

OSPREY NESTS — PROTECTION

Grievance

DR K.D. HAMES (Dawesville — Deputy Leader of the Opposition) [9.07 am]: My grievance is to the Minister for the Environment. My staff prepared some very good notes for me on this issue, which I intend to read. I provided a copy of those notes to the minister yesterday to seek his cooperation in making the changes that we are requesting. In the Dawesville electorate, the City of Mandurah has before it for consideration an outline development plan from developers Mirvac Group regarding the next stage of development in Erskine of a subdivision called Bridgewater North, which is located immediately south of the Mandurah Estuary Bridge. Located within the area under consideration is an osprey nest that has been the subject of a great deal of attention over the past couple of years. The nest survived development that was encroaching from the south and west by being relocated from an old tree on a building allotment to a man-made pole on the adjacent foreshore. That relocation brought the City of Mandurah accolades from the community. The nest will again be under threat, this time from development encroaching from the north-west, if the Bridgewater North ODP is approved without modification. I am aware that many submissions have been made to the City of Mandurah asking the council to not approve anything in the ODP that would allow development to encroach too close to the osprey nest.

Such debates and community action would not be necessary if osprey nests were given adequate protection in Western Australia. I understand that there are only three osprey nests around the river end of the Peel Inlet. One of those nests, located in Coodanup on the opposite side of the inlet, was afforded a 100-metre buffer in an ODP prepared by the Fraser group, which is the developer in that instance. Under the federal government's Environment Protection and Biodiversity Conservation Act, the osprey is listed as a migratory and marine species, which at least affords the species a degree of protection, whereas under Western Australian legislation, it is my understanding that the osprey does not have a sufficiently high classification to afford it any real protection. I am also given to understand that even if the species is afforded protection under the Environment Protection and Biodiversity Conservation Act 1999 and local WA legislation, these statutory protection provisions will normally not be triggered unless at least one per cent of the species is affected by the threat. This affords no protection to the solitary osprey nest, such as the one located in Erskine.

In New South Wales, ospreys are classified as a vulnerable species under schedule 2 of the Threatened Species Conservation Act 1995. This classification is followed up in advisory note 6, "Roost & Nest Trees — Raptor and Water Birds", from the Department of Environment and Climate Change. This note explains the importance of nest trees for the stick nests of raptors and water birds, and advises that the trees where stick nests occur should be retained and protected and that a 50-metre buffer should be applied around the nest tree to assist in protecting it from disturbance and damage.

We afford no such protection to ospreys in Western Australia. I understand that the Department of Environment and Conservation has recommended a 75-metre development setback from the osprey nest in Erskine; however, it is not a very reliable system to expect the Department of Environment and Conservation to pick up on every development proposal as it arises and make individual submissions for a suitable buffer to the planning agency—be it at state or local government level.

A more suitable way to protect these birds would be to introduce provisions similar to those in New South Wales where the osprey is protected through introduced legislation that classifies a species, where appropriate, as vulnerable or rare and endangered. A policy statement can then be issued to advise developers and decision-makers that the nest trees of raptors and water birds must have an appropriate buffer zone applied around them to protect them from disturbance and damage. The size of the buffer zone may vary according to the circumstances, but a minimum of 50 metres would seem to be a reasonable starting point. I urge the Minister for the Environment to consider this approach and the statutory means for achieving it when he is finalising the biodiversity legislation for Western Australia.

I have had discussions about the development in Erskine with representatives of the Mirvac Group and found them to be extremely cooperative. There was strong pressure on Mirvac, at council level, to move its developments away from the foreshore area, and the company complied. In doing so, Mirvac was given bonuses by council, including higher density and multiple-storey developments. Also, the Mirvac Group had seven or eight blocks along the foreshore area. As a result of requests made by the council, it cut the number of blocks back to three. That would have been fine. However, we need to remember that these blocks are worth at least \$1 million each to the developer. We are talking about a lot of money that the developer would otherwise have been able to get through this development when it has already voluntarily given up four of the blocks. Sadly, the three blocks retained are located right in the flight path of the ospreys.

We have already had trouble with the original development and its failure to recognise the needs of the osprey nests in the development zone. We worked long and hard with the council to get the nest moved to a pole.

