Title: ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL (NO. 1) 2006: Second Reading **Date:** 19-10-2006 **Database:** House Hansard **Speaker:** Andren, Peter, MP (Calare, IND) **Page:** 23
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ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL (NO. 1) 2006
Second Reading

Mr ANDREN (Calare) (11.30 a.m.)—The Environment Protection and Biodiversity Conservation Act is this country's main piece of environment and heritage legislation. Any action that is likely to have a significant impact on world heritage, national heritage, Ramsar wetlands, threatened species and ecological communities, listed migratory species and the marine environment must be referred to the minister for approval. Given that these matters have been recognised as holding national significance, this act is supposed to represent an extra level of scrutiny and protection recognised as lacking in the mash of state and territory legislation.

The Environment and Heritage Legislation Amendment Bill (No. 1) 2006 before us represents over 400 pages of amendments that the government claims will cut red tape and provide flexibility. Introduced just last Thursday and originally slated for debate just three working days later, on Tuesday, legislators in this House have been given just four days to get their heads around what effect the 400 pages of amendments will have on the protection of our fragile environment and heritage. Not surprisingly, a *Bills Digest* is a long way from being completed.

Government MPs, I have heard, have not addressed the detail of these changes because they do not know them. Rather, they sing the praises of grossly inadequate environmental policies and defend the absence of any meaningful MRETs in this country. Not only that, the closing date for submissions to the Senate inquiry, again deferring this crucial legislation from the legislative chamber to the Senate for proper scrutiny, is not until the 27th of this month with the committee due to report on 17 November. What are we doing debating this stuff now? Go to your minister and ask him why we are sitting here debating this particular piece of legislation now. Further, this is just absolute contempt for this House and its members yet again. It is bad law-making that will have significant effects on environment and heritage that cannot be undone.

Who is driving this rush? Does the diversion of the McArthur River in the Northern Territory by mining giant Xtrata have anything to do with this? Does mounting public concern over expansion of mines around Australia, including longwall mining under bodies of water, have anything to do with this? Does Woodside's insistence that it must start construction of its Pluto plant by year's end on the Burrup Peninsula in WA have anything to do with this? The time available to study these changes dictates that only the barest of glances can be given to how this affects the protection of nationally significant environmental and heritage matters.

First up, it must be said that there are a number of positive changes. I will get them out of the way first. The taking of an action after it has been referred but before a decision has been made is now an offence. Public comments must be included in public environmental reports and EISs. Proponents are responsible for ensuring their contractors abide by approval conditions. Landholders commit offences if they allow breaches to occur on their land. The minister may reject

approvals on the basis that impacts are substantially greater than anticipated. Native migratory species are now included. The minister and Federal Court may issue remediation orders. These are commendable, but they are overshadowed by what this bill does allow. It starts with the very beginning of the development and protection process—the on-ground identification and assessment—which is already highly flawed and largely dependent on advice and information provided by the proponent's own paid consultants.

Several years ago when debating the EPBC Act, I raised the issue of the varying and uneven patchwork of environment and heritage protection regimes from state to state and the abysmal history of state protection for environmental and heritage items. One need only look at the appalling history of indifference to the ancient rock art precinct in the Dampier Archipelago in Western Australia, the decimation of Tasmanian forests, the clearfelling of native bush land in New South Wales or the proposed damming of prehistoric lungfish habitat in Queensland more recently.

At the time, I noted the need for parliamentary scrutiny of environmental management plans and assessments delegated to the states under bilateral agreements. But under these amendments, an accredited management plan for specific matters is no longer required before the Commonwealth delegates environmental and heritage approval powers to the states. No longer must a plan specific to ensuring maximum possible protection to any particular species, ecological community or heritage place with its own needs, threats and issues be referred to.

Under the bill, a loose management arrangement or authorisation process put together by the states or territories will be considered as providing sufficient scrutiny and protection. These arrangements need not seek specified approval under the act. Any amendments to those arrangements and processes deemed minor by the minister may be made without tabling those changes.

It goes further, allowing the minister to declare a whole class of actions, such as mining, that may destroy any of the items or species listed under the EPBC Act as not needing approval—that is, not needing to even be referred to the EPBC Act—if those actions are in accordance with a bioregional plan. But where are those plans and what will they consist of? How meaningful will they be given the broad-brush approach that it seems they will apply? It suggests that actual on-ground site assessment or surveys before a proposed development may be deemed not necessary. The stated aims of bioregional plans certainly make sense prima facie—the pulling together of information over a whole bioregion with a complete strategic picture, providing advice on the proper environmental management of a whole ecosystem—but these plans are only huge brushstrokes and are dependent on the quality of diligence and expertise applied by the authors of those plans and the information that is publicly tabled and available.

