

BIODIVERSITY CONSERVATION BILL 2015

Second Reading

Resumed from an earlier stage of the sitting.

MR C.J. TALLENTIRE (Gosnells) [2.46 pm]: I will resume where I was before question time, saying that the Minister for Environment is giving himself powers that are being called the powers of God—the power to send a species into extinction, even though it may have taken millions of years to evolve. This minister believes he has the right to destroy something that has crafted itself and has evolved over thousands, if not millions, of years. The minister is prepared to send species into extinction. He is prepared to do that without even consulting the people of Western Australia. He is prepared to do that in a secretive, behind-closed-doors manner that is totally unacceptable with biodiversity conservation, the expectations of the conservation community and people in Western Australia in general. Playing God by sending species into extinction is one of the key failings, if not the absolute failing, of this legislation that is letting people down. The bill is letting people down who provided comment when they were given the opportunity.

This government is trying to pretend that it gave people the opportunity to comment on this legislation before it came into this Parliament. This government never gave the people of Western Australia the chance to comment on this legislation before it came into this place. The last time that people had a chance to comment was under the Gallop government, when the proposed biodiversity conservation bill was totally different and included such things as regional conservation plans, scientific advisory panels and the very best of a science hierarchy that would culminate in a biodiversity commission. That has all been eliminated. None of that exists in this bill, yet that is what the community asked for last time there was consultation. This minister came into this place yesterday and pretended that he had consulted with the public on this bill before it came here. The minister has perhaps offered to talk to people post—the event of introducing the bill in the Parliament, but he never spoke to people about the content of the bill before it came here. I will take the minister's interjection.

Mr A.P. Jacob: There was 20 years of consultation behind the bill.

Mr C.J. TALLENTIRE: The minister did not do any consultation on this bill—none at all! Yes or no, minister? The last time the concept of a biodiversity conservation bill was out for public comment was in what year? Was it in 2002?

Mr A.P. Jacob: No; it was 2007–08

Mr C.J. TALLENTIRE: Those were the Labor government years. That was not comment on a biodiversity conservation bill, minister. That was comment on a biodiversity strategy, which is quite a different thing.

Mr A.P. Jacob: Are you suggesting that comment changes if it is to the Liberal Party? Are you suggesting that the groups would give a different comment to a Liberal government than to a Labor government?

Mr C.J. TALLENTIRE: No, I am not suggesting that. The bill has changed entirely from what people's expectation was. Their comments back in 2002 were that Western Australia had to have a biodiversity commission, a biodiversity conservation strategy and biodiversity regional planning. Those were all the ideas that were going in, none of which is in the Biodiversity Conservation Bill 2015. The Minister for Environment took what might have been put forward in the early 2000s and rejected it. Then he came into this place in November last year with a bill that looks nothing like what the community expected in the early 2000s, yet he is telling people, "We've consulted on it because the Labor government consulted on it." That is an absolute distortion of the facts. The fact is the minister failed to consult on this bill. He offered consultation once the bill was tabled in this place, but then it was only very gentle consultation. The minister was surrounded by bureaucrats. People came in for hour-long briefings and he offered them a cocktail or something like that. I do not think it was a rigorous debate. It is a fact that the bill was already in Parliament. This gets to the real point of my speech and the second reading contributions that the minister will hear on the Biodiversity Conservation Bill—in its current form, this bill is unacceptable. It has to be amended so that it resembles people's expectations in the early 2000s. That is what I will put to the house. I will table my amendments shortly, and the minister will be able to see that if he accepts those amendments, he will be taking on board the consultation that was done in the early 2000s. He will be making sure that the bill meets the expectations of those who engaged in that public consultation. I thought it was very crafty at best. It was a rather sly manoeuvre by the minister, in his second reading speech, to talk about it as though he had done the consultation. The minister said —

This bill is the result of an extensive consultation process that started in 1992 with the release of a green paper for public comment. This was followed in 2002 with a consultation paper that attracted widespread community support. In 2004, comments were sought from 50 government agencies and these were incorporated into draft bills prepared in 2005 that have provided the basis for the current bill.

That allowed over 11 years of agency comment, which is very different from general public comment. Even allowing for that, the best the minister has is comment from others, outside of his own agency, 11 years ago. How can the minister possibly say he has undertaken good consultation on this bill? He just cannot at all. I will come later to the comments and remarks from various stakeholder groups about the legislation before us. In any other sector, it would not be acceptable for a minister to present a bill that is based on consultation that is over 10 years old. That would not be acceptable in any other sector, so why is the minister trying to make it acceptable in the environment sphere?

Mr A.P. Jacob: Member, just to be very clear: from the moment I became minister, I made it very clear to all stakeholders that for this bill to have any chance to get into this Parliament, I would need to be working on the drafting and that I would not be consulting until I got it into this place, given the 20 to 30 years of attempts that had achieved nothing. I was up-front about that from day one.

Mr C.J. TALLENTIRE: The member became Minister for Environment in early 2013. Is the minister saying that between 2013 and the time that he introduced this bill to Parliament late last year, he could not find the time to consult with the community sector and other experts on its content? We have a bill that fails to meet the mark and it is simply because the minister has failed to do the consultation.

Mr A.P. Jacob: Are you opposing it?

Mr C.J. TALLENTIRE: If the government does not accept our amendments, we will see what we do. We will move proposed amendments to it. The community consultation on this bill was around those essential elements —

Mr A. Krsticevic: Why are you opposing it?

