CONSERVATION LEGISLATION AMENDMENT BILL 2010

Second Reading

Resumed from 15 March.

HON SALLY TALBOT (South West) [7.45 pm]: I will continue my remarks on the second reading debate. When I spoke last I was going through some of the issues that have been raised by some of the key stakeholders in an attempt to suggest to the government that we need to spend some time in committee looking at what exactly constitutes the right foundations for joint management arrangements that are mutually beneficial to the state for the management of national parks and conservation reserves and beneficial to the traditional owners and Indigenous communities around the state. I will make a couple of other points also. Members are aware that my amendments on the notice paper address these points. There is a somewhat mystifying omission to the Minister for Indigenous Affairs. Proposed section 8A(9) refers to "the Minister for Fisheries, the Minister for Forest Products, the Minister for Mines and the Minister (Water Resources)". Other proposed sections of the bill refer to the minister with responsibility for the Land Administration Act, yet nowhere do we see reference to the Minister for Indigenous Affairs. It seems to be a rather extraordinary omission and is one that I imagine the government would be happy to look at rectifying.

I will raise in committee the notification of people with either a potential or actual interest in the land that is at stake in each of these joint agreements. Members will see that a couple of those amendments relate to making sure that the responsible ministers have made their best endeavours to ensure that they have held the right sort of consultation arrangements before anything is signed and sealed.

It appears we have got some sort of agreement on the issue of a review. I notice an amendment on the notice paper in the name of the Minister for Environment about a review after five years. I think Hon Robin Chapple has an almost identical amendment on the notice paper. That is good. As I pointed out at the beginning of my remarks, we are in somewhat uncharted waters. It is very important that when we conduct the review, there be a specific provision to lay the results of the review before both houses of Parliament. It is very important to do that in good faith and in a very public and transparent way. If there are problems—there are almost certain to be some teething difficulties after putting this in place—they can be looked at and resolved fairly speedily.

I will make reference to another document that has been widely circulated. Government members, as well as my colleagues and I, have received a letter dated 4 February from Judith Hugo from the Friends of Australian Rock Art. The letter refers to the fact that we have some very seriously under-managed areas. It will be interesting to hear the minister's response about the extent to which this bill that is under consideration will address some of the problems that have been put on the record by many members of Parliament, including the Premier, about the petroglyphs on the Burrup Peninsula. I want to draw the attention of honourable members to one paragraph towards the end of this very lengthy and detailed document that states —

> The management of Aboriginal heritage in the Dampier Archipelago is locked into crisis mode, responding to individual applications to destroy sites under the Aboriginal Heritage Act ... There is no way to make meaningful assessments of significance and, consequently sensible decisions about cultural features affected by development proposals, because no one really knows what is there. It is impossible to answer the most basic questions—about the distribution of different types of features, whether particular cultural features are common or rare, how cultural features are related to one another and to their environmental context, and what the differences and similarities are between different parts of the Archipelago, between different islands and even between different valley systems. It is not possible to identify which motifs are old and which are relatively recent, except at the most general level, nor how long the time span was during which they were produced. The little that is known is recorded in the Site Register held by DIA, which is itself riddled with errors, inconsistencies and gaps.

I put that on the record because I think it is, as much as anything else, a succinct summary of some of the problems that everybody is very much hoping this bill will go some significant distance towards resolving.

I wanted to conclude my remarks by putting one further question to the minister that she might be able to address in her summary response to the second reading debate before we take the matter up in Committee of the Whole. It is about this general question of the economic benefits that might accrue from a jointly managed area. We have talked about, and I think some reference has been made in the explanatory memorandum, to eco villages and tourism in general. However, I wonder whether the government has given its mind to, for example, carbon rights. Clearly enormous economic potential is to be gained from an area like the Great Western Woodlands through carbon rights and sequestration. I would like the government's assurance, before we proceed to the committee stage of the bill, that consideration has indeed been given to where those economic benefits would flow. If we are seeking genuine equity and a genuinely beneficial mutual arrangement to flow from these new

joint management plans, a significant amount of economic benefit, if not all of it, should flow to the traditional owners and the Indigenous people on whose country those schemes are being put into place. I wonder if some reference could be made to that by the minister in her response to the second reading. On that point, Mr Deputy President, I will leave off remarks and I look forward to the committee stage of the bill.

HON ROBIN CHAPPLE (Mining and Pastoral) [7.53 pm]: I rise tonight to talk about the impact of the Conservation Legislation Amendment Bill 2010, which the Greens (WA) will be supporting. It has been a long time coming.

I first came across the notion of joint management and a document called "Resolution of Conflict: A Clear Policy for National Parks" on 13 November 1990. After some discussions arising from that policy document about the D'Entrecasteaux National Park, the Karijini National Park and the Rudall River National Park—I refer to what was then known as the Hamersley Range National Park—we started talking about joint management for the first time. The "Resolution of Conflict" document was preceded by the draft management plan for the Hamersley Range National Park, which came out in May 1989. That document did not mention joint management. The term was applied by individuals in the then Karijini Corporation and later the Bunjimup group. We must remember that there was a ten-year gap between the initial plan and the proposals for a joint management plan. By the time the final management plan report for 1999–2009 came out we were really starting to see the notion of joint management. Indeed, the government had also endorsed the formation of a joint Conservation and Land Management—as it was then known—local advisory committee. It was not joint management as we have always asked for and indeed sought, but it was the start. Indeed, as a result of that the Karijini National Park was named and agreements were made with the Indigenous stakeholders about the management of that park. It was still managed by CALM, but with the involvement of local Indigenous people. Many aspects were looked at in the process of moving to joint management, including a consultation paper in 2003 called, "Indigenous Ownership and Joint Management of Conservation Lands in Western Australia". At the same time, the Burrup and Maitland Industrial Estates Implementation Deed—the Burrup Agreement referred to as the BMIEA—was signed. In essence, that agreement set up the APBC or Aboriginal Prescribed Body Corporate, which then became known as the Murujuga Aboriginal Corporation—or MAC for short. The whole process involved in the movement towards joint management started a very long time ago—the impetus of which was really in 2003. There were reviews in 2003 of the notion of having joint management over the Karijini National Park, the Purnululu National Park, the Ord final agreement, the Burrup Peninsula Conservation Reserve, which is a misnomer because there was not a conservation estate over the Burrup at the time, and Mulwala Glen, Mantua, Earaheedy and Karara ex-pastoral leases. Quite a lot was going on in 2003 and I understand we then started drafting the piece of legislation that we are looking at today. As I said—it has been a long time coming.

