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

Second Reading

Resumed from 16 September.

MR C.J. TALLENTIRE (Gosnells) [4.18 pm]: I rise to speak to this Approvals and Related Reforms (No. 1) (Environment) Bill 2009. As the opposition's lead speaker, I say from the outset that the opposition is opposing this legislation. It is legislation that sets out to weaken our Environmental Protection Act. I think all Western Australians have come to understand and realise that our Environmental Protection Act, although not perfect, offers a line of defence for our environment and the natural heritage of which we are custodians. Unfortunately, we have a state government that wants to eliminate certain appeal points in our Environmental Protection Act. The Liberal–National coalition believes that these appeal points are obstructing the ability of some organisations to make money as quickly as possible, are a hindrance to their profit-making activity and that we should therefore eliminate these appeal points. In my view and in the view of the opposition, that would put at risk our environment. It is simply not good enough. In fact, in this legislation we can see a stark difference between the actual political philosophies of the two sides of this Parliament. On the one hand, the Liberal–National government has a desire, perhaps, to ingratiate itself with industry. It wants to be able to say to industry, "Look, we're doing all we can for you; we're getting rid of unnecessary appeal procedures; we're getting the system more streamlined for you." It is prepared to make those kinds of commitments, those utterances, to industry, while putting our environment at risk and trading away important lines of appeal in our Environmental Protection Act. This is a change. I am not sure that members opposite necessarily understand the detail of the bill. I suspect that they have been guided by some people in industry who have very extreme views about the need for industry to be able to do whatever it likes. We have seen—we saw it in the federal election campaign—that the Liberal Party is very close to organisations such as the Association of Mining and Exploration Companies, which tend to represent smaller mining companies. We are hearing the sort of view that anything that could possibly diminish their profits is something that they will fight. Unfortunately, members on the other side of this Parliament are prepared to do the bidding of organisations like AMEC that hate anything that obstructs their ability to make profits.

I think that the essence of this bill is the removal of three appeal opportunities; that is, three opportunities for the public to be engaged in the environmental impact assessment process, often known as part IV and part V of the Environmental Protection Act. The three appeal opportunities that are to be removed are as follows. The first is in relation to planning schemes. I will go into this in a little more detail, but town planning schemes and the assessment of them for their environmental impact is vital. We use the planning process in tandem with the environmental impact assessment process to determine what future land uses are destined for an area of land and at the same time we are able to consider the environmental implications and the planning implications and bring all that together, which is why it is so important that there be this opportunity for people to appeal against the scope and contents of the planning scheme. That is one of the appeal removals.

I note that the minister representing the Minister for Environment is not actually in the chamber, so I am concerned that he may not be able to respond to some of the issues that are raised. Again, that is a poor reflection on this government's attitude towards environmental matters, and the Minister for Police laughs!

Mr R.F. Johnson: I am laughing at you and not what you're saying because some of the things that you say are very silly—some of the things are very silly!

Mr C.J. TALLENTIRE: I think that if the Minister for Police sticks with his portfolio area and ensures that the relevant minister is in the chamber, that would be of help to everyone in this place.

The second appeal opportunity that is being removed by the Minister for Police and his cronies relates to derived projects. These come about when we have a strategic assessment of an area and a project that the proponent claims is a derived project that is derived from the strategic assessment. There will be all kinds of contention around those so-called derived projects. I will go into this in a bit more detail as well, but I think it is clear from the outset that people will claim a project is a derived project when in fact it is very different in that it has many environmental factors associated with it that will be very different from the environmental factors considered in the strategic assessment. I shall return to this issue in more detail as well.

The third appeal point that is being removed relates to project proposals that are essentially around land clearing, which the Environmental Protection Authority deems can be assessed under the land clearing assessment process of part V of the Environmental Protection Act. It could well be—I shall provide some examples of this later—that there are cases in which the EPA, even with all its knowledge and wisdom, gets it wrong and believes that a project is uniquely about the land clearing aspects, but in fact there are other implications. That is why we need

to retain this right of appeal against the decision that the EPA might make to let something be dealt with under clearing provisions when, in fact, the project has far broader implications.

In essence, those are the three major changes to the environmental protection legislation; those are the appeal points being removed and those are the matters that the opposition objects to; and it is for that reason that we will not support the passage of this legislation through this Parliament. However, I want to say a bit about the environmental impact assessment process in Western Australia. The Environmental Protection Act has been with us since 1986. It has had different evolutionary phases, but it is legislation that has been worked out and developed with some very careful thought. I think that it has acted in a way that has at times reflected the political will of the government of the day and ultimately the system does allow for that. I will not pretend that I have been happy with every decision of the Environmental Protection Authority or every final set of ministerial recommendations that have applied to a project, but the fact is that we have had a very thorough and transparent process that has allowed for community comment on matters, allowed for community appeals at relevant stages and has enabled the community to be a part of the shaping of projects. Ultimately, that has led to better projects.

