ENVIRONMENTAL PROTECTION AMENDMENT BILL 2020
ENVIRONMENTAL PROTECTION AMENDMENT BILL (NO. 2) 2020

Second Reading — Cognate Debate

Resumed from an earlier stage of the sitting.

HON ROBIN CHAPPLE (Mining and Pastoral) [5.11 pm]: Thank you, Madam President —

The PRESIDENT: I am making the assumption that you are the lead speaker for your party.

Hon ROBIN CHAPPLE: That is correct. Thank you, Madam President.

I make it very clear that the Greens will support this legislation, but as the minister will most probably understand, we feel that it falls slightly short of what we had anticipated or hoped for. In that regard, I will turn to a number of documents that cover the issue. They are submissions made to the department by the Conservation Council of Western Australia and the Environmental Defenders Office. We also need to be aware that this is probably putting the cart before the horse in many respects because we are still dealing with the independent review of the Environment Protection and Biodiversity Conservation Act, which may or may not have significant implications for how we move forward with the Environmental Protection Act and its controls in Western Australia.

I will turn to a number of points. Quite clearly, this legislation makes no mention of the words "climate" or "Aboriginal heritage" and there is only one mention of the word "cumulative". When it comes to cumulative issues in proposed section 3(1B), to be inserted by clause 4 of the Environmental Protection Amendment Bill 2020, I have a very specific interest in that component of the legislation and will describe why shortly. On page 7 of the bill, proposed section 3(1B) states —

> A reference in this Act to the effect of a proposal on the environment includes a reference to the cumulative effect of impacts of the proposal on the environment.

That refers to aesthetic, cultural, economic and other social surroundings to the extent to which they directly affect or are affected by physical or biological surroundings. This is something that I have a great deal of interest in because, if we go back to the court case of Chapple v Steedman, the very point I was trying to make in 2005 was that there had been no cumulative assessment. When we were looking at strategic assessments at that time, there was a significant problem. I turn to a review of that court case on 23 September 2011 by Hon Wayne Martin, the then Chief Justice of Western Australia. At that time, I sought to get a cumulative assessment or an assessment of the development of an industrial complex. As members will guess, that was the Burrup Peninsula, which I think everybody knows I have a bit of an interest in. One of the problems that arose from the court case was that even though eight projects were slated for that area at that time, the developments could not be considered collectively. A management plan was proposed, which we referred to the Environmental Protection Authority and it accepted the referral—it announced in Saturday's paper that it would assess the strategic nature of the industrial development on the Burrup. I could go on at length on this but I will not.

One of the key issues was that, under direction from the state development organisation, the EPA sought to rescind the assessment. There was no provision within the EP act to rescind such a decision, so I took legal action against Dr Steedman and the EPA for having made the decision to rescind. It was a really interesting court case because the EPA decided not to defend the court case. At the eleventh hour, the state interceded and took up the cudgels of defending the EPA; the EPA had no part in defence of the action I was taking against it. This is not long, so I will read it in. It is from the review, as I said, by Hon Wayne Martin, then Chief Justice, titled "The Role of the Courts in Protecting the Environment", which was an address given at the Parmelia Hilton in Perth on 23 September 2011. I will not go through all the lead-up, but it states —

> However, the area is also the site of a large plant for the liquefaction of natural gas and associated facilities. During 1995, a draft land use and management plan was prepared covering the peninsula. The draft plan proposed that the land on the peninsula which had not already been developed for industrial purposes, or leased, should be divided into two land use zones. The first zone which was to comprise over 60% of the peninsula was to be a conservation zone, whereas the second was to be set aside for future industrial development, subject to formal environmental and other approvals before development could proceed.
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> Robin Chapple sought an order of the court compelling the Environmental Protection Authority to assess the draft land use plan before the plan proceeded any further. Accordingly, the question before the court concerned the interpretation and application of the *Environmental Protection Act* (the EP Act), rather than the AH Act —

That is, the Aboriginal Heritage Act. It continues —

> Nevertheless, as with the cases to which I have referred involving the AH Act, the only question which concerned the court was whether the EP Act required that the draft land use plan be environmentally assessed prior to adoption.

This is akin to saying we will have a plan to develop Kings Park as an industrial complex but it cannot be assessed. It can be assessed only once it has been zoned to be an industrial complex and the first industry seeks to move there. Hon Wayne Martin continues —

> … assessing any proposal likely, if implemented, to have a significant effect on the environment. The court unanimously concluded that the plan was not a proposal which was likely to have a significant effect on the environment because it was, even when finalised, simply a proposal to zone land, not to develop it. As the court observed, zoning did not of itself confer any rights of development.

I find that really rather bizarre in many ways, but, as Hon Wayne Martin says —

> In the court's view, it was only proposals for the development of land which had to be assessed by the EPA under the EP Act, because only the development of land would be likely to have a significant effect on the environment.
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> The court was, however, in no doubt as to the environmental significance of the site. Kennedy J described it in these terms:
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> > "The great significance of the Burrup Peninsula is not in any doubt. The Burrup Peninsula Draft Use and Management Plan itself stresses its importance, pointing out that Aboriginal people have used the peninsula for thousands of years. It has one of the highest known concentrations of Aboriginal sites in Australia. The average density of archaeological sites was found in 1987 to be 34.2 per square kilometre, "among the richest rock art and archaeological provinces in the world". It also has outstanding scenic values. The draft plan observes that the high precipitous topography, surrounding islands and unusual rock-pile landform provide a unique, rugged beauty. The peninsula's vegetation and flora are extremely varied and rich, both in diversity and number of species present.

It is really quite unique, because the mists that are created by the hot rocks mean that the flora of the Burrup Peninsula is akin almost to the Kimberley, not to the Ashburton botanical region. The quote continues —

> > Several species thought to be present on the Burrup Peninsula or in surrounding waters have been declared threatened or in need of special protection under the Wildlife Conservation Act 1950. The significance of the peninsula has been widely regarded as important in the national and international scientific community since the first reports on it were published in the 1960s and 1970s. At the same time, the peninsula is described as being one of the most important industrial and port sites in Australia. The scope for conflict between environmental and economic interests is patently clear."

Going back to Hon Wayne Martin, he said —

> My point is that it was no part of the court's role to resolve the conflict between environmental and economic interests. Notwithstanding the clear acknowledgement of the environmental significance of the site, the decision of the court was limited to the interpretation and application of the EP Act and had the effect that the draft land use plan did not have to be environmentally assessed prior to its adoption. As many would know, the decision in this case led to a significant amendment to the EP Act to enable the environmental assessment of town planning schemes and proposed changes in zoning of land by the EPA.

It did not go as far as amending the act to enable strategic assessment such as a Kwinana industrial complex or something like that. It also touches briefly on Aboriginal heritage, and I will come to that shortly.

I go back to page 7 of the Environmental Protection Amendment Bill 2020, which deals with cumulative impacts of the proposal on the environment. I would really like to know from the minister what a proposal is in that regard. Is it an individual proposal or a proposal to use land for other purposes, and more broadly a planning proposal? It is really important to understand the effect proposed subsection (1B) would have. It is important that it will not go back to the old system of individual developments, because we have gone beyond the idea of ad nauseam adding projects to areas. I know that Kwinana has the airshed management plan, which is cumulative. That is really valuable. There is no such cumulative plan for the Burrup and also for other industrial areas. It would be really interesting to delve deeply into proposed subsection (1B). It is the only mention of "cumulative" in the legislation; there is no other descriptor.

