

BIODIVERSITY CONSERVATION BILL 2015

Referral to Standing Committee on Environment and Public Affairs — Motion

Resumed from 17 August on the following motion moved by Hon Sue Ellery (Leader of the Opposition) —

That the Biodiversity Conservation Bill 2015 be discharged and referred to the Standing Committee on Environment and Public Affairs for consideration and report by no later than Friday, 4 November 2016.

HON STEPHEN DAWSON (Mining and Pastoral) [12.42 pm]: Members will notice that I am not Hon Sally Talbot. Hon Sally Talbot concluded her remarks last night, so now I have the opportunity to make some comments on this referral motion moved by the Leader of the Opposition. This is a sensible referral motion. We have heard from Hon Sally Talbot, Hon Rick Mazza and Hon Sue Ellery about the deficiencies in this bill. It is no surprise to anybody that there are a range of concerns with this bill.

I am Deputy Chair of the Standing Committee on Environment and Public Affairs, along with Hon Simon O'Brien, who is the Chair and is in the chamber this afternoon. We are a very busy committee, and we have a lot of work on at the moment. Notwithstanding that, I believe this referral motion is a good one, because we are well placed to look into this bill, consider what is in it, and also take into consideration the concerns that have been expressed by members of the community and, indeed, members of this place. We thought we were being helpful to the government with this referral motion. There are obvious issues with this bill, so we argued to send it off to a committee now rather than spend hours in debate about it. We know there are problems with the bill, so let us send it off now to a committee that is well equipped to deal with such issues, and let it consult and look into the bill, and bring back a bill that is strong and does not have the deficiencies in the current bill. We are trying to be helpful, but we were accused of exactly the opposite yesterday, at least by the Leader of the House, who suggested that we were trying to delay or tie up the Parliament with debates that should not be happening. I say that this bill should be referred to a committee, and I will give some of the reasons for that.

There is no doubt that this 207-page bill is long overdue. We have heard a number of contributions from members on all sides in a couple of debates over the past couple of days referring to this bill and the outdated acts it seeks to replace, including the Wildlife Conservation Act 1950 and the Sandalwood Act 1929. Those two statutes are being superseded by this bill. I have asked questions of various environment ministers in this place and in the parliamentary committee about when we might have a new biodiversity conservation bill. I, like many others in this place, see the need for the replacement of those old acts. As many members have said, this bill has been a long time coming. I remember multiple conversations with the late Kieran McNamara, former director general of the Department of Parks and Wildlife, and the departments that preceded it, such as CALM —

Hon Adele Farina: I still call it DEC.

Hon STEPHEN DAWSON: Yes, we had the Department of Environment Conservation and the Department of Conservation and Land Management—we had any number of things. I had many conversations with the late Kieran McNamara, and others at the department, about this bill. Yes, there has been consultation on elements of this bill over the years, and it has been a long time coming, but just because it has been a long time coming does not mean that we should rush it through now that we finally have the bill, particularly because this is a 207-page bill, and issues have been brought to our attention that are not properly addressed in the bill.

Hon Sue Ellery, in her contribution, and Hon Sally Talbot in hers, mentioned the “God clause”, which is clause 42 of the bill, which could lead to the extinction of a species. There are concerns that that clause and clauses around it allow the Minister for Environment to make a unilateral decision without even consulting or taking the advice of the scientists in the agency or other government agencies. He or she can make the decision unilaterally, and it could lead to the extinction of species. That is a real concern. We have also heard concerns about the level of secrecy attached to the bill. I struggle with allowing any minister the power to potentially make flora and fauna extinct. That issue needs to be properly addressed, and a parliamentary committee would be the best place for that to happen.

As I said, Hon Rick Mazza made a contribution to the debate yesterday. We have the Shooters, Fishers and Farmers Party on the right-hand side of the political spectrum, and some green groups, who are traditionally on the left or the far left, saying that they have concerns with this bill. They are not happy with it, and they do not believe there has been proper consultation. It is rare for those two disparate groups to get together and say that they are on the same page and that they both agree. That is one of the reasons this bill should go off to a committee for proper consideration.

Like many other members of this place, I received correspondence earlier in the year from a range of environmental organisations, including the Conservation Council of Western Australia, the Wilderness Society,

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the World Wild Fund for Nature and the WA Forest Alliance. I have a copy of a letter I received in March this year expressing their serious concerns about elements of the bill. They went on to say that, even though they are acutely aware that the task of updating Western Australia's Wildlife Conservation Act is an urgent priority, given the inadequacy of that legislation in addressing contemporary threats to our unique and increasingly endangered wildlife, and even though we really need new legislation, this bill is not up to the task, and our wildlife cannot afford Parliament getting it wrong. I have to agree with them. We should not rush this bill if there are huge issues with it. We should send it to a committee. We should ensure that it is given proper consideration. We should ensure that there is a thorough analysis of all the clauses and that we consult. I think it was a serious mistake of the government and the minister not to consult with the community until after the bill was read into Parliament. We know that the bill came to Parliament in November 2015. It was not until January this year, some months later, that the government sought to have a conversation with the stakeholders who either will be affected or have strong views about the bill. It was months after it was brought to Parliament before a conversation happened. We also heard that it was only a conversation; it was not consultation. In fact, I think somebody referred to it as drinks or a soiree-type thing. It was not a sit-down meeting in which the implications of the clauses were outlined. That did not happen. That was a serious mistake. Other members have said that it is dishonest of the Barnett–Redman, now Grylls, government—they both should take the blame for this—to pretend that they consulted with the community in the first place. The minister admitted in the second reading speech that the last time there was public consultation was in 2002. Nobody can stand in this place and say that consultation that happened in 2002 for a potential bill could be classed as consultation on this bill.

Hon Darren West: It was before the iPhone!

Hon STEPHEN DAWSON: It was before the iPhone, Hon Darren West. Sometimes I wish we were still without iPhones!

Consultation happened 14 years ago. No-one can say that the consultation on a potential bill at that time was sufficient consultation on the 207-page bill before us today.

There are groups in society that do not like our policies and cause us all pain, speak out when we are in government or put out at election time scorecards that are not particularly flattering. Those groups annoy us, but they hold us to account. Those advocacy groups play a vital role. Let us be honest; groups such as the Environmental Defender's Office, the World Wide Fund for Nature, the Conservation Council of Western Australia and the Western Australian Forest Alliance work with the flora and fauna in this state and they should be consulted on a bill such as this; they should have input. We may not like all their input or their suggestions, but they should have been at the table. They should have been told what was in the bill and they should have had an opportunity to provide input and tell us what would or would not work or what the implications would be.

I mentioned briefly the God clause. I think it is outrageous that a minister could potentially cause the extinction of a species in this state. No minister should have that power. The Environmental Protection Authority and the scientific bodies in this state are well placed to provide scientific advice. Those agencies should provide it and the minister should have to listen to it. That is not happening in this case.

Hon Donna Faragher: Who's saying that they're not, though?

Hon STEPHEN DAWSON: I am not taking interjections. The minister can respond at some other stage.

Extinction should not be authorised without allowing public comment. Having previously been in a minister's office, I know that stygofauna have caused us grief and have caused projects to be delayed or big mining proposals to be altered. These species have been here for millions of years and I think they should continue to be here for millions more. If something is to be made extinct, there should be some scientific basis or rigour around the decision. As the bill stands, it allows the minister not to take any advice into consideration.

I am conscious that I am speaking on the referral motion, Madam Deputy President; I am not speaking on the bill, but I want to say that there are good things in the bill. The bill increases the penalty provisions. That is a very good thing, but have we landed in the right spot? I am not sure, and that is another thing that the committee could look into. There is no doubt that the Wildlife Conservation Act is totally outdated. It is farcical that anybody who does the wrong thing under the law in this state can get away with essentially a slap on the hand. There is good in this bill, but I am not sure that the penalties have landed in the right place. That is another issue that the Standing Committee on Environment and Public Affairs could consider if this bill were referred to it for proper consultation.