I could certainly relate to the house how in many cases people have lodged appeals over the years that have been based on their outright opposition to a particular project. They have not in effect actually stopped the project, but they have helped make the project less environmentally damaging. That is the strength of our Environmental Protection Act's environmental impact assessment process. It enables community comment to be accessed and to be properly considered and used in such a way that projects can become better designed, more thoroughly thought through and that the ministerial conditions that ultimately govern a project's activities can be properly designed to constrain certain activities and provide for review and any manner of things that enable a project to be better done. That is one of the strengths of our system. Therefore, it is fair to say that we really should be looking to strengthen the system and to retain it. It is an assessment system; it is not an approvals system. I note that this legislation is, of course, called an approvals and related reforms bill and somehow I think that in using that kind of language, we are suggesting that any proposal, no matter how terrible, will be given a green light in some way. We have to accept that some proposals are unacceptable and should not be allowed to proceed and that is why really we are talking about an assessment framework; it is not an approvals process.

I will talk a little more about the matter of community engagement and how it is presently one of the strengths of the system. Although it is one of the system's strengths, I think that perhaps it is an area in which some constructive improvements could be made to the legislation. There are circumstances in which a proponent—often a very wealthy resources company that has many staff on its payroll working on a particular project—will contract consultants to provide all sorts of technical competencies and all sorts of detailed technical information on a project. That is fairly standard practice for any of the major resource projects that we have. Many hundreds of thousands of dollars, or millions of dollars, go into the design of a project and into gathering information for the assessment process, for various engineering studies, for the consideration of planning implications—for all sorts of aspects. Fortunately, more and more companies are also putting forward social impact statements. Many hundreds of thousands of dollars in research goes into that kind of work. That is all very good.

I would also like to see a strengthening of the information provided about the economic benefit to Western Australia of these projects. At the moment we have to take it on face value. The fact is that all the reports are presently put together by the proponent. It is reasonable that the proponent is entitled to do that, but we are using a system that is proponent driven. That is entirely reasonable. It is only fair that we have corresponding resources available for comment on any aspect of information provided in support of a particular project. At the moment there is a gross inequity in place. I have spoken of the sorts of reports that proponents put together to assess that information. We are often talking about piles of documents, metres high in some cases, without exaggeration, when we look at the sort of report information put forward on different projects. That information is presented to government for assessment and consideration, sometimes as part of a formal process and sometimes as part of information to help convince ministers that the project is a good idea. We need to have a balancing resource available to enable people who have a third party interest to comment.

Let us take one example that has recently gone through the system. I think it is unreasonable that a company that has a project that involves a huge impact on Exmouth Gulf—that is, the proposal by Straits Resources to construct a 70-kilometre seawall on the eastern edge of Exmouth Gulf and construct salt ponds over 411 square kilometres on the eastern edge of Exmouth Gulf—can muster enough technical information to support its claim that that project, as massive as it was, would not alter the ecology of the Exmouth Gulf, as precious as that is and as vital as that is to various marine habitats including the Ningaloo Reef. We are talking about land that is immediately adjacent to mangrove swamps, which are the ideal breeding ground for many fish species that then migrate from Exmouth Gulf to Ningaloo Reef. We are also talking about engineering structures that would have an enormous impact on the hydrology of the eastern edge of Exmouth Gulf—the hydrology of the gulf could be completely altered. I recall that the company was keen to say that this is a low rainfall area and that the hydrology would not be changed. It presented studies suggesting that only one-in-50-year rainfall events would

alter matters. It is important to note that the runoff from the 411 square kilometres of land would be vital in providing a nutrient recharging of the waters of Exmouth Gulf. It would be vital for the productivity of the gulf in a biological sense and also, in a sense, important to commercial and recreational fishers. That kind of information has to be properly considered. When we have a company which has many millions of dollars at stake and which is churning out consultants' reports that are valued at least in the hundreds of thousands of dollars, it is very important that the community be adequately resourced to provide comment on those reports, and to provide that comment in a knowledgeable way. People should meet around the table and discuss the reports with the proponent. At the moment, community people who are paid nothing are sitting around the table, and sitting opposite are people from various corporations who are paid many hundreds of thousands of dollars and who are also on all kinds of bonus arrangements for getting projects through. That alone is an inequity. However, the real inequity is not just the payment to people who are sitting around a table; it is in the knowledge imbalance that can arise. The capacity for third parties to undertake important research and thoroughly critique the work provided by a proponent is absolutely vital to the ongoing integrity of our system. That is the sort of change we should be seeing in this amendment to the Environmental Protection Act. That is the sort of thing that would make for a better system. I know the priority of the government is about making the system one that can be used more quickly by proponents. By making sure there is community engagement that is properly funded, we would have a chance of having a more expedited process. People would lodge appeals only when they really felt they had to. I will come to that issue later. I know there is always a suspicion that appeals are sometimes lodged without good grounds. I do not think there is any evidence to support that case.