The legislation touches on a couple of other things. I go to proposed section 51DA, "Referral of proposed clearing to CEO for decision on whether a clearing permit should be obtained". We know that a review is already being carried out on the land clearing legislation, and I understand that the department will release a report later this year for further consultation. It has been a fairly long going position, but I am surprised that we are dealing with these

matters within this legislation when the report into land clearing has not been released and we do not know what that may or may not contain. Regarding proposed section 51DA, when does the government anticipate that the Department of Water and Environmental Regulation will complete the native vegetation consultation, how will the recommendations of the native vegetation consultation be implemented and, again, if recommendations for the native vegetation consultation require legislative change, when does the government anticipate it would introduce an additional amendment bill? Quite clearly, if this legislation requires further amendments, it seems rather pointless that we are going through this process at the moment. Having said that, I have made it very clear that elements of the legislation are long overdue, but not that substantive. The bills clear up a number of things that should have been dealt with a long time ago. I have been around long enough to see a number of amendments come through this place to the Environmental Protection Act.

The other area that I want to touch on briefly is the Environment Protection and Biodiversity Conservation Act 1999. I will go down a couple of paths here. Proposed section 124C, "Additional function of Authority", states —

> (1) It is a function of the Authority to facilitate the implementation of bilateral agreements.
>
> (2) A reference in any enactment to the Authority's functions includes a reference to its function under subsection (1).

In dealing with 124C, how can the government present this legislation that proposes to use bilateral approvals processes in the knowledge that significant changes may occur through the independent review of the EPBC act and a subsequent response from the federal government? If we only go to that review, which is now out and about, we note that Professor Graeme Samuel has across the board been extremely critical of the functions of the EPBC act. I will turn to that in a moment. As I was saying to some of my parliamentary colleagues in the lunch room, we tried to do this once before. In 2013, we eventually signed a memorandum of understanding with the federal government. It dealt with a number of things in the way that the two parties, the Commonwealth of Australia and Western Australia, would deal with matters pertaining to the two acts. Interestingly enough, it did not deal with certain components, but there was another attempt in 2006 that then trundled on for a couple of years. The state government attempted to establish a bilateral agreement with the federal government. I refer to some meeting notes, as I was involved in the process. Duncan Ord indicated that the department had only recently received critical input from the Department of Environment and Heritage and Bill Carr indicating that they were currently working through that input. They had met with Peter Garrett the previous week, and got an indication that Garrett may not have been happy about relinquishing his powers to the state at this time. They were to meet again, I understand, with their federal counterparts on 3 March 2007, hopefully, in their words, for the feds to agree to the bilateral agreement. All negotiations were based on a mutual understanding of bilateral agreements by Eric Ripper, WA, and Malcolm Turnbull, federal, by a handshake on 26 April 2007. Once this was finalised, I and others were to be granted access to this before it was released for public comment at the end of March. The period for public comment was to be approximately a month, with all states and parties having input. This model bilateral agreement affecting over 400 pieces of legislation would be the first to cover environmental heritage and would be the benchmark model for all future bilateral agreements, possibly in all states.

The need for several legislative steps arose from these negotiations, and this is where it gets interesting. The federal government, in reviewing our state legislation found that it did not meet its standards at a federal level. Eventually, I received the final draft management agreement document for comment by Thursday, 28 February 2008. It was understood that Duncan Ord had a meeting with DEH staff in conjunction with the relevant ministers on 3 March 2008 or thereabouts to commence formalising this document, should the feds agree. At that meeting, the feds declined to progress with the bilateral, as the state jurisdiction could not meet federal legislative requirements.

We are tying a lot of this, whether it be this piece of legislation we are dealing with or, indeed, Professor Graeme Samuel's report, into the development of bilateral agreements. That is interesting, because in his report he suggests that things are seemingly already being overridden by statements from the federal minister in her response to the interim report. He is very, very critical, and I might turn to some of those critiques shortly. The minister formally responded to the interim report on 20 July 2020. The commonwealth has committed to standards recommended in the interim report. She committed to commencing discussion with willing states to enter into new bilateral agreements accrediting states to carry out environmental assessments and approvals on the commonwealth's behalf to facilitate single-touch approvals; commencing a national engagement process for modernising the protection of Indigenous cultural heritage, commencing with a roundtable meeting of state and federal Indigenous and environment ministers; and exploring market-based solutions for better habitat restoration with a view to improving environmental outcomes, providing greater certainty for business, and establishing an environmental markets expert advisory group.

The minister has foreshadowed introducing legislation and prototype standards as early as August ahead of the release of Professor Samuel's final report, which is due in October 2020. This has given rise to some concerns that the federal government may do a rush job to establish these agreements. The government has also indicated that it will take steps to strengthen compliance functions in line with Professor Samuel's recommendations, although it does

not support the establishment of an independent regulator outside of the Department of Agriculture, Water and the Environment, which is one of Professor Samuel's recommendations. Despite not being a recommendation of the interim report, the minister will also reportedly be discussing with the Attorney General potential actions to prevent unwarranted challenges to decisions under the Environment Protection and Biodiversity Conservation Act, citing concerns regarding activists engaging in "lawfare" to stymie projects. I can assure members that when I took action against the Environmental Protection Authority here in the state, it was not to stymie; it was to try to ensure that the Environmental Protection Act did its job. They are those components.

It is noted that there is no mention of "climate" in this bill; the word does not exist. I thought that given the state of the climate globally, there would have been an ideal opportunity to at least enshrine in this legislation some response to the issues we are facing at a global level with the environment. I do not think we can disregard the fact that all the other states in Australia are reducing their emissions profiles, but we are going up in our emissions profile quite dramatically.

I will turn to another report. I refer to "State and Territory Greenhouse Gas Inventories 2018: Australia's National Greenhouse Accounts: May 2020". It is the inventory for 2018 because there is a lag in producing the data. Overall, Australia's emissions have declined according to these figures, but looking at where they have declined, New South Wales had a 17.4 per cent decline in emissions; Queensland had an 8.3 per cent decline; Victoria had a 17.5 per cent decline—I will not go to WA yet, because that is shock horror—South Australia had a decline of 31.6 per cent; the Northern Territory has gone up by 14.6 per cent; Tasmania has had a decline of 111.2 per cent, which I did not know could be done, but anyway there we go; the Australian Capital Territory had a decline of 1.9 per cent; and good old Western Australia went up by 21.1 per cent.

Notwithstanding the situation that we as a state find ourselves in and the one that the Intergovernmental Panel on Climate Change and the global community finds itself in, one would have thought that with this legislation before us we should have taken hold of the issue and done something really strategic around this. Western Australia's total emissions in 2018 were 91.5 million tonnes of CO_2e. As I said, emissions have increased by 21.1 per cent on 2005 levels. This is due to —

> … strong growth in mining and exports driving increases in *stationary energy* and *fugitive emissions from fossil fuel extraction* and long term growth in population and vehicle fleets resulting in increased *transport* emissions …

It is rather interesting to determine what stationary energy is in the Australian national greenhouse accounts. All of the energy that a company such as Rio Tinto or BHP produces goes into that stationary energy basket, even though it is not a power station as we would understand it. In 2018, stationary energy emissions in WA were—I have to turn my head sideways to look at the graph—approximately 55 million tonnes of CO_2e per annum against 35 million tonnes in 2005. Interestingly, land use and land use changes in forestry have gone down quite dramatically. Agricultural emissions have gone down. Industrial processing has stayed about the same. Fugitive emissions and transport have gone up, but the biggie is stationary energy, which is, in essence, the mining sector.

Post-COVID, the government is looking to industry to pull us out of the mire that will be the state's economy. I hope that instead of chucking out the baby with the bathwater, we will start looking at our responsibilities as a state, our responsibilities as a nation and our responsibilities globally when it comes to climate change and carbon pollution.

A document from the Conservation Council of Western Australia on Tuesday, 28 April 2020 states —

> In an analysis of the Bill, law firm Allens says the changes "reflect a fairly modest reform agenda", despite a government claim that it represents the most significant reform since the Act came into effect in 1986.
>
> However, the briefing by Allens partner Eve Lynch and colleagues Darcy Doyle, Danielle Thompson and Isaac St Clair-Burns, cautions there are key changes that companies need to be aware of.
>
> For example, the bilateral agreement provisions will "smooth the way forward" for a new agreement between the federal and state governments that covers environmental approvals, not just assessments, it says.
>
> It also notes that the Bill will allow the EPA to take into account other statutory processes that are relevant to the environmental impacts of a project—such as a separate consent process under Aboriginal heritage protection legislation—when deciding whether to assess it.