I referred to the piece of correspondence that members received from the environmental groups earlier in the year. They certainly provided me at that stage with some criteria for modern biodiversity legislation in Western Australia. I do not think these issues have been taken into consideration in the bill before us. These are

other issues that the committee could look at and I want to run through them briefly. I will read from their notes —

The Biodiversity Conservation Bill now before WA Parliament is seriously flawed and needs major amendment before it can be considered an acceptable replacement for the *Wildlife Conservation Act 1950*.

In summary those flaws are:

1. Almost unfettered Ministerial and DPaW CEO discretion; —

I have mentioned an element of that previously —

2. Lack of mandatory biodiversity plans, targets or monitoring;
3. Minister able to knowingly approve actions that could lead to species extinction;
4. Numerous exemptions from compliance;
5. Lack of adequate penalties ...

I am not sure that I agree totally with them on this issue, because I think the penalties have been strengthened, but I agree in a sense that there has to be some rigour around the new penalties, so it is worth having proper consultation on those —

6. No independent scientific input required by Minister;

That is a huge concern and I have mentioned that previously —

7. Narrow provisions—omitting key biodiversity considerations;
8. Lack of third party rights and limited public consultation.

We pride ourselves on having a strong EPA in this state. I know that in the minister's contribution to a different debate yesterday she talked about the Office of the Environmental Protection Authority and some work that she had done to strengthen it. We pride ourselves on a strong, independent EPA in this state and we should remember that. We should not limit third party rights and public consultation under this bill. We have organisations such as the EPA that we should use in the future. They are there. There is nothing in this bill to stop us from giving those organisations some input to or oversight on key elements of the bill.

We have been attacked over the last couple of days in different debates for what we have done in the environment space over the past few years. We have a strong record in the environment space. We have cared for our unique environment. We have always wanted to protect our unique environment for future generations in this state. We have delivered policies previously. The minister spoke about what the government has done in the marine park and national park space. We, too, have delivered a tremendous amount in the national park space and, indeed, the marine park space. The Carpenter and Gallop governments delivered massive additions to the conservation estate over those years in office.

Sitting suspended from 1.00 to 2.00 pm

Hon STEPHEN DAWSON: Before we broke for lunch, I was explaining why I support the Leader of the Opposition's motion to discharge and refer the Biodiversity Conservation Bill to the Standing Committee on Environment and Public Affairs for consideration and report. I thank Hon Simon O'Brien for his kind words yesterday when he made a contribution to another motion and talked about my previous experience in the environment portfolio. I think it has been career-limiting, Hon Simon O'Brien. I was in trouble at our daily meeting yesterday.

Hon Simon O'Brien: I have more nice things to say when you sit down. You are in strife.

Hon STEPHEN DAWSON: I might keep talking so the member does not say them! Obviously, this is a tight debate so I will not stray too far. I did not want to say too much more. I want to reiterate that there are some serious flaws with this piece of legislation. There have been major issues with consultation or the lack thereof on this bill. Yes, we need a new bill. Yes, we need a new piece of legislation. Yes, the Wildlife Conservation Act 1950 and the Sandalwood Act 1929 are outdated, but that does not mean that we should rush deficient legislation through this place. With those remarks, I reiterate that I support the Leader of the Opposition's referral motion.

HON SIMON O'BRIEN (South Metropolitan) [2.03 pm]: I will be brief in addressing the question that this bill stand referred. The Biodiversity Conservation Bill is, quite understandably, a physically large statute, as we are all aware. It is a very important piece of legislation and it does a great number of things. There has been comment already in the course of debate, and inevitably there is, about how long it takes to bring a bill such as

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this to this place. I have brought quite a few bills, great and small, to this house in my time and I certainly understand how much goes into the preparation of legislation such as this. It does a large number of things in the machinery of the statute book to give effect to policy in practice in a range of areas that are very important to our community.

The bill needs to advance because we want to see some of the overdue amendments, I will call them, to legislation. Sandalwood, for example, is an issue that members will be aware I have an interest in as a parliamentary member, having chaired an inquiry into the matter with other members of the Standing Committee on Environment and Public Affairs, including Hon Steven Dawson and Hon Brian Ellis, who was the previous chair of that committee. He also initiated an inquiry into sandalwood that was inherited in this Parliament by the same committee and, finally, reported to this house. A lot of matters in that discrete area alone need to be addressed and I want to see them addressed, and the time to do it is now via this bill and the processes that take place on the floor of this house.

The question that has been put to us that this bill needs to be referred to one of our standing committees for inquiry and report is a reasonable one to move. I have listened very carefully to the remarks of the mover and I have also listened very carefully to other speakers and, most particularly, to Hon Stephen Dawson. As I said yesterday to the detriment of his career and his standing amongst his leftie mates, I think he has a sober approach to these matters that transcends political populism or political positioning and focuses on the main game. Just before we went to the dinner break, he performed a valuable service in that he summarised from not only his own point of view, but I think also his party's point of view, the things that they want looked at if this matter is taken away from the plenary session of this chamber and sent off for some period to a committee inquiry. As I listened to each of those several items that he mentioned, it occurred to me that all those matters were matters of policy. The actual mechanics of the bill are apparently not the subject of concern for members opposite and nor should they be at this late stage. There are probably some little things that we might tweak if we were the person in charge of tweaking.

Hon Stephen Dawson: I have to say that they were my views. That wasn't the official collective line, but I'm sure some of those issues may well be shared by my colleagues.

Hon SIMON O'BRIEN: Having listened to the contributions of others, including the Leader of the Opposition, I think Hon Stephen Dawson's was a good summary, consistent with the issues that had already been raised by others. In this case, I chair this committee and Hon Stephen Dawson is the deputy chair. We are privileged to enjoy the membership of Hon Brian Ellis, Hon Samantha Rowe and Hon Paul Brown on that committee. Our committee could do whatever the house requires of us within the time frame required because sometimes work has to expand or contract to fill the time available. If the house wants to refer a bill—this bill or any other bill—to the Standing Committee on Environment and Public Affairs, it will take it on board and deal with it in the best manner possible. That is not a question that arises in my mind in considering this referral motion.

As I was saying, the issues that have been well put and summarised by Hon Stephen Dawson and others are matters of policy, not of the structure or the machinery of the bill. What would we get from a committee inquiry into the bill? We would get a whole range of opinions coming forward to be argued. It would cause a barney! The house is already aware that one or more petitions have come forward from people saying they do not like this bill because it does not do something or it does something that they do not like. In any large area of government activity, such as contemplated by this very substantial bill that touches on so many things, of course there will be all sorts of variations in opinion. In some cases, those opinions will be held very, very strongly by people or parties who, if they see a bill come forward that goes down a path other than what they would prefer, will kick up merry hell about it. The committee can go off and gather all of that controversy, all of that emotion, all of that argument and all of that grief and aggravation, weigh it up and report to the house, but I do not see the point in such an exercise. If members want the committee to inquire into matters that can be measured—matters of fact that can be established or disproved—if they want an examination about whether a piece of proposed law will achieve what it purports it will achieve, we can do that. The committee is not there to simply umpire a bunfight.