I was saying how important it is that we have an equalling of the resources that go to those who are involved in a project as proponents and those who are involved in a project providing third party critiques. We need government to be in a position to do its job well; it needs to be adequately resourced. We have certainly seen over recent years how that has not been the case because, unfortunately, there has been such a turnover of staff and difficulties in recruiting staff in fairly specialist areas that relate to environmental impact assessment that government has not had the capacity to churn these projects through the system in a rapid manner. In fact, that makes it all the more important that we have a system in place that can access that wealth of knowledge that resides not in the corporations, as they have so much staff turnover that they cannot hold on to knowledge any more, and not in government, because the pay levels are not adequate and the turnover of staff is so dramatic that knowledge is not held onto about particular regions of the state and particular projects that have had previous lives; the place where the wealth of knowledge really resides is in the community sector. That is why it is so important that we develop a system that enables us to access that knowledge, bring it forward and, when necessary, give the community the means to commission new studies to be done.

I now revert to the Exmouth Gulf example. At that time I was at the Conservation Council of Western Australia, working alongside people like Frank Prokop from Recfishwest and Steve Hood from MG Kailis Group. We were lucky that the Kailis Group was able to provide us with access to trawlers, which then enabled us to do some benthic habitat sampling of the Exmouth Gulf to establish through some isotope sampling that this recharging of the Exmouth Gulf was going on. There was the runoff, occasional as it was, from the Exmouth Gulf area where the proposed salt ponds were to go, and that area was vital to the nutritional status and the energy levels in the waters of the Exmouth Gulf. We were able to prove that the nutrients went into the gulf from the land adjacent to the gulf and provided vital nutrients for many of the life forms in the gulf. That is very technical work to do. It required sending samples to the United States, and it required a trawler to get those samples. It also required the time and the effort of the people we had out on the gulf to collect that sort of material at the right time—technical information such as that. Fortunately, in that case we were able to summon the resources to pull that information together, but that is seldom the case. For the vast majority of proposals that go through our environmental impact assessment process there is no resourcing at all for any third party comment and no resourcing at all for people to provide information to conduct research projects. That is a real tragedy. That is where we are missing out and that is the sort of thing that we need to be strengthening into the future.

In essence, I am saying that we have already seen that many projects have been strengthened by increased community input, but the quality of that community input could be further improved, and we need to continue that. Of course, any notion of the weakening of community engagement would be an absolute tragedy, and yet we are seeing that happen. With the removal of these appeal rights by way of the Approvals and Related Reforms (No. 1) (Environment) Bill 2009, we are seeing a weakening of the amount of community engagement.

Some of the other strengths of the part IV process of the Environmental Protection Act need to be retained and properly understood before we contemplate the elimination of certain appeal rights; things such as stop-the-clock mechanisms. It is only reasonable that if a proponent is taking an excessive amount of time—or any amount of time—to provide supplementary information to convince government that its project should be allowed to proceed, and if it takes time to do that, then that should not be counted as assessment time. But this is where we often hear cries from companies, such as companies that are members of the Association of Mining and

Exploration Companies, and others, saying, "It's outrageous that it's taken us so long to get our project through the system; it's just unfair. We're missing all sorts of windows of opportunity; the boom will be gone and we won't have gotten our project up." We hear all those sorts of absurd comments, when, in fact, those very companies are failing to get the information together that has been perhaps requested by third parties but then the Environmental Protection Authority has seen fit to ask the proponent to provide it. That sort of information has to be presented as a part of an assessment, and it should not be counted as part of the assessment time.

I will turn to a very important report that members considering this legislation would do well to review—namely, the forty-eighth report from the Standing Committee on Uniform Legislation and Statutes Review on the Approvals and Related Reforms (No. 1) (Environment) Bill 2009. The inquiry was chaired by Hon Adele Farina, and Hon Nigel Hallett was Deputy Chairman; and Hon Liz Behjat and Hon Helen Bullock are also members of that committee. That committee made some very useful findings that are directly relevant to the government's proposal to eliminate these appeal opportunities. Finding 19 refers to the issue of evidence that we have had a system that has been somehow hamstrung by the excessive use of appeal rights, and, thereby, the overuse of appeals. The committee's report states —

> **The Committee finds that, on the evidence made available to it, at least 50% of the time taken to resolve appeals —**

So this is not about the actual number of appeals—I will turn to that later—but rather the time taken to resolve appeals —

> **under Part IV of the EP Act is due to proponent delay.**

That finding was based on the evidence, and if members read the report they will see that there was difficulty in gathering the evidence together; it was not information that the department had readily available. But on the available evidence, at least 50 per cent of the time taken to resolve appeals is because proponents are taking an undue amount of time, and proponent delay. That is another matter that we have to consider in all of this. While proponents may complain about appeals and the delays, invariably they happen because of the tardiness of the proponent and the inability of the proponent to get the right technical expertise to do the work. A project, and the assessment of it, can be delayed because of a whole range of issues.

