

ABORIGINAL HERITAGE ACT — REFORMS

133. Dr A.D. BUTI to the Minister for Aboriginal Affairs:

I refer to the proposed reforms to the Aboriginal Heritage Act 1972.

- (1) Can the minister outline to the house why reform is needed and what steps he has taken to ensure that there is proper engagement between stakeholders?
- (2) Can the minister advise whether he has received feedback from the industry on the process so far?

Mr B.S. WYATT replied:

- (1)–(2) I thank the member for Armadale for the question about the Aboriginal Heritage Act, an act he knows well. As members know—some more than most—this is a very old act, some 47 years old. Indeed, the Aboriginal Heritage Act went through Parliament well before the Mabo decision and the passage of the Native Title Act through the commonwealth Parliament in 1993. I certainly hope to either amend or replace the Aboriginal Heritage Act, a position we took to the state election. I make the point that I will not be the first Aboriginal affairs minister who has wanted to reform this act to have it cruelled by opposition to and suspicion of the proposition.

We started the consultation process a year ago. That led to the release of a discussion paper last week, with a series of specific proposals about a potential new act. To be honest, an amendment is no longer required; we are looking at replacement legislation around the heritage act. Looking around, there are no former Ministers for Aboriginal Affairs in this place. When it comes to section 18, it does not matter whether that is something that is already agreed with the relevant Aboriginal group and there is no impact on a heritage site versus a section 18 process over a heavily contentious site where there is great disruption—the process is the same. There has been a desire to perhaps have different processes streamline those that do not have an impact, for example, on Aboriginal heritage sites. That is something that has been broadly supported at this point by Aboriginal groups and industry groups. Importantly, it also reflects the fact that we now have—I think this is an opportunity—a very thorough understanding of traditional owners in some parts of Western Australia, as we discovered through the native title process. I think that a future Aboriginal Heritage Act should acknowledge native title. To be fair, when Hon Peter Collier tried this in the term of the last government, he did not seek to bring the native title processes into the Aboriginal heritage process, which ultimately was a big problem.

One of the other issues that we are also proposing is to give Aboriginal people equal appeal rights to non-Aboriginal groups—miners usually. Again, that was something that Hon Peter Collier thought was not appropriate—to give non-Aboriginal people the right to appeal—but he did want to give that right to Aboriginal people. I think we have now come up with a position that, by and large—so far I say with some trepidation—has been broadly supported. I want to thank the Association of Mining and Exploration Companies. It has made some very positive contributions, as has the Chamber of Minerals and Energy and a range of Aboriginal groups—the Kimberley Land Council and the Yamatji Marlpa Aboriginal Corporation. At the moment we are slowly, slowly bringing groups along on what I hope is broad support for a new Aboriginal Heritage Act. Anyone who has been in this space, whether it is a local government authority, a miner or any organisation that has had to bump into the heritage process, would know that it is frustrating, time-consuming and difficult to navigate. It does not acknowledge the fact that organisations, including local governments, for example, already have heritage arrangements with Aboriginal people that are not acknowledged in the current legislation. I think we can come up with a new act that can do all of that and, in the end, empower Aboriginal people to