challenge to other aspects; that is, by removing very important legal rights there will be an increase in other avenues, such as appeals on EPA reports and recommendations that occur later in the process, the use of section 43 of the EPA act to make submissions for intervention by the Minister for Environment, or legal appeals through the courts, which of course will result in greater uncertainty, longer delays and a lot more costs for all parties involved. I was directly involved in such an appeal several years ago before I was elected in which I took action in the Supreme Court on behalf of South Beach residents. Unfortunately, that action delayed the project by several years and there were a lot of costs involved for the community and for the government departments involved in that litigation—thousands and thousands of dollars worth of litigation. At the end of the day, Justice Templeman agreed that the local residents had the right to be heard in relation to matters that affect them. Accordingly, he established a legal common law right to be heard in the state of Western Australia.

By removing the legislated legal right to appeal, resident groups and affected people will be forced to rely on that South Beach case; that is, they will have to go to the Supreme Court to exercise their right to be heard by the state government. As I have said, that will dramatically increase the delays and costs for all parties concerned. I believe that if we were looking at this with common sense, we would look at introducing a third party appeal right, as all other jurisdictions in Australia have. That would bring certainty to the process, clarify everybody's legal rights and reduce the types of delays that I am talking about.

I also want to mention the rights of local people to be heard and the kinds of information that they often have. The South Fremantle tip site is another example of a case in which I was involved. That old unregulated tip on an 18-hectare contaminated site in Fremantle had been in the too-hard basket for decades. I was amazed that over many decades the federal government dropped quarantine waste, medical waste and munitions waste et cetera, yet claimed to have lost all the quarantine dockets describing the waste dumped on the site. It turned out that the local information given by the elderly people who had lived in the area for decades and decades was a more valuable record. They had seen trucks going down their streets at night to dump industrial waste in the tip site. They could even say where on the site the waste had been dumped. They knew the types of waste that had been dumped. I am talking about information that is not available to the government or to the people sitting in St Georges Terrace. It is available right next to the site we are talking about. It is often the local people who are privy to that information and who want a forum to share the information with the government, and they want a proper assessment of what that information may mean for them and their health. I think it is an act of arrogance and, quite frankly, stupidity to say that we are not interested in hearing from those people, and that we are going to reduce their rights to be heard on EPA decisions.

As a final comment, we can look today at the state of the Swan River and the Fremantle dredging operation, which shows that our environmental regulators are simply failing to protect the environment. The river is now absolutely filthy with silt and visible levels are constantly being breached at key locations such as Preston Point Beach. The ocean is also threatened. The spreading plume has cut light to the seafloor, threatening protected habitat areas such as the Halls Bank coral community and the seagrass. Nevertheless, under our current guidelines, absolutely nobody is accountable for this. I was warning about this possible impact at the very start of the operation when I realised that the EPA was changing its mind on the timing of the dredging, yet the port

authority and the EPA absolutely refused to act to put in place more stringent environmental conditions. I ask: who is accountable for the environmental damage to our Swan River and to our ocean ecosystems? I warn the government that today, by removing three critical levels of appeal rights and making it harder for the public to know what is going on, harder for them to see what is happening and harder for them to have a say, we are really taking the state and its protection of the environment backwards. I think it is a very sad day.

The ACTING SPEAKER: The question is that the bill be read a third time.

Point of Order

Mr M. McGOWAN: I assume the minister would like to wrap up the third reading debate, as is customary. As he saunters to his seat, I will provide him with the opportunity to do so. Although it not exactly within the standing orders to call a point of order, I think you will give me some leeway on this occasion, Madam Acting Speaker.

The ACTING SPEAKER (Ms L.L. Baker): Thank you, member. Minister.

Debate Resumed

DR G.G. JACOBS (Eyre — Minister for Water) [3.49 pm] — in reply: Thank you, Madam Acting Speaker. I thank the member for Rockingham for his assistance. I was somewhat put off because as the member for Fremantle stood to make her contribution, the member for Rockingham also stood and said something like, "Oh, let her go." I assumed that he would speak after the member for Fremantle. However, he obviously does not want to contribute to the third reading debate on the Approvals and Related Reforms (No. 1) (Environment) Bill 2009.

I thank the member for Gosnells for his input during the consideration in detail stage. I also thank the members for Rockingham, Mandurah and Fremantle for their input during the debate. I am the last person who would want to be a part of any weakening of the rigour of the state's environmental process given that my town of Esperance was rocked by a serious environmental event involving lead pollution. As a result of what happened in Esperance, 82 children recorded lead levels above the World Health Organization's recommended levels. Fortunately, the town has essentially recovered from that incident. It is important that I put the amendments that will be made to the Environmental Protection Act into perspective. The government is not abandoning the rigour of Western Australia's environmental processes. The member for Mandurah said that we would end up with a situation similar to the situations that occurred off the Gulf of Mexico and in the Timor Sea.