The system as it stands allows for appeals to be made at a fairly early stage in the process. I think that by removing the three appeal points the government is going to actually force a situation whereby appeals will be made towards the end of the process. As I have begun to outline, these appeal opportunities occur earlier in the assessment stage. That especially applies to an appeal on the designation of a project as a derived project, and it is appropriate that I turn to this issue at this time. We really only have one strategic assessment underway in the state that will enable a derived project to come from it—namely, the James Price Point LNG facility. There will be, of course, a very thorough strategic assessment of James Price Point. In referring to the concerns that many people have about the site selection process used for James Price Point, I would say in passing that I think the process that was being run by the Carpenter government up until September 2008 was excellent. It really enabled all stakeholders to be involved in that site selection process. Unfortunately, on coming to government, the Barnett government saw fit to suddenly decide on a particular site, and I think we are seeing the sorts of tensions and the results and consequences of that lack of stakeholder engagement because of this sudden cut decision that the Premier made about James Price Point.

The strategic assessment of that project is underway and from it, no doubt, projects will come forward that will be claiming derived-project status. With an LNG precinct there are all kinds of projects that could come up, and we can look at the example of the Burrup Peninsula and the projects that arose there after the construction of the Woodside-managed facility at the Burrup, projects such as methanol plants, other gas-to-liquids plants, fertiliser plants, and synthetic fuels plants—all kinds of plants. We have the technology to use that gas and process it and ship it from the Burrup. Interestingly, to my knowledge, really only the Burrup Fertilisers plant has got off the ground at the Burrup Peninsula. The state has invested many hundreds of thousands of dollars assessing projects such as the methanol project put forward by a Canadian company called Methanex, but suddenly the company decided that it was not feasible to go ahead on the Burrup and went elsewhere or abandoned the idea—it is not clear which. But, nevertheless, the state was involved in a very lengthy assessment process for that project. There have been many cases where that sort of thing has happened. Unfortunately, proponents do not necessarily let on how viable their project is; they just say that, at all costs, their project must be given an environmental green light through the environmental impact assessment system.

A situation could arise with a strategic assessment, though, of proponents claiming that their project is perfectly within the confines of whatever was considered through the strategic assessment process; there are all sorts of problems there. I think it is unreasonable for us to imagine, at that strategic assessment stage, that we can anticipate all the types of projects that there could be as a result of a strategic assessment. Because of changing

technology, we cannot anticipate the sorts of things that will arise. In some cases, obviously, the Environmental Protection Authority, in its wisdom, will clearly say, "Sorry; the project does not meet the outline of what a derived project within the confines of this strategic assessment should look like." That will happen probably more often than not, but I am sure there will be cases where there will be a degree of contestation and people will dispute whether a project is exactly as outlined.

I do not think that when the Burrup Fertilisers Pty Ltd project was assessed, we anticipated the technology that was being used there. Had that somehow been part of a strategic assessment we would have found that we had overlooked some of the technical aspects related to the project's cooling towers. We know there have been various pollution events there and different leakages have been quite well documented that the company has had to respond to quickly. Some of the issues came about, I think, because it was using old wooden structures. That sounds amazing when we think of something as technically sophisticated as a fertiliser plant, but these unusual situations do arise. It is very hard to anticipate the exact implications that can come from projects.

I think it is a serious mistake to think that we can remove appeal rights on derived proposals. Although the Barnett government has totally abandoned it, some of the strategic assessment work that was conducted in the Mid West area provided a very good framework for development of iron ore mines in the Mid West. It tackled the very complex and difficult issue of how we protect areas in which there are both high levels of biodiversity and high levels of iron ore prospectivity. It was an excellent strategic review that the Barnett government seems to have abandoned. But, in saying that, as good as a strategic review can be, we still need that capacity to look at individual projects because projects can involve details that may not have been anticipated, such as impacts on the water table. It is interesting that the minister who is representing the Minister for Environment in this chamber is also the Minister for Water. With each of these appeal points that are proposed to be removed, I see grave issues when it comes to the protection of water resources and water fall for environmental benefits.

I turn to the third type of appeal removal; namely, appeals that are on projects that the EPA has deemed to be manageable under part V of the act in relation to clearance regulations. We can well imagine a situation in which a landholder wants to clear 40 hectares. Although it is getting harder to imagine perhaps from a biodiversity perspective, it is possible to argue that that 40 hectares of a particular vegetation type is well represented in the conservation estate, that it does not provide a vital linkage to some form of ecological corridor and that it is not vital habitat. Perhaps there are still some vegetation types that are so abundant that the clearing of, say, 40 hectares would not be a significant issue from a land clearing perspective in terms of biodiversity loss. Perhaps it is possible that the destruction of 40 hectares of native vegetation will not be damaging through soil degradation, might not immediately lead to any erosion on an adjacent property or might not lead to any other form of soil quality loss. But the fact is that land clearing inevitably has implications for the water table; inevitably, that rise occurs. Some of those things can be considered through the land clearing provisions. They cover things such as the potential for a salinity problem to be exacerbated, but they do not look at whether the project for which the land to be cleared is viable in terms of the amount of water to be available to the landholder for use in perhaps a horticultural project. We need a system that is able to encompass in a very large way all the environmental factors that go beyond those looked at through the clearing process to check whether that water availability is within that catchment, and that there will not be the creation of acid sulfate soils and an inevitable run-off into a neighbouring catchment. We need that broader process. Many projects have implications for water resources that go well beyond the capacity of the clearing provisions.

