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# **Flora & Fauna Protection Needs Action as well as Legislation**

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Mr MORRIS (Mornington) (10:28:36): I am pleased to open the debate on behalf of the Liberal and National parties in the Parliament on the Flora and Fauna Guarantee Amendment Bill 2019. An amendment of what is now a fairly long-in-the-tooth act, the Flora and Fauna Guarantee Act 1988.

The intention of this bill, as the introduction tells us, is to establish new objectives and principles of the act—so, replace principles of the act, and I will come back to that—to impose additional obligations to consider biodiversity in decision-making; and to improve transparency, accountability et cetera.

I want to start by saying that while certainly our performance in terms of biodiversity protection—and I would say 'our' as in the state of Victoria—has been patchy, there is in fact a very long history. There is a tendency to think that all environmental protection started sometime in the 1970s or 1980s, but of course it does go back a lot further than that, thank goodness.

There were many successful efforts made, no doubt in this chamber, to enact legislation to protect various aspects of the natural environment, to protect biodiversity—that is probably not the term that would have been used at the time, but to begin that process. The earliest examples I could find without doing extensive research was the Wild Flowers and Native Plants Protection Act 1958. Given that was a 1958 act it was probably re-enacted as part of the consolidation of the legislation so it could well be a significantly older act than that.

But I think it is fair to say that we got more serious as a state, in common with much of the rest of the world, in the late 1960s and early 1970s. We had, under Premier Bolte, the passage of the Environment Protection Act 1970, which provided the legal framework for not only environment protection but a range of issues around water, air and so on. And it created of course the Environment Protection Authority Victoria (EPA), which gave us as a state an agency to start enforcing the sorts of protections, particularly around industrial activities in the case of the EPA, but it certainly raised awareness of the importance of the environment.

National parks of course also go back a long way. The Victorian National Parks Act 1956 was superseded by the 1975 act under the Hamer government. The Wildlife Act 1975 is another very important piece of legislation. The Crown Land (Reserves) Act 1978 of course reworked

older legislation. Most recently in terms of major enactments in the federal sphere, we have the Environment Protection and Biodiversity Conservation Act 1999 enacted by the Howard government. All of those pieces of legislation are critical and I think demonstrate the evolution of the way we view environment protection.

It is also interesting to reflect upon the population of Victoria—not going all the way back, but certainly from around the time of the introduction of the Environment Protection Act in 1970—because with a growing population that does tend, if you do not manage it appropriately, to place pressure on natural resources.

I am not for a minute suggesting that growing population is a bad thing—not by a very, very long stretch—but clearly we need to manage it in such a way that the environment is protected and natural resources are protected for future generations, not simply consumed to satisfy the immediate needs and demands of the population.

Going back to 1970, the state had a population of about 3.4 million people. By the 1986 census, just before this 1988 act was introduced, and discussions were certainly well underway at that stage about what the act might look like, the population had grown by only 600 000 people to 4 million. Now of course it has almost doubled from that figure in 1970. We are up to, on the most recent figure I could find this morning, 6.3 million people. No doubt it will be 6.4 million people by the end of the year or by early next year.

So we have a significant issue in a rapidly growing population and we need to make sure that we keep the environmental regulation framework up to date.

I was interested to look back to the second-reading speech of the Flora and Fauna Guarantee Bill 1988, and I remember as a young councillor having a conversation with the minister who moved that bill, Ian Cathie. Looking back through the second-reading speech reminded me that business was done very differently in the days of the Cain government compared with the way in which the Parliament—or the government, more accurately—deals with business now.

I was interested to note that in the second-reading speech Minister Cathie made the point, quoting him, that: On 16 September last year—that would be 1987—the government introduced a Bill for a flora and fauna guarantee Act with the intention of achieving its passage in that Parliamentary sitting. However, in response to a request from Heather Mitchell, the President of the Victorian Farmers Federation, the government allowed the Bill to lie over from the 1987 spring sittings to the 1988 autumn sittings.