From listening to the objections that were raised in a little bit of the second reading debate and now in the reasons for referring this bill to a standing committee, what I hear are differences of points of view—differences of policy. Members have said that if they were sponsoring this bill, they would do this a bit differently. Perhaps there are even those who will say, "We want to go along with what such and such a pressure group publicly says about this part of the bill because we want to make sure we are well in with them and enjoy their support politically." I do not know; there are umpteen motivations why people raise arguments in this place. Ultimately, matters of policy have to be decided and they are put forward—in the case of a machinery-of-government bill—by the responsible minister of the day on behalf of the government of the day in full recognition of the fact there will always be some people who do not like what is being proposed in part and some who do not like anything at

all and would die in a ditch to try to delay, obfuscate and do everything they can to stop the minister having their way. That is not a reason to refer a bill to a standing committee. If members want to debate policy, the second reading debate is the time to do that. I say that we should not discharge this bill from the notice paper, certainly not before the second reading vote is put to determine the policy of the bill; instead, we should decline to send it to committee because no reasonable purpose has been put forward for why it should go to committee. With the greatest respect, that is the reason I oppose this motion. I urge the house to deal with this motion promptly now, not to delay things and not to contribute to how long this bill can ultimately be delayed, if not defeated. Let us deal with this motion now and get on with the second reading debate.

HON LYNN MacLAREN (South Metropolitan) [2.15 pm]: The Greens support this referral motion and I will very briefly outline why. I have already pointed out in my second reading contribution many of the specific concerns raised with me by various environmental groups about the bill. I will briefly remind the house of those. They included the God clause, which is the ability to sign off a species' extinction without referral to this Parliament, and whether the minister can act without regard to scientific advice and the degree to which that scientific advice is required. There were various other concerns, mainly couched around strategic-level vision statements of what we intend to achieve through environmental protection and whether a system of statewide strategies is required. Members will recall I mentioned a similar system in the policy planning area whereby there is high-level strategic direction about what is trying to be achieved. This bill operates separately to that and does not refer directly to a biodiversity strategy or other bioregional strategies. The bill also fails to connect directly to other environmental legislation such as the Environmental Protection Act. We would like to see a stronger connection there and maybe the interplay between the aquatic resources management act and the forest management act. Several concerns have been raised with me as a member researching this bill about how the bill before us deals with those matters. I believe there are specific matters that a committee could look into if it were to examine the bill.

I then wondered whether this is the right committee. The Leader of the Opposition has moved to send it to the Standing Committee on Environment and Public Affairs. As other members have noted, sometimes bills are sent to the Standing Committee on Legislation. I am on the legislation committee; I would love to get this bill. The question might be posed whether the Standing Committee on Environment and Public Affairs is the correct committee. I had a good look at that committee's terms of reference and, yes, I would agree that it is an appropriate committee to examine this bill. It is stated under its terms of reference —

- 2.3 The functions of the Committee are to inquire into and report on —
- (a) any public or private policy, practice, scheme, arrangement, or project whose implementation, or intended implementation, within the limits of the State is affecting, or may affect, the environment;

This bill clearly fits that criteria —

- (b) any Bill referred by the Council; and

In fact, we could refer any bill to the Standing Committee on Environment and Public Affairs because we want it to look more deeply into the issues that arise —

- (c) petitions.

Unlike many houses in which there is no follow-up when a petition is tabled in a chamber, this chamber has an automatic follow-up to any petition that is tabled. The environment and public affairs committee receives that petition and considers whether to inquire further into it. I know this because I sat on the environment and public affairs committee in the previous term. It has a huge volume of work that spreads across a range of issues and communities. But this is even more relevant in this particular case, because only yesterday I tabled a petition in this place asking this house to consider whether we could send the Biodiversity Conservation Bill to a committee. The petition mentions the Standing Committee on Environment and Public Affairs. I tabled a petition with 207 signatures and a petition with 250 or 280 signatures was also tabled by the Leader of the Opposition. It is clear that the community is concerned about the Biodiversity Conservation Bill 2015, which could be examined by a committee. In fact, we have been asked to do that directly by our constituents. They asked for the environment and public affairs committee to examine it and for the amendments to the bill to be developed in consultation with scientific experts, the conservation sector and the broader community. Those are the individuals and organisations that a committee might invite to give an expert opinion on the bill should we agree to send it to committee. I have outlined the serious concerns about the bill that a committee could consider. This is the right committee to look into those issues.

In response to Hon Simon O'Brien's comments just made, it is true that different governments take a different approach to bills and how it might aim to address its policy considerations; it might be done in different ways.

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I made it clear in my contribution to the second reading debate that this bill is not a green bill. It is not how we would go about doing things. Referring the bill to a committee will not necessarily fix that fundamental problem, and I do not anticipate that it would. In referring a bill to a committee, we ask that committee to look at the bill before it—not to start from square one, but to actually seek comment from the public, experts and stakeholders about that bill. In many situations we have been able to refer a bill to a committee, which has reported in a timely manner on how that bill can be improved. With the reports that I have been directly involved in, the government has accepted those recommendations. The work of the committee has been useful in improving the bill and the government has actually agreed with the recommendations and suggested amendments—even those put forward by minority parties—and taken them up. We should have every confidence in our system to improve this bill if we send it to a committee.

The other thing to consider is: does this motion provide a good time line? I say it would be a very quick inquiry. For example, I was on the Select Committee into the Operations of the Royal Society for the Prevention of Cruelty to Animals Western Australia (Inc) and that went on for about a year. This particular inquiry would take a matter of months. It is a very short reporting period. The committee would look at only those specific things about which we are concerned and have been raised, and invite only those individuals and groups that have already been cited as having an interest in this matter. Those groups are the Conservation Council of Western Australia, the Leeuwin Group, the World Wide Fund for Nature—I want to make sure I do not miss any out—the Urban Bushland Council WA Inc, the Wilderness Society, the cockatoo coalition, and the WA Forest Alliance. They are the main ones that have analysed the bill and gone on the public record and put forward their concerns to us. I suggest that inviting those groups to talk with the committee would be a good way to start and a good use of the committee's time. I quickly looked at the workload of the environment and public affairs committee. I have sat on the committee and I know that from time to time it can have quite a large workload. Would it be able to conduct this inquiry in the time frame set? I think it might be able to.

Before I close, I want to give members an indication of the type of work that that committee is now doing. This is all found on the parliamentary website so it is not protected information. We cannot know all of the committee's work because sometimes it can have self-referred inquiries that we do not know anything about. However, the website states that it is looking into a petition on a remand facility for women that I put in on behalf of the Bandyup Action Group. The website states that it is still open but sometimes the website does not report as timely as the committee does when it concludes its inquiries. However, the following petitions that I have quickly glanced at that are still current are on the Perth Fringe World Festival, the energy operator accessing private land, the Bunara Maya Hostel in Port Hedland, the Southgate Dunes in Geraldton and also Point Moore leases in Geraldton. There is a petition on the commissioner for seniors and then finally a petition on Esperance Hospital. The committee has been employed to do a bit of work —

Hon Simon O'Brien: And Bio-Organics.

Hon LYNN MacLAREN: And the Bio-Organics petition. I did not see that.

My experience in this term of government has been that when a committee has extra workload, it has been provided with extra officers to conduct that work. We have to recognise a member's time. We cannot just increase the time exponentially and infinitely, but it is fair to guess that this committee might be able to fit this inquiry in that time line considering its current workload—one would hope so. If it could not manage the work, maybe it would speak to the officers to let them know that it cannot handle the workload. But certainly that has not been brought before us —

Hon Simon O'Brien: Those considerations should not affect the house's decision.

Hon LYNN MacLAREN: The chair of that committee is reminding us that that consideration does not mean we should not send it to committee, but I like to know how reasonable it is to consider producing this report in that time frame. This bill meets every criteria required to send it to committee. I agree that the bill could be sent to committee and improved and therefore the Greens support this motion.