Mr C.J. TALLENTIRE: If it is not a bill that meets the standards of contemporary biodiversity conservation legislation, why would we accept it? It is a backward step if it gives a minister things like a God clause. If it gives a minister the right to send a species —

Mr A. Krsticevic interjected.

Mr C.J. TALLENTIRE: I will take the member for Carine's interjection in a moment.

If this bill gives the minister the right to send a species into extinction without even letting the people of Western Australia know about it until after the event, it does not meet contemporary biodiversity conservation standards.

Mr A.P. Jacob interjected.

Mr C.J. TALLENTIRE: Where in the Wildlife Conservation Act 1950 does it allow the minister to send a species into extinction?

Mr A.P. Jacob: The Wildlife Conservation Act 1950 is not binding on the Crown; this proposal is.

Mr C.J. TALLENTIRE: Answer this question, minister: where does it allow the minister to send a species into extinction?

Mr A.P. Jacob: The Wildlife Conservation Act is not binding on the Crown; my proposed biodiversity bill is.

Mr C.J. TALLENTIRE: This bill allows the minister to send a species into extinction. He is not answering my question.

Mr A.P. Jacob: Yes, I am.

Mr C.J. TALLENTIRE: The Wildlife Conservation Act does not allow the minister to send a species into extinction. This bill will, and what is more, it will allow the minister to do it in a secretive, behind-closed-doors manner.

Mr A.P. Jacob: That is not true either, member.

Mr C.J. TALLENTIRE: Has the minister read clause 42 of his own bill? Let us go right now to clause 42 of the minister's own bill. We will have this conversation again no doubt in consideration in detail, but clause 42 makes it pretty clear to me that the minister would have the powers to send a species into extinction.

Mr A.P. Jacob: Yes; I am not denying it.

Mr C.J. TALLENTIRE: The minister is not denying it now? Right, that is good, we are making progress. We are seeing things in the same way.

Mr A.P. Jacob: It is not secretive at all.

Mr C.J. TALLENTIRE: Clause 42(3) states —

If the Governor gives an approval for the purposes of subsection (1) —

That is all about taking things —

Mr A.P. Jacob: The Governor's approval, not the minister's—oh, that is different!

Mr C.J. TALLENTIRE: No; the minister gets the Governor to sign off on the approval. The clause continues —

- (a) the Minister must cause a copy of the approval to be laid before each House of Parliament as soon as is practicable after the approval is given; and
- (b) the Department's annual report must include details of the approval.

The minister might have been listening earlier on, and other members who were not in the chamber were probably not listening, but I pointed out that that means the minister could have the Governor sign off on an approval in, say, early December and the project could go ahead in January. The first the public would hear about it would be when Parliament comes back. The extinction has happened; Parliament has come back in February and it is gone. That would be the first the people of Western Australia would hear about the extinction of a species—a species that might have taken millions of years to evolve. The minister has just consigned it to history and no discussion—behind closed doors. Is that not the case, minister?

Mr A.P. Jacob: I am trying to keep your comments accurate; you referred to the minister. The minister needs the Governor's approval. The minister of the day —

Mr C.J. TALLENTIRE: The minister is saying the Governor is going to reject the minister's application by not signing it?

Mr A.P. Jacob: It would require a cabinet-level decision, so there is another layer there.

Mr C.J. TALLENTIRE: That is not mentioned in here at all.

Mr A.P. Jacob: It would require that to go to the Governor, and it would be a very public process. We can get into that during consideration in detail.

Mr C.J. TALLENTIRE: We will get into it during consideration in detail, but it is not in here at all, minister. There is nothing in the bill about this being a cabinet decision. There is nothing in here about the transparency requirements.

The minister attacked the conservation community over the weekend by saying that they were behaving in a way that bordered on political activism. I would say those groups have every right to be active in the political space. Of course they are, minister. Did the minister mean that they were being party politically active?

Mr A.P. Jacob: I would say some of them, yes.

Mr C.J. TALLENTIRE: That is quite an accusation the minister is putting forward there. I am sure they will be interested to hear that.

Mr A.P. Jacob: Not all.

Mr C.J. TALLENTIRE: The point is they have unanimously said that the minister is giving himself powers to play god with the evolutionary history of this state; species that have taken millions of years to evolve. The minister is prepared to do it because some mate of his gets in his ear and says, "Look, we want this project to go ahead. Let us do it." The minister will front up to the Governor to get him to sign something, and then it is gone. The minister wants to go into this further in consideration in detail, and we certainly will. It is a major flaw in this bill. How could the minister possibly have a bill that is supposed to be about the conservation of our natural heritage, of our native flora and fauna, and be prepared to sign off on its extinction? That is completely contradictory to a properly crafted biodiversity conservation bill. That is clearly an issue of contention.

I turn to some of the comments made by various environmental organisations. Recently, the WA Forest Alliance said that the planned legislation reveals the Barnett government's contempt for environmental values and our state's precious and much loved wildlife. It said that the legislation will not protect our precious wildlife. According to its website, World Wide Fund Australia's concerns —

... follow a recent white paper from the WA Environmental Defender's Office which found the bill in its current form should be abandoned.

Mr A.P. Jacob interjected.

Mr C.J. TALLENTIRE: Has the minister read the Environmental Defender's Office paper?

Mr A.P. Jacob: Yes I have; it was incredibly inaccurate.

Mr C.J. TALLENTIRE: The minister can point out all its inaccuracies when we come to it in a moment.

Mr A.P. Jacob: We will do that in consideration in detail.

Mr C.J. TALLENTIRE: The EDO's paper is not up for discussion during consideration in detail, but we will deal with it between this contribution and consideration in detail.