However, the birds breed regularly in the new nest and the new chicks, which are now starting to fly, are sometimes landing on local buildings. We have found birds low, caught up in the reeds, or up high, caught in television antennas. The birds require a safer flight path, particularly given the occasions when their nest is exposed to the severe Mandurah winds. We have made a submission to council and it is about to make a decision. We have talked to Mirvac and suggested that the council could approve another multi-storey building at the other end of the foreshore to make up for the loss of the three front blocks. However, I would like the minister to try, through the suggestions made in this grievance, to develop a long-term plan that will stop the need for this type of fight every time a development occurs near a raptor nest or a water bird nest. With the type of development occurring today, fewer nesting opportunities are available in the development areas to this species of bird. Consequently, I urge the minister to note this grievance and take the action recommended.

MR D.A. TEMPLEMAN (Mandurah — Minister for the Environment) [9.14 am]: For those who are not aware of this important issue, it is actually more symbolic of a broader issue; that is, how we ensure that we protect environmental values through the planning processes. In this case, we have an area adjacent to an area of significance, including some Ramsar Convention-listed, or proposed to be listed, sites. The question is: how we ensure that environmental values, including the protection of birds—and in this case we are speaking about a particular species, the osprey—actually drive part of the overall planning process?

I have visited the site on a number of occasions. I know the member for Dawesville has been there and is well aware of the area. I have walked south from the Mandurah Estuary Bridge down to the current nesting pole. Of course, all that area is contained in the outline development plan process that is currently before the City of Mandurah council for consideration.

This development and obviously other such developments proposed around the estuarine system have to take into account the absolutely important environmental values in the Peel-Harvey system. We know that the Peel-Harvey system has a whole range of pressures on it at the moment, predominantly from urban development. Of course, the values relate to impacts not only on flora and fauna, but also on water quality issues—issues that are very important to the health and well-being of the Peel-Harvey system.

The member is correct to say that during the consultation process the Department of Environment and Conservation submitted quite strongly that the proposed buffer zones in the original advertised plan were not adequate. The member is correct to say that DEC recommended that a 75-metre minimum buffer zone was more appropriate. However, I believe the buffer zone should be bigger than that because when we look to further development along the estuarine system, we must take into account issues over and above the impacts on flora and fauna. We have to take into account the potential impact of climate change and inundation. Completed in 1993, the Dawesville Channel has had an additional impact on the environment. Those who live in Peel, including me and the member for Dawesville, recognise that mosquitoes are now a real and major problem at this stage.

I acknowledge the concerns raised by the member for Dawesville. Having spoken to local councillors about some of the important issues, another concern is the need for high-rise developments to be very carefully situated, particularly on the estuarine side of the Peel-Harvey area. I say that because the key indicators are that high-rise developments can and will impact on the flight paths of migratory birds, and will impact on remnant vegetation, particularly in this area, including some of those important mature nesting trees located not just on the fringe of the foreshore area, but also in from the foreshore area. I have been down there and met with a gentleman who has been photographing the ospreys for a number of years. I also know that Mr and Mrs Elliot, who live across the road, have been watching this development very closely. We have a situation in which the ospreys use a number of trees for their feeding—they are known as feeding trees. Ospreys do not just take food back to the nest for their young; they will actually take it to other trees—particularly, as I understand, the males—and use those trees as feeding trees. Therefore, anything that may be built in the line of sight of the ospreys' flight path will have an impact.

I wrote to the City of Mandurah and to the Minister for Planning and Infrastructure highlighting the environmental concerns that the Department of Environment and Conservation and a number of community individuals and groups have about this development. I think it is important to highlight that the species is not specifically protected under the Wildlife Conservation Act 1950—the member for Dawesville's comment about this was correct—or by the commonwealth Environment Protection and Biodiversity Conservation Act 1999, because in terms of numbers the osprey is a relatively common species. However, that does not mean that we should not look at specific nests and specific birds in our areas.

Dr K.D. Hames: “Relatively common” is a relative term.

Mr D.A. TEMPLEMAN: That is exactly true.

What I think needs to happen, and I have been pushing this with council, is that issues that are of a broader environmental context, including the importance of the ospreys in this particular case, must be part of the early statutory planning process. That should drive a range of outcomes that we will eventually see in the outline development plan. I include in that my personal comment that even a 75-metre buffer is not necessarily adequate, particularly in the south-eastern section that is highlighted and where those three blocks are indicated. As we are aware, the town planning scheme amendment is before council, and I advise the house that any person can nominate a species for consideration as an under-threat species. The member for Dawesville is aware that we are now drafting the biodiversity conservation bill. Included in that bill are provisions for habitat protection, which is the critical element that the member has highlighted to me today. Habitat protection is an issue that is not covered by the current statutory planning acts that we use to protect species. Therefore, I assure the member that I am well aware of the issue and I support his endeavours. Certainly, in the drafting of the biodiversity conservation bill the protection of habitat is a critical factor in these planning matters.