It was the view of the federation that country people were not yet sufficiently familiar with the proposed legislation. The minister went on to say that: The government also took up the proposal of the then Liberal shadow Minister for Conservation, Forests and Lands, the honourable member for Evelyn, and conducted a series of seminars on the Bill. There was I think a good degree of cooperation in terms of the development of this legislation. I would suggest that that is the least that perhaps the current government could take out of the Cain government's book.

The other interesting point about that is that earlier in the day, prior to the minister moving the second reading of what became the Flora and Fauna Guarantee Act, he had moved that the item 'Flora and Fauna Guarantee Bill—Second reading—Resumption of debate' be discharged from the notice paper.

So in fact the outcome of that conversation with the Victorian Farmers Federation and with

Victorian communities at the suggestion of then shadow minister led to the bill that had been introduced being scrapped and a new bill being introduced. While that is generally not the way parliaments do their business these days, I think it is fair to say that quite often you do get a better result from that extended engagement.

The other point that the minister made in introducing that bill was about the state of biodiversity—not using that term but effectively about the state of biodiversity at that time. He said in his speech:

*Our records show that at least 20 species of mammals, 2 species of birds, and 35 species of vascular plants have vanished from Victoria in the space of 150 years. Furthermore, at least 700 ... species are threatened right now ... about one in five of all the native vertebrate animals and vascular plants still living in Victoria is facing the prospect of extinction.*

In some ways, you might say not much has changed. If we fast-forward to the second-reading speech from the current minister.

*She says: ... much of the Act's architecture is still fit for purpose. Victoria's continued decline in biodiversity can in part be attributed to a lack of implementation of this Act, rather than to deficiencies in its structure.*

Given that the party she represents has been in power for 16 of the last 20 years, I think it is fair to say that if there has been a lack of implementation of this act rather than deficiencies in its nature, then perhaps the Australian Labor Party should have a good, long, hard look at itself because if there are problems, 16 out of 20 years means the buck stops with you.

The minister goes on to say: What is clear is that business as usual will not adequately address threats to Victoria's biodiversity. I think that is also a fair comment, because when you look at the report card from the commissioner for environmental sustainability, the 2018 report card and the section on biodiversity, the story is very, very bleak.

Just running through the indicators, and I am going to go through them all because I think it is important to have them in the record of the house, the indicators are identified or categorised by status and by trend, and the quality of the data is also identified.

We start with invasive freshwater plants and animals: the status is unknown, the data is poor and the trend is unknown. The trend in carp distribution, a predator: the status is poor, the trend is downwards but we have got good data so at least we know we have got a problem.

Invasive terrestrial plants: again, the status is poor, the trend is downwards—in other words, it is getting worse—but again we have got good data so at least we know we have got a problem. Invasive terrestrial animals: the status is poor and getting worse but we do not have good data; there is poor data there.

The trend in deer populations and distributions: the status is poor and getting worse, and again poor data. The trend in horse populations and their distributions: the status is poor and getting worse, with fair data there. The trend in populations and distributions of threatened freshwater species in the wild: the status is unknown, the trend is unknown and the data is poor.

The trend in the population number and distribution of trout cod: the situation is fair, it does not appear to be getting any better or any worse and the data quality is fair. I think

that is about the best one we have had so far. The trend in the population and distribution of Macquarie perch: the situation is fair, the trend is not getting any worse and the data is good so I guess that is the best one so far.

The population and distribution of Murray crayfish: the status is poor and getting worse, with fair data. The trend in the population number and distribution of the spotted tree frog: the situation is poor and getting worse but we have got good data so again we know we have got a problem. The trend in the population number and distribution of the Booroolong tree frog: the status is poor and is getting worse, but at least we have got good data there. The trend in population number and distribution of the Baw Baw frog: exactly the same—the situation is poor and is getting worse but we know it.

Threatened species that are wetland dependent: we do not know—we do not know whether it is getting worse or better, we do not know full stop and, not surprisingly, there is poor data there.