Visitors — Shenton College

The ACTING PRESIDENT (Hon Liz Behjat): Before I give the call to Hon Darren West, I welcome into the public gallery this afternoon the year 11 students from Shenton College. You have come into the Legislative Council during debate on a motion to refer a bill to committee for consideration. Shenton College is located in the North Metropolitan Region, which I have the honour of representing, and there are four of your representatives in the chamber this afternoon. Welcome and I hope that you enjoy your visit.

Debate Resumed

HON DARREN WEST (Agricultural) [2.28 pm]: I rise to support the referral motion moved by Hon Sue Ellery. Of course the Biodiversity Conservation Bill 2015 should be referred to a committee. We have

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heard in part in the second reading debate and again in the debate on the referral motion some very good reasons to refer this bill to the Standing Committee on Environment and Public Affairs. It was rather extraordinary that the chair of that committee, Hon Simon O'Brien, spoke, I thought, in the capacity as chair of the committee saying that it does not want it. However, I think he may have clarified that position and perhaps he spoke as a member of the house rather than the chair, but it was a little confusing because it is a matter for the house to determine which bills are referred to a committee. Of course we will make the case, as Hon Sue Ellery has, for why it is important that this bill be referred. The referral motion states —

That the Biodiversity Conservation Bill 2015 be discharged and referred to the Standing Committee on Environment and Public Affairs for consideration and report by no later than Friday, 4 November 2016.

That is a fair and reasonable position to take on the Biodiversity Conservation Bill 2015, which has been waited on for so long by so many stakeholders and met with such disappointment because of the lack of consultation and lack of substance. It is only right and fair that this bill should be investigated in further detail and reported back to the house by the Standing Committee on Environment and Public Affairs. I heard the question asked earlier about whether this is the right committee to handle this inquiry. Given that the word “environment” is in the committee’s title and it is an environmental bill, perhaps that is right. Of course, it is poor legislation; we could easily have made a case for the bill to be before the Standing Committee on Legislation as well. If it is not the will of the house to refer it to the environment and public affairs committee, maybe we could also make a similar call for this bill to be referred to the legislation committee, should that be the will of the house. As the Chair of the Standing Committee on Environment and Public Affairs has acknowledged and pointed out, it probably would not be particularly welcomed by that committee, so perhaps at a later stage we could investigate the option of sending the bill to another committee.

As I said, this bill has been long awaited. The last meaningful consultation, I understand, was made in about 2002. Hon Stephen Dawson pointed out that that was well before the first iPhone was released. That is quite a while ago now—14 years ago. It is time that we had a greater level of consultation. A committee process could facilitate greater consultation, and I will touch on that a bit further into my remarks. Of concern is this so-called “God clause”. I am not sure about anyone else, but I found it a little bemusing. Knowing the Minister for Environment and his previous role before his parliamentary career, the irony of having the capacity to invoke the idea of a God clause was not lost on me; I do think it is of some concern.

Withdrawal of Remark

Hon DONNA FARAGHER: I am happy to listen to what is being said, albeit I disagree, but on the implication put by the member about the Minister for Environment, I would ask your advice, Madam Acting President, on whether the member has extended beyond the bounds of grace in this place. Seriously!

The ACTING PRESIDENT (Hon Liz Behjat): Hon Darren West, I have listened very closely to the comments you were making. I would, perhaps, draw your attention to standing order 45, which states —

All imputations of improper motives and all personal reflections on Members shall be considered highly disorderly.

I know that our standing orders refer to the members in this chamber, but you made particular reference to the minister, that another member here and several members raised objection to. Perhaps you might like to reflect on those words and withdraw them.

Hon DARREN WEST: Thank you Madam Acting President. I certainly did not mean to cause offence to the Minister for Environment and I will withdraw those remarks. I was just making an observation but I withdraw those remarks. There are clearly people who feel strongly about them and I am quite happy to withdraw them.

Debate Resumed

Hon DARREN WEST: I come back to the point that this God clause is of concern to many in the environmental movement because it comes down to one person making a decision about whether a species should become extinct or whether strenuous measures should be made to preserve that species. It is important that we always err on the side of caution on these things. Maybe not this minister, maybe not the next minister, but the next minister after that, or even the one after that, may be a little more gung-ho about their environmental obligations than their predecessors. It is a slippery slope that we may be entering down when we allow one person to enact a so-called God clause. There are issues with that in the community, in this house and in the broader community, and there are certainly issues around that in the environmental movement. That is the reason that a committee could see whether these concerns are justified and engage stakeholders to come and make their point of view about what they feel. Perhaps the committee could make a recommendation that that part of the legislation be

amended. They are all the possibilities available to us if we refer this bill to the environment and public affairs committee.

There is one very important point I have made that also has been raised by previous speakers about why we should do that. I have heard and understand through comments made in the house that there has been little or no consultation about this bill until after it was read into Parliament. Just as Hon Simon O'Brien asked what the point is of sending a bill to be referred to a committee for further investigation and scrutiny, I would perhaps turn that question around and ask: what is the point of bringing legislation to Parliament on which the government has not even consulted with relevant stakeholders? I thought that a good, vibrant and cohesive government would not be afraid to consult with stakeholders when introducing such legislation. I thought that this government would not be afraid to seek public opinion and take feedback from relevant stakeholders and involve them in the drafting of the bill and engage with them and have them feel some ownership of the legislation to prevent the angst that has been shown towards this bill by the environmental movement. That would have made some level of sense. Given that that has not happened and the government, for whatever reason, whether because it has been afraid or is just tired and staggering towards the next election, has chosen not to engage with stakeholders when formulating this legislation, it should be investigated by the committee. It would be interesting to know why there has not been a level of consultation until after the bill has been read in, which is not consultation at all. It is a matter of the old, "Here's what we are going to do. Take it or leave it." By not referring this bill to a committee, the government is again engaging in the type of shadowy behaviour that we see when bills are drafted and brought before the house.

I think that there is another valid reason that there has been a lack of consultation. Give the stakeholders the opportunity to have input, while we are at it. The conservation of biodiversity is very, very important in Western Australia. I believe Western Australia is ranked fifteenth in the world of biodiverse hotspots. For those members who know where the Shire of Dalwallinu is, the wildflowers in that part of the state are just magnificent this year. Members can see them if they have a chance. In Dalwallinu there are 90 species of wattle alone. Western Australia is one of the most diverse environmental hotspots in the world. Of course, a bill such as this has significance worldwide. I am sure people all around the world are looking at us in dismay at the lack of engagement and credibility in the area of conservation and biodiversity. We need to be a little mindful about our reputation outside Western Australia when we rush legislation—we did not rush it, because we have been waiting for a long time—or when the government brings legislation forward without consulting with stakeholders. There could also be an opportunity for the committee to look further afield at the significance of this legislation, given our standing in the world and our enormous biodiversity in Western Australia. It beggars belief, I am sure, among some sections of the scientific community about why we are so gung-ho about a piece of legislation, and the committee could investigate that.

As I said earlier, if the environment and public affairs committee was unwilling or unable to do the inquiry, other committees could. However, the environment and public affairs committee is a quality committee. It has Hon Simon O'Brien, a former minister, as chair of the committee and Hon Stephen Dawson, who has a strong background, as members have heard, in environmental matters. So we bring some skills. Of course, it has Hon Brian Ellis from the Agricultural Region and Hon Paul Brown, also from the Agricultural Region, which is a very biodiverse area of the state. Hon Samantha Rowe from the East Metropolitan Region is also on the committee. It is a balanced and talented committee that I am sure would do an excellent job in evaluating the merits of this legislation and making recommendations to the house. I am sure the report would be a good one and it would be valuable to us as legislators when moving forward and trying to make good decisions for all Western Australians when upholding our duty. I have a few more points that I will make before I end my contribution.