There are also the vagaries around what a future land use may be. Someone might enter the clearing process to whom the EPA says, "You don't need to go through the environmental impact assessment system; you can just go through the clearing process." But then there might be a change in the land use intention: the landholder might wish to do something else that could have an impact on the environment in another way. He might want to build some form of light industry, and that could have an impact. The construction of huge hay sheds, for example, would be consistent with rural uses in some areas so it would be possible to undertake that kind of construction. The land clearing involved would be part of the consideration through the clearing process but it would not be considered to the extent it would be under the environmental impact assessment system. They are a couple of examples.

Another example that comes to mind is turf farms. Unfortunately, even with our drying climate, people still want to buy lawn from a turf farm. Turf farms are looking to expand; they want to clear land. A turf farm might put in an application or perhaps be referred to the EPA by the local government authority wanting to do the right thing, and the EPA could say, "Oh, well; this turf farm proposal can be dealt with under the part V clearing provisions." I think we need a proper environmental impact assessment process that looks more broadly than at just that footprint approach, that looks at the consequences of the production of more turf and more water demand in Perth. Some will say that some of the turf being grown at the moment is increasingly waterwise, although that is putting it too strongly; the turf is perhaps becoming more water efficient than was the case in years gone by, but I do not know that we can say that turf is ever going to be water wise. Nonetheless, I accept

that turf farms are necessary in some circumstances and further turf farms may be needed. However, I do not think it will be good enough for a turf farm to be assessed under the clearing provisions. We should therefore retain this appeal provision so that people can make that call and appeal under the clearing provisions against an eventual decision by the EPA to approve a turf farm. We need that appeal point in the system—that flexibility that comes through with that appeal provision. Otherwise, I think we will see a weighting of the system towards appeals that are made later in the process.

Another example of that perhaps comes with the removal of the appeal point relating to town planning schemes. Town planning schemes are obviously amazingly complex. The land use decisions that are relevant to town planning schemes have big implications on the day-to-day lives of people. These are the times when, suddenly, land is rezoned from rural to urban deferred, and in many cases people have to endure the disappointment of feeling they have gone from being in a rural area to one that is becoming quickly urbanised. If we remove this appeal against the scope and content of a town planning scheme, I think we will remove the opportunity again to access the wealth of knowledge that is out there. We will remove the opportunity to access the expertise that is in the community; that is, that on-the-ground knowledge that can tell assessors what is there and how people value it. But, no; the government has seen fit to remove that appeal right, and that is a great disappointment.

There are many other aspects to this legislation, because it is not an area that has been ignored by government in that several reviews have been conducted into the environmental impact assessment process and the appeals processes. There was the ESAG, which provided information to the minister. ESAG stands for the environmental advisory group—I am struggling to recall what the "S" stood for—which had many people from industry and from environmental organisations on it.

Dr G.G. Jacobs: Stakeholder.

Mr C.J. TALLENTIRE: I thank the minister. The Environmental Stakeholder Advisory Group was put together by the minister and it reported to the minister, I think, in December 2009. It had a very tight timeline. The essence of ESAG's recommendations was that the appeal provisions were quite acceptable. No recommendation came from ESAG that the appeal provisions that the government wants to remove be removed. There was nothing of the kind. That was an excellent group comprising people who were very close to the environmental impact assessment process, one might say from both sides of the fence; namely, those who were keen to get projects through and those who were keen to be able to comment on projects. ESAG provided comment, and its recommendation was that the appeal points be retained.

The Environmental Protection Authority conducted a review that was published in 2009, and again a host of excellent stakeholder groups participated in that and provided some good information. There is no recommendation from the EPA in its review of the environmental impact assessment process of March 2009 that the appeals process be in any way changed. It contained some interesting recommendations, though: that perhaps a more risk-based approach to environmental assessment could be looked at; that outcome-focused environmental assessments should be a part of things; that timelines for key steps in the EIA process be a part of things; that revised environmental policy framework and review priority policies be clearly presented; and that the number of levels of assessment, which presently number five, should be reduced to two. That is something that could, of course, be done through administrative procedures. We do not need a piece of legislation. We do not need to be debating legislation through this Parliament to change administrative procedures on the levels of assessment. Unfortunately, the government has seen fit to take up the time of this Parliament with legislation that I think will achieve very little in the sense of improving or speeding up the assessment process, and it is, in fact, possible that it will slow the process down and will weaken the process by removing those valuable opportunities for people to make comment. I just mentioned those levels of assessment and the new administrative procedures.