We already know that so many consultants' reports are not submitted to the relevant authorities, even though scientific licences require this happens. So many artefacts, species and threatened communities are not surveyed or properly assessed or are quietly put aside by compromised consultants and their proponent employers. Even more seriously, large consulting firms to the corporate giants are known to have been instrumental in developing and authoring environmental policy documents, which certainly raises questions about the value and purpose of such advice. Not only that, bioregional plans are not legislative instruments, thus they lack parliamentary oversight, and there is no public consultation process for those plans covering state areas.

To now determine that the broad, overarching sweep of such a bioregional plan is enough to allow development without even an on-ground site assessment or specific referral to the EPBC Act is not acceptable. To have the passing of finite profits or the passing process of tangible profits out of a particular development deemed of greater value than the irreversible destruction of an infinitely valuable ecosystem or ancient heritage is unethical in the extreme, but to deem that such a development has no responsibility to even find out what it might be destroying is obscene. It suggests the corporate sector has every right to make extremely large profits by vandalising our environment and heritage with no commensurate responsibilities specific to their actions.

It is also important to note that while many nuclear actions, such as nuclear power plants or enrichment plants, may not be exempted under bioregional plans or conservation agreements, uranium mining and nuclear waste dumps do not fall under this prohibited exemption list, which raises the question of uranium mining in World Heritage listed Kakadu. Let us not downplay the danger of uranium. It is not a clean energy. Out of sight and out of mind waste does not make it any more clean than floor sweepings under the carpet makes a house clean. With a history of leakage into the environment, from mine tailings and intermediate nuclear waste, contamination of ground water and high-level waste from nuclear power generation having a half-life of about 4.5 billion years, allowing uranium mining and nuclear waste dumps to be exempted from an act that aims to protect the environment—words fail me.

The minister may also exempt actions from requiring approval under the EPBC if they are declared under a conservation agreement, but there is absolutely no penalty for non-compliance with such an agreement unless an ordered remediation under a conservation agreement is not followed. Instead of ensuring that cumulative impacts that flow from significant actions are taken into account under the EPBC, this bill ensures that only the direct impacts are considered in isolation—surely a contradiction to the whole idea of bioregional plans. This confirms that there is no vehicle to truly consider all the effects of a development, such as greenhouse gas emissions and their effect on our environment, global warming, and, dare I say, our farmers. The minister may now make an assessment of proposed action by depending solely on the referral information provided by the proponent. This is certainly putting the fox in charge of the henhouse.

Although this bill allows public requests for reconsideration of controlled action, elsewhere in the bill public input into the processes is diminished. The minister may use commercial-in-confidence excuses to withhold information, public consultation time lines are now limited to 10 business days, and appeals to the AAT for a review of any decision made personally by the minister in relation to certain permits is no longer possible. Under this bill the nomination, assessment and listing of places on the National Heritage List is replaced by a regime that seriously compromises protection of places that hold national and international heritage value, limits outside access to the process, and places absolute discretion in the hands of the minister to determine what may or may not be added or even assessed in any given year.

Currently, any person or member of the Australian Heritage Council may nominate a place for the National Heritage List at any time and the council must assess that nomination. But the proposal is that, just once a year—a window of 40 days—the minister will invite nominations for inclusion. The minister may determine a heritage theme to be given priority. Incredibly, this theme need not be decided with advice from the Heritage Council. The minister may reject any

nomination without referring it to the Heritage Council. The council gives the minister a revised priority assessment list, which of course has to take note of the minister's chosen theme for the year.

Who and what gives any environment minister the vision, the understanding or the background to determine issues of this importance? What, except, I would suggest, the imperative of the commercial considerations that predominate right through this piece of legislation. That is what this is all about. Where is the wisdom that a Senator Campbell, or any minister, has to handle this sort of responsibility? It is absolutely outrageous. Talk about executive dominance of the processes! This is just a dictatorial approach to the most important thing facing this country and this globe, and here we have this power being given to one individual. It is amazing.

Nominations that have been determined as needing the protection and recognition of inclusion on the Heritage List may not make it to the priority list—indeed, they may continue to be rolled over year after year without ever making it. Even inclusion on the priority list does not guarantee assessment. The council does not need to check for extra information before rejecting the idea of even assessing a nomination and the minister may change the list in any way. Even if the Australian Heritage Council—a pre-eminent scientific expert body—does assess a place as deserving or needing inclusion on the Heritage List, the minister may decide not to include the assessed place on the list, informed with advice from 'any source'. Not only that, but a decision to deal with a request for emergency listing is dependent on the whim of the minister.