The questions that are being raised with opposition MPs—I am sure they are raised with government MPs as well—include why contact has not been made with organisations such as the Environmental Defender's Office Western Australia. The committee could investigate why that engagement has not been made. In bringing forward the Biodiversity Conservation Bill 2015, the government has not consulted the World Wide Fund for Nature or the Wilderness Society of Western Australia—no consultation has occurred at all. Does it not strike anyone else as odd that the government has not had a single point of consultation with those organisations before bringing such an important bill to the house? The Conservation Council of Western Australia has had no contact from the government on this bill. Does that not strike other members as somewhat strange? The committee could investigate that. The Western Australian Forest Alliance has not been contacted by the government on why this bill is being brought forward in its current form. Whether members agree or disagree with the bill, consultation is a very important stage in the formulation of legislation, and I would like to know why there has not been any consultation. I am sure that the Standing Committee on Environment and Public Affairs could help me with that. In the second reading speech, the minister admitted that there had been no consultation with the public since 2002. I would like to know why.

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Earlier, I referred briefly to the God clause and the extinction aspects of this bill. Extinction will be allowed under this bill without comment from a statutorily convened scientific advisory panel being publicly available. I would have thought, if the government were going to rule that a species could become extinct, which is allowed under this legislation, that it would have to explain its reasons to the public—after all, that is whom we work for. Extinction can be authorised without allowing any public comment and the public would know nothing of the extinction until after the event. What sort of legislation is that? The committee could do further research into why the legislation is drafted in that way and could come back to this place with a worthy report. They are the sorts of things I would like the committee to do.

Point of Order

Hon SIMON O'BRIEN: My apologies, Madam Acting President; I do not interrupt a member on a point of order of relevance lightly, but on a motion such as this it is very important that I do so. If this bill were to be referred to a committee, the committee would have to have regard, in part, to debate on the referral motion. The referral motion is one that refers a bill for inquiry and report, but the honourable member is arguing that the committee should do a whole lot of other things about processes of a department or processes for drafting and so on, which are not germane to what is proposed to be referred. The second part of my point of order is that the honourable member is now debating clause 42 of the bill, which has nothing to do, with the greatest respect, with a referral motion to send a bill to a committee. The member cannot have it both ways. We need to clarify what this motion is about.

The ACTING PRESIDENT (Hon Liz Behjat): I have listened very closely to the contribution being made by Hon Darren West, and my experience in matters of referring a bill to a committee is that the referral is made, and during that contribution the member seeking that referral poses questions as to what a committee might look at if the bill were to be referred to that committee. In every instance, I think the member with the call at the moment has done that. I have been listening quite intently to the member, because the debate has been going on for quite some time now, and I believe he is within the narrow parameters of the referral motion. I am sure that he is going to get to the conclusion of that quite quickly.

Debate Resumed

Hon DARREN WEST: There are two reasons for the points that I make. I am not going to talk all day on this.

The ACTING PRESIDENT: You have only 30 minutes anyway.

Hon DARREN WEST: I am going to make my contribution well within the time permitted. I have two reasons for raising this. I am trying to convince over half the members in this house to support the referral, and these are glaringly obvious reasons that I feel, as I am sure do other members in the house, that this bill should have more scrutiny. That is the first point. Along with that, I am outlining possible subjects of investigation for the committee, but, of course, that is a matter for the committee. My role here today is to make a sound argument as to why this house should support the referral. I believe I am succeeding in that, because these are very, very interesting points for people who prepare legislation to consider about why those basic steps that we would normally expect to be taken have not been taken. When something is outside the norm, it is up to the opposition to question the government and hold it to account. That is what we are doing. The bill is poorly framed and has not had adequate public consultation. Such an anticipated and highly awaited bill would generally be welcomed by the sector and the environmental movement, and potentially by the opposition, but the government has squandered that opportunity. We want to know more about the legislation and how it can be better explained to us via the Standing Committee on Environment and Public Affairs. That is what the opposition is asking for and that is the nub of the referral motion.

I also have a question about penalties, as there appears to be an anomaly in the way penalties are outlined in the bill. It does not make much sense to me. Although the bill has higher civil penalties, the potential for offenders to be sent to jail does not exist. Most pieces of legislation that involve serious breaches have the opportunity for jail terms. It is not that the opposition wants to encourage more people into jail, but it seems strange that the civil penalties are higher but a jail term is not an option. That could be examined further by the Standing Committee on Environment and Public Affairs.

There seems to be a lack of respect for science in this legislation—that is, a lack of acknowledgement of much science in this bill. I would like to know why that is the case. I would like to know how the bill could be made better, with increased awareness of the science that is available to us. It seems a bit of an ad hoc, gung-ho approach. I do not want to cause offence to anybody, but rather than basing the outcomes or the big decisions on science, we have a God clause in the bill. That does not make sense to me. We live in a time in which we have much information available to us.

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The ACTING PRESIDENT: On the last point of order, which I ruled against, I did say that the parameters in referring a bill to a committee are very narrow. The member is very much limited to what is in the bill as to what he might like that committee to look at. Now, in relation to general science policy, the member is straying into areas that may not be considered in the bill, perhaps. I caution the member that he is straying a little outside the boundaries.

Hon DARREN WEST: Thank you, Madam Acting President; I will certainly tighten up my remarks to fit that.

On my previous point, I think the committee could investigate a little further. We would also like to know why there are no provisions for a scientific advisory panel; the bill continually refers to ministerial discretion. The Leader of the House today gave us a history lesson on ministers who perhaps fell foul of their responsibilities over a long time, and although I hope not, I am sure that will happen again. We need to be very careful about allowing ministerial discretion on important matters. Surely there should be some consultation or policy, or some committee to work with the minister to determine such decisions. The Standing Committee on Environment and Public Affairs could perhaps further investigate how that might be made better in the legislation, and report back to the house. It could investigate what changes could be made apart from via ministerial discretion and perhaps look at other models of decision-making rather than just ministerial discretion at all costs. This bill is riddled with references to ministerial discretion. When we deal with conservation and biodiversity, there are a lot of views. Hon Stephen Dawson explained quite eloquently how major mining projects have, from time to time through history, been thwarted by the presence of endangered species or the loss of biodiversity. That is the balance that governments have to strike, but they should do so in an informed manner and bring the community with them. As leaders, we need to bring people with us. The allowance of ministerial discretion all the way through this bill perhaps needs further scrutiny, and I think the committee could do that.

As I wind up my contribution, I note that I did a bit of research and it is not only members of the opposition and the Greens who are saying that this bill needs further scrutiny; a broad list of stakeholders has come out and said that we have missed an opportunity and that we need to strengthen this legislation. We could make this really good legislation, but it needs further scrutiny because whoever drafted this legislation—the Minister for Environment, I presume—was unable to get the balance right on the first attempt, so perhaps we should send it off to a committee to improve or modify it to better suit the world we live in in 2016.

I have already mentioned the Conservation Council of Western Australia; I have also mentioned the Wilderness Society and the Environmental Defender's Office, which has been quite vocal about this. References to this bill and biodiversity conservation in Western Australia have also been made by the Leeuwin Group. I have a lot of media articles that I will not read out, but I will just run through a few of them. A lot of environmental lawyers and other people in the sector have also been vocal on this legislation. I am sure members can find the articles. I have them all here but I am not going to read them out because I want to wind up my remarks. The point I am making is that a large number of stakeholders do not think an opportunity is being taken with this legislation, and I think a committee would provide a perfect opportunity for them to get in and have their say and perhaps influence public policy. The committee would be an ideal forum for them to do that, because the minister and the government clearly have not given them the opportunity. Perhaps a committee could give them that opportunity by holding hearings and bringing in the stakeholders who wish to put their points of view forward in a way that would strengthen the legislation. The whole idea of this process is to strengthen the legislation and make it better, because we do not want to have to change it in a few years' time.