This is very important. I will finish reading this document and then I will go back to Aboriginal heritage. It continues —

> "The express power to take these other processes into account may provide more scope for the EPA to decide not to assess particular proposals or to otherwise limit the scope of factors to be considered in the environmental assessment process," the analysis says.

Nothing in the bill uses the words "Aboriginal" or "heritage", so I am interested in that. I am also very interested because we have just been dealing with Juukan caves, which went before the EPA and I will read out what the EPA had to say.

Hon Stephen Dawson: What year was that—Juukan Caves?

Hon ROBIN CHAPPLE: Off the top of my head, the assessment was in 2005. A document dated August 2005 was presented to the EPA and states —

> Ethnographic surveys conducted thus far in the BS4 Project area —

This is the extension of the Brockman syncline 4 iron ore proposal —

> have not identified any sites of ethnographic significance. Hence, it is anticipated that the BS4 Project will not adversely impact on any areas of Aboriginal ethnographic heritage significance.
>
> A total of 27 Aboriginal archaeological heritage sites have been located to date within the BS4 Project area.

But this was not seen by the proponent to be of any significant issue. The statement that follows on 24 March 2006 was —

> Aboriginal Heritage
>
> Protect/manage Aboriginal heritage sites in accordance with the Aboriginal Heritage Act 1972.
>
> 7. Complete Aboriginal heritage surveys of all areas not yet surveyed within the BS4 Project area, and avoid any Aboriginal heritage sites identified where practicable.

I take the minister's point that that was 2005 through to 2006, but not much has changed. Recently, we have seen similar matters referred to the Minister for Aboriginal Affairs such as the destruction of caves or other issues in the Wintawari Guruma country or Banjima country. Those issues have all gone ahead and there has been no mention in either the referrals or the documents from the EPA other than those broad statements. Although the Environmental Protection Act on one level, by definition, requires the Environmental Protection Authority to do some evaluation of other social surrounds, it is clear that it has never involved itself in looking at Aboriginal heritage issues. This legislation was a really good opportunity to try to put forward a process that could have included Aboriginal heritage issues, seeing as they are very topical at the moment. Unfortunately, many of the aspects that I am interested in cannot be addressed by amendment. I can only deal with the legislation before me, not a broader amendment. Those were some concerns I had about the development of this piece of legislation.

Having said that, as outlined by the minister in the second reading speech, the main areas of reform are —

- improve regulatory processes under part IV to streamline the administrative efficiency of the environmental impact assessment process and reduce duplication of assessments and approvals; —

I have no problem there —

- introduce cost recovery provisions relating to part IV; —

I note that the honourable member has an amendment for that, which we will deal with when we go into the committee stage —

- clarify provisions dealing with strategic assessments using terminology consistent with that used in other jurisdictions; —

I had hoped that some of the clarifications in the other jurisdictions had been transferred into this piece of legislation because, quite clearly, other legislative provisions in other jurisdictions are much more rigorous —

- amend part V, division 2 to ensure the clearing provisions are efficient, targeted, flexible and transparent while ensuring protection of native vegetation with important environmental values; —

We are still waiting for the inquiry into the clearing of native vegetation to be tabled and any amendments arising out of that to be introduced —

- amend part V, division 3 to improve the efficiency of regulation of emissions and discharges; —

When we come to that in committee, I want to drill down to find out where we are going on that one —

- modernise and improve defences, investigation and enforcement powers, and provide for enhanced modified penalties; —

We need to look at that very carefully during the committee stage from a number of points of view, such as those on the conservation side who may wish to take action and the people who may be unduly impacted by those amendments —

- provide a new part VIIB that enables regulations to be made for the development of environmental monitoring programs to address cumulative environmental impacts in particular areas or from certain industries and to recover the costs of monitoring;

I want to delve into that. The issue in Port Hedland is that dust emissions come from several proponents and it is very, very difficult to work out who is responsible for which bit of dust. When it comes to emissions—I will go back to my good old place, the Burrup—I have heard commentary from proponents, "It's not us, it's Rio Tinto, it's their ships"; from other people, "No, it's not, it's Yara"; and from others, "No, it's not, it's Woodside"; so I would love to know how we are going to work through that minefield. The second reading continues —

- facilitate and streamline the implementation of bilateral assessment and approval agreements under the commonwealth Environmental Protection and Biodiversity Conservation Act 1999, including fees for cost recovery;

Again, there are two components of that that we really need to look at: are our laws compatible with those of the federal jurisdiction, or vice versa; and, if they are not, how are we going to overcome those? Because when we last looked at this, as I have already said, the feds said that our Aboriginal Heritage Act would not meet the requirements of the EPBC act as it stood at that time. We are working towards amendments to the Aboriginal Heritage Act at the moment, so it will be interesting to see how we can nuance that into the future. Continuing —

- amend appeal provisions to improve consistency; and
- impose consistent transparency and publication requirements throughout the EP act, providing a head power for a system for the accreditation of environmental practitioners …

I think that is very, very valid, knowing that it took me a long time to get myself accredited. I have a background in engineering and I did environmental engineering as a consultant, and it took a long while, so it is really important. There are many people out there operating in this space. I will not belittle anybody who is particularly famous who operated in this field and was an absolute nightmare when it came to putting forward environmental programs and was roundly criticised by industry and the government for having missed the point so many times. He was not an accredited environmental consultant. He was a great naturalist, but he was not an accredited environmental consultant.

I will delve quite deeply into many of these issues in Committee of the Whole, so I think that is it from me; however, I flag with the minister that I will be literally going over this clause by clause and seeking a lot of explanations from the minister and his staff about what some of these components actually mean, how they will be implemented and how we will deal with them into the future. Thank you very much indeed.

HON DIANE EVERS (South West) [5.53 pm]: First of all, I would like to thank my colleague Hon Robin Chapple for bringing up so many important issues that are related to the Environmental Protection Amendment Bill and the Environmental Protection Amendment Bill (No. 2) but do not yet appear in those bills. There are many things that need to be done. I take this bill as—I cannot say "simplistic", because it does address a lot of issues going back through a lot of things that need to be attended to, but there are so many more things missing from it that I had hoped to see in there. I hope that, through this process, those issues within the bill that need to be fixed become apparent. I would also like to thank Hon Rick Mazza. I believe I heard him mention "generational equity". That is something I have spoken about a number of times, and I realise how important it is, particularly within the environmental sphere. If we use it up and it is not there for our children and grandchildren, we should pay the price for that. It is just horrendous to think that we might let the environment degrade just that little bit further.

One other thing I would like to mention before I get started is that I will talk about the Beeliar Group, who are professors for environmental responsibility. Cumulatively, these 35 professors have spent thousands of hours over decades—a long time—involved in the academic world associated with the things we are talking about now. The group formed in January 2017, and basically the professors put forward statements, completely pro bono, on issues that they believe the public needs to have a bit more in-depth assessment of. The professors are concerned, they are involved, they care about the future, and I respect their work. I will mention that work a bit as I go through my contribution.

The primary aim of any changes to the legislation should be more clearly framed around environmental protection rather than simply efficiencies and transparency. We find this a lot: we are trying to streamline it; we are trying to cut red tape; we are trying to make it simpler for people to get through their applications for the things that they want, so that they can clear more easily, damage the environment and somehow get it through. We have to admit that when someone is going out to clear something, it is damaging the environment, and the only reason we have these acts is to make sure that significant damage does not occur. As I will also mention later, there is a cumulative impact. I am pleased to see that added into the bill, because with current legislation, people can just put through one application after another for parts of a project in stages. The individual applications do not have a significant impact on the environment; however, cumulatively, they definitely do.