The WWF also stated —

The proposed new laws:

- Allow the Minister to authorise actions that would cause a species to become extinct;
- Fail to provide a strong emphasis on protection and enhancement of biodiversity;
- Severely limit transparency and independent science-based decision making with excessive Ministerial and CEO discretion;
- Increases fines for the killing of threatened species, but at the same time undermines this action by removing prison time as an option for the most serious of offences.

I will dwell on one point, which is the issue of an independent, science-based decision-making process. Scattered right throughout the Biodiversity Conservation Bill 2015 is that it is all down to ministerial discretion, not the advice that the minister might gather from a legislated scientific advisory group. There is no mention of such a body in this legislation.

Mr A.P. Jacob: Is there mention in the current act of such a body? No.

Mr C.J. TALLENTIRE: I think there is; there is in others. There is mention in the Conservation and Land Management Act, or there was until the minister eliminated it from the CALM act. The minister is right that in current legislation there is no reference to a scientific advisory panel, but that is only because he removed it last year. We had a debate last year about the need for a scientific advisory group for the Marine Parks and Reserves Authority. The government removed it.

Several members interjected.

Point of Order

Mr D.J. KELLY: I am trying to hear the member for Gosnells but all I can hear are the continuing interjections from a very supercilious minister. I draw that to your attention, Mr Acting Speaker.

The ACTING SPEAKER (Mr N.W. Morton): The member on his feet has indicated that he is willing to take interjections. He is directing his comments to the minister, which makes it very hard for the Chair to provide protection. If the member wants to direct his comments through the Chair, I will afford him all the protection of the Chair.

Debate Resumed

Mr C.J. TALLENTIRE: I am happy to take interjections from time to time, so long as they are part of a reasonable exchange and only when they do not speak over my responses, because obviously I have the floor.

The point is that last year we had a substantial debate about amendments to the Conservation and Land Management Act and within that was the creation of the Conservation and Parks Commission. We previously pointed out the merging of the two bodies, the Marine Parks and Reserves Authority and the Conservation Commission. The Marine Parks and Reserves Authority—the minister would remember this well—had the legislated power to consult or create a scientific advisory group. The minister said that such a body need not exist.

Mr A.P. Jacob: Did it exist at all this century?

Mr C.J. TALLENTIRE: Yes, it had been used.

Mr A.P. Jacob: No, it had not been used.

Mr C.J. TALLENTIRE: It had been used, minister, on numerous occasions in different forms.

Mr A.P. Jacob: It had not been used since the 90s.

Mr C.J. TALLENTIRE: It had been used, minister, and very usefully so. I would have thought that if ever there was a time when we needed a scientific advisory group for marine conservation and the creation of marine parks, it would be during a big transformation of our marine conservation areas. There is already much discussion about how the minister's parks look like paper parks with no real conservation benefit because there are no designated protected areas. The minister needs the protection of a scientific advisory panel —

Mr A.P. Jacob interjected.

Mr C.J. TALLENTIRE: Hang on a minute.

A scientific advisory panel would enable the minister to justify the configuration of a marine park. He needs the protection of a scientific advisory group that can say, “This is the area that we’re calling the no-take area and this is the area where, yes, it’s part of a marine park, but basically you can do whatever you like.” That is what the minister needs, but he will not have it because he did not create scientific advisory panel power in the Conservation and Land Management Act.

Mr A.P. Jacob: Does the threatened species advisory committee exist now?

Mr C.J. TALLENTIRE: Under which legislation?

Mr A.P. Jacob: Does it exist?

Mr C.J. TALLENTIRE: Federally?

Mr A.P. Jacob: Does it exist at the state level and does it advise me on every single listing decision?

Mr C.J. TALLENTIRE: It is not legislated for.

Mr A.P. Jacob: It is not legislated for now and it never has been, but it exists and it has been used by every minister for the environment.

Mr C.J. TALLENTIRE: The minister has given himself unfettered powers; it is all down to ministerial discretion. This gets back to the whole issue of the consultation rounds that went on in the early 2000s when Dr Judy Edwards was the environment minister. The overwhelming view was that the legislation had to have a structured process that used scientific advisory panels. That was the view, but this minister did not want to hear it, which is why he did not go out to consultation. That is why he did not want to talk to people about this legislation. He wanted to bring it in here and ram it through as a *fait accompli*. He wanted to get this legislation through without scientific advisory panels: “Trust me, I am the minister. I am the man who can send things extinct and it doesn’t matter.” That is what he wanted to be able to do.

Moving on to other comments by other stakeholders, I refer to a local group—it is not that local to me—the Kalamunda-based Nature Reserves Preservation Group, which said that it has been waiting a long time for this legislation. It pointed out that currently in Western Australia—it had to go back to the “State of the Environment Report: Western Australia 2007” for its figures, and I will say a bit about that—there are 362 threatened plants, 199 threatened animals and 69 threatened ecological communities. The best information it could get was from the 2007 Western Australian state of the environment report. It is an absolute disgrace that this government has shown no inclination or effort towards producing another state of the environment report. The current report is nearly nine years old. Why is the government not producing another one? These reports take a few years to produce and cannot be churned out tomorrow. These reports take at least three years of extensive comment and work by specialist panels that comprise academics and people from industry. It involves a very thorough peer review process that culminates in the publication of a state of the environment report. The last one was produced in 2007. The minister has not made any effort to ensure that the Environmental Protection Authority—because it was the EPA that drove that process—produces another state of the environment report. The best that people like my friends in the Nature Reserves Preservation Group can do is look at the 2007 report. That is the best document that it could find to get the latest statistics on the number of threatened and endangered species in Western Australia, which is after all the justification for this legislation. That is shameful.