It is really interesting to read many of the comments the various parties made about that 2003 study and the needs for employment and training, the needs for ownership of the whole process, and the need to not be subservient to the then CALM administration model, but to have a meaningful and dedicated role in the management of those matters. It was quite clear, looking at the reports from that time, which included the AIATSIS Research Discussion Paper number 27 of October 2009. Put together by Krysti Guest, that paper examined the Burrup, the Miriuwung–Gajerrong Ord, and the Wimmera agreements—which are in another state—and how they were proceeded with.

It is really quite interesting that, although these processes for joint management are, in theory, moving forward, the traditional owners have indeed found the process extremely frustrating and, in some regards, quite belittling. Firstly, they were done in an exceptional hurry, with an imperative that actually did not seem to stack up. I would like to talk about two comments that were made about the Burrup and Maitland Industrial Estates Agreement. I will use the name of a person who is now deceased, and I do so on the basis that I knew the person well and time has passed on. Trevor Solomon from the Ngarluma Yindjibarndi group did not choose to list items in the benefits package that was identified for the community, and stated the following —

> How do you get through to government, to white man, when they don't want to hear, not interested. We fight hard, stand united yet the white man doesn't listen. Our law and our culture put aside. In the Burrup agreement, we got some stuff, but not what we wanted – no independence to do what we wanted to do. The spirit of the country is dying, so is the country around it. We are connected to the land, it speaks and talks to us. We can hear it. It cries out in pain when being bulldozed, blown up.

Similarly, Michelle Adams described her experience of the negotiations as follows —

> There is deep resentment, distrust, deaths in custody, removal from land, no apologies. 30-40 % of State GDP comes out of the Pilbara yet the traditional owners live in poverty, third world conditions. What does that say about agreement making, compulsory acquisition and extinguishment?
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> Being part of the negotiations was liked being stabbed in the stomach constantly. Negotiating under duress – the State has issued compulsory acquisition notices and will take your land anyway. Burrup is a highly religious, spiritual site. We didn't want development but understood we had no veto. How do you value the loss of your cultural heritage? You can't put a figure on that. Most stressful time imaginable – that's our experience, that's what we lived through.

Frances Flanagan in her report also identified that the process over the negotiation for the joint management of Burrup was set down to take a couple of years, so that the whole process could be negotiated out in a meaningful time, but state development interceded and the negotiations, even during law time and business time, were pushed through at an immense pace. In fact, the first part of the agreement in 2002 was concluded in as little as three months. There was a second part to the Burrup and Maitland Industrial Estates Agreement, because one of the Aboriginal groups held out. That is called the Burrup and Maitland Industrial Estates Attendant Deed.

It is encouraging that we got to this stage. In the middle of last year, I was asked by the Murujuga Aboriginal Corporation to call a meeting with the Premier. When I met with the Premier, it was about the vandalism and theft of cultural material that was going on in the Burrup. He asked me what we needed to do to resolve that. I said that, currently, the Department of Indigenous Affairs had no management capabilities over the area and could not put staff there to monitor the area. I said that the Department of Environment and Conservation had refused to and that the federal government, which has some reach over the area, again did not have the resources to do so. I said that the one thing that should come out of this is the ranger program that was identified in 2003 in the signing of the Burrup and Maitland Industrial Estates Agreement. The Premier turned to his adviser, who was sitting next to him, and asked him why this had not been resolved. He told him to get the show on the road, and I assume there was a process going on anyway, but quite clearly there was some impetus from the Premier who, like me, has a passion for the Burrup and has been up there with me on a number of occasions and walked the valleys. He understands the values of the area. I must thank the Premier, if his role was significant in bringing this bill to the house.

In respect of the model that we are dealing with, I want to go back and explain the various models that were originally thought of. We were not restricted to one particular type of model; three models were put forward. These were the alternative management arrangements articulated in the 2003 report, "Indigenous Ownership and Joint Management of Conservation Lands in Western Australia: Consultation Paper". There were opportunities to have consultative management in non-Aboriginal vested areas, in which the ownership of reserve crown lands was to be held by the Conservation Commission of Western Australia, or the Marine Parks and Reserves Authority, with planning and management arrangements amended to secure the rights of Aboriginal people to practise their traditions and customs and manage Aboriginal heritage sites in accordance with state law. That was the first model, and it was not, eventually, the model that was chosen. The second model was cooperative management of Aboriginal vested reserves, which involved ownership of reserve crown lands and conservation by an approved Aboriginal body corporate, or ABC. The ABC would represent traditional owners of the area and the management order was to have been granted on the condition that the ABC and the Department of Conservation and Land Management jointly managed the area for the purposes defined in the CALM act for national park or other conservation reserves. The third model was joint management of Aboriginal freehold lands, through which inalienable freehold title of the conservation lands would be held by an approved body corporate. The ABC would represent traditional owners of the area, and an agreement, normally a 99-year lease with an option, would be reached with the government to enable the ABC and CALM to jointly manage the area for the purposes defined in the CALM act. Before us today is a bill that covers both the second and third models. The third model is certainly the model that has been used in the Burrup and Maitland Industrial Estates Agreement, and the prescribed body corporate is the Murujuga Aboriginal Corporation, which manages the 99-year freehold vested land.

The purpose of this bill is to amend the Conservation and Land Management Act 1984. It also has implications for the Wildlife Conservation Act 1950. The amendments to be made to the CALM act include the replacement of the provisions for the voluntary land management agreements that presently enable land or waters to be managed by the Department of Environment and Conservation chief executive officer, but that do not enable joint management with another party or parties. Joint management agreements are currently beyond the powers of the CALM act; I am paraphrasing Hon Helen Morton's second reading speech. The Greens have played some part, I hope, in encouraging the government to legislate and to allow joint management arrangements vis-á-vis my conversation with the Premier.

The purported inability of the Department of Environment and Conservation to enter into management arrangements with the Murujuga Aboriginal Corporation over sections of the Burrup Peninsula and Dampier Archipelago have delayed the implementation of the Burrup and Maitland Industrial Estates Agreement for seven years. When the people signed that agreement, it was their clear understanding that joint management would happen and all the benefits—the development of an Aboriginal entity, jobs, ranger programs—would eventuate. Unfortunately, nearly eight years later we are at last dealing with the matter. That corporation has been dysfunctional for seven years while it has had to wait for government to bring on board this piece of legislation.

We completely support the aims of the bill in that it seeks to allow Indigenous people to exercise a greater role in the management of lands previously under the exclusive ambit of the Department of Environment and Conservation. Additionally, the bill should allow for the Burrup and Maitland Industrial Estates Agreement to be implemented with minor amendments and for appropriate conservation and heritage management of the Burrup to begin. This is of major importance in the context of protecting the Burrup.