Although transparencies and efficiencies are important, the reform of the Environmental Protection Act and the exercise of the powers under the act should always be consistent with the act's object, which is to protect and preserve the environment of the state. The objects of this act are fundamentally based on the principles of ecologically sustainable development with regard to the precautionary principle; the principle of intergenerational equity; the principles of biological diversity and ecological integrity; principles relating to improved valuation, pricing and incentive mechanisms; and the principle of waste minimisation. These principles are listed under section 4A of the act. But the operative scheme of the act is not effectively connected to the act's objects and principles. Despite its stated basis and ecologically sustainable developmental principles, the application of the act does not lead to satisfactory environmental protection as it stands. I have observed the negative impacts of this in my work on many proposals in which environmental approval is required. It is very frustrating and of great concern to the members of the public who contact my office, and this reform offers a perfect opportunity to address this disconnect. Unfortunately, this disconnect remains. There are still many negative impacts; there are still many environmental approvals going through where the community is deadset against the proposal and really has no option to appeal or to question it. Sometimes we go through public environmental reviews and therefore people do get a bit of time to put in their responses, but I know that in some cases, when people put in responses, by the time the response is taken they are told, "Wait, the proponent put in a supplementary report, we've got more information out of that", so they are not even responding to the final application. That is just unconscionable. It should not happen that way. I realise that there are some steps in this legislation to take care of this and to address that.

The Beeliar professors suggest that decisions made under parts 3 and 4 should be required to give effect to the act's objects and principles, particularly under the act's provisions regarding the content of environmental protection policies; the decisions made on environmental impact assessments, namely the procedural decisions as to whether and at what level to undertake the environmental impact assessment; the content of the EPA's reports; and the final ministerial decision and proposal implementation. Also, the decisions made under the provision for environmental regulation—for example, works approvals licences and clearing permits.

This bill allows for the accreditation of environmental practitioners, which is great. I was really hoping that we would have some accreditation for these environmental practitioners. Unfortunately, it is a voluntary scheme. If there are environmental practitioners but the proponent does not have to use them, does not have to pay or go through somebody who actually has this accreditation, I do not understand the value in it. Making the scheme voluntary negates the benefit that we might get there. However, I am pleased that we have accredited environmental practitioners in the bill so that they can certify the documents prior to the submission. Although clearing provisions do require reform, the goal of achieving more efficient, targeted, flexible and transparent outcomes should be secondary to protecting the flora and fauna. Again, it is great that we have these accredited practitioners, but will they actually be able to make a difference?

Sitting suspended from 6.00 to 7.30 pm

Hon DIANE EVERS: I want to pick up from where I left off. I had been speaking about the accreditation of environmental practitioners, and how difficult this may be given that it is a voluntary system. It should be undertaken primarily to improve environmental protection, rather than to improve efficiency. Although I have no objection that both can be achieved, I have seen poor quality environmental reviews that had obvious errors and required the Environmental Protection Authority to follow up in an attempt to obtain accurate information. In that case, the updated information was not easily available to the public, since it had not been updated on the EPA's website. This lack of rigour and transparency can undermine both the EPA's decision-making processes and public confidence in those processes. This bill allows even greater opportunities for the proponent to make changes. If this is the case, though, these changes should be immediately updated to the website and made known to people who have asked for updates on them, because if we just allow the proponent to keep coming forward while the public is trying to address issues, it does not work. I am hoping that will be a part of it as well, to make sure that updates on the website occur.

Furthermore, the environmental consultants who undertake environmental reviews are, of course, paid by the proponents, which would compromise their independence. I know they are accredited and they should not change their views based on who is paying them, but we know that this happens. That undermines the credibility of the environmental reviews presented to the EPA, and conflicts of interest can easily arise. One way of overcoming this problem in relation to information presented for environmental impact assessments would be to adopt the use of independent peer reviews. This is common practice in scientific research and would of course require adequate government funding. But, if we think about it, if peer-reviewed research or papers were put forward when this work was put to the EPA, it would be easy to assess whether it was correct. In one situation that I am thinking about in Nullaki in Albany, the report was in such bad shape that if a student had put it forward, it would have been marked as a fail and sent back and the student told to start over again. But that is not how it works. In this case, the EPA just went back to them and said, "Can you try this again? We need some other information. What you have given us is not adequate." That is what we have to do. This bill should deal with situations to make sure that project proposals are peer reviewed, because we are relying on the information in them, and if the person putting

it forward is being paid by the proponent, where do we go from there, because we cannot trust that information and many of our constituents do not trust that information.

Another step within this bill is the introduction of bilateral agreements with the commonwealth. We have to realise that this could be problematic, since WA's EPA is not experienced in the application of the Environmental Protection and Biodiversity Conservation Act, and the state body is also typically less familiar with environmental issues of national concern than is its federal counterpart. Unless these concerns are satisfactorily addressed and the full impact of any proposed change is clarified, the commonwealth could retain the power to assess projects separately. I note that in a recent instance, the EPA portal was used to collect data for the EPBC, which was then handed over to the federal body for assessment. This seems to be an effective approach, and time will tell whether that works. I believe that the EPA should assess all proposals. As I said, the EPA act does not know all that the EPBC act does, and the EPBC act may not be looking at everything that the EPA is interested in. So even when another agency is responsible for their regulation, the EPA has a better capacity and institutional knowledge of environmental assessments and approvals than other agencies may have. Furthermore, section 48A of the environmental reviews should undergo public review. The Department of Water and Environmental Regulation should help to oversee the implementation of any environmental conditions associated with planning proposals. The EPA should be adequately resourced to enable its auditing and compliance branch to operate effectively and ensure that environmental conditions are met.

The Beeliar Group professors raised another key point that I have been dismayed to observe in practice. Implementation conditions need to be clearer and more effective. At the moment, proponents can meet procedural requirements, such as preparation of a management plan, but this does not guarantee an outcome that would be acceptable to the public, such as avoiding the loss of populations of specified fauna. We need to know whether a management plan will be effective in protecting a species, not just that it has been created. Often just the creation of a management plan ticks the box and everything is all right. But that is not what we are looking for. Coming up with a management plan written by a consultant and put on the shelf or sent to where it needs to go to say we have done it does not ensure that the policies of that management plan will be fulfilled and that the environment will be protected. The Beeliar Group professors argue that, wherever possible, the EPA should impose objectively verifiable conditions that can be monitored, with measurable outcomes. Box-ticking compliance without verifiable outcomes is no longer acceptable. That is something else. We should have much stronger guidelines for the EPA to ensure that when these management plans are produced and provided, they can be implemented and can be measured, and that there will be repercussions or penalties should that not happen. As it is, that does not happen often enough.

I agree that the public environmental impact assessment process should include such measurable outcomes so that they can be analysed fully and publicly. It is not good enough to say that offsets will be used, or a management plan will be developed at a later stage. The public must be able to fully scrutinise all aspects of a proposal that are likely to impact the environment. Leaving subsidiary management plans to be assessed by the office of the EPA effectively delegates the environmental impact assessment to the office, rather than subjecting it to full and transparent public scrutiny. Offsets should be used only in particular circumstances and should be transparently evaluated prior to acceptance. At the moment, it is too easy to resort to the use of offsets and achieve no net environmental benefit, or, worse, a negative environmental outcome.

I have a lot of points to make on offsets. I should first point out that I have found that there are two very distinct uses of the term "offset". In some cases, usually when a development will involve the clearing of land, the offset is that they have to purchase land somewhere else, and not clear it. Maybe. Sometimes those two blocks of land are hundreds of kilometres apart. If there is an endangered species in one area, and the offset is 200 kilometres away, it will not necessary be very useful for that species. We have to look at the situation of land offsets. There has to be another way to do it. The other sort of offset is when we start talking about carbon offsets. If someone will be polluting or leaking emissions, or whatever they will be doing, they can buy carbon offsets to make up for the fact that they have put pollution in the air, and they have to provide money there.