Underneath the state of the environment report is biodiversity auditing. Where have we gone with that? The last time a decent biodiversity audit was produced was in 2002. I have learnt from questions asked at various committees that about \$500 000 worth of investment by the Department of Parks and Wildlife has gone into the production of a second biodiversity audit. I once asked the minister about this during question time, but he did not know anything about it even though it is \$500 000 out of his budget. He did not know where the second biodiversity audit was at. The last one from 2002 is a magnificent hardbound publication. I expect that now we could go to an online version, but it should not be something that is shrouded in secrecy and to which the general public cannot access. It should be out there for people to look at. Where is the biodiversity audit? Why has it not been produced? The minister should grab his phone to text his minders and find out where it is. It is a massive investment. I think hundreds of staff have been involved in its production, yet the public has not had the benefit of a second biodiversity audit. Why not, minister?

I move now to another area. I want to look at some of the expectations that we should have of this Biodiversity Conservation Bill when we compare it with the legislation that is in place in other jurisdictions. The commonwealth legislation provides for national strategies as a key part of the decision-making process. It also provides for bioregional plans. This issue was raised in early 2000 when people were making submissions on this bill. I was one of those people. I was actively involved in making submissions. I can recall many discussions about the need for good bioregional planning. Bioregional planning means that we set objectives for a particular bioregion—for example, that we will not allow any more loss of habitat for the chuditch—and we then shape

a bioregional plan around those objectives. This was discussed with industry groups at the time, and they thought it was a good idea. They could see that if a bioregional plan was in place, and a project did not compromise the key objectives of that plan, that might mean that the proposal would be given expedited approval. It all made sense and was a good way to proceed. Over many years, natural resource management groups and their precursors, and the land care movement, have been working on the various bioregional plans. That means that people can tap into those plans and develop, perhaps with a bit of tweaking, a bioregional plan for each of the seven natural resource management areas of the state. People can then see clearly expressed the biodiversity objectives for the Kimberley, the biodiversity objectives for the Avon —

Mr A.P. Jacob: You've got to be joking! We're rolling out an \$80 million-plus Kimberley science and conservation strategy, the largest expansion of the conservation estate ever seen in this state, and you're more interested in glossy documents, member for Gosnells!

Mr C.J. TALLENTIRE: I thought the minister would have something to say that was relevant to the debate. Several members interjected.

The ACTING SPEAKER (Mr N.W. Morton): Members! As I have indicated previously, I am happy for the member for Gosnells and the minister to have some exchanges, but I am not going to have other members joining in. Member for Churchlands, I call you to order for the second time; and member for Bassendean, you are on notice.

Mr C.J. TALLENTIRE: Thank you, Mr Acting Speaker.

The point of bioregional planning and of setting out the objectives is that people can see clearly what the intent for that area is and what things we want to protect. People who have projects can then see whether their project will meet the objectives of the region, and that may avoid the need for them to go into environmental impact assessment. This is another area in which the minister's bill fails dramatically. The bill fails to express how it will integrate with the Environmental Protection Act. It also fails to express how it will integrate with the commonwealth legislation. It is not clear how these three pieces of legislation will work together.

The biodiversity conservation legislation in other states sets out very clearly the conservation objectives for the state. The Nature Conservation Act 2014 of the Australian Capital Territory provides for strategies to be developed. The minister may not see the point in developing strategies. Earlier today when the minister interjected on me, he said that he thinks a strategy is the same as a piece of legislation. The minister said that some public submissions had been made on a document. The minister thought that was the biodiversity conservation green paper or something that would be a precursor to this bill. The minister thought that had been done in 2007 or 2008. What the minister was actually talking about was submissions on the strategy. The minister clearly does not understand the difference between a biodiversity conservation strategy for the state and a piece of legislation that will become a biodiversity conservation act. The minister does not understand and that is a serious problem, because it means that the minister will not be able to direct his agency. Strategies are set up so that the agency will know what its tasks are, what the roles of other players are, and who is responsible for developing a threatened species recovery plan or an interim species recovery plan, and what resources have been provided to the agency to perform that role. The minister fails to understand that if a strategy is in place, we can talk about the role of private landowners in bringing species back from the brink. This is why I suspect the minister got himself into the trap of cancelling the Land for Wildlife program. That project now exists in name only. Previously, about 12 Land for Wildlife officers were working across the state. Those officers have now gone. There are now no officers in the field. The minister does not understand that those officers played a vital role in the proper application of the biodiversity conservation strategy. I am not talking just about the conservation estate. This is something that I do not think the minister understands. The percentage of the state that is in government ownership will never be adequate to help us meet the conservation objectives of Western Australia. The minister needs to work with private landholders and put in place strategies to enable that to be done.

The minister's efforts in managing and directing the overall conservation thrust of the Department of Parks and Wildlife has gone completely astray. That is because the minister has focused on things such as improving camping grounds. The minister has done a lot of work in that area. However, when it comes to ensuring that DPaW has a defined strategy that it can work towards, the minister has not done that at all. The minister gave himself away earlier. He is clearly confused about the role that an act of Parliament can play and how that can relate to an actual strategy.

The ACT legislation contains special requirements for Ramsar-listed wetlands. This legislation does not refer to Ramsar. The legislation fails on that count. I know the minister is not particularly fond of wetlands. Late last year, the minister cancelled the environmental protection policy for the wetlands on the Swan coastal plain. The minister has also cancelled the environmental protection policy for the wheatbelt wetlands. In the very dry environment of the south west wheatbelt, the wetlands are very precious. One of the reasons the minister

cancelled the environmental protection policy is that he reckoned that not many wetlands are listed on that policy. That is because, again, the minister had not put in place an overarching strategy to direct DPaW to make sure that it brings the various wetlands into that environmental protection policy.