During the process of the development of our amendments we have consulted widely with stakeholders, from a number of Indigenous representative bodies to the Murujuga Aboriginal Corporation, the body that runs the Burrup and Maitland Industrial Estates Agreement. As my honourable colleague has already mentioned, conservation groups, peak bodies and land councils early on expressed that there had been virtually no consultation with them. I am advised by the Murujuga Aboriginal Corporation that when this bill, which directly impacts its processes, was being drafted, the only visitation it got was when it was presented with a copy of the bill. The draft amendments were handed to the corporation's legal representatives late in 2010. However, due to many factors they were not able to consider the proposed amendments until recently. When they were presented with the draft amendments, they were not allowed to keep a copy. Their legal advisers were presented with the draft amendments. The traditional owners, who make up the area, did not get to see or have any meaningful debate about that. I point out that one of the reasons for that was that during that time they had been on law and cultural business. Basically, it was when the bill hit the notice paper down here that they really first started having a proper look at it. I point out that one of the complexities they had was specifically the fact that the explanatory memorandum was not presented at the time of the bill. For those who have seen the explanatory memorandum, it is no wonder they had some complexity, because the explanatory memorandum is actually 42 or 44 pages long. Without it, reading the Conservation Legislation Amendment Bill 2010 would have been rather difficult. My office managed to get hold of what we call a "blue" and dutifully sent that out to most of the Indigenous communities as a PDF file so that they were able to comprehend what the amendments meant in terms of the substance of the original CALM act. That has enabled people to come forward with their concerns. I will return to that letter in a little while. The grave concern that has been expressed to us is the lack of genuine consultation with Indigenous communities. I would like to thank the Minister for Environment for being able to defer this legislation for a couple of weeks at least to allow for some further consultation with stakeholders. Unfortunately, the level of consultation that is required for a bill of this complexity is more than just a couple of weeks.

At the end of my speaking time I will move that this bill goes to committee to enable further consultation. I will explain why as I lead up to the end of my conversation. The problem is that here we are actually providing for the very first time a bill to provide Indigenous people with genuine participation in roles such as land management and tourism. Unfortunately, unless we are actually correct in putting this legislation through, there is the possibility that this could end up as just being another motherhood statement. I do not think it is the intention of DEC or the intention of the government for that to be the case. But having had a number of legal people look at the legislation—members can see on the notice paper the large number of amendments we have put forward on legal advice from native title parties—there are significant concerns.

These amendments on the notice paper do not seek in any way, shape or form to diminish the status of the Conservation Legislation Amendment Bill or the principal act. What they do in the main is clarify the role that Indigenous people will play in the process of the CALM act and to strengthen the legislation to avoid future legal disputation between the native title parties and DEC vis-á-vis the government. I hope the minister and her advisers will take on board the many amendments with a view to understanding that they are there to enhance the legislation. They are there to enhance the intent of the legislation and to facilitate a better outcome for the government of the day, whoever it may be, and DEC.

That is part of the reason that members have before them a suite of amendments. I apologise for the number and complexity of many of those amendments, but members have to be able to read both the Conservation Legislation Amendment Bill 2010 and the conservation act and bring those two properly together before they can realise some of the implications of what are seemingly simple amendments in the current bill that actually have quite a significant effect on the principal act. Our amendments on the notice paper seek to resolve some of

that. I point out that they are complex, they are going to take a lot of time, and I am sure it is time that would be better served by this government if these matters can go to a committee.

There are concerns that the granting of a mining lease can extinguish joint agreement over the land. It is quite clear, when the Conservation and Land Management Act and the Mining Act are read together, that there is the potential that, should a decision be made over that land, it will invalidate the joint agreement. We need things like that clarified by the minister and her advisers. We will question deeply, during Committee of the Whole, how these sorts of things will be addressed. Any joint management agreement over section 8A land will not apply if a mining lease or a general purpose lease is granted under the Mining Act. If our legal advice is correct, we will actually be reverting and nullifying a well-intentioned agreement.

The cost of joint management is an interesting component. I raised with the minister representing the Minister for Environment our concerns about who will actually pay for the joint management when these agreements are signed. Will it be the native title parties or the traditional owners? How will the management bodies themselves be funded? It is all well and good to say that we will have an agreement with native title parties or stakeholders, but obviously those management bodies will need to be funded. We have not been able to ascertain, in our discussions with the minister's advisers, how this will occur. I hope the minister will identify those matters for us in significant detail.

The cost of joint management negotiation, management agreements and resulting management plans will be significant. The Department of Environment and Conservation at some degree has indicated it may be the entity bearing the principal cost of these processes, but that would be dependent on each joint management agreement. It would be really useful to know, if there is a conflict in that, how that conflict will be administered. There is certainly no clarity of how that may occur in such negotiations. The government has not yet indicated that the DEC budget will be amended in future budget years to reflect the additional cost imposed by the provisions of this bill. There is nothing in this bill that identifies, when the commonwealth is involved in joint management, how the commonwealth will be involved in that management plan. It will certainly have an interest, but how that interest will be represented in the joint management has not been adequately explained or indeed even addressed in the Conservation Legislation Amendment Bill.

DEC has indicated that the amendments contained in the bill do not affect the future act's provisions of the Native Title Act in any way. We certainly have concerns. We will raise those concerns via some proposed amendments. There needs to be some clarification on that. It appears that the minister could modify a joint management plan as he or she sees fit without recourse to the joint management partners. We want clarified whether that is an actuality or a potential, or whether, in the minister's response, it is completely discounted. We will move amendments in regards to this. The bill, unfortunately, does not apply retrospectively. DEC has indicated that some of the amendments to the Burrup and Maitland Industrial Estates Agreement will require amendment to enable the agreement to take effect in line with provisions of the bill. There is a clear need for the government to indicate whether it will expedite the process in light of the existing seven to eight-year delay in implementing the Burrup and Maitland Industrial Estates Agreement. For native title that has been extinguished by national parks, it appears under the provisions of the bill that the government could now offer claimants a joint management agreement in lieu of compensation. DEC indicates this can be done when parks have been established subsequent to the passage of the Racial Discrimination Act; that is, where liability exists. We need to get that absolutely clarified. Is it the government's intent to undertake joint management agreements in lieu of compensation agreements?

A number of conservation stakeholders have expressed concern over potential impacts on the conservation management negotiations in the Goldfields; for example, with regard to the Frank Hann National Park. DEC has indicated the process will be rendered easier by the provisions of the bill. We require clarification on any impacts on the Frank Hann National Park.

It is the position of the Greens that any joint management agreement and joint management plan should require the heritage value of the land in question to be determined as accurately as possible. The bill does not provide for this. Indigenous communities and representative bodies that we have spoken to, because of their inalienable connection to the land, consider there is a need to establish the heritage values as part of the whole management regime. It is not just about conservation; it is about the conservation of Indigenous heritage and, indeed, the conservation of their culture. We will move amendments that require at least preliminary heritage surveys to be conducted as part of a precursor to the management plan.