It is incredible to think that the industries on the Burrup Peninsula in Western Australia—where a nomination of that incredibly special place for the Heritage List has sent the industries there and the governments, state and federal, into a lather—may have their advice, namely, that no national heritage values exist there, taken into account in this process. The Dampier Archipelago, where the world's most extraordinary outdoor art gallery of hundreds of thousands—in fact, up to a million—ancient rock art images, tens of thousands of years older than the great pyramids of Egypt, are threatened by industrial development. It is a threat that has been made for well over 40 years.

I went to a briefing the other day with Woodside—a very pleasant engagement and discussion—and the point was made that the North West Shelf development has been there for many years. However, it must be asked why the joint venture partners on the North West Shelf are not prepared, and why the Western Australian government is not prepared, to enact legislation that enables the Pluto project to be moved to that region? It seems as if they are being squeezed out by corporate, competitive jealousies. Obviously those things should not take precedence over the protection of this World Heritage quality site. Despite the Heritage Council's assessment that the place far exceeds the requirements for national heritage listing—indeed for World Heritage listing—under this bill the minister may choose to accept only the industry's advice. Perhaps he may direct that such a place where there is ongoing destruction of ancient rock art images does not fit into his chosen theme for the year.

Need I ask whether the nomination of the Dampier Archipelago or the Burrup Peninsula to the National Heritage List and the lobbying here in Canberra this week have anything to do with these sorts of amendments? It would have made sense if we had had that lobbying, if we had had the opportunity to sit back and look at a draft of this, if we had had the benefit of the *Bills Digest*, if we had had all of that expert input and if we had had the inquiry—and pray that we ever have

legislative inquiries into legislation in this place; that may happen one day down the track, many moons ahead, when we have a proper process to consider the most crucial of legislation coming into this place. But no, we have the lobbyists, we have the rushed legislation, and we have claims of a proper and democratic approach to considering issues of such import in this place. What a load of bunkum! I could think of a stronger word but it would be unparliamentary. What a load of codswallop it is. Need I ask whether the nomination of the Dampier Archipelago or the Burrup Peninsula is part of this matter before us? Of course it is.

Certainly other changes in this bill already prevent newly listed environmental and heritage values and places from holding up any development already approved or in the pipeline. While I recognise the natural justice issues in all of this, I believe that those listed values must still be taken into account. Unbelievably, the minister no longer must keep the list of threatened species and ecological communities up to date. What on earth is the purpose of listing then if not to attempt to conserve species and reverse extinction? It is extraordinary to think the effort to protect our environment is dependent on whether the minister of the day thinks it is worth the trouble. The need for the government to carry out biodiversity surveys in Commonwealth areas is even removed. The minister does not feel it is the role of the Environment Protection and Biodiversity Conservation Act to consider ensuring management includes recovery, as this bill removes the compulsory requirements to create recovery plans. Even if the minister decides such a plan is necessary, the department has up to six years to write one, for heaven’s sake. Six years is a long time for an ecological community.

Between one- and two-thirds of all plant and animal species are predicted to become extinct during the next century. Australia is one of only 17 countries in the world that has species found nowhere else on the planet. It is ranked first for mammals and reptiles, second for birds and fifth for higher plants and amphibians. Destruction of habitat and ecological communities kills millions of Australian animals over a short space of time. Australia already has the worst record of recent mammal extinction in the world. Many of our 1,500 currently listed species could well become extinct in 10 to 20 years. Seventy five per cent of our rainforests and 43 per cent of our forests have been cleared. Our rivers are already dead or dying.

Our planet, our children and our grandchildren face a very bleak environmental future indeed, with global warming the result of global abuse. Yet under this leadership we put our heads in the dry sands of our riverbeds, refuse to set any meaningful renewable energy target, and facilitate rather than reduce our carbon footprint, not only here but right across the globe. When it is said that we only contribute 1.8 per cent of the carbon emissions we are not including the impact that our exports, particularly coal, have on that global output of carbon and greenhouse producing gases. Of course we have to look at clean coal technology and of course we have to look at the existing processes, but we must take responsibility for our true contribution to the world carbon footprint. Therein lies the duplicity of our global position. In the meantime, while the rest of the world is waking up to the enormity and urgency of addressing climate change and global warming this government plays the fiddle while the country is burning around it. I strongly support the amendment and I reject this legislation.