I want to put forward a couple of suggestions. When we start talking about offsets, we can have things in mind. The idea of just buying another block of land is not really good enough because we would still end up with two blocks of land with good bush on it. If we destroy one, we would have less than we started with. It is not really like we have offset anything; we have to revegetate. We cannot just say that we will clear the land and revegetate some other land because we know that does not work. The money will disappear, it will not be looked after, and there will be some reason it does not grow. If somebody has to purchase some land, they have to purchase the rights to the land; they do not even get the land. They purchase the rights to the revegetation that already occurred, say, five to 10 years ago.

Numerous organisations out there, such as Gondwana Link, are gradually trying to revegetate hundreds of thousands of hectares. Others are out there as well. They are usually run by not for profits and they get donations—whatever they can find. If we can say to them, "Set off a bit of your land that you revegetated five or 10 years ago", the organisation that is clearing or needs to buy the offset has to buy the revegetated land—it has to buy the right to it. It provides more money, which those organisations can go out and use to revegetate more land. Then others will

come around and give them money for that land, and they can do it again. That is how we are going to increase the vegetated landscape, not by offsetting it, and every time we want to do something, we cut it in half and keep knocking out more. That is not going to work.

Another area in which we can revegetate and do some good is with mine sites. Another member was speaking about this earlier. We tried saying to mining companies that when they finish, they have to rehabilitate. We all know that they go broke before that. It goes off to a shelf company, there is no money left, and then we are left with a hole in the ground. We said, "Fine; you give us some money and we'll hold it for you so that when you're finished, we'll give it back." I understand there are cases in which mining companies have come back to the government and said, "Look, you're holding that money for us but we're going to go out of business unless you give it to us now, and then we'll be able to continue employing people." The government gives it back to them, and then they use it up and they go broke anyway. It did not work. Here is a suggestion. I had the opportunity to visit Wooleen Station and talk to David Pollock. I saw what he is doing on his station and how it is coming back as a result of revegetating. I was able to hear his ideas. It is really wonderful. I understand that the Minister for Regional Development has spent a bit of time up there. It is really worthwhile going up there to see it. He is thinking of pastoral areas, which is new to me. I have not spent much time up there. When a mine says that it will destroy an area, the government tries to figure out how to ensure that it is revegetated and fixed up afterwards. Instead of that—sure, the mine site covers many hectares—maybe we could take the money that it would have to put aside or save for the end and they could start doing it now with the current year's profits on all the land surrounding that, and we could start restoring, revegetating and regenerating our pastoral areas. We know there are serious problems with those areas; they are nothing like the state they were in when Europeans first got here. They can be a lot better. We could do it. A whole pocketful of money could go towards it. When we talk about offsets, we have to be much cleverer than we have been and start doing some good. Instead of letting the environment slowly deteriorate through our lifetime so that intergenerational equity is long gone, we should start increasing it. That is what I would like to see happen.

My colleague Hon Robin Chapple spoke about climate change. There needs to be a requirement to consider climate change mitigation, including greenhouse gas emission reductions and sequestration, as well as adaptation, throughout the administration of this act. This is 2020. We have been talking about climate change for 40, 50 years—some people say even longer than that—yet it is still not mentioned in the Environmental Protection Act. Really? We have to get serious here. This is not something that we can just let lie for the next decade or two; it is our responsibility. It is the responsibility of all of us—just a little bit more so for the government at the moment. That is where it lies. It is up to us to make a difference. The EP act is somewhere where that could fit in, where we actually address it.

Some of the ways we can address it include what I was talking about relating to native vegetation. Our native vegetation policy should also include serious issues related to climate change. If we can start reversing the loss of native vegetation, would that not make a difference? That is where the carbon will be stored. We will not miraculously start pumping it underground in vast quantities to be there forever. We have to grow things. We have to grow flora, fauna, microfauna, microflora—everything—and that is where that carbon is going to be stored. We can do that. Before the rains go completely, before we lose more rainfall, let us use what we have and hold it on the surface of the earth so that we can grow more things that store carbon for us, and they store carbon for them.

In addition, animal welfare should feature more prominently in the intent and application of this act. A new provision should be included in the act. This is advisable since many of the decisions of the EPA may impact directly on the welfare of native and non-native animals. As the Beeliar professors explain, the act currently focuses on extinction or loss of species and does not refer to any duty of care. It is a huge gap. It is not like we are making sure we do not lose the last one; we do not want to damage them at all. We want more. Fine; maybe we have too many animals of some types and we do not have the balance quite right. We cannot just say that because one animal is becoming extinct, we should do something. It does not matter whether it is extinct or endangered or whatever; they are all important to the cycles of this planet and of our state. How could we possibly think that only the ones that are nearly extinct are the ones that we should be protecting? We need habitat for all of them, even more so because when one animal goes out of an ecosystem, other things change in that ecosystem. When one animal goes out of the ecosystem, it impacts on another one. It might have been a food source for a different animal or it may have been the predator for an animal. Each of those things could get the rest of the ecosystem out of balance very easily. I think it is called the butterfly effect. One small change and we mess up the rest of it. That is what could be in this act.

I should say that I am very pleased that the bill begins to address cumulative impacts. One small sentence in section (4)(1B) on page 7 states —

> A reference in this Act to the effect of a proposal on the environment includes a reference to the cumulative effect of impacts of the proposal on the environment.

That is it. It has to be in there just once. Across the whole act, when it is being referred to, it is cumulative. That is something that many developers have known for a long time. All they have to do is put in their proposal and say, "I'm just doing this little bit—not much; it won't have any significant impact." Then they get that up and going and a year later, there is another one: "I'm just going to do this little bit—just a little extension to it. It's not going

to have any impact. It's okay. Don't worry about it." Even Alcoa got through an expansion of its right to clear jarrah forest to mine for bauxite—not to refine it here and create jobs and all that but just to dig it up and ship it out. That is it! Dig it out, ship it out; that is what we do! Wow! Alcoa is set up to refine it and go at least one step further. But instead, in 2016, the previous government said, "Fine; go ahead and do it." Now Alcoa is asking for it again. "Remember, it is just one more step. We are only going to take another 2.5 million tonnes per annum." It is the speed at which it can degrade our planet, our state and our biodiversity.

I am pleased that the bill is addressing cumulative impacts because these are major problems. I have witnessed this in staged proposals from a single proponent in which the environmental impact of each stage is assessed, but the cumulative impact of the broader project is not, or at least not adequately. For instance, I have seen cases in which the environmental effects of each stage are not considered serious enough to warrant major assessment, but the cumulative impact of all stages may be serious. It would be a relatively simple matter for a proponent to carve up a proposal into stages in such a way as to avoid major environmental assessment. Cumulative impact assessments must also be undertaken more effectively when multiple proposals are submitted by different proponents. It is not just when one proponent puts in applications; sometimes it is a range of proponents in the same area or with the same issue, and those cumulative impacts need to be taken into account.

Furthermore, as the recent very public tension around the Environmental Protection Authority's proposed greenhouse gas offsets provisions shows, there is a need to amend the act to ensure that the government cannot instruct or influence the EPA to change its recommendations or decisions. The act should make it much clearer that the government is not permitted to influence the EPA to amend its reports prior to publication. Another important step to ensuring that the EPA's decisions are independent and trusted is to ensure that the people appointed to the EPA board are suitably qualified, experienced and independent. The act should include eligibility criteria for the appointment of board members, developed through a deliberative, collaborative process involving experts, stakeholders and the public.

