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Mr MARTIN FERGUSON (Batman) (1.30 pm)— It is a pleasure to follow the member for Scullin, my neighbour in northern Melbourne, in making a contribution to this important debate. At the outset I want to say on behalf of the opposition that we agree there is very much a need to review the Environment Protection and Biodiversity Conservation Act. It is very important that there is a legislative framework in Australia that actually works in terms of how we protect our environment. Firstly, we have an extra responsibility to protect Australia's unique environment and heritage.

Secondly, in protecting it, it is the responsibility of the legislators to provide an appropriate framework that allows for sustainable development in Australia in a timely way. We have to be able to do both: protect our environment while also creating a situation that guarantees economic growth and development in Australia.

For that reason it is very disappointing that the Howard government has paid so little regard to providing adequate time for the parliament, the states and territories and other stakeholders in the community to properly consider the legislation before the House this afternoon, the Environment and Heritage Legislation Amendment Bill (No. 1) 2006. There are over 900 items to be considered in this bill. The bill has been referred to a Senate committee, but members of the House are being asked to debate the bill without the benefit of the committee process and certainly without the benefit of a proper review period. The legislation was introduced on Thursday of last week, as the intent of the government was to complete the debate on Thursday of this week. The bill goes to 409 pages.

How could any member of the House have had sufficient time to properly consider the range of amendments provided for in the bill before the House? I would simply say that it is groundhog day when it comes to this bill. Part of the reason we need 900 amendments is that the bill for the original EPBC Act was rushed through the parliament—and we should remember this bit of history—back in 1999 on the back of a grubby little deal between the Democrats and the government. Let us not forget that this deal was the one that introduced the Commonwealth's powers over environment and heritage protection, gave Australians the GST, and started the process that delivered today's extreme industrial relations laws and took away the hardwon rights of working Australians. That is the history to this bill. It is not a stand-alone bill; it was part of a grubby little deal to get the GST and industrial relations changes through the Senate.

I think we are lucky that every state and territory today is governed by the Labor Party. We are yet to feel the true impact of the Commonwealth's abrogation of environmental responsibility to state and local levels in this country. Having said that, working with the states and territories is definitely the way to go on the issue of environment and heritage, in association with the private sector—but not in the absence of national leadership and not in the absence of an ability to get things done at a national level when an impasse or a critical need arises. As my colleague the member for Rankin said last night:

> … the government has not got the guts to take on the issue of water allocations and move to permanent trading in water rights.

The fact is we should not have legislation that allows the Commonwealth at any time or on any matter of national significance to do a Pontius Pilate and say, 'There is nothing I can do; it is the fault of the states and territories.' We hear that all the time from the Howard government. The government

consistently abrogates its responsibility when it comes to national leadership, and Australia is the poorer for it in many ways. We have an energy market in name only, no progress on the Murray-Darling, the absolute squandering— that is what it is—of $248 billion of the $263 billion windfall of the last four budgets, no investment in the country's productive future and no serious investment, at a time when we can afford it, in proper, pragmatic and practical environmental reform.

As I have obviously had little choice but to say on so many occasions during the term of this parliament, the ramming through of this bill with less than a week's notice is yet another example of the government's tardiness, its lack of commitment to the legislative program and its disrespect for the parliament and the people we represent. In the end, governments are made and broken in the House of Representatives. This is where government is formed, not in the Senate. To expect us to seriously consider this bill without proper notice is an absolute disgrace. It goes to the arrogance of the government and its contempt for legislative process with respect to the workings of the House of Representatives. It sends a serious warning to the Australian community that this government is now more concerned about preserving its electoral advantage than doing the hard work that makes Australia so attractive for investment and so important in the international debate about preserving our environment and heritage.

I note also that there appears to have been very little, if any, consultation with the states and territories or other stakeholders, with the exception of a small number of industry representatives and states who are immediately affected by some of the changes embodied in the bill. This is not a good look for the government. It is not a good look if we want to work with business to attract investment as well as preserve our environment and heritage. It is also not a good look for industry.

It undermines the integrity of the legislative process and the community's confidence in it. It also undermines the reputation of some sections of industry and the standards of good corporate citizenship and good governance which it claims to observe. For that reason I support the second reading amendment by the opposition that this House appropriately expresses its strong concerns that this bill has rushed through parliament without proper consideration or consultation and therefore call on the House to allow a greater time for public consultation and debate on the bill.