I would have thought it would be a good idea for government members to agree to this referral, and I think it would be a more expedient way of dealing with this legislation. On 4 November we still will have time to debate in Parliament the outcome of the committee's findings. Should relevant changes be made to the legislation as a result of that committee hearing process, the government might just find that the opposition is happy with the bill and that stakeholders might be comfortable with the changes, if any, or the explanations provided in the committee report. We certainly are not getting any explanations or comfort about the bill now. Perhaps an assurance might be all that is necessary. Otherwise, I think it is fair to say that the bill as it stands now is not really acceptable to most of the stakeholders. I do not find it an acceptable piece of legislation.

I am not sure what others will do if this referral motion is defeated and we go into a broader second reading debate, but that will also take up quite a lot of the Parliament's time. Given that there is only a short time until the end of this government's term—and hopefully, the end of this government—perhaps we could actually expedite the process by voting to discharge the bill to a committee and let the committee go about its excellent work. As I have said, the Standing Committee on Environment and Public Affairs is a talented and experienced committee. Let it go about its work of determining the best way forward for this piece of legislation and what changes can be brought back to the house so that we can vote in an informed manner with the benefit of that report. That is what I think we should do on this one. I support the referral motion put forward by

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Hon Sue Ellery and I encourage other members of the house to support the referral also so we can get on with this and other important pieces of legislation.

HON ADELE FARINA (South West) [2.55 pm]: I would like to speak in support of the referral motion. I am not going to speak for very long but there are just a few points I want to make. There is great community interest in this bill and, in fact, great community concern about the bill. This house has received two petitions calling on the house to refer the bill to the Standing Committee on Environment and Public Affairs to inquire into the bill. Although the petition stands referred to the committee, our standing orders under schedule 1, clause 2.3(b) provide for the Standing Committee on Environment and Public Affairs to consider any bill referred by the Legislative Council. There is nothing in our standing orders to prohibit the referral of this bill to the Standing Committee on Environment and Public Affairs.

Under our democratic system of government we have government of the people, by the people, for the people. It is accepted practice in our democracy that the people should be involved in the lawmaking process. The standing orders provide for people to petition the Legislative Council, and these petitions have called upon the Council to undertake an inquiry. If we allow the petitions to go through their usual process in the Standing Committee on Environment and Public Affairs, it is very likely that consideration of the bill will have concluded before that process in the committee has concluded, thereby denying the committee the opportunity to undertake its inquiry and report to the house before consideration of the bill is completed. This would be a travesty, because a process has been set up under our standing orders to enable people to petition the Council, and these petitions have asked for the matter to be referred to the committee for inquiry. A number of conservation groups have issued media releases and have approached members of the Legislative Council to call on the Council to refer the bill to the committee for consideration. It would also frustrate the right of the signatories to those petitions to have their views, as expressed in the petitions, heard, if we do not refer the bill to the committee at this time because the committee processes are unlikely to be completed before the conclusion of consideration of the bill in this house. In my view, that would be a travesty and an injustice to the people who have signed the petition.

Referral of the bill to the committee now would have due regard to the petition presented by the Leader of the Opposition and Hon Lynn MacLaren, and the wishes of the petitioners, for a committee inquiry into the bill before Council considers the bill in detail. We have heard that there are a number of omissions and deficiencies contained in the bill, and Hon Simon O'Brien is right in saying that some of those are policy issues, but they are not all policy issues. A number of them also go to the mechanics or technical aspects of the bill. Therefore, we have policy and technical omissions and deficiencies. Members on this side have raised concerns about those omissions and deficiencies; they were not all policy issues.

The government, relying on consultations undertaken in 2005, has failed to explain why the measures in the 2005 bill, which it says informed the drafting of the 2015 bill, have been excluded from the 2015 bill. At the time the Minister for Environment said he would draft and introduce the Biodiversity Conservation Bill 2015 into the house, he gave no indication that the bill would be substantially different from the 2005 draft. The 2005 draft bill had received widespread community support and met community expectations. Therefore, when the minister gave that undertaking, the community was expecting the introduction of a bill that was in the form of the draft 2005 bill.

The usual process in this house is that when substantial changes are made to a bill or draft bill, the community is given another opportunity to comment on the bill before it is introduced to Parliament. This has not occurred in this instance, and there has been loud community outcry about that. We have heard from a number of conservation and scientific bodies and organisations that have called for the Legislative Council not to approve this bill until it has made substantial amendments. However, we all know that when we amend a bill, it may have ramifications for other clauses of the bill. When we amend a bill during Committee of the Whole, we do not always have the capacity to understand, or have time to look at, the ramifications of those amendments on other clauses of the bill. If this bill is referred to a committee for inquiry, the committee will have the opportunity to look at possible ramifications with a level of detail that we cannot provide in this chamber. That is very important. We are talking about the need to make good laws. Although every amendment that is moved in this place is moved with good intent, the reality is that they may have unforeseen consequences or impact on other clauses of the bill. Referral of a bill to a committee enables the committee to look at any amendments in detail to ensure that does not happen.

I recall an occasion when a bill for which Hon Norman Moore had responsibility—I cannot remember the title of the bill—came before the Standing Committee on Uniform Legislation and Statutes Review. An amendment was moved to that bill, and it was accepted by Minister Moore, and the bill passed, but he then had to come back to the house with another amendment because we had not identified an implication that that amendment had for another provision in the bill. That happens often. It is not intended. Referral of a bill to a committee at least

provides a better opportunity to pick up those sorts of problems. My personal view, which I have expressed many times in this chamber, is that all bills should be referred to a committee. I believe that provides us with a greater level of thoroughness in doing our job. When we expect people to perform at their very best and deliver the best legislation possible, that should be part of the process.

There are 13 pages of amendments to this bill in supplementary notice paper 166, issue 2. Some of those amendments are complex and impact on a number of clauses of the bill. Consideration of these issues in Committee of the Whole will be very difficult. It is, therefore, preferable that this bill be referred to a committee. Members of this house can then see the committee's report and make informed decisions in Committee of the Whole. It makes no sense to pass a biodiversity conservation act that has strong opposition from many stakeholders and will not achieve the stated objectives of biodiversity conservation. There are a lot of groups that we have not heard from, such as farmers, pastoralists and developers, who will be impacted by the bill. Those groups should be given the opportunity to be heard. We have not heard from any lawyers on the bill, so there may even be some legal issues that we have not picked up. Referral of the bill to a committee will provide that opportunity. We are a house of review. I therefore find it frustrating that every time we seek to refer a bill to a committee, there is an objection. As a house of review, that is our job. We are supposed to provide a detailed review of legislation before we pass it, yet time and again we choose not to do that.

There are many measures in the 2005 bill that have not been included in the 2015 bill. There may be good reasons for that. However, we do not know what those reasons are, because in his second reading speech the minister did not even extend to the house the courtesy of identifying those measures and explaining why they have not been included in the 2015 bill. That is despite the fact that the minister has told us that the 2005 draft bill informed the 2015 bill.

The bill also makes provision for a substantial number of matters to be left to the regulations and to ministerial orders and guidelines. Some of those processes have parliamentary oversight and some do not. Ministerial guidelines do not have any parliamentary oversight. That means that there will be no parliamentary oversight of all the substantial information that will be in the ministerial guidelines. There will be parliamentary oversight of the regulations. I can tell members that some substantial stuff is being left to the regulations. One example is the definition of "fauna". I would have thought that would include all animals, but apparently there is a regulation-making power that will enable the minister by regulation to exclude some species of animals from the definition of fauna under the act. We have no idea what those species might be and what the minister has in mind in making that head of power under the act. A committee would be able to examine that. I am certainly curious to know what those species might be.