Proposed section 57A(1) states that the responsible body for the land may consult any person—this is my take on it—for the purposes of determining the value of the land to the culture and heritage of Aboriginal persons. "Any person" could be interpreted to mean anyone from an anthropologist to an auctioneer. I would think it essential, if not desirable, from the government's point of view that the people to be consulted in the first instance should

be Aboriginal people with an interest in the area. The omission of an express provision for consulting with Aboriginal people on issues concerning Aboriginal people in any piece of legislation these days is, quite frankly, amazing. We will move an amendment to provide for that consultation.

I will go back to two pieces of correspondence that we received. Hon Sally Talbot mentioned a recent letter sent to Minister Marmion. It was copied to Hon Colin Barnett, Hon Peter Collier, Hon Brendon Grylls, Hon Helen Morton, Hon Wendy Duncan, Hon Dr Sally Talbot, Hon Eric Ripper and me. The letter states —

> **Conservation Legislation Amendment Bill 2010**
>
> We, the undersigned, wish to raise a number of concerns we have with the above Bill, currently before Parliament.

They make it clear that they support the intent of the bill. With that, they provide a significant issues paper that addresses many of their legal concerns with the bill. I hope that the ministers have read it diligently and have run it past their legal teams, and that, during the fullness of the minister's response, she will identify how they have addressed those issues. The letter continues —

> It is clear that a key object of the Bill is to facilitate increased participation by Aboriginal people, including native title holders, in the conservation and management of land consistent with their cultural and heritage values. Further, we understand that the passage of this Bill is required to enable the State to meet its outstanding obligations in relation to longstanding comprehensive native title agreements.
>
> It is against this background that we urge you to reconsider various aspects of the Bill which we regard as problematic, from both a legal and practical point of view.

And they refer to the attached paper —

> It was our view that the consultation undertaken by the Department of Environment and Conservation … on the development of these important amendments was inadequate and for that reason we wrote to the Hon William Marmion MLA to request that the second reading debate on the Bill be deferred to allow sufficient time for consultation, or that the Bill be referred to Committee.
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> As you would be aware, the second reading debate was deferred until 15 March 2011 to allow further consultation. While DEC has recently provided our organisations with further briefings, for which we are appreciative, we remain concerned that there has not been sufficient time for dialogue in relation to perceived flaws in the Bill.
>
> We urge you to carefully consider the attached Issues Paper and to implement the amendments proposed within it. Failing that we request that the Bill be further deferred for a period of up to 3 months.
>
> We trust you appreciate the urgency of this situation given the Bill is scheduled for debate on 15 March and therefore we would welcome an opportunity to discuss these issues with you in person as soon as possible.

I do not know whether that discussion has taken place. Again, the minister might be able to respond, subject to the minister having received this letter, on whether he had further discussion with those parties. The people who signed off on that letter were Hans Bokelund, chief executive officer, Goldfields Land and Sea Council; Simon Hawkins, chief executive officer, Yamatji Marlpa Aboriginal Corporation; Ian Rawlings, chief executive officer, Central Desert Native Title Services; Nolan Hunter, acting chief executive officer, Kimberley Land Council; and Brian Wyatt, chief executive officer, National Native Title Council.

Just briefly, it is also important to refer to the letters that were sent by the Murujuga Aboriginal Corporation to Hon William Marmion, Minister for Environment; Water, on 1 February 2011, in which the corporation goes through a long explanation of the problems that it has had in trying to implement the Burrup and Maitland Industrial Estates Agreement. As I do not think I will have the opportunity to read the entire letter into the record, which I think would be valuable, I seek leave to table the letter.

Leave granted. [See paper 3115.]

Hon ROBIN CHAPPLE: I think I have explained quite clearly that, because this is an immensely complex piece of legislation, all the Indigenous stakeholders involved would benefit from further time to review the legislation. I do not particularly support debate on the legislation being deferred for three months. I do not believe that deferring the legislation is the way to go.

Discharge of Order and Referral to Standing Committee on Environment and Public Affairs — Motion

Hon ROBIN CHAPPLE: On that basis, I move without notice —

That the Conservation Legislation Amendment Bill 2010 be discharged from the notice paper and referred to the Standing Committee on Environment and Public Affairs for report by no later than Thursday, 11 August 2011.

HON SALLY TALBOT (South West) [8.35 pm]: I made it clear in my contribution to the second reading debate last night that this would not be the preferred position of the Labor Party. I note that Hon Robin Chapple has made the same point that I made; that is, we are not looking for any sort of delay. Although this would not be Labor's first preference, it has come to my attention in the 24 hours or so since I made those comments last night that there would be a considerable degree of benefit—I note the short reporting time that Hon Robin Chapple has put in his motion—in being able to invite evidence about the way in which these agreements might be managed. I believe that there are preferable options. I wish, in a sense, that we could have had this discussion even before Christmas, when we could have suggested to the government a more productive way to move forward, perhaps in the form of having workshops around the state. The people with the resources to travel would have been able to do that and sit down with more of the key stakeholders to work through some of these issues at a little more leisure. Although it is certainly not our preferred option, Labor will support the motion moved by Hon Robin Chapple.

Hon Helen Morton: If I stand to speak on the amendment, does that close the debate on the second reading?

The DEPUTY PRESIDENT (Hon Brian Ellis): No, minister, it does not.

HON HELEN MORTON (East Metropolitan — Minister for Mental Health) [8.37 pm]: I want to talk only about the suggestion that the bill go to the committee. The government will not support that suggestion. A significant amount of consultation has taken place, and members will hear about that in more detail. However, I raise the issue of the urgency of the bill and the potential problems that could arise if the bill is referred to the committee.

The provisions for joint management proposed in the bill are required in order for the state government to meet its obligations under three legally binding agreements with native title claimants. They are the Burrup and Maitland Industrial Estates Agreement, otherwise known as the BMIEA, with the Murujuga Aboriginal Corporation over the Burrup Peninsula in the Pilbara; the Ord final agreement with the Miriuwung–Gajerrong Aboriginal Corporation; and the Yawuru agreement with the Yawuru Aboriginal Corporation over Broome and surrounding areas.

The state is liable under the BMIEA to either pay $10 million compensation to the Murujuga Aboriginal Corporation or transfer freehold title to it within 18 months of it requesting the state to do so. The Murujuga Aboriginal Corporation has been entitled to make that request at any time since 24 September 2010. The state is also liable to transfer conservation land to native title parties under the Ord and Yawuru agreements if joint management arrangements are not in place in the next three years.

The government has received legal advice that a head power is required in the Conservation and Land Management Act to enable joint management arrangements under the agreements I have just mentioned. Enabling joint management under the Conservation and Land Management Act will significantly contribute to the government's settling native title claims across the state under Indigenous land use agreements by providing a means for land to be owned by Aboriginal people and managed jointly with the Department of Environment and Conservation.