I noted that previously there were levels such as the assessment on referral information, the environmental protection statement level, the public and environmental review level, the environmental review and management program level; and, ultimately, the public inquiry level of assessment. When the Environmental Protection Authority gets it wrong on a level of assessment, there is that opportunity for people to appeal for the assessment to be done at a higher level. That approach has enriched our environmental impact assessment system. It is the approach that we should retain and continue with. Unfortunately, this government wants to remove those three levels of assessment I have mentioned that are so critical to the early stages of a project as well. What we could end up with here is more appeals coming in later on in the process, such that interesting and vital information will be presented at a final stage when a company may have made all sorts of commitments and had its policies, positions and financing in place for a particular style of project, only to find, because of an appeal system that reveals information later on in the process, that it has to make some dramatic changes later on. I do not think this will help proponents at all, and it is certainly not consistent with all the good work that has been done on environmental impact assessment in Western Australia over the years. It is the elimination of good community input opportunities. An appeal is an opportunity for the community to be engaged in the process and

to enrich and improve a project; it is not about obstruction. That is where the government may have got this wrong. The government believes that the word "appeal" in this context is all about people trying to slow things down. That is not the case. The appeal process has been a mechanism by which we could get some great community content and ideas put into a particular project. As I have said before, in this state, where we have such continual turnover, and we struggle to have good expertise in areas relating to all sorts of things from hydrology, to biodiversity assessment, to air quality analysis and any of the environmental factors that have to be considered as a part of a formal assessment, when we lose the opportunity for community expertise, we really lose one of the great strengths of our environmental impact assessment system.

Before I conclude my remarks, I ask the minister to consider the argument put forward by the opposition. As I have said, the opposition is opposing this bill. It would be a positive reflection on the government if it were to hear the strength of our arguments on this that there is no benefit in eliminating these appeal points at all and that we should be strengthening our system. Heaven knows, we do not see overall a global bettering of our environment; in fact, in many cases, all sorts of things are still going wrong. The system we have got has been helping us achieve a certain standard, but, of course, we want better. This removal of a set of appeal rights will only weaken the system further and cause greater environmental loss.

MR M. McGOWAN (Rockingham) [5.07 pm]: In commencing my remarks on this legislation, I first of all welcome to the chamber the new member for Armadale, who has replaced Hon Alannah MacTiernan and who did very well in the by-election a few weeks ago. I look forward to the member's first speech, which will take place in 20 minutes or so, and which I am sure will be an interesting address. In welcoming the member, I looked at his credentials. He somewhat reminds me of Dr Geoff Gallop, and he looks somewhat like him as well. I drew attention the other week to the similarities between the member for Warnbro and the member for Victoria Park and the fact that Hon Max Trenorden can barely tell them apart. Now that there are three members on this side who look very similar, Hon Max Trenorden will be all at sea! He will not know where he is when these three are in the chamber together, as the similarity between them is so great. I wish the member for Armadale all the best in his parliamentary career.

The Approvals and Related Reforms (No. 1) (Environment) Bill 2009 in some ways does not deal with some of the more important issues of environmental approval and assessment. I come to this position having been Minister for the Environment and having made some of the major environmental decisions that are currently having an impact in Western Australia and are supporting the state's economy. The Gorgon project is one project. I am also now the shadow Minister for State Development and I meet with the relevant companies, the proponents, the representative bodies and so forth, so I hear all the arguments surrounding these issues.

One of the most significant issues with approvals at the moment is the capacity and staffing of the responsible agencies. The Environmental Protection Authority support unit has now been renamed something else and the title of the person in charge of it has been changed. I understand that the person in charge is Mr Kim Taylor, who was formerly with the Department of Water. I have been advised that he has been appointed to that position. Kim Taylor was a deputy director at the Department of Environment and Conservation when I was the minister. I have the utmost respect for Kim. He is a terrific human being and a great public servant. I think he will do a good job. I think he replaced Michelle Andrews, whom I also knew when I was Minister for the Environment. She is a wonderful public servant as well. They are two very strong public servants. I hope Michelle still remains involved in the agency. I think she would be a big contributor.

With the economy gearing up again, support for the approvals agency is crucial. Making sure that there are enough people to perform the roles and jobs required is crucial. The Office of the Appeals Convenor has a very small staff. The Office of the Appeals Convenor, which deals with appeals from concerned members of the public, is an incredibly important office and needs to be appropriately resourced. As I understand it, the Office of the Environmental Protection Authority has roughly 60 or 80 staff. Basically, it has the same number of staff as a high school, and those staff are responsible for the environmental approvals of a state the size of Western Australia. I suggest that the best way of dealing with backlogs or a desire for greater speediness in approvals is to improve the level of and support for the people in the agency—not just create a new title for the agency, but actually give it some grunt. That is the best way of making sure that this particular problem is fixed. It has very good leadership. It needs more people to do other roles, particularly as the environment and the economy change and there is more demand for the services of the agency.