There is also an urgent need to reintroduce regular state of the environment reporting, and this should be legislated. As I have verified through parliamentary questions, unlike other jurisdictions, WA has no legislative requirement for state of the environment reporting. In fact, our last report was published in 2007. Although the government responded to my questions about state of the environment reporting by indicating the data collection and reporting in the EPA's annual reports and biodiversity audits, these did not offer the same strategic value as a state of the environment report, with the result that the government's capacity to track and manage the state's environment is limited, as is its ability to participate in a national approach to environmental protection and restoration. A new section 21A should be added to the Environmental Protection Act requiring regular and robust reporting, publication of the reports and a timely and clearly justified response from the Minister for Environment.

The weaknesses in the environmental impact assessments resonate strongly with my experience assisting members of the public. Constituents regularly complain about one or more of these weaknesses in relation to a range of proposals. This indicates a systemic problem. The problems with the environmental impact assessments include shortfalls in the independence of the process; deficiencies in the assessment of planning schemes and subdivision proposals, consequent on the 1996 amendments; the problem of cumulative impacts, as stated before; problems with the approval process; lack of clarity regarding implementation conditions; failure to define "significance" in the body of the EP act; the problematic use of offsets to counteract significant residual impacts; and inadequate resources for the office of the EPA. This is definitely something that should be looked at. If we are not going to fund the EPA properly, it is not going to work properly, and if we are serious about protecting our environment, we should fund it properly.

In the cases brought to my attention, many constituents and stakeholders also argued for improved and additional mechanisms for members of the community to initiate third party appeals in relation to environmental decisions and enforcement proceedings for environmental offences. This should be considered. To quote from the Beeliar Group professors' submission on this bill —

> … an amendment modelled on section 475 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) be adopted. The amendment would allow a person, or a person acting on behalf of an unincorporated organisation, to apply to the Supreme Court for an injunction if a proponent engages or proposes to engage in conduct that constitutes an offence or other contravention of the EP Act or the regulations and conditions made under it.

Section 46 of the EP act should be amended to permit the minister to revoke approvals on the basis of new evidence of environmental harm. This is essential in this time of climate and environmental crisis, in which rapid change is likely to become the norm. Any amendments of significant implementation conditions also should be assessed with at least the same level of public and EPA scrutiny as the original proposal.

I have raised third party appeals in this place a number of times during debate on my Environment Court Bill to try to make it possible for people to stand up when the government, industry and others are not doing their job, because

their job is to look after the planet, and the state, for all of us. If they are not doing that, there has to be some way for the constituents of our state to speak up. That is why we need an environment court and third party appeals—so that we can do that. We are not infallible. Waiting for the next election to voice concerns is way too late. Elections are usually fought over one or two items, and they do not cover the range of things that are important to so many people.

There are just a few other things about native vegetation that I want to comment on. That should be a very important part of this bill, yet instead we have this parallel process of looking at a native vegetation policy that has not even been completed. Submissions are in and it is being reviewed, but it should be taken up into the EP act. It may be that this amendment bill is just a preliminary one and there will be more next time. I do not know, but this is the only one that we are looking at now. Although there are a few positive steps forward, there are also a lot of steps that will make it more efficient to give people the right to clear land. That does not seem like a positive step. I am quite concerned that we are not advancing some of those issues that should be in the EP act.

The first of the government's four central initiatives in the issues paper for native vegetation is a state native vegetation policy. Great; we need that. The second is investing in better information, including mapping and monitoring. That is very good. We need to do a lot more research and then act on it and put it into place, not just do research that we put on the shelf and hope that somebody looks at one day. We listened to science when addressing the COVID issues. I just hope we can listen to science when we address climate change and environmental issues. Science has guided us well—we are in a good situation right now—but if we do not use science to guide us when we make important decisions about climate and the environment, what are we doing?

As a member representing the Greens, I would like to say that there are many outcomes that we are looking for here. One of those is to protect biodiversity by prohibiting clearing in local government areas with less than 30 per cent native vegetation remaining and to prohibit further clearing of vegetation types that are found to be at less than 10 per cent of their pre–European settlement extent. We would also like to see the end of broadscale native vegetation clearing and the restoration of native vegetation and biodiversity. As I said, that is what we need to be doing. We need that biodiversity. Biodiversity is what keeps us alive. Biodiversity is what fights some of the germs and diseases that we get. Our biodiversity works as a system and we are part of that system.

Another initiative that we would like to occur at a national level is the development of measures to end broadscale clearing and incremental loss of native vegetation, including the degradation of native forests, and to ensure that this policy complements these measures.

I am nearly at the end; there are just two more areas that I would like to touch on. One is the language. We have to get the language right when we write bills about the environment. We need to move beyond the idea that we can strike the right balance between the environment and delivering a strong economic outlook. Although this is borrowed from the concept of sustainability, the idea of finding a balance between the distinct issues is outmoded and reductionist. The term "balance" suggests that economic, social and environmental or ecological issues can exist independently, which is not true. If we stick to the concept of balance, we set the scene for trade-offs in which economics is too often deemed to be more important than ecological concerns. This is not appropriate for a policy designed to protect the environment. Economic activity has destroyed native vegetation and biodiversity in the past and continues to do so, but it does not have to be that way. If we change some of the ways we think about economic activity, we can work as part of the system to help the system to repair itself. We can help to stop the degradation and destruction of the system by working with it.

We need regulations to support the use of offsets. We also need to ensure that offsets compensate for lost biodiversity over the long term. To achieve this, ecological restoration has to take place. If we simply preserve existing areas of high environmental value, we will inevitably lose biodiversity. Given the extent of ecological degradation that has occurred in Western Australia and given the risk that restoration may not be successful or maintained over the long term, it may be preferable to overcompensate for the amount of land required for offsets and the quality of restoration. I have talked to many people about offsetting land. One idea is that a person buys previously degraded land that has been restored, thus giving funding to the organisations that do the restoration. Another idea is to not offset the land equally. If 100 hectares of land is cleared, maybe the offset should be for 200 or 300 hectares. It cannot just be offset equally because we will go backwards, as I said before. The land must be restored.

We must consider paying for carbon credits, which I will talk about at another time, because of the extent that the environment is being damaged by the emissions that are being released. Most mining companies now have carbon credits on their books as a potential cost—a potential liability—for the emissions they release. Mining companies and insurance companies know it is coming. Many people know we are going to have some sort of price on carbon once again. When we do, our forests on state land and on private land, and native vegetation, will be the carbon sinks of the future and we need to protect them.

There are a few good points in this bill, but it has a seriously long way to go. I look forward to the next environmental protection act amendment bill. Considering the pace we get through legislation in here, I am not sure when it will be, but I look forward to having a government that is willing to take the chance, step up to the challenge and

acknowledge that climate change is here, that it is our responsibility to do something about it, that we are able to do something about it and that we do do something about climate change in the state of Western Australia.

HON COLIN HOLT (South West) [8.02 pm]: I indicate that I am the lead speaker for the Nationals WA on the Environmental Protection Amendment Bill 2020 and Environmental Protection Amendment Bill (No. 2) 2020 but I certainly have no intention of speaking for an inordinate length of time. I also rise to talk about how the Nationals will support the bills. I do not intend to canvass all the issues that were raised by previous speakers because I think they did a good job of talking about all the particular issues and what the bill will achieve, and I will certainly not repeat the minister's second reading speech. However, I recognise that in the Committee of the Whole stage a lot of questions will be asked on various clauses and I acknowledge we will need to work through quite an extensive supplementary notice paper with explanations from the movers of the amendments and the government in response. The government may well respond to some of the amendments during the minister's second reading reply.

My contribution will be quite focused, limited to the interaction of the act and this bill with forestry management and forestry in general, and bushfire management.