This is a reasonable request. I hope that members on both sides of the House will have the decency to have regard to the second reading amendment to secure our legislative right to a proper parliamentary process and, in doing so, show respect for the people we represent. They expect that we have time to do our job. The government has gone out of its way with respect to this bill—over 400 pages and 900 separate items—to ram it through parliament as quickly as possible. That is when you make mistakes not only with respect to the requirement to protect our environment and heritage but also with the workings of the bill with respect to its purpose to create a legislative framework which guarantees investment in development in Australia. You cannot separate one from the other.

I will go to some elements of the bill. Obviously, some of them have merit and I am not just going to can the bill for the sake of attacking the government. There is good and bad in this bill. We can also express our appreciation to the Public Service for the huge amount of work in drafting. It is about reducing red tape in approvals processes and hoping to improve the ability to enforce compliance—that is to be commended. For example, subject to further and proper consideration I cautiously welcome the amendments that strengthen the provisions relating to illegal fishing and bring the EPBC Act into line with the Fisheries Management Act. I say 'cautiously' because I have not—and neither has anybody else in the House—had time to properly seek legal and other relevant advice as to whether the amendments will do what is claimed.

Similarly, I cautiously welcome the introduction of strict liability with respect to damage caused to World Heritage properties, national heritage places, Ramsar wetlands, threatened species and communities and so on. This appears to remove the need to demonstrate recklessness or intent to

cause damage to effect a prosecution. The extending of liability under the act to make corporations, non-corporate principals and employers liable for actions taken on their behalf also appears appropriate.

When it comes to the approvals process, I welcome some streamlining of the bilateral agreement processes to get rid of unnecessary red tape and duplication and provide certainty for investors in the development of Australia. But that streamlining must not compromise our ability to properly protect our unique environment and heritage. They are inseparable. Again, I cannot be entirely certain without the benefit of a proper review process and period that the measures in the bill are appropriate. This is a first reading on my behalf.

My colleagues have expressed some reservation about changes to the third party appeal provisions in this bill. To be fair, most Australians would agree that, while we all expect ministers to make decisions in full accordance with the acts of this parliament and we all support appeal provisions to ensure that this is the case, it is less clear that the vast majority of Australians support the right of a limited number of special interest groups to bring actions against the minister every other week to try and overturn decisions reasonably made within the law. That is the balance we have to get within this legislation. Some changes are needed to limit the opportunity for repeatedly vexatious appeals to the Administrative Appeals Tribunal. I put it to the House that if the government had properly consulted and shared with members of this House the history of appeals made under the EPBC Act—the appellants, the cases, the outcomes—there may well be greater acceptance of the need for changes proposed in this bill. It is about due process and proper consultation.

The same thing applies when it comes to changes to the EPBC Act, which I support, that mean that plaintiffs will lose their specific exemption under the act to provide undertakings for damages when applying for interim injunctions. Plaintiffs will now have the same rights as under any other legislation or when taking civil proceedings with the Federal Court holding the discretion to not require undertakings for damages when it comes to interim injunctions. This is fair and reasonable change.

For too long I contend that special interest groups have been able to freely indulge, in some instances, in repeatedly vexatious actions at great time, expense and delay to proponents. In most cases the interim injunctions granted have not stood the test of judicious scrutiny. Under the EPBC Act, it is my understanding that only two injunctions have been successful: one which related to the Nathan Dam in Queensland and the other to the killing of bats to protect an orchard development.

In both cases, it is highly likely that the courts would have concluded that it was in the public interest to grant the injunctions and exempt the plaintiffs from any undertakings.

In the vast majority of cases it is reasonable to conclude that the exemptions in the act had not been advancing the national interest but had been used for vexatious purposes by special interest groups and had created unnecessary uncertainty for important investment in Australia. This is a concern many of my portfolio constituents in resources, energy and forestry have raised with me in the short time that the bill has seen the light of day.

Similarly, my colleague the member for Rankin raised a related concern in this debate last night when he rightly pointed out that the environment movement adopted a tactic dating back to the 1980s to put as many areas as possible on the Register of the National Estate in Tasmania. The Australian Heritage Commission, inundated with listing requests and not properly resourced to assess them, adopted the precautionary principle and listed pretty much everything. That was a vexatious use of the heritage listing process in the hope that the environmentalists could achieve the protection of all national estate areas. That was never our intent in terms of doing the right thing by our environment and heritage in Australia.