Mr D.A. Templeman interjected.

The ACTING SPEAKER (**Ms L.L. Baker**): Order, member for Mandurah! The minister has not accepted your interjection.

Mr D.A. Templeman interjected.

The ACTING SPEAKER: Members are well aware that the member on his or her feet must choose to accept interjections. I ask the member for Mandurah to please stop interjecting.

Dr G.G. JACOBS: It was considered that in specific areas the appeals process was duplicative and unnecessary. This legislation does not represent an abandonment of the whole process of appeals. It is specific to certain planning schemes and to particular clearing proposals. During the consideration in detail stage the member for Gosnells and I discussed the issue of derived projects or proposals under a strategic proposal and other aspects of scoping. It is important to note that there is an appeals process within a strategic proposal assessment. Section 39B of the Environmental Protection Act states when a derived proposal is not a derived proposal. I understand the opposition's concerns. It is worried that after a strategic proposal is carried out, someone will be able to sneak something in as a derived proposal and that derived proposal will not be put through environmental assessment and rigour and the public will not have the ability to appeal. The act is specific in that if a proposal falls outside the original scope of the strategic proposal and it is different or new, it will not be a derived proposal and will not automatically go through. It will become a referred proposal that will be subject to all the rigours that currently exist in the act.

The member for Gosnells mentioned land-clearing issues in his third reading contribution. It is important to note that when they were in government, certain Labor Party members supported a review of the appeals processes. The processes involved for land-clearing issues are duplicative. One has to go through a first proposal and if that proposal involves land clearing, he or she has to go through another proposal. When the member for Rockingham was the environment minister, he said that there was a need to review the processes involved in approvals for land clearing to make them less complex and frustrating. There was already an appeals process and land clearing was subject to environmental rigour of not only the assessment but also the ability to appeal. The ability to appeal exists under the environmental impact assessment's community engagement. Members have

suggested that we are removing the public's right to have input into environmental assessment processes. That is simply not the case. Member for Gosnells, the public will continue to have input in key areas in that EIA process. When public assessment is involved, people will have the opportunity to provide submissions. At the conclusion of the process, when the Environmental Protection Authority finally hands down its report and makes recommendations, there is still a right of appeal on that report, which is fundamental.

I could talk for some time about the appeals issues that were raised during consideration in detail. However, that is not necessary. Members can be assured that the government is not trying to shortcut anything. This bill will streamline the process—that does not mean shortcutting. I am the last person in Western Australia who would want to see a shortcutting of our environmental processes given the events that occurred in my town a couple of years ago.

I commend the bill to the house.

Question put and a division taken with the following result —

Ayes (28)

Mr P. Abetz	Dr E. Constable	Mr A.P. Jacob	Dr M.D. Nahan
Mr F.A. Alban	Mr M.J. Cowper	Dr G.G. Jacobs	Mr C.C. Porter
Mr I.C. Blayney	Mr J.H.D. Day	Mr R.F. Johnson	Mr D.T. Redman
Mr J.J.M. Bowler	Mr J.M. Francis	Mr A. Krsticevic	Mr A.J. Simpson
Mr T.R. Buswell	Mr B.J. Grylls	Mr W.R. Marmion	Mr M.W. Sutherland
Mr G.M. Castrilli	Dr K.D. Hames	Mr P.T. Miles	Mr T.K. Waldron
Mr V.A. Catania	Mrs L.M. Harvey	Ms A.R. Mitchell	Mr J.E. McGrath *(Teller)*

Noes (25)

Ms L.L. Baker	Mr J.C. Kobelke	Mr E.S. Ripper	Mr P.B. Watson
Dr A.D. Buti	Mr F.M. Logan	Mrs M.H. Roberts	Mr M.P. Whitely
Ms A.S. Carles	Mr M. McGowan	Ms R. Saffioti	Mr B.S. Wyatt
Mr R.H. Cook	Mr M.P. Murray	Mr T.G. Stephens	Mr D.A. Templeman *(Teller)*
Ms J.M. Freeman	Mr A.P. O'Gorman	Mr C.J. Tallentire	
Mr J.N. Hyde	Mr P. Papalia	Mr P.C. Tinley	
Mr W.J. Johnston	Mr J.R. Quigley	Mr A.J. Waddell	

Pairs

Mr I.M. Britza	Mrs C.A. Martin
Mr C.J. Barnett	Ms M.M. Quirk

Question thus passed.

Bill read a third time and passed.