Section 51A of the Environmental Protection Act describes the clearing of native vegetation and outlines the terms of what that means. I will read out the quite extensive list —

> **51A. Terms used**
>
> …
>
> ***clearing*** means —
>
> (a) the killing or destruction of; or
>
> (b) the removal of; or
>
> (c) the severing or ringbarking of trunks or stems of; or
>
> (d) the doing of any other substantial damage to,
>
> some or all of the native vegetation in an area, and includes the draining or flooding of land, the burning of vegetation, the grazing of stock, or any other act or activity, that causes —
>
> (e) the killing or destruction of; or
>
> (f) the severing of trunks or stems of; or
>
> (g) any other substantial damage to, some or all of the native vegetation in an area;
>
> ***clearing principles*** means the principles for clearing native vegetation set out in Schedule 5;

That is what "clearing" means. It is recognised in the act as a whole range of activities from grazing to burning vegetation, ringbarking et cetera.

Schedule 5, "Principles for clearing native vegetation", states —

> Native vegetation should not be cleared if —
>
> (a) it comprises a high level of biodiversity; or
>
> (b) it comprises the whole or a part of, or is necessary for the maintenance of, a significant habitat for fauna; or
>
> (c) it includes, or is necessary for the continued existence of, threatened flora; or
>
> (d) it comprises the whole or a part of, or is necessary for the maintenance of, a threatened ecological community; or
>
> (e) it is significant as a remnant of native vegetation in an area that has been extensively cleared; or
>
> (f) it is growing in, or in association with, an environment associated with a watercourse or wetland; or
>
> (g) the clearing of the vegetation is likely to cause appreciable land degradation; or
>
> (h) the clearing of the vegetation is likely to have an impact on the environmental values of any adjacent or nearby conservation area; or
>
> (i) the clearing of the vegetation is likely to cause deterioration in the quality of surface or underground water; or
>
> (j) the clearing of the vegetation is likely to cause, or exacerbate, the incidence or intensity of flooding.

If the bills are approved by this house, that is what will be in the act. It is quite an extensive list when we try to work through it. Thinking about forestry and its interactions, it could almost mean that any forestry activity could be classified as clearing or, without a doubt, impacting the principles of the native vegetation. We have to remember that forestry is a well-recognised industry. Driven by the Department of Biodiversity, Conservation and Attractions

and Forest Products Commission, the forest management plan is renewed every 10 years. A whole lot of resources go into the forest management plan. There is a real focus to make sure broad consultation is made, including engaging with the community and all sides of the debate about how our forests are managed. The plan includes things like thinning, harvesting, the identification of coupes, and how, when and where the harvesting activities are going to take place. The forest management plan means the DBCA and FPC are well positioned to navigate the act and get exemptions around clearing. That is what they do. It is part of the process they follow. As soon as they are out of step with the process, everyone hears about it in Parliament. It is a very thorough process that deals with the act so we can continue with forestry in that sense. However, there is growing recognition of the importance of forests and forestry on private land, both as plantations that could be a monoculture of blue gums or pine, or potentially native sawlogs. There is a growing recognition of native forest management on private land. Many areas and blocks of native vegetation exist on private property. If we look at the list of what constitutes clearing, we will see that if a landowner runs their sheep in that forest at some time, they could potentially be in breach of the act because it could be clearing of native vegetation. The question that should be raised is: if we see lands that are held on private property as a growing and important part of the forestry estate, how can farmers navigate through the rules to contribute to the timber industry?

I want to go to the "Djarlma Plan for the Western Australian Forestry Industry: A Framework for Action 2019–2030". I am sure that many members here would have seen it. It is a collaboration between the Forest Industries Federation of Western Australia and the Forest Products Commission, and is backed by the state government. The plan recognises that the Western Australian forestry industry is an important industry and there is a growing recognition of forest estate on privately owned holdings. The foreword is by Hon Dave Kelly as the Minister for Water; Fisheries; Forestry; Innovation and ICT; Science. The preface by Dr Lyndall Bull, the chair of the Western Australia Timber Industry Development Reference Panel, states —

> The Djarlma Plan identifies a strategic framework that refocuses the entire forestry industry to be smarter by working in a more collaborative way. It will generate rural employment and regional economic activity whilst ensuring forest, plantation and woodland health. The industry will support new and emerging technologies that encourage the sustainable use of timber and other forest values that help us to address global challenges such as climate change.

It recognises that forestry has a role to play in our community in Western Australia. The report talks about challenges and opportunities for the forestry industry in Western Australia. It recognises —

> A combination of climate change, bushfires and a legacy of past forest and fire management practices has created a challenging situation for jarrah–marri forests and their associated surface and groundwater systems. Recent studies indicate that some of the forests of the South West region are already experiencing acute water stress because of falling groundwater tables.

We have heard from other speakers about climate change. This report recognises that there is climate change and there is a drying climate in the south west of Western Australia. The forest communities that have been sustained by a certain level of rainfall are now getting less of it. This is why the Forest Products Commission plays a role on our public lands. Thinning forest and managing it in a silvicultural way can help sustain those forests. If that argument is taken as being correct, how does that apply to forests that are on private land? What sort of silviculture can farmers use on their farms to not only manage that woodland better to preserve the health of the woodland so that it does not crash due to the drying climate, but also, because it is private land, potentially contribute to the timber industry? How can they manage those wood lots on their own private land? The Djarlma plan talks about forestry industry opportunities and states —

> The … Plan aims to address forestry industry challenges and to seize opportunities for the forestry industry to play a stronger role in ensuring Western Australia's forests, woodlands and plantations are healthy, providing a range of renewable resources and able to provide community benefits, now and for future generations …
>
> – Active management, through ecological thinning of regrowth forests to maintain their health in the face of climate change, applying nature-based solutions.

The government's own plan recognises the need for silvicultural activities within our public lands and our reserve system, but that obviously has to apply to private landholders. We have to question how that was catered for and recognised in this bill. The plan also states —

> – Increasing the area of plantation estate can play a key role in carbon sequestration, local land remediation and provide long-term renewable resources.
>
> – Increasing the area of plantation estate to grow and secure jobs and investment growth.

No-one argues that we have to grow our plantation estate and, obviously, we have. A lot of the blue gum industry and pines are on private land, but the opportunity for sawlog plantations of native timbers has not delivered on its

potential, especially in the long term. That is why those existing woodlands, which have certain maturity and some of which have already been logged in years before, can potentially play a role. The report continues —

> – The creation of new markets for other bole volume is an opportunity to enable ecological thinning of jarrah–marri forests which will, in turn, help achieve healthier forests, generate economic returns and reduce waste.

It is well recognised that we need to have silvicultural management of our native forests on private land and in the public estate. The report also estimates that 330 000 hectares of privately owned native forest could be sustainably managed for forestry. Most of that is held in small landholdings, many of which would have only 40 or 50 hectares of native forest that people would like to manage for a greater outcome than just sitting there as native vegetation. There is a potential for providing sawlogs and thinning the forest so that it copes with the drying climate and contributes to bushfire management. A lot of those forests on private landholdings are prone to fire. We do some good burning off and prescribed fire management on the public estate, which is driven by the government and the Department of Biodiversity, Conservation and Attractions and often boosted with government funds to get more of an outcome. Under this bill, as I read before, clearing by fire is potentially seen as a no-no. How will local people on their own land manage their fire risks in those forest blocks as we manage them on the public estate?

There is great potential in 330 000 hectares, but I think that a lot of people would not be interested in silvicultural management or being involved in the timber industry. However, there are definitely private landholders out there who would love the opportunity to manage their forests and blocks in a silvicultural way and contribute to the industry.

That is one of the great questions for the minister. This is the government's own plan, which was made in collaboration with the industry, yet there seems to be some potential anomalies between it and what this bill says people will be able to do. Big organisations such as the Forest Products Commission and the Department of Biodiversity, Conservation and Attractions, which drive the forest management plan, have the ability to navigate their way through it. Big organisations such as Alcoa and others, which clear a lot of land, have the ability to navigate their way through these rules. But how does a small landholder with a 30 to 60-hectare block of woodland on their land interact with this act to make sure that they are not clearing illegally or damaging the vegetation, as they should not? How can they manage it for fire risk or for a timber outcome?