The Victorian biodiversity conservation legislation provides for a scientific advisory committee. The Tasmanian legislation provides for a statewide strategy, abatement plans, and a scientific advisory committee. The Queensland Nature Conservation Act 1992 provides for an independent scientific advisory committee. All jurisdictions around the country have made provision for scientific advisory committees, or whatever we like to call them. All those jurisdictions have ensured that science is at the core of determining the strategy that is undertaken for the recovery of threatened species. If this bill goes through in its current form, Western Australia will be the only state in Australia that has a biodiversity conservation act that does not reference a scientific committee. Why is that? It is all because the minister wants to be able to play god. He wants to be able to make the final decision. All the way through the bill, it is down to ministerial discretion. There is nothing in here that obliges the minister to listen to science. All the other states have that; they all have reference to a scientific advisory committee that is integral to their decision-making. It is a protection for the minister. The minister should be looking to make decisions that are not vulnerable to attacks, such as: the minister has had a win here, and he liked that species so he has gone and listed that one; he did not like that one, and it is on his mate's property, so he did not list that species. The minister needs to protect himself from those kinds of attacks, so he needs to have good science that supports his decision-making to list or not list a species.

I must move on, because I have only 15 minutes.

Mr A.P. Jacob: Do you want me to make a verbal commitment on that?

Mr C.J. TALLENTIRE: On what?

Mr A.P. Jacob: Every minister for the environment seeks the advice of the Threatened Species Advisory Committee, and every minister in the future, I suspect, probably will, and I certainly will. The Threatened Species Advisory Committee will continue.

Mr D.J. Kelly: Well, that is very reassuring.

Mr A.P. Jacob: It is in *Hansard*.

Mr C.J. TALLENTIRE: It is not part of the legislation; that is the problem. The minister will see my amendment that will ensure that it becomes part of the legislation. If the minister is saying that that is what he is going to do anyway, then I guess he is agreeing that he could accept my amendment and support it. I look forward to him agreeing to my amendment on the inclusion of a scientific advisory group that will give him the best scientific advice. Otherwise, what does this look like? On the one hand, the minister wants to be able to send into extinction species that have taken millions of years to evolve, and he also wants to be able to ignore scientific advice if it does not suit him. He does not want it to be legislated in the act that he must give reasons for going against scientific advice. That is how the other states run this; that is how contemporary legislation should be written. If the minister is deviating from the recommendation of expert advisory panels, he should be publishing reasons. The Western Australian public is then in a good position to judge what he is doing.

Mr A.P. Jacob: That is what the bill requires me to do.

Mr C.J. TALLENTIRE: The minister says that the bill requires that, but he has just said that the bill does not mention a scientific advisory group, so how can it require the minister to publish reasons for going against the recommendation?

Mr A.P. Jacob: Member, you are being a bit disingenuous here, because this bill for the first time requires me to publish my reasons for the decision.

Mr C.J. TALLENTIRE: I am not talking about the minister's personal reasons; I am talking about his reasons relative to the advice of a scientific advisory panel that is enshrined in the legislation. There is no scientific advisory panel in this legislation.

Several members interjected.

The ACTING SPEAKER (Mr N.W. Morton): Members, I have allowed a lot of leeway, but it does make it difficult when you are both competing to be heard by Hansard. Member, as you have indicated, you only have about 13 minutes left, so if we can just bring your comments back through the Chair and hear them in an orderly fashion.

Mr C.J. TALLENTIRE: Thank you, Mr Acting Speaker; we will be able to debate this further at another stage. The minister has indicated that he has read the Environmental Defender's Office report—its white paper, published in February 2016. I did read somewhere that he made comment that it is full of errors, so I look forward to him pointing out to me all those errors. I would say that this is a very comprehensive document that

has detailed analysis and provides some very useful points. An issue that I want to touch on is the concept of ecologically sustainable use. I will quote from page 5 of the white paper —

The problem with the Bill is that “ecologically sustainable use” (ESU) – the phrase used throughout the Bill and particularly in the Bill’s objects – is defined differently than the phrase “ecologically sustainable development” (ESD). Section 5 of the Bill defines “ecologically sustainable use” in such a way as to permit, even promote, short-term declines in the State’s biodiversity, notwithstanding the principles of ESD to which regard is to be had in Minister or CEO decisions. Section 5 defines “*ecologically sustainable use*” to mean “*use of the biodiversity components in a way and at a rate that does not lead to the long-term decline of biodiversity ...*”

I am very concerned, when I look at aspects of this legislation—we will debate this at length no doubt—that there is the power for the minister to not just send species into extinction, but to allow them to go into serious decline that may then lead to their extinction. That could be on the basis that he thinks that they could recover at a later time, but basically he would be hoping that he is no longer around, and his parliamentary career is long gone, and that this recovery might magically happen. That is just a cross-your-fingers approach to being an environment minister; it is not a proactive approach at all.

I know there is great interest in the chamber in sandalwood. I know that members are appalled that sandalwood, a commodity that is sometimes valued at \$10 000 to \$15 000 a tonne, can be taken illegally, and the worst penalty that someone risks is a fine of about \$200. It is good that we are looking to improve things with sandalwood. However, when I look at what is before us—the minister even made a point of making a brief ministerial statement on this today—I am looking to find what research we have. He is talking about a quota. He says that the quota will go from 3 000 tonnes down to 2 500 tonnes from 1 July this year, and his ministerial statement states—

The new harvest level requires that green or living sandalwood does not exceed a maximum of 50 per cent, or 1 250 tonnes each year, and includes all parts of the tree except leaves, bark and very small branches, in order to maximise what is used.