Question put and a division taken, the Deputy President (Hon Brian Ellis) casting his vote with the noes, with the following result —

Ayes (12)

Hon Matt Benson-Lidholm	Hon Sue Ellery	Hon Ljiljanna Ravlich	Hon Ken Travers
Hon Helen Bullock	Hon Adele Farina	Hon Linda Savage	Hon Alison Xamon
Hon Robin Chapple	Hon Jon Ford	Hon Sally Talbot	Hon Ed Dermer *(Teller)*

Noes (17)

Hon Liz Behjat	Hon Phil Edman	Hon Nigel Hallett	Hon Simon O'Brien
Hon Jim Chown	Hon Brian Ellis	Hon Robyn McSweeney	Hon Ken Baston *(Teller)*
Hon Peter Collier	Hon Donna Faragher	Hon Michael Mischin	
Hon Mia Davies	Hon Philip Gardiner	Hon Norman Moore	
Hon Wendy Duncan	Hon Nick Goiran	Hon Helen Morton	

Pairs

Hon Giz Watson	Hon Alyssa Hayden
Hon Lynn MacLaren	Hon Max Trenorden
Hon Kate Doust	Hon Col Holt

Question thus negatived.

Second Reading Resumed

HON DONNA FARAGHER (East Metropolitan — Parliamentary Secretary) [8.44 pm]: I do not intend to speak for too long because Hon Helen Morton, as the representative minister for this bill in this place, will provide a detailed response on some of the issues raised by other speakers; however, I want to make a couple of points. The first point, which other speakers have referred to, is that this bill will give full effect to a number of native title agreements by enabling joint management agreements to be made. It provides for Aboriginal people to be involved in the management of lands to which they have a connection.

It is also important to reflect that this bill goes further than that, inasmuch as the bill will provide joint management arrangements through voluntary agreements that might perhaps be made between the department and pastoralists, for example; so it casts a wider net. That is an important aspect that has not been reflected in debate so far, but which is an important component of the bill.

As has already been mentioned, the bill has other aspects, some that relate particularly to traditional activities that can be undertaken on reserves or other land managed under the CALM act. On the issue of joint management, it is fair to say, and I think members on the other side of the house would agree, that despite the deficiencies in the current act that this bill seeks to address, the department has been working towards joint management. I see Hon Robin Chapple nodding his head in agreement. I give as an example of that, from my experience as the minister, the work being undertaken over lands jointly vested with the Conservation Commission and the MG Corporation and some significant body of work in the development of a management framework and a subsequent management plan for six areas. It is important when looking at this bill to note the deficiencies that the bill seeks to address, but it is not something new that has never happened before.

I want to reflect for a moment on the comments by other speakers that the government has not been genuine in dealing with this bill, as reflected by its handling of the consultation process. This very complex bill has been developed by the department and the government over some time; however, to say there was no consultation is incorrect. It is important that I set the record straight on my involvement as the former environment minister. I appreciate that there has been some further consultation in the last three weeks, and Hon Helen Morton will refer to that. Before the bill was introduced, as minister I wrote to the key corporations and land councils. Officers from the department met with the Yawuru Aboriginal Corporation, the MG Corporation and others. The department followed up on queries and provided any clarification that was sought between the period of those initial consultations and the lead-up to the introduction of the bill.

Hon Robin Chapple: Can I ask a question?

Hon DONNA FARAGHER: I hope that Hon Robin Chapple is not suggesting that we did not consult, because that is incorrect. I hope he did not think the government was not genuine in dealing with this bill, because it is this government that introduced the bill which he said has been a long time coming.

I want to touch on another aspect that is related to the Conservation Legislation Amendment Bill 2010 and what it sets out to achieve. Hon Sally Talbot spoke about Indigenous training programs. I will read from yesterday's uncorrected *Hansard*. The member said —

> Members on both sides of this house will be very familiar, although those on the government side of the house might give it less credibility than do members on this side of the house, with the accusation that

> state government programs—for example, the Indigenous ranger program—more often work just as a program that dresses people up in a ranger's uniform and gives them a badge and sends them out to do nothing that they have been trained for.
>
> There is a stark contrast between that and some of the programs run by the commonwealth. If honourable members have had a chance to read some of the background material about this bill that was provided to them, they will be aware of the contrast, elaborated in some detail, between the programs associated with caring for country and some of the commonwealth programs, which provide real training.

I am a little troubled by that comment and I feel it warrants a response. Apart from the member giving a pat on the back to her commonwealth counterparts, which we would expect, I find it somewhat concerning that Hon Sally Talbot would take such a negative attitude towards state-run government programs.

Hon Sally Talbot: I find that extraordinary.

Hon DONNA FARAGHER: I found it extraordinary that the member would say that. I hope Hon Sally Talbot was not disparaging of the state-run programs. I refer in particular to the mentored Aboriginal training and employment scheme—the MATES program. The Department of Environment and Conservation runs that program and has done so for many years. I am genuine about this. I am concerned that what the member said about the program last night was somewhat demeaning by suggesting that the rangers just wear a uniform and a badge. Today I got some up-to-date figures on the MATES program. It commenced under the previous government and is a multifaceted employment and training program that is carried out in conjunction with non-government training providers and land management organisations. Since the commencement of the program, 88 trainees have been recruited into 20 DEC work centres throughout the state from as far north as Kununurra, right down to Esperance. Twenty-eight trainees have completed their certificate IV course in conservation and land management. They have been offered employment in roles such as reserves officer, senior ranger, Aboriginal liaison officer, training coordinator and heritage officer. I also understand that a number of the MATES graduates have found employment in the private sector. Of the most recent group that began last year, 23 trainees have enrolled and are either continuing or have just completed the MATES program. In order to increase the number of Aboriginal school-based trainees, the department is also exploring opportunities to become a school-based trainee provider with the Department of Training and Workforce Development. It is fair to say—I stand to be corrected—that the department is, through this program, already a registered trainer. In concert with the passage of this bill, the department is very keen to continue to deliver employment outcomes for Aboriginal people, particularly in association with the native title settlements, and to take a partnership approach.

It is important to advise the house about the number of MATES trainees who are currently employed under partnerships. There are five trainees with MG Corporation and DEC in Kununurra, there are four trainees with the Department of Water and DEC in Kununurra, there are four trainees at Yawuru in Broome, and there are five trainees with Cliffs Mining and DEC in Kalgoorlie. I had the opportunity, as the former Minister for Environment, to meet with a number of these trainees. They are absolutely fantastic. They are role models for the younger people in their communities. The department is keen to provide these trainees with meaningful employment. I am sure the department would agree, as would I as the former minister, and as would everyone in this house, that we always need to strive for improvement in these programs, and others, so that we can provide meaningful education and training opportunities for Indigenous people, particularly on country.