I now turn to farm forestry. Although farm forestry has expanded in the last 25 years, it has been around since the decade in which Landcare kicked off. Foresters in this state are a very passionate mob. They might be small in number, but they have been invested in the industry for a long time. There is a long history of forestry in this state. The reserve system contains a well-managed, sustainable resource that could continue to be harvested sustainably. However, farm forestry, undoubtedly, has a role to play in helping our timber industry. I am not necessarily talking about the monoculture plantation system—that potentially would be captured—but about the active management of existing forest blocks, which potentially could crash due to the drying climate, which will be impacted by this bill. I would like the government, through this minister, to commit to work with the forestry sector to understand the avenues they have to go through to get clearing permits to do that active management. Some of the fees, which potentially include $2 000 for an application or $2 000 or $6 000 to get expert analysis and surveying to participate in the timber industry on their own private land and in their own private forest, are costly and cost prohibitive.

There must be a way for this government to embrace its Djarlma plan and work with owners of small landholdings to navigate their way through this legislation. Everyone understands that the legislation is there to protect our native natural communities, but, as recognised within the plan, there is also an opportunity for a sustainable timber industry. I would like the government to commit to work with private landholders who want to participate and the private foresters and those in the industry who work with private landholders to get a better outcome for everyone. The last thing we want is for those private landholders to say that it is too costly to manage a block for timber outcomes or for fire because they risk not getting a clearing permit or doing any work in that forest, especially when there is risk of a wildfire, even though burning could be done in the native forest or reserve across the fence. We run the risk, potentially, because of the drying climate, of the whole ecosystem crashing because there are too many stems per hectare. The government has a real opportunity here, through the Djarlma plan and this critical part of the bill, to address that, as I did when I consulted with some stakeholders. Some of them wanted the whole definition of clearing in the act to be changed. I said that that would be almost impossible to do, but I said, "How about we get a commitment from the government to try to work with you to solve, first, your interests in being involved in the timber industry and, second, the preservation of all those incredibly important ecological values?"

I will leave it at that and I look forward to further debate in the Committee of the Whole stage to thrash out some of those issues.

HON TIM CLIFFORD (East Metropolitan) [8.23 pm]: I rise to speak briefly in the cognate debate on the Environmental Protection Amendment Bill 2020 and the Environmental Protection Amendment Bill (No. 2) 2020. I have looked over the bills and consulted with a few people in the community. I listened to my colleagues Hon Diane Evers and Hon Robin Chapple, who pretty much covered the points that I would have covered. However,

I would like to talk about some of the things that are not mentioned in the bills. It should come as no surprise, because I have been talking about this issue since I entered this chamber, that I want to address climate change. It has been touched on before, but I think in the wake of the fires from a pretty devastating summer and the COVID-19 pandemic that we are living through, people have become more engaged than ever before in politics and the political process. The community is now looking to the government even more to take a lead in this area. There has been a severe lack of engagement by people in the past and I think governments relied heavily on that because it allowed them to not act on serious issues when they needed to and they have been prone to be influenced by certain vested interests.

I have gone through each part of the bill and I could not find "climate change" mentioned anywhere. However, "climate change" is included, with varying degrees of effectiveness, in other environmental protection acts across the country. Other governments recognise the risk of climate change and the absolutely devastating impact it will have upon not only regional communities but also people in the metropolitan area.

The government has mentioned that it will look at introducing either a climate change bill or a broad policy to take to the election. That supposedly is coming in the next few months. However, it is important to note that if climate change is not included in these bills and the legislation is not serious or effective enough in ensuring that carbon emissions are reduced and taken out of our economy and our processes, that says a lot about where we are heading as a state. We know that the regions are disproportionately impacted by the effects of climate change, in regard to drought, and we need to change our practices. I am fairly shocked that climate change has not been one of the key elements of this bill to make sure that there is some level of accountability.

Even the previous speaker, Hon Colin Holt, spoke about the different issues that affect the regions. If regions are to be protected, we need to make sure people have options. That goes to providing options in the regions regarding carbon sequestration and ensuring that parts of the EP act enable or at least give people clear guidelines on processes so that they can act appropriately. People are looking for surety. I have spoken not only to people who might be referred to as climate change activists or different action groups, but also to the Conservation Council of Western Australia, the Wilderness Society and Farmers for Climate Action, and all of them are looking for leadership and guidance in this space. It was heartening to hear a Nationals WA member speak broadly about the effects of climate change, because the issue of climate change goes beyond political parties and economies. The COVID-19 pandemic has shown that if we do not listen to scientists and provide strong guidance and legislation, we will be left wanting. I think this bill has really missed the mark by not including strong elements that could reduce emissions and ensure that people do the right thing. At the end of the day, if strict guidelines and a rigid process do not exist to ensure people act within those guidelines, people will either do the wrong thing or unwittingly just play by the rules. It is up to us to write those rules and implement them to ensure that we are in a good place so that we can address what will be the biggest challenge of our time, and that is climate change. I have mentioned that WA is still not on board with the other Australian jurisdictions with respect to climate legislation. It is sad that the consideration of climate change is not an express requirement of decision-making under this bill.

I have written a couple of points on carbon pollution and greenhouse gas emissions under the part V licences and the attendant regulatory and compliance instruments that can address carbon pollution. They are disappointing. In regard to the authority and accountability of the government, the provisions relating to the minister confer discretionary powers, but there is no objective trigger to ensure that there are such directions, such as the public interest test, and that is also disappointing. I looked at the Victorian Environment Protection Amendment Act 2018, and climate change is enshrined and explicitly referred to within the Climate Change Act 2017. When those bills were passed, there was a huge element of support for that. It is disappointing that the government has not put that front and centre in this bill.

I spoke to someone outside Parliament today who has been following this bill's progress through Parliament. The person said, "All this leads me to believe that the McGowan government doesn't care about addressing the climate crisis and that we are on the cusp of either becoming one of the largest emitters in the world, which really does send a chill down my spine, or we can take a different direction, and that is to implement strong legislation that ensures that we reduce our carbon emissions." I absolutely agree with the person I spoke to outside the Parliament today. We hear a lot of rhetoric, but there is a lot of disappointment. A lot of communities are led into a false sense of security because the words and the rhetoric are a lot more forceful than the legislation to back them up. We have seen that across the world. Coming out of the back end of the COVID-19 pandemic, I am sick and tired of hearing the federal government say every time an environmental issue is raised with the Prime Minister that that is all good and well—a "but" always follows the statement—but we cannot let it affect the way that we provide jobs and the security that provides many people. I guess the federal government is looking in the wrong space—that is, the gas industry.

Overall, we are in a very disappointing place because the bill is toothless in addressing the issue of climate change. That leads me to believe that if climate change is not going to be explicitly incorporated or mentioned in this bill, the government will put forward a really strong climate change bill in the coming months. That would make sense, because no real elements of this bill go far enough in addressing those issues. I am sure that the next announcement

will deal with this issue that will negatively impact on our environment and is one of the greatest challenges for all our communities. I also note that to avoid future pandemics, we need to reduce our emissions so that we reduce the health and environmental impacts of climate change. I am led to believe that if it is not explicitly mentioned in this bill, surely the government will make an announcement that will make sure that there is some accountability in this state when it comes to reducing our emissions.

That is where I will leave it tonight. I am sure that a lot more will be said on this bill. My colleague Hon Robin Chapple mentioned that he will scrutinise this bill during the committee stage. It is disappointing for not only me, but also the broader community that this bill does not have elements that explicitly mention climate change or any other elements that would go far enough in reducing our emissions. Not once does it mention "climate change". To me, considering this bill amends the Environmental Protection Act, that is completely disappointing and I can understand why many people in the community would be let down by this process.

Debate adjourned, on motion by **Hon Pierre Yang**.