An inquiry into sandalwood was held by the Standing Committee on Environment and Public Affairs in the other place. In a hearing on 24 October 2012, the then Department of Environment and Conservation made a submission that the sustainable green sandalwood harvest should not be more than 200 tonnes per annum. Why is the minister saying that he is prepared to accept a total of 1 250 tonnes a year—more than six times the amount that the DEC experts said would be acceptable? We clearly have some problems with sandalwood. What a nasty situation for the opposition to be put in. On the one hand, of course, we want better penalties for the illegal taking of sandalwood, but on the other we are potentially locking in a harvest regime that is six times higher than what the experts have told us would be reasonable. That is clearly another area in which I do not think the minister is asking questions of his advisers, or he is being won over by people who are interested only in making a profit out of sandalwood and not the long-term prospects for a sandalwood industry. I heard the minister mention that he is keen to see this as a transition towards a plantation sandalwood industry. That is something that may happen. I am not sure, however, how successful those sandalwood plantations are; I get mixed reports. Let us assume there is the potential for success, but we have a problem when the DEC tells us in October 2012 that 200 tonnes is the maximum, and now we are allowing for 1 250 tonnes.

I think part of the problem might be that we are operating on a management plan from 1990; it is 25 years out of date. We will have to look at that as well.

I want to say a little bit about some of the other legislation and the other recommendations. Some eminent scientists have formed groups. We have all heard of the Wentworth Group of Concerned Scientists, which has dedicated its expertise to environmental matters, perhaps more on the east coast and in particular in relation to the Murray–Darling basin. On the west coast there is a group of concerned scientists called the Leeuwin Group, and its submission on the minister’s bill is a considered one. It states that dramatic overhauls are required before it would consider supporting this legislation and that in its current form the legislation before us is unacceptable. I will try to find the submission that I received. The group is of the view that we would be better off holding off until the legislation is done properly than we would be passing this shabby work before us. This legislation does not meet the expectations of anyone with an interest in modern biodiversity conservation. I refer to the words of Professor John Bailey, who was speaking on behalf of the Leeuwin Group —

He stressed that the provision in the Bill that allows the Minister to approve “taking” —

Destroying —

a threatened species even if it becomes extinct or to allow a threatened ecological community to be destroyed must be removed.

That is an absolute deal-breaker for the Leeuwin Group. I note that the Leeuwin Group includes people such as Winthrop Professor Stephen Hopper. I am trying to recall some of the people who have been contacting me of

late. Dr Andrew Burbidge and others have also contacted me. The bill before us fails on so many counts. I think if the public wants to understand one key failing of this legislation, one fatal flaw, it is the god clause in this legislation, which gives the minister the power to send something into extinction in such a way that the Western Australian public would not know about it until long after the event. That is totally unacceptable.

I have talked and we have had exchanges across the chamber about the absence in the legislation of a mention of a scientific advisory panel. It is part of an ongoing pattern we see. We have had the same problem in other legislation, such as the Conservation and Land Management Amendment Bill. What is this elimination of scientific advisory groups and this desire to get rid of science? The Premier claims to be the Minister for Science and talks enthusiastically about the medicinal value of various sea creatures and other plants and species, but when it comes down to making sure that science is involved in decision-making, this government does not want a bar of it. It wants to get rid of science in any decision-making. That leaves us in a terrible situation. We have to combine the two in this day and age. This is not only a debating chamber anymore, but also where we bring together all facets of our society. Many people say that one of the failings of the political process is that it is scientifically illiterate. To boost our scientific knowledge and literacy we should make sure that things such as scientific advisory panels are enshrined in legislation. This bill does not provide for a scientific advisory panel and that is one of its biggest failings.

Finally, I must again express my outrage at the fact that the minister has pretended that he has consulted with the community on this bill. To talk about consultation done over 10 years ago by a previous government, not his own, and pretend that that is adequate community consultation is farcical. It is an insult to people. The minister failed to consult on this legislation, and that is why it is so deeply flawed. He could have saved himself a lot of grief had he dedicated six months to a good backwards and forwards iterative discussion with the community conservation sector. He could have tapped into their corporate knowledge of the historical nature of this bill and its importance.

MR D.J. KELLY (Bassendean) [3.36 pm]: I rise to make a contribution on the Biodiversity Conservation Bill 2015. Protecting our environment is one of the most important jobs of government. Since Europeans came to Western Australia, they have impacted upon the environment in a very significant way indeed. Overall it is not a pretty history. There will always be tension between development and the environment. In my view the object of any government is to ensure that we protect the environment and at the same time allow our community to develop. But looking back at the period between European settlement and now, we would not say that that balance has been properly met. We have done significant damage to the environment of Western Australia.

Historically, sometimes the actions we took were taken with the best of interests, but with limited knowledge. I do not attack communities of the past. But from what we know now, it is pretty safe to say that our impact on the environment here in Western Australia has been pretty significant and in many ways it has been negative. There is no excuse for us to not get the balance right between protecting the environment and managing and developing our society's expectations, because we know now that the stakes are incredibly high. If we do not protect the environment, we jeopardise the future of not only a particular species but also humanity in the long term. The stakes could not be higher. When we consider this bill, we are trying to chart a course into the future that allows our society to do the things we want, such as provide growth, jobs and income, but at the same time we have to protect our environment. In many respects, we have to repair some of the damage that has already been done. It is not a case of not doing any more damage and things will be right; we have to repair some of the damage we have done in the past. We have no excuse going forward. We have to be very gentle and very kind to our environment or the community will pay a heavy price.