Trends in the population and distribution of threatened terrestrial species: poor status, getting worse, poor data. Vascular plants: the status is poor, the trend is getting worse, the data is fair. Vertebrates: the situation is bad and getting worse, with fair data. Invertebrates: exactly the same—bad, getting worse, fair data.

The only bright spot in the whole report is private land conservation: the situation is fair—we would like it to be good but it is fair—but the trend is up and the data is good.

Conservation of Victorian ecosystems: the situation is fair, it is not getting any better or worse, with good data. River health: much the same, although we are starting from a poor status, we are not getting any better but at least we know it. Riparian vegetation habitat: the trend is unknown, the situation is poor, the data is poor. Area of functional floodplain: the status is unknown and not surprisingly there is poor data. Distribution and abundance of frogs: poor, getting worse, but we know it. Distribution and abundance of fish: poor, getting worse and good data so we know it well.

Distribution and abundance of water birds in the Murray Darling Basin: poor, the trend is getting worse and the data is only fair. The distribution and abundance of macroinvertebrates: the situation is fair—it is not getting any better or getting any worse—and the data is fair.

As we move—I am sure to everyone's relief—to the final page of the indicators, the wetland extent and condition status is unknown, we do not know what the trend is and the data is poor.

The health and status of Ramsar wetlands in Victoria: we do not know the status, we do not know the trend, we do not have anything but poor data. Net gain in extent and condition of native vegetation: the status is poor, the trend is getting worse, but we have got good data. Landscape scale change: the situation is poor, the trend is getting worse, and the data is fair.

Change in suitable habitat: fair status, not getting any better or worse, and good data. Area of management in priority locations: fair, not getting any better or worse, and fair data.

Victorians value nature: we do not know. I would have thought that was an absolutely critical starting point—that we should know whether Victorians value nature or not. We do not know. We do not know the trend, and we have got obviously, self-evidently, very poor data. Particularly important, I think, and finally, the number of Victorian government

organisations that manage environmental assets that contribute to the Department of Environment, Land, Water and Planning standard output data is poor, the status is poor and no-one knows what the trend is.

Now, the bottom line for all of that in terms of status is that of those indicators, and there are 35 altogether, for seven of the 35 we, as a state, do not know what their status is. In 21 we know the status is poor. In seven we know the status is fair.

None are good!

In terms of where we are going—the trend—nine out of 35, which is a high number, are unknown. Seven are tracking okay. Eighteen—so more than half of all indicators—are deteriorating. Only one is on the rise.

In relation to the data figures, which I think are perhaps not the most important but are certainly the most amazing, out of those 35 indicators, only 13 are good, 10 are fair and 12 are poor.

If we cannot get the data right, if we do not know what is happening, then how on earth do we take action to fix the problem? Of those that are considered to be good in terms of data, eight are in decline, four are stable and only one is on the improve.

I wanted to highlight a sole indicator that is on the way up: conservation on private land. That is the only indicator in the whole suite of biodiversity indicators in this report that is a positive trend, and that is on private land.

So I think what we are doing with this bill is absolutely essential—it is important work—but coming back to the minister's comment about using the provisions of the act that are there, unless the government has a good, long, hard look at itself and actually does what it says it is going to do, then it does not matter how much work we do in this place passing legislation because nothing is going to change.

I have made similar comments before, but I think it is worth looking at the various relevant outputs of the Department of Environment, Land, Water and Planning, which are administered by the Minister for Energy, Environment and Climate Change but in this case relating to the environment and climate change aspect of her portfolio. You would have to say the spending on ongoing day-to-day operations that needs to be done, that actually drives those indicators, has been over the term heavily cut.

If you refer to the last budget, the environment and biodiversity output has gone up by less than 3 per cent, but at least it has gone up. But when you look at the effective budget for the management of public lands and forests, in gross terms, yes, it is up \$7.9 million, but there are a suite of initiatives, a suite of election promises, that the government has made—and that is their right, but they cost money to give effect to—and the cost this year is \$32.9 million.