The other issue I have is that some of the ministerial orders allow for parliamentary oversight and disallowance and some do not. Therefore, the question is: how have those criteria been determined? There is no explanation in the second reading speech of how the criteria have been determined. The other question is: have the criteria been properly applied? We do not have the capacity in Committee of the Whole to look at that in detail and understand the broad nature of the ministerial orders that will be permitted under the act. This is a large bill, and it provides a lot of opportunity for the making of ministerial orders. Referral of the bill to a committee will enable us to get a better understanding of that.

We are not talking about looking just at the policy of the bill; we are talking about the technical details and about how the bill is framed. We are also talking about making sure that the bill does what the policy of the bill intends it to do. I am not clear that the bill does that in the way that we have at least been led to believe through the second reading speech. I therefore urge members of the chamber to seriously consider referral of this bill to a committee. It will not hurt anybody to get this right. It will not hurt anybody to do our job well. It will not stop the bill from being passed in this current term of government. After it has taken so many years for the bill to get to this place, a delay of a couple of months so that we can give the bill proper and thorough consideration does not seem to me to be an unreasonable ask. We have been elected to do a job. We should be doing that job well. Therefore, let us refer the bill to a committee.

Division

Question put and a division taken, the Acting President (Hon Liz Behjat) casting her vote with the noes, with the following result —

Extract from *Hansard*
[COUNCIL — Thursday, 18 August 2016]
p4830b-4844a

Hon Stephen Dawson; Hon Simon O'Brien; Hon Lynn MacLaren; Acting President; Hon Darren West; Hon Adele Farina; Hon Donna Faragher

Ayes (10)

Hon Robin Chapple
Hon Stephen Dawson
Hon Kate Doust

Hon Adele Farina
Hon Lynn MacLaren
Hon Martin Pritchard

Hon Sally Talbot
Hon Ken Travers
Hon Darren West

Hon Samantha Rowe (*Teller*)

Noes (17)

Hon Martin Aldridge
Hon Ken Baston
Hon Liz Behjat
Hon Jacqui Boydell
Hon Paul Brown

Hon Peter Collier
Hon Donna Faragher
Hon Nick Goiran
Hon Dave Grills
Hon Alyssa Hayden

Hon Col Holt
Hon Peter Katsambanis
Hon Mark Lewis
Hon Robyn McSweeney
Hon Helen Morton

Hon Simon O'Brien
Hon Brian Ellis (*Teller*)

Pairs

Hon Sue Ellery
Hon Amber-Jade Sanderson
Hon Alanna Clohesy

Hon Phil Edman
Hon Jim Chown
Hon Michael Mischin

Question thus negated.

Second Reading

Resumed from 17 August.

HON DONNA FARAGHER (East Metropolitan — Minister for Planning) [3.11 pm] — in reply: I thank those who have made a contribution to the debate on the Biodiversity Conservation Bill 2015. Obviously, there will be a fairly lengthy committee stage when a number of matters that have been raised by members already will no doubt be canvassed at perhaps greater length. But I will make some general remarks as well as respond to a couple of the key themes that have been consistently raised. I thank Hon Lynn MacLaren and the Greens for their contribution to the debate. I am aware that Hon Lynn MacLaren has had good communication and liaison with the minister's office, so I recognise that. I also recognise Hon Adele Farina and Hon Sue Ellery, who have made contributions on the substantive elements of this bill.

I indicate again, as I indicated in speaking to another motion in this place just yesterday, that never before has a government, despite a lot of talk and consultation papers being put forward, been able to introduce a biodiversity conservation bill into Parliament—until now. That government is the Liberal–National government. I appreciate that perhaps those on the other side, as I said yesterday, would have liked to have seen the Labor Party introduce a bill such as this. It had its opportunity. It had numerous opportunities and it did not. The Liberal–National government has finally introduced this bill, which is a critical bill in a critical area. As I said yesterday, I do not think that anybody in this house would disagree that the protection and enhancement of our environment is incredibly important for not only us but also future generations. Although one might disagree on occasion with how we might achieve that, the overall aim is to ensure that our environment is protected for those who are not even born yet so that they have a liveable place in a good and protected environment for years to come. Unfortunately, a number of the comments that were made—I say this with all the best respect—in the course of the second reading debate referred to incorrect interpretations of the provisions of the bill before us. Of most concern, many failed to accurately take into account how the provisions of the bill compare with the current legislation. I am referring to both the antiquated Wildlife Conservation Act 1950 and the even older Sandalwood Act 1929.

As I have said, the government is proud of this bill and I can assure everyone here that it will, in every single facet, provide biodiversity conservation outcomes superior to what the current legislation provides, with greater and improved accountability and transparency. It may not give some interest groups everything that they want, but the government believes that it strikes a workable balance across our broad society's needs, desires and expectation for modern, effective and practical legislation in this area.

As a former Minister for Environment I will say this, and I think everyone would agree: the Wildlife Conservation Act in particular has had its day. We have an opportunity now to replace that legislation with a clearly better alternative. It is important because a lot has been said by the Labor opposition in particular, but I also knowledge the Greens' position, on a number of deficiencies that it sees in the legislation. I think it is worthwhile to pause to consider the major deficiencies of the current legislation. We have to do a bit of a compare and contrast.

The Wildlife Conservation Act and the Sandalwood Act provide no processes for listing threatened species as we can list only species that are rare or likely to become extinct, and we have no links to the International Union for Conservation of Nature Red List criteria or categories. The acts provide no recognition or protection for threatened

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ecological communities. The acts provide no protection for threatened species habitat or habitats critical to the survival of threatened species or threatened ecological communities. The acts provide no community consultation or input processes for decision-making. The acts provide no landholder consultation or input processes for decision-making. They provide no processes for providing for public information on decisions made, including approving taking that may lead to the eventual extinction of a species. I will say a bit more about that one in a moment. The acts provide no public information on the processes for decision-making. They have no provisions covering threatening processes, recovery plans, management plans, environmental pests or nature-based tourism. The current acts provide no encouragement or support for private biodiversity conservation initiatives such as management agreements or biodiversity conservation covenants. The current acts provide no provision to bind the state or its agencies in relation to fauna or threatened fauna conservation. The current acts provide no control over the transport, storage, processing or sale of wild-harvested sandalwood. The current acts provide no adequate deterrent penalties and no defences to prosecution when impacts on biodiversity are accidental.

In every one of the above cases, the Biodiversity Conservation Bill will provide new measures that will greatly improve the biodiversity conservation situation in this state, along with better accountability and public involvement. As I have said before and as I said a moment ago and indeed as the minister himself has said, in every case this bill before us today provides a superior piece of legislation that should be welcomed by those who are really concerned about biodiversity conservation.

The opposition in particular referred to a lack of consultation. I also recognise that Hon Lynn MacLaren referred to this as well. They are strong in their opposition to a significant feature of the bill; that is, the minister may, after careful consideration and in only extreme situations, seek the Governor's approval for an authorisation that may lead to a species becoming eligible for listing as an extinct species in the near future. That is in clause 42. A lot has been said about that. I must say that some quite uncharitable comments were made about the Minister for Environment, which I appreciate were later withdrawn. I will say one thing on that matter: no minister would ever, as I said yesterday in response to a comment made by Hon Sally Talbot, wake up one morning, have his Weeties, not take advice from anybody and say, "Okay, I'm happy for a particular species to become extinct overnight." No minister would ever do that. It is ludicrous to suggest that that would actually happen.