In saying that, I want to mention and acknowledge some of the organisations that are very active in Western Australia in protecting our environment. The Conservation Council of Western Australia is a peak body with very limited resources that really punches above its weight in making a contribution to the debate on these issues. I congratulate the staff, the office-bearers and those constituent organisations that contribute and are part of the Conservation Council. The Environmental Defender's Office, an organisation that has been defunded by the government, does an enormous job mounting legal challenges on issues that it thinks require it to go into bat for the environment. I really do not understand how any environment minister can hold their head high while allowing an organisation such as the Environmental Defender's Office to be attacked and have its funding taken away. An organisation like Sea Shepherd Australia is a wonderful organisation; it goes above and beyond to fight important environmental causes. Whaling is an issue that most Australians understand does great harm to the environment but successive federal governments have not been able to tackle that issue. Although various governments have made noise, Sea Shepherd went out and put itself between the whales and the whalers at some personal cost and great expense. I want to pay tribute to Sea Shepherd. At the moment its ship the *Steve Irwin* is in the Southern Ocean pursuing illegal fishing. I had the privilege of seeing the *Steve Irwin* up close a few weeks ago. It was a great honour. I met a lot of Western Australians who are volunteers on that ship—people stepping out of their ordinary lives, giving up their incomes and their comfortable existence to bounce around the

Southern Ocean to protect the environment. Those people are true heroes in my view. People came together for the No Shark Cull campaign and were vilified by this government for their actions. The Premier said, “You care about sharks more than you care about human life.” They were the sorts of comments made in this place by the Premier against that courageous group of campaigners, who came together because they felt the Western Australian shark cull was causing unacceptable damage to our environment. I want to recognise their work. There are lots of other community groups. When we mention some, we miss others. I want to pay tribute to the many Western Australians who give up their time and income to do their bit to protect the environment.

What do those groups want and what does the general community want for the environment? They want a government that is on their side. There will always be debates around individual issues: have we got the balance right between growth, jobs and protecting the environment? That is fine, but at the end of the day those community groups want to know that the government is genuinely on their side in protecting the environment. That does not mean the government should always agree with them, but, generally, the government should be on their side based on the principle that we need to protect the environment. Unfortunately, this government quickly ridicules those people and attacks them. These are the people who voluntarily give up their time and income to protect the environment. This government has done that in many ways. I have talked about what it said about people involved in the shark cull. Other legislation brought to this Parliament such as the protest law was designed to specifically attack people in the environment movement. This government says, “If you care about the environment, you need to abide by the law; there are plenty of lawful ways you can protect the environment.” I say two things. The Liberal Party is trying to limit people’s ability to protect the environment through lawful means. At the federal level, the government is trying to restrict people from mounting environmental challenges to within much-restricted criteria. We saw that with some of the coal mines in Queensland. The federal government is deliberately trying to amend the federal legislation to limit the number of people who have some standing to challenge environmental approvals. The Liberal Party does not like people who use legislation to go to the courts to challenge activities that damage the environment. At the same time, it attacks people who protest against environmental degradation. The Liberal Party cannot have it both ways. It attacks the EDO over legal action that it took around the shark cull issue. It did not exactly applaud the EDO when it challenged the approvals for Roe 8. Whatever environment groups do, whether it be protesting or mounting challenges in the courts, the Liberal Party simply does not like it.

Environment groups want a government that takes climate change seriously. This government does not take the issue of climate change seriously. It can pass new legislation—this legislation before us—but if it does not deal with climate change, minister, we will not protect the environment. The biggest single threat to the environment in Western Australia is climate change. If we do not arrest the damaging impacts of climate change, it will not matter what else we do.

Mr A.P. Jacob interjected.

Mr D.J. KELLY: I am not taking your interjections.

Mr A.P. Jacob interjected.

Mr D.J. KELLY: Mr Acting Speaker.

The ACTING SPEAKER (Mr N.W. Morton): Members, please! Member for Carine!

Mr D.J. KELLY: Minister, if we do not tackle climate change, there will be significant and irreversible damage to the Western Australian environment. A few weeks ago, representatives of the Water Corporation said that Western Australia is being impacted by climate change to a greater degree than anywhere else, not just in Australia but also around the globe. The impact of climate change in Western Australia is worse than it is anywhere else on the planet, yet this state government says nothing whatsoever about climate change. I have sat in this Parliament for three years and heard the Minister for Environment make ministerial statement after ministerial statement—virtually silent. I cannot remember a ministerial statement on climate change. I will let the minister correct me if I am wrong; I do not think he has made a ministerial statement on climate change.

Mr A.P. Jacob: I’d have to go back, but I’ve certainly referenced it a number of times. Now, member for Bassendean —

Mr D.J. KELLY: Okay; you have answered the question.

In results that have come out recently, we have seen that February and March have been the hottest months on record. What have we heard from the Minister for Environment? We have heard nothing—absolutely nothing—on that issue. This government is completely silent on the issue. It is absent from the debate on climate change.