What that does to the ongoing budget of the agencies responsible for the management of public land and forests is that that is an effective cut of \$25 million to their day-to-day operational funding, and you cannot expect them to do the job if you are going to cut their funds. The other output of course is Parks Victoria. They have had an actual cut. They went from \$194.3 million in 2018–19 to \$181.1 million in 2019–20, so a cut of \$12.3 million, effectively, to Parks Victoria. Initiatives actually work slightly in their favour, but there is a gross cut of \$13.2 million and a net cut of \$12.3 million.

You cannot expect legislation to resolve the issues that we have with the environment, with biodiversity, if you keep cutting the funding available to the agencies to do their jobs.

Turning to the detail of the bill, there are only a couple of things I want to highlight with regard to this piece of legislation. One of the significant changes is with regard to the objectives of the act and the principles of the act, which are contained in clause 5 of the bill on pages 10 and 11. Those changes, I think, do actually sharpen up the objectives of the act, and of course some of the consequent changes require the minister and the department to have regard to those objectives, which will hopefully drive the process.

But, again, it is all very well to put words into legislation, but that has no effect if it is not actually implemented, if you are not enforcing the legislation. I do not just mean by having a range of people going out and pinging the public. I am talking about enforcing the legislation within the department—actually getting the secretary, getting the deputy secretaries, getting the staff to do what the Parliament and the government have said they must do, and that is unequivocally the job of the minister.

So I think there are a range of changes here with which I would not quibble. The two major ones are the implementation of the intergovernmental memorandum of understanding on the common assessment method, which was eventually signed by Victoria.

Some jurisdictions, including the commonwealth, were prepared to sign up to it in 2015. It in fact took the current minister until April last year to sign up to this agreement, but I think now everyone has signed up—well, on the copy I have got, South Australia is not there yet, but everyone else is on board.

Without going into the detail of the common assessment method, it effectively creates a framework to align the cataloguing of threatened species right across Australian jurisdictions so there will be a single operational list of governments across the nation with a list of threatened species.

The second major change that is made relates to the habitat conservation orders, which will replace interim conservation orders. Again, without going into the detail of those changes, and coming back to the objectives and principles of the act, it does, I think, improve what has been the interim conservation order process because it provides a much more transparent framework for the way in which those orders can be used and hopefully will provide a framework so that they can be used.

There are a range of other changes, including an expansion of the scientific advisory committee, a mechanism for public authority management agreements, a mechanism for enforceable undertakings so that the secretary will actually have the authority to enter into enforceable undertakings, a requirement for a biodiversity strategy and, coming back probably to one of my very earliest points about the way in which legislation is put through this Parliament, the bill actually gives a greater emphasis to public consultation than was previously in the act.

But I would make the point that it is one thing to talk about public consultation; it is another thing to actually mean it. And if you have a process that is about consultation but you have already decided the outcome, which is what happens in far too many cases, then whatever lip-service you may pay to public consultation, you will not get the benefits that can be achieved from that process.

The Liberal-National coalition will not be opposing this bill.

I think the take-out, though, from the statistics I have quoted today, and going back to then Minister Cathie's original point about 700 threatened species, is that we really have not moved very far in 31 years. I think we should all take note of the minister's point in her second-reading speech that effectively the teeth are in the Act but they just have not been used.

If you look at the report that has been produced by the Commissioner for Environmental Sustainability Victoria, it is absolutely damning.

I am not saying for a second that the situation is terminal—it is in fact very, very fixable—but one thing is absolutely certain: if we continue to do what we are doing as a state, if the government continues to do what it is doing, or perhaps has not been doing for 16 of the last 20 years, then the next time we get the Commissioner's report, the stats will be worse, and the time after that the stats will be worse again.

And no matter how many pieces of legislation you introduce, unless the government actually moves to deal with the issues, the problem is never going to be solved.