The government has been very good at renaming and recreating government departments. It has been exceptional at that. It has created five or six departments in its time in office and it has given some new titles. It has created commissioners. All those things do not necessarily improve service delivery. Often there are more people in senior positions. There are more chief executive officers, directors general, deputy directors general and the like, with all their associated support staff, but does this improve service delivery? In dividing up the Department of State Development and the Department of Planning and Infrastructure and in creating the new

Office of the Environmental Protection Authority, has the government improved service delivery, because one does not necessarily follow the other? All I am saying is that if the government wants to improve the performance of the approvals system—I do not share the cacophony or clamour of complaints about the approvals system; I think the people working in the approvals system do an extraordinary job in difficult circumstances—it should provide the system with the resources to do it. That is the first point I want to make.

The second point I want to make is that there are issues related to approvals in Western Australia that this bill does not deal with. One of the biggest issues in Western Australia is the proposal at James Price Point, 40 kilometres north of Broome. It is an extraordinarily big issue for this state. The Premier has decided unilaterally that that will be the point for a gas precinct, and that is now causing huge ructions in the Kimberley and nationally, and it did not need to be thus. I have heard recent commentary from a range of people about the compulsory acquisition process undertaken by the government. All I say to people is that the government did not need to take the course of action of compulsorily acquiring that land from Aboriginal claimants in that part of the world. Anyone who has been to the area—very few people probably have—will know that the people in that part of the world have a very strong connection to that land and a very deep interest in the future of that part of the world, and we should not be riding roughshod over their interests, desires and wants. Those people were as cooperative as they could be, but the actions of the Premier on his own are threatening investment in this state, threatening the state's reputation, and threatening the people in the Kimberley and all they have stood for for thousands of years. All I say to the government is that it can pull back, because there are other models to deal with these matters.

Last week I went to Onslow and met with representatives from Chevron Corporation. I went to Barrow Island and I looked at the progress of the Barrow Island development. I went to Onslow and the Ashburton north industrial estate. That is a model for how to work with local people. That is a model for how to achieve a good outcome. What has taken place at the Ashburton north industrial estate at Onslow has largely gone under the radar. It simply is quite an impressive effort by the proponents, principally Chevron, as well as the other companies involved in setting up the operations in that part of the world, including Shell Australia Ltd and BHP Billiton Ltd. Chevron has been the driving force and it has negotiated with the local people and reached outcomes that have achieved what should and could have been achieved but was not achieved in areas further north in the state.

I say to the government that there is a model for how to go about these things, and it is not the model that it has adopted in the Kimberley. The approvals mechanism by which the government has dealt with the issues at James Price Point has brought some shame and disgrace upon this state. I say to both the state and the responsible commonwealth minister, who appears to be in cahoots with the Premier on this matter, that they can pull back from the way in which they have gone about this proposal, stop spreading mistruths about the way the former government dealt with this matter and come up with a better way forward.

The Premier has in his office two former Woodside executives who own Woodside shares and who the Premier says are his principal advisers in these matters, yet the Premier pushed for the compulsory acquisition of land from Aboriginal people. When the Premier has people like that in his office pushing him forward on these matters, that says to me that there is something rotten in the way that this matter has progressed thus far. That is not the way to run an approvals system. That is not the way to deal with the people in that part of the world. That is not the way that the companies would want the Premier to behave, when he obviously compromises himself, his office and the state by acting in that manner. That is one of the biggest issues in this state, and it will go on for some considerable period. It will motivate all sorts of people from all walks of life from all over this country and potentially all over the world to act against what he is attempting to do in the Kimberley.

[Quorum formed.]

Mr M. McGOWAN: I was speaking about the approvals system and about some of the disgraceful conduct that has gone on in relation to the James Price Point proposal. I was speaking about how Western Australia's international and national reputation has been compromised by the fact that the Premier has pursued this matter in the way that he has with the people in his office responsible for that proposal. He has admitted in questions on notice that they are ex-Woodside employees who own shares in Woodside. If that is not a conflict of interest, I do not know what is. How can the Premier portray that his government has an approvals system that is robust, fair and free of any sort of improper conduct when he has that sort of conduct going on in his own office on a project that he conceived?

As I was saying to the house, there are other models for the way in which the Premier could have gone about this matter. One of those models, which I and a range of other members visited last week, is the Onslow–Ashburton north proposal. The massive Wheatstone project there has gone under the radar. I think members of the government were surprised that it even existed when they arrived in office. It is there in Onslow and it will provide thousands of extra jobs for Western Australians. However, there is a problem with that proposal: both

the Onslow and Karratha communities are running out of water. There is that level of activity going on in those communities, and those communities are desperate for water. Therefore, while this government pursues this James Price Point proposal in the way it is pursuing it, it is not at the same time resolving issues of great importance. I am talking about the issues of water for the Onslow community and for the Karratha community. In the case of Onslow, of course, the Wheatstone proposal, the Macedon proposal, the Shell Scarborough proposal and the entire precinct that will be created there is an enormous industrial development that requires a great deal of emphasis. I do not see any evidence of the government providing that. I do not see any evidence of the government resolving the water issues in those communities. Those communities cannot provide additional housing, even though they are ready to get on with the construction of housing, because this government is unable to provide them with water. These are issues that are completely off the Premier's radar, while he is pursuing these other issues that are damaging Western Australia's reputation in the Kimberley. This Premier has damaged Western Australia's reputation in the Kimberley with some of the issues there.