One of the things in my life to date that I look back on with pride is my involvement in the campaign to end the logging of forests in Western Australia. Most Western Australians would say that that was a positive thing. If we do not arrest the negative impacts of climate change, we risk losing those forests. Trees like the Tingle tree, which are located in a very small area of the south west, grow nowhere else in the world. Climate change may

cause them to become extinct. Minister, those groups and the community want a government that takes this issue seriously. This state government does not take climate change seriously. The Minister for Water made the absolutely ludicrous claim that she has drought-proofed not only Perth but also much of Western Australia. That claim was repeated by the Treasurer during the budget debate this year. I will ask the minister during consideration in detail; I am interested in whether he thinks his government has drought-proofed Perth and much of Western Australia. I will be interested to hear what the minister says. Does the minister agree that Perth has been drought-proofed? I have heard only two people in Western Australia say that Perth has been drought-proofed—the Minister for Water and the Treasurer. No-one else will go anywhere near that statement. I asked bureaucrats from the Water Corporation and the Department of Water about it during the estimates committee and they will not repeat that claim. Does the Minister for Environment believe that his government has drought-proofed Perth and much of the south west? I look forward to hearing from the minister on that issue during the consideration in detail stage.

One issue that has come to light in recent months in the Gascoyne region is the Department of Fisheries' proposal to introduce fish traps in the fisheries up there. The Department of Fisheries supported the introduction of fish traps. It did that without consulting the local community and, again, that is a constant theme of this government's behaviour when it comes to protecting the environment. The department put out a proposal for public comments about the introduction of fish traps; it said that the proposal was for public comment, but the document stated that the Department of Fisheries supported the proposal. People rightly came to the conclusion that it was a done deal; the government had made a decision to introduce fish traps and it would not matter what the community said, it was going to happen. I take my hat off to the community in Carnarvon and surrounds. I understand that hundreds of people showed up to a very well-attended public meeting and thousands of people signed a petition to call on the government to reverse its decision. This week, the Minister for Fisheries made an announcement that he was not going to allow the trial that was proposed for fish traps to proceed. The member for—I was going to say Carnarvon—North West Central claims that announcement as a big victory. Vince Catania has gone out and he has stopped the introduction of fish traps up there.

[Member's time extended.]

Mr D.J. KELLY: He is claiming that as a big victory. However, the issue is that the minister has stopped only that proposal for a trial of fish traps; he has not ruled it out in total. I suspect that the minister made a decision to stop that trial to take the heat off the member for North West Central until after the election. I have news for the member for North West Coast —

The ACTING SPEAKER (Mr N.W. Morton): Central.

Mr D.J. KELLY: The member for North West Central, whatever it is called —

Mr C.J. Tallentire: The rat.

Mr D.J. KELLY: I will take that interjection. I have news for the member for North West Central: the community in the Gascoyne knows what the government is up to. It is not going to rest on this issue until the threat of the introduction of fish traps in those fisheries up there is removed completely. The National and Liberal Parties will not be able to just shut this issue off until after the next election. The community will continue to push this issue until the threat of the reintroduction of fish traps has been totally removed.

Mr V.A. Catania: And I'll continue to fight.

Mr D.J. KELLY: I will take that interjection as well. The member for North West Central says that he will continue to fight. I have news for him: the community up there is wise to what he and his Liberal Party friends are up to. The community knows that the minister's decision to shut it off until after the election is not the last word on this issue.

What all the people in the community who care about the environment want is a government that is on their side. It does not mean that the government will always agree with them, but they want a government with a genuine interest in protecting the environment. I want to address a couple of points in this legislation: one is the question of the God clause. This bill allows the minister to make a decision to allow an activity that the minister knows will or will likely cause a species to go into extinction; that is quite incredible. This legislation is one of the cornerstones of the government's legal framework to protect biodiversity; yet, the bill gives the minister the power to make a decision that would allow a species to go into extinction. It is pretty remarkable to say that; it is the direct opposite of what the bill is supposed to be doing, which is to preserve biodiversity.

The minister wants to give himself the sole authority to allow a species to go into extinction. I heard the minister saying before that he has to get the Governor's tick-off. In our system of government, we all know that the Governor is not going to disallow something that is put before her. That is just not how it works. Yes, things have to be tabled in Parliament but clause 42(3) states —

- (a) the Minister must cause a copy of the approval to be laid before each House of Parliament as soon as is practicable after the approval is given; and

(b) the Department's annual report must include details of the approval.

They are public notifications that could take place after the species has gone into extinction. That is absolutely extraordinary. The minister wants legislation that gives him the power to make a decision to allow an activity that could cause a species to go into extinction. The extinction could happen before anyone else at all finds out about it. Can the minister understand why community groups are shocked at that prospect? When this legislation first came out, a number of community conservation groups supported the legislation. Groups stated that the existing legislation was long overdue for an upgrade with a new bill being put into the house. They were quite positive and I think the minister would have been happy with the initial responses that he got. However, as people looked more closely at this legislation, they realised how bad it is. Clause 42, the God clause, is one of the provisions that they are specifically concerned about. No-one knew that the minister was going to put that clause in the legislation. He did not consult with the Wilderness Society, the Environmental Defender's Office of Western Australia or the Conservation Council of Western Australia—anyone. There was no consultation at all. That is one of the reasons why this side of the house finds the bill unacceptable in its current form.

The legislation also increases civil penalties. I am sure that the member for Gosnells will correct me if I am wrong, but there has been a removal of the potential for a jail term for breaches of this legislation. I will not say it is often, but sometimes with developments and conflict with the environment, the amount of money involved can be enormous. Sometimes it is possible that a person might think that if they do X, Y and Z they stand to make an awful lot of money and when they compare that with the fines they could potentially incur, they might think, "The fine is X, but I am going to make ten times X, so I'll take the risk." Given the importance of protecting the environment, it is important that a jail term exists.

Debate adjourned, pursuant to standing orders.