I felt that it was important to go through the detail of that program. I take it from the member's interjections previously that it is not her intention to suggest that this program is simply a badge and a uniform. It is a lot more than that. To make such a suggestion is to sell short the work that is being done by the officers within the department in delivering these initiatives, and also the work of those who are participating in this important program. This is a complex bill. This bill has taken some time to reach this place, and it should be supported.

HON WENDY DUNCAN (Mining and Pastoral — Parliamentary Secretary) [8.56 pm]: The Nationals support the Conservation Legislation Amendment Bill 2010. The purpose of this bill is to amend the Conservation and Land Management Act and the Wildlife Conservation Act and put in place a legislative framework that will build a better relationship with Aboriginal Western Australians and legally recognise the role that they have played, and will continue to play, in the conservation of the environment and in the longevity of culture.

Currently the state government, as Hon Helen Morton has alluded to, has legal obligations that it is unable to meet due to the joint management of land not being possible under existing laws. This bill will enable the government to fulfil its legal obligations under existing agreements. Also, the current Conservation and Land Management Act is outdated. It was enacted prior to the High Court of Australia decisions in the Wik and Mabo

cases, which formally recognised native title. The legislation needs to be amended to recognise native title, the process of achieving native title, and the importance of traditional culture and the preservation of those traditions for our Indigenous population.

The amendments include the replacement of provisions for voluntary land management agreements. These agreements currently enable land or waters to be managed by the chief executive officer of the Department of Environment and Conservation but do not enable joint management in any form. These amendments will enable the joint management of waterways and land areas, private and public, as though those land areas were reserves such as conservation parks. This will include the existing agreements that were mentioned by Hon Helen Morton; namely, the Burrup and Maitland Industrial Estates Agreement, the Ord Final Agreement 2005, which is essential to the Ord–East Kimberley expansion project, and the Yawuru agreements in Broome, which were signed in February 2010.

Proposed section 8A(5)(a) sets out particular types of land use that the joint agreement can determine will be the use of the land once it is jointly managed. These are state forests, timber reserves, national parks, conservation parks or nature reserves. Proposed section 8B(2)(a) and (c) goes on to state that the land or water being jointly managed is to be done so strictly as the category of use listed but is only confined to this use for the purposes of this act and no other.

The next amendment deals with provisions that will be added to enable voluntary agreements to allow the CALM act to apply to crown land such as Aboriginal Lands Trust lands. Where situations arise that attract the abovementioned provisions, parties must consult with the Ministers for Fisheries, Mines and Petroleum, Forestry and Water as well as the local government. If crown land is involved, the Minister for Lands must provide written approval or be party to the agreement.

The bill also deals with the joint management of reserves held by the Conservation Commission of Western Australia or the Marine Parks and Reserves Authority. Potential situations attracting the above provisions will be specified within a management plan and a joint management agreement. The intent behind this element is to enable Aboriginal communities to play a management role in lands to which they have a traditional connection. This provision will enable existing obligations to Aboriginal people to be fulfilled but also set a precedent for future joint agreements. Negotiations for land use agreements involving the Native Title Act 1993 will also be able to be covered by this provision.

There will be formal recognition of the importance of land and waters to the Aboriginal people and their culture in amended section 56. Changes in management planning objectives by governing bodies will ensure formal recognition of Aboriginal culture and the importance of land and water to that culture. These changes will not impact on administrative operations under the Aboriginal Heritage Act 1972 but are intended to be complementary to the practical operations of the act.

There will also be provisions that entitle Aboriginal persons, subject to regulation, to conduct activities incidental to Aboriginal customary purpose, which is defined in the act, including taking flora and fauna for food as long as they are for a defined purpose. There is also clarification of the head powers and relationship of this act to regulations under the Land Administration Act 1997.

Firearms will be banned. Whilst Aboriginal people may use traditional methods to hunt and practise traditional culture within the reserve they jointly manage, they will not be able to use firearms outside the existing firearms legislation.

The Nationals have had lengthy discussions with a number of persons and organisations who had significant concerns about the legislation. We received the correspondence that was mentioned by Hon Robin Chapple and Hon Sally Talbot. As a result of those communications, the Nationals supported the delay of the debate on this bill to give time for the parties to meet with Minister Marmion. We greatly appreciate that time being made available. The minister has met with many of those interested parties. We can see that there are amendments to the legislation that have come from the government, which the Nationals believe go a long way towards allaying the concerns of those who have made contact with us. Those concerns were about insufficient provision for dispute resolution applicable to agreement negotiations and after joint management agreements have been signed and also costings—who was going to pay for these discussions, ongoing costs and the negotiation mechanism. The Nationals are satisfied that this bill effectively sets out the framework to enable the state to jointly manage land with multiple parties and, in negotiating the management agreement, settle on dispute resolution processes and conditions to ensure that costings and management in the long term runs smoothly. This bill does not impose blanket dispute resolution and contractual terms that must be put into every joint management agreement. It simply provides a solid framework on which those agreements can be built.

On the strength of the discussions that we have had and the amendments that we will debate during this bill, the Nationals are pleased to support it.

HON HELEN MORTON (East Metropolitan — Minister for Mental Health) [9.05] — in reply: I commence by thanking everybody for their obvious support for the Conservation Legislation Amendment Bill. As Hon Robin Chapple said, it has been a long time coming, and I am incredibly proud that it is a Liberal–National government that has brought the bill to fruition. I congratulate the former Minister for Environment for her very genuine work in this area. This bill will be a lasting legacy of her genuine and committed work to increase opportunities for Aboriginal people to be really involved in, and contribute their knowledge to, the management of the land. I feel incredibly proud that it is a piece of work undertaken by a Liberal–National government. I can understand that there are probably some people in this house whose noses are a little out of joint because the initiative has been taken by this government to make it happen. I would go so far as to say that the former minister pursued this legislation and sometimes even pushed it forward against some, I guess, mild opposition from the government, until she was able to persuade her cabinet colleagues and indicate the importance of this legislation. I am really happy that that has happened.

Hon Robin Chapple has indicated his support for the bill, and I am pleased that he had the opportunity to demonstrate his connections to the parties and the people concerned. I am sure that most of the amendments he seeks will not be necessary; the issues that he wants to cover are covered in the bill as it stands. I want to let him know how much I appreciate the work he has done in demonstrating that also.