The net effect of this is that we have a national estate list and a listing process for heritage and environment with much diminished status because of those vexatious actions in the past. I hope the environmental NGOs are proud of themselves for achieving this. I think it is a disgrace.

The changes to listing processes proposed in this bill are intended to address the kinds of flaws referred to above. But obviously they have gone too far. Where the act was previously silent, Senator Ian Campbell has now made sure that, as with the case of the Bald Hills wind farm and the orange-bellied parrot, he can now, unfortunately, politicise at any time and on any grounds. That is going too far.

The amendments to listing processes that allow the minister to seek and have regard to information or advice from any source are a bridge too far. This does not address the credibility of a person providing advice— for example, whether or not the person has appropriate qualifications or standing. It does not pass the test of reasonableness in terms of the types of matters that could perhaps be considered such as other economic, social and environmental factors.

Obviously, this is a complex issue and a complex bill. It has to be considered in a properly focused, calm and constructive way. But the government has created an environment which has led to a motion on the way this bill is actually being considered in the House this week. The members of the House have not had an appropriate opportunity to go away and seriously consider the 900-odd proposals actually embodied in the bill for changes to what is a complex act in the first instance.

I mentioned other matters that perhaps could be considered, because it is my view that the competition between industry and heritage should not be addressed through an argument over whether to list or not to list. The real issue, and our responsibility, is to recognise that we can have multiple land use values of listed places that should be properly managed through the use of regulation, statutory management plans and conditions on development. There are a variety of ways to actually achieve what we all desire—that is, the protection of our environment and heritage.

There is no doubt in my mind that those places with really special environment and heritage values—and, in my view, the Burrup Peninsula, for example, is one of those—should be properly listed and recognised for those values. But that is not to say that we are not having development on the Burrup. We actually need development on the Burrup because it is the key to a lot of our export earnings in Australia at the moment. It is also potentially the key to our transport security if we are able to get serious about the gas-to-liquids debate in Australia.

But there is also no doubt in my mind, having said that, that if those places have other very special values— for example, nationally significant economic and strategic values—it is my view that when it comes to the Burrup Peninsula there is a need to find a way to protect those values as well whilst also guaranteeing investment and economic development. I am personally satisfied that with goodwill on all sides this can be achieved. We can have multiple land use values and we can manage them properly so that heritage is protected but sustainable economic growth that underpins our national wealth can also still occur.

I have talked about the vexatious use of the Environment Protection and Biodiversity Act a lot today, and the Burrup Peninsula, as I have said, provides a good example of this. Whilst I have heard some reports from defenders of rock art on the Burrup that 30 per cent of the Burrup's heritage sites will be put at risk by Woodside's proposed Pluto development, mapping of the area proposed for listing and the development site shows clearly that the Pluto development will in fact occupy just a fraction of one per cent of this area.

It is also about time that people told the truth about what is actually happening in some of these areas that are so sensitive in terms of the debate surrounding this bill this afternoon. Let us have a factual debate rather than an emotional debate on some of these key issues.

It is time that we stopped some of the scaremongering and told the truth. We actually want to do the right thing by the environment. We actually also want to do the right thing by our economy. That is the balance that is intended in this act.

The government has actually created great difficulty in having a proper debate on those issues because of the way in which it has handled this bill. It was just plain arrogant to actually table last week a bill of over 400 pages and with 900 proposed amendments and then to seek to have it rammed through the House of Representatives—the people's parliament—by the end of today. It is contemptuous of the Prime Minister, the cabinet and the coalition party room. It shows no regard for their own coalition partners, especially the backbenchers, who actually have to consider these issues, and the 150 constituencies that make up the House of Representatives. The government itself has created in the mind of the Australian community a serious question about the integrity of this bill because of the way it has sought to short-circuit the debate and stop proper due process and consideration.

The bill has been about four years in coming. Why does it therefore have to be rammed through the House of Representatives in one week? There is no good reason for that approach to legislative change in Australia. We are about proper management practices in Australia. We are about proper management practices that protect our environment and heritage. I simply say this: regardless of the merits of many amendments in this bill, there are too many orange-bellied parrot amendments for my liking. I therefore join the opposition in opposing the bill, but I also say that there is a need for a review of the bill. The problem is that the government has got the process wrong and has now created in the mind of the Australian community the idea that there is no legitimacy to the bill before the House.