Mr V.A. Catania interjected.

Mr M. McGOWAN: I am sorry, member for Victoria Park; I do not need to hear from you at the moment!

Mr B.S. Wyatt: Hey!

Mr M. McGOWAN: I am sorry!

Several members interjected.

Mr M. McGOWAN: I was talking about where the member for North West lives. I am sorry. It is obviously news to Liberal Party backbench members; they do not recognise a joke when it is cracked! However, they are the very significant issues out there —

Several members interjected.

The SPEAKER: Member for Rockingham, take your seat for the moment. I am struggling to hear the member for Rockingham. Sometimes it is my inclination to hear the member for Rockingham. I would like to be able to hear him, though, members.

Mr M. McGOWAN: They are some of the very significant issues in relation to the approvals process. But there are others.

As we know, the government implemented what it called the 65-day rule. It is always making these sorts of rules. Obviously, it puts in place a rule and therefore the world will work. It has a four-hour rule for emergency departments. It puts in place a rule and therefore it will all happen surrounding the rule that it puts in. The government says it will happen. According to the government, it can legislate for anything. It therefore legislates for a rule and naturally everything will happen! As we know, it does not.

Dr K.D. Hames interjected.

Mr M. McGOWAN: People might not be in emergency departments, but they are in ambulances parked outside emergency departments. We know that.

I asked some questions of the Minister for Mines and Petroleum about the 65-day rule for the turnaround of various mining applications for the mining industry: exploration licence applications, general purpose licence applications and retention of mining lease applications. It turns out that across all categories, hundreds have not been approved within the 65-day limit. When the opposition heard all the stuff about how the approvals system was broken under the former government and people could not get anything done, apart from the 170 new mines —

Mr E.S. Ripper: And the doubling of the economy.

Mr M. McGOWAN: And the doubling of the economy. Apart from the Worsley project, the Gorgon project and the Pluto project, we heard all that stuff about how people could not get anything done, and that it took the Liberal–National government to come in and do it. I have the figures on the number of applications not dealt with within the 65-day limit. For prospecting licences, 157 were not dealt with within the 65-day benchmark since the implementation of the rule a little over a year ago in April 2009. For exploration licence applications, 202 were not dealt with within the 65-day benchmark. For retention of mining lease applications, 50 per cent were not dealt with within the 65-day benchmark. Admittedly, that represents only one application, because there were only two of them! In any event, 50 per cent were not dealt with within the time frame. For miscellaneous licence applications, 10 were not dealt with within the time frame, and for mining lease applications, five were not dealt with within the time frame.

Admittedly the majority of applications are dealt with within the time frame. However, the thing about a deadline or a rule is that I would have thought the rule would apply to everything; it is, therefore, a rule that

applies. But apparently it is like the public sector cap; it is a moving cap. It is like the four-hour rule for patients waiting outside hospitals; it is a four-hour rule that is broken all the time, but it is a rule.

Mr E.S. Ripper: It's like the wages policy: it doesn't apply to high-paid workers!

Mr M. McGOWAN: It is like the wages policy; it applies to low-paid workers but not to people in the Premier's office. It is like that rule.

The government brings in rules such as the 65-day rule, under which hundreds of mining applications are not meeting the approvals deadline set by the government. When the government came forward with this legislation, it missed a range of important issues. One of them that I outlined to the government is the staff in the Environmental Protection Authority; the second is the Premier's behaviour in the Kimberley LNG project and the creation of a perception of improper conduct in the staffing arrangements in the Premier's office; and the third is what the Premier is doing to Western Australia's national and international reputation. And here we have all of the government's rules in relation to the turnaround of licence applications, because, of course, this is a government that was going to get something done. It is going to get something done, except for those hundreds of applications by mining companies for exploration, for prospecting and for the retention of mining leases—except for the hundreds and hundreds of applications since the government brought in this rule in April last year that have breached that time limit. Hundreds and hundreds and hundreds have breached that time limit on this government's watch. This government created all these government departments with a bunch of chief executive officers and that was going to fix everything.

[Member's time extended.]

Mr M. McGOWAN: The government was going to solve all these problems with new public servants and new government departments. It did not put the public servants where they are required, in the EPA, but it created all these new CEOs, as we learnt recently—40 new members of the senior executive service across the public sector. The government created all these new government departments with directors general, CEOs and deputy directors general and all their support staff, but when we delve into the actual figures on the approvals process in Western Australia, we find that hundreds of mining lease applications, prospecting lease applications, and retention lease applications are breaching the government's 65-day rule—more than 300!

I suggest to the government that it says one thing and does another and this is an occasion of that. This legislation that the government is now going to put in place is a very minor part of what should be done to resolve some of the issues around the mining industry in Western Australia today.

Debate adjourned until a later stage of the sitting, on motion by **Mr R.F. Johnson (Leader of the House)**.

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