In the context of consultation, all consultations and discussions that have been held since 1992 have helped inform the development of the bill before us today. I will give one example, if I could. I would like to read from a discussion paper dated December 2002. I understand that it was released by the then Premier of Western Australia and the then Minister for the Environment and Heritage, Hon Judy Edwards. It is entitled "A Biodiversity Conservation Act for Western Australia". Hon Lynn MacLaren is nodding; she would have read this quite a few times, I reckon. Remember that this was a Labor document. On page 11, under the heading "Accountability for licensing decisions", it states —

At present under the Wildlife Conservation Act and associated regulations, the Minister (or DCLM, —
The director general of the former Department of Conservation and Land Management —
under delegated power) may grant a licence to take fauna, including threatened fauna. There are a limited number of types of licence that may be granted, such as licences for the taking of fauna causing damage to property, and licences to take and mark fauna for research purposes.

Rare flora is dealt with differently. The written consent of the Minister is required before a person can take rare flora (this power is delegated to DCLM in circumstances where the impact is not considered significant). The Wildlife Conservation Act does not restrict the circumstances in which the Minister may grant that consent, nor does legislation prescribe conditions that the Minister may set.

That goes to my point about the deficiencies of the current legislation. In fact, the minister could make a decision now without any requirement. I see Hon Lynn MacLaren nodding so she is agreeing with me. That is a deficiency. We are elevating it.

Hon Lynn MacLaren interjected.

Hon DONNA FARAGHER: Give me a minute. It goes on —

It is proposed to take a consistent approach to the authorisation of actions that will negatively impact on the conservation of any threatened species or ecological community. All such decisions involving the risk of significant conservation impacts will have to be authorised by the Minister. In other cases authorisation will continue to be delegated to DCLM.

Here comes the last paragraph, bearing in mind every comment that has been made about God clauses and all those sorts of things —

In addition, in the case of decisions that could reasonably be expected to result in the extinction or total destruction of a species or ecological community, the Minister's decision must be approved by the

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Governor (effectively Cabinet) and tabled in Parliament. This will ensure that the Government of the day will be held accountable for such decisions.

We have had to sit and listen to various comments by those on the other side about how outrageous it is that the minister could suggest that a decision needs to be approved by the Governor, effectively cabinet, and tabled in Parliament. I will read the last sentence again, in case members have forgotten —

This will ensure that the Government of the day will be held accountable for such decisions.

It is the exact same measure that is being put forward in this bill. I might also add that I understand —

Hon Adele Farina interjected.

Hon DONNA FARAGHER: Okay; I will take the honourable member on that point. I understand that this provision has remained in the drafting of every subsequent bill that has been considered after that consultation—I repeat “after that consultation”—throughout 2003. Who was in government then? Not us. I was not even in Parliament then. It was the opposition. I appreciate that the opposition may now have a different view. I appreciate that people change their minds on things. That is okay, I do not have an issue with that, but do not come in here and try to suggest it is outrageous that the minister might do this; how unaccountable he is to the Western Australian community; how unaccountable he is to this Parliament; and yet when the Labor Party was in government, it proposed the exact same thing. Anyway, I will move on. I have made my point.

Hon Adele Farina: Can the minister table the document she is referring to?

Hon DONNA FARAGHER: Sure. If the member does not mind, I will do that at the end, but I am happy to provide that.

Hon Adele Farina: And a copy of the 2005 bill that you just referred to?

Hon DONNA FARAGHER: No, because that is not a matter for me to release.

Hon Adele Farina: I thought the minister just quoted from it.

Hon DONNA FARAGHER: No; I quoted from the discussion paper.

With respect to some other matters—I may miss a couple but I have no doubt that if I miss them, it will be raised during the committee stage—some questions were asked regarding the International Union for Conservation of Nature categories. The bill includes the same criteria and ranking categories as the internationally accepted IUCN Red List criteria: critically endangered, at clause 20; endangered, at clause 21; and vulnerable, at clause 22. I understand that further fine detail of the criteria will be in the ministerial guidelines. That will be as the criteria are amended from time to time by the IUCN. That is taking that into account. Clause 260—which hopefully we will get to at some stage in the future—provides for those ministerial guidelines. I understand that the Minister for Environment has signed a memorandum of understanding with the commonwealth that includes obligations to use the IUCN threatened status categories and agreed assessment criteria.

In terms of keeping threatened species lists up to date, the bill includes a process that will help to ensure that WA lists are up to date and that species and ecological communities are better protected than is currently the case. It should be noted that the commonwealth, with all of its processes, is in many cases up to five to 10 years behind WA in listing Western Australian species on national lists at the appropriate threat ranking. I would put to the house that adopting the same level of bureaucratic processes as the commonwealth would devalue the currency and applicability of Western Australia's species rankings to the detriment of conservation and development assessments.

A comment was made about fish. Hon Adele Farina referred to a press statement that had been released some time ago by Sea Shepherd, of all organisations. It indicated that we did not include fish in the bill. I stand corrected if those are not the exact words used but it was something along those lines. In clause 5 the bill recognises that fish are fauna and provides recognition for sustainable fishing to be managed under the Fish Resources Management Act 1994 or the Aquatic Resources Management Bill 2015, dependent upon it passing. The principal management of fish under fisheries legislation is provided under clause 12. However, it needs to be noted, and this is possibly where the query came from, that the bill provides for fish to be declared as threatened or specially protected fauna in subdivisions 1 and 2 of part 2 of the bill.

With regard to the protection of wetlands and other areas of significant habitat, for the very first time the bill provides for the protection and listing of ecological communities and critical habitat, including wetland areas that are of high-biodiversity habitat significance. The bill also makes specific provision to provide recognition for the management of Ramsar wetlands in the regulation-making head powers in schedule 1.

We will deal with the questions about the objects of the bill when we come to that in committee. The objects directly reference the objectives in the international Convention on Biological Diversity and are entirely consistent with internationally accepted practice in biodiversity conservation and management.

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We will get to the issue about statutory committees when we come to the amendments that are before the house. There are calls for a statutory scientific committee and a biodiversity commission. The government believes that the bill deals with the repair of legislative failings of the Wildlife Conservation Act 1950 and it is not about adding bureaucracy when the current system is working effectively. This is an important point with regard to it being silly in the extreme to suggest that a minister would make decisions without seeking advice from scientific experts and others. There is an existing non-statutory Threatened Species Scientific Committee and a Threatened Ecological Communities Scientific Advisory Committee. They have operating successfully for many years and will continue to do so. I stand corrected but I am not aware of anything being put forward to suggest that they have not been working effectively. If there was a deficiency in how those committees operate and the information they provide to the minister, I am quite sure that, as a former Minister for Environment, I would know about it and environmental groups and others would have raised this matter consistently with successive ministers. I understand that they have operated successfully for many years and there is no intention for their work to cease.

Finally, concerns have been raised about ministerial discretion. I point back to my comments on the inadequacies of the current legislation. When we compare and contrast this bill with the current legislation, there is no comparison. This is a completely new, modern bill that will be far more effective in managing and protecting our environment and setting down clear requirements than what we have under the current legislation. One key element is that it deals with matters surrounding consultation and the provision of advice to landholders, which I have already mentioned. Under the current Wildlife Conservation Act the minister has complete ministerial discretion. No provision requires consultation, no provision requires the provision of advice to landholders and no provision provides for public notification of decisions. I will say it again: under the current act there is no provision that provides for required consultation, the provision of advice to landholders or the public notification of decision. In addition, the wildlife act provides for the Governor to declare that species are not protected and therefore not subject to conservation.

I might have missed a few key elements and I apologise for that, but I am quite sure that what I have missed will be raised during the committee stage. This bill before us is streets ahead of the legislation that is currently administered by the Department of Parks and Wildlife; that is, the Wildlife Conservation Act 1950 and the Sandalwood Act 1929. There is absolutely no doubt that in every single way this bill provides far superior biodiversity outcomes than the current legislation. As I said at the beginning of my contribution, it will greatly improve accountability and transparency. I commend the bill to the house.

Question put and passed.

Bill read a second time.