The Conservation Legislation Amendment Bill will amend the Conservation and Land Management Act 1984 and the Wildlife Conservation Act 1950. As I have said, its primary objective is to increase opportunities for Aboriginal people to be actively involved in, and contribute their knowledge to, the management of land. In doing so, the bill incorporates a new management objective that recognises and protects the value of CALM act lands to Aboriginal culture and heritage. This objective will be secondary to the objective of protecting and conserving the lands, fauna and flora. This new management objective will be reflected in management plans, joint management agreements and in the management of reserves. The bill also provides a clear framework for joint management in Western Australia. Current sections 16 and 16A will be replaced by proposed sections 8A and 8B, to allow the CEO of the Department of Environment and Conservation to enter into voluntary agreements with one or more other parties to manage land for conservation and recreation purposes, regardless of tenure. This will have the following effects: it will enable the Department of Environment and Conservation to jointly manage lands not currently subject to the CALM act, including private land, pastoral leases and other crown lands; and the provisions and regulations of the CALM act will apply to these lands without affecting the underlying tenure for the purposes of other written laws.

The bill will also enable joint management of lands currently vested in, or under the care, control or management of, either the Conservation Commission of Western Australia or the Marine Parks and Reserves Authority by way of a joint management agreement under proposed new section 56A. The bill also aims to extend the purposes for which flora and fauna can be taken by Aboriginal people under the Wildlife Conservation Act. It currently provides an exemption for flora and fauna to be taken by an Aboriginal person for food only for himself and his family. This bill will extend this exemption to include taking flora and fauna for medicinal, ceremonial and artistic purposes. This provision fulfils recommendation 99 of the Law Reform Commission of Western Australia's 2006 "Aboriginal Customary Laws" final report, which specifically states that the current exemption in the Wildlife Conservation Act should be expanded to include other non-commercial purposes, such as for food, artistic, cultural, therapeutic, and ceremonial purposes according to Aboriginal customary law.

In addition, the Conservation Legislation Amendment Bill 2010 will also provide a defence under the CALM act for Aboriginal people to carry out activities such as camping and lighting of fires on lands to which the CALM act applies, if done for a customary purpose. It also provides for these Aboriginal customary activities to be restricted by regulation if they could pose a threat to nature conservation values, public safety or determined native title rights. These provisions aim to fulfil the longstanding aspirations of Aboriginal people to be able to carry out traditional activities on country that is largely within reserved state.

There has been a lot of conversation around the level of consultation that took place, so I would like to mention the extent of the consultation that I am aware of. The consultation I have listed here commenced in October, but I am aware that consultation had taken place before that. On 15 October 2010 the Yawuru Aboriginal Corporation was provided with the bill, explanatory memorandum, and the CALM act et cetera, and it supported the legislation in a letter to the minister. On the same day the Miriuwung Gajerrong Aboriginal Corporation was provided with the same information, and it supported the bill in a letter provided to the minister on 8 November. On 15 October the Murujuga Aboriginal Corporation was provided with similar information; it did raise concerns, and they have been considered. On 21 October the Kimberley Land Council received the bill, the

explanatory memorandum and the CALM act, and conditional support was received from it. On 21 October the Yamatji Land and Sea Council was provided with the bill, explanatory memorandum and CALM act; it indicated its support. On 22 October Central Desert Native Title Services indicated its support. On 28 October the South West Aboriginal Land and Sea Council was provided with the bill, the explanatory memorandum and the CALM act, and it indicated its support. The Goldfields Land and Sea Council indicated its support, after having that information provided to it on 1 November.

Since the delay, of course, additional levels of consultation have taken place, and people have talked about that. The Kimberley Land Council supported the bill, subject to an amendment giving non-exclusive native title holders powers to approve proposed section 8A agreements. The World Wildlife Fund supported the bill, as did the Wilderness Society and the Conservation Council of Western Australia. The Murujuga Aboriginal Corporation met with the Minister for Environment on 8 March. The Yamatji Marlpa Aboriginal Corporation was provided with additional information and made its own submission to the minister. Others included in this consultation were the Environmental Defenders Office of WA; the Goldfields Land and Sea Council again; and the National Native Title Council. I think that that demonstrates the level of consultation that has taken place in the more recent times; and, as Hon Robin Chapple said, there had been a fair degree of consultation prior to that.

I will address some of Hon Sally Talbot's comments. With regards to the member's inquiry about the Indigenous Conservation Title Bill 2007, I can advise that it is the government's preference to progress the Conservation Legislation Amendment Bill 2010, which will facilitate negotiated settlement to be progressed with the Martu people of Rudall River and the people of Gibson Desert, as well as Aboriginal native title claimants elsewhere in Western Australia.

I thank Hon Sally Talbot for raising the Rudall River National Park and Gibson Desert Nature Reserve matters, and the former Labor government for its endeavours to progress legislation to resolve the legal issues and liabilities that extend to the state. The significance of these two areas lies in the Federal Court determination that stipulated that the vesting orders for the two reserves had the effect of extinguishing native title. However, the reason the previous government was keen to address this extinguishment of title was the compensation liability that rests with the state, because both these reserves were created in the period after the commonwealth Racial Discrimination Act 1975 and before the Native Title Act of 1993. Although the Indigenous Conservation Title Bill 2007 aimed to address the extinguishment issue for both Rudall River National Park and the Gibson Desert Nature Reserve, it did not address any other extinguishing events at any other location in Western Australia.

Hon Sally Talbot indicated that she was aware of some kind of ongoing narrative that connects the Indigenous Conservation Title Bill and the Conservation Legislation Amendment Bill before the house. The Conservation Legislation Amendment Bill will help facilitate the resolution of native title claims throughout Western Australia by enabling joint management of conservation lands, and by recognising that Aboriginal people will be able to carry out traditional and customary activities such as ceremonious camping and hunting, whilst at the same time preserving the conservation values of a place and ensuring public safety.

The Indigenous Conservation Title Bill sought to do this for two reserves, however the Conservation Legislation Amendment Bill relates to all other conservation reserves in Western Australia. I assure the house that the learning from the drafting of the Indigenous Conservation Title Bill 2007 and the debate that took place in the house have assisted the government in the preparation of the Conservation Legislation Amendment Bill 2010.

With regard to comments about regulations for customary activities, Hon Sally Talbot questioned why a set of draft regulations pertaining to Aboriginal customary activities has not been tabled in the house together with this bill and has highlighted that such regulations need to be worked through with all stakeholders. The bill provides a defence for an Aboriginal person to undertake certain activities, if done for customary purposes, on land to which the CALM act applies and which will include section 8A land insofar as the joint management agreement stipulates. The bill also provides a head power for the Governor in Executive Council to make regulations to restrict or to exclude the operation of this defence. The government is working towards the development of a minimum set of regulations to restrict or to exclude customary activities where there is a risk to public safety or to significant environmental values. Other regulations may be required, but will vary from place to place across the state according to the unique environmental, cultural and heritage values of the land. The government agrees that details of the regulations will need to be developed in full consultation with Aboriginal people and their representative organisations and other stakeholders, and that this needs to be done before regulations can be drafted.

Yesterday, Hon Sally Talbot suggested to members that the government had failed to consult with traditional owners and ought to take seriously the views of traditional owners in the development of the "Proposed Camden Sound Marine Park Indicative Management Plan 2010". The opportunity for Aboriginal people to be involved in part management and employed in conservation is central to the government's Kimberley science and

conservation strategy. The "Proposed Camden Sound Marine Park Indicative Management Plan 2010"recognises the native title groups in the Camden Sound area and states that joint management arrangements for the marine park are to be developed for the traditional owners.

Ministers Faragher and Marmion have met and corresponded with the Dambimangari people to discuss the marine park. Through these meetings, the Dambimangari people have communicated their support for the marine park. The government has outlined its commitment to joint management of the park with traditional owners. The creation of the marine park aligns with aspirations outlined in the "North Kimberley Saltwater Country Plan for Balanggarra, Uunguu, Dambimangari and Mayala Saltwater country", prepared by the Kimberley Land Council in 2010, in which the Dambimangari people expressed a desire to manage their saltwater country for conservation, including training and employment of Aboriginal rangers and management of tourists and visitors to the area. The Department of Environment and Conservation has continued to seek meetings with the Dambimangari people.

With regard to multiple values, the management planning objective under the CALM act already recognises a range of multiple values to which reserves are to be managed, such as conservation, scientific, archeological and recreational values. Although, as Hon Sally Talbot pointed out yesterday, the CALM act is currently silent on matters of Indigenous heritage and values, for many years, DEC has directly engaged native title groups and Aboriginal people in the development of management plans as a matter of policy and in recognition of Aboriginal people as the traditional custodians of the land.

This bill will amend the CALM act to expressly recognise the value of land to the culture and heritage of Aboriginal persons by including it as an objective for managing the land. In fact, it is elevating these values to be more significant than all others, except for the protection of flora and fauna.

DEC has a long history of engaging with traditional owners of conservation lands, including the Martu and Gibson Desert people. DEC will apply a policy of consultation with registered native title claimants and the representative bodies to encourage informed and meaningful engagement in land management activities.

With regard to the comments around existing sections 16 and 16A of the CALM act, the State Solicitor's Office, in the development of the Yawuru agreement, set aside its earlier advice given when developing the Burrup and Maitland Industrial Estates Agreement and the Ord final agreement that section 16 of the CALM act could provide for joint management. The new section 8A(5) sets out clearly, and in a way to eliminate any uncertainty, that the CEO of DEC can enter into agreements to manage land either alone or jointly with other parties. Similarly, new section 56A clearly states that the CEO of DEC can jointly manage reserves if it is provided for in the management plan, and an agreement for joint management is attached to the plan.

Regarding consultation and improvements to the bill since the second reading debate was deferred, representatives from DEC have met with each of the signatories to the letter from key stakeholders to the Minister for Environment, which Hon Sally Talbot read out yesterday. I think it is the same letter that Hon Robin Chapple read out. They also met representatives of the South West Land and Sea Council, who are not signatories to the letter. The government considered the concerns of these stakeholders and the proposed amendments put forward by the stakeholders and Hon Sally Talbot and Hon Robin Chapple in the three weeks since the second reading debate was deferred. Hon Sally Talbot has highlighted that native title representative bodies and Aboriginal stakeholders have done a lot of work to suggest how the bill may be improved. The government supports one of these amendments. It also supports four other amendments in principle, but the government will move its own version of these amendments. These amendments are on the supplementary notice paper at 25-4, 42-16, 26-24 and 27-NC46A. Details of those amendments will be examined in the committee stage. To summarise, the amendments pertain to a requirement to give written notification to the Minister for Indigenous Affairs on any section 8A agreement; to ensure land is managed to protect the value of the land, the culture and the heritage of Aboriginal persons in the period from when a management plan has been approved with an exemption from ascertaining these values and until such time as the management plan is amended or replaced to address such values; a requirement to refer a proposed management plan for section 8A land to the Minister for Indigenous Affairs if the land includes an Aboriginal site; and provisions to review the amending act when five years since royal assent has lapsed.

The consultations undertaken on the bill have provided the government with a clear understanding of the issues these groups have with the bill. However, I take this opportunity to remind all members of Parliament that the bill must operate in accordance with the provisions of the commonwealth Native Title Act 1993 and the future acts provisions of that act. Accordingly, all consultation requirements stipulated under the Native Title Act must be met by the state for joint management arrangements to be valid. If the state does not comply with these provisions, the subsequent agreements will have no effect. It is the government's policy that matters relating to

the preservation and protection of native title rights and interests, including the rights to consult and negotiate, are prescribed by the commonwealth act, and the state will comply with those requirements.

In regard to the resourcing issues, Hon Sally Talbot requested advice on the possible capital and operational costs that may be required as a consequence of these amendments. Some may be required, but will vary from case to case depending on individual agreements. Resourcing for joint management has been, and will be, provided for in the native title settlement packages. The Burrup and Maitland Industrial Estates Agreement and the Ord and Yawuru agreements provide for resourcing of these joint management arrangements. Resourcing for other training and employment opportunities will flow from other government initiatives, such as the Kimberley science and conservation strategy; partnerships with private sector companies; and other commonwealth and state agencies. Any other resources required will be a matter for government appropriation through the normal budget processes.

I would like to make a brief comment and thank Labor and the Greens (WA) for their support. The Burrup and Maitland Industrial Estates Agreement was negotiated and agreed by the Labor government in 2003. Similarly the Ord final agreement with the Miriuwung Gajerrong Aboriginal Corporation was negotiated and agreed by the Labor government under the guidance of Hon Eric Ripper in 2005. The recent Yawuru agreement over and around Broome was finalised by the Liberal government last year. The Greens have publicly supported and negotiated outcomes that provide for Aboriginal joint management, for protection of the value of the land to the culture and heritage of Aboriginal persons and for Aboriginal people to practise their customs and traditions in the conservation estate, consistent with the protection of their conservation values.

The government supports the intent of the proposed amendments that will result in the Minister for Indigenous Affairs being notified about proposed section 8A agreements and proposed management plans for section 8A land on which there is an Aboriginal site under the Aboriginal Heritage Act. In this respect, there are amendments standing in my name on the supplementary notice paper that provide more suitable drafting to achieve that intent. The government also supports the intent of Hon Robin Chapple's five-year review, as I have already mentioned. We have an amendment that will preserve the intent of Hon Robin Chapple's five-year review provision, albeit in a revised arrangement. Hon Robin Chapple has mentioned other amendments standing in his name on the supplementary notice paper. The government will not support those and I will address those at the committee stage of the bill. I thank all members for their support of the bill and seek their support for the bill to be read a second time.

Question put and passed.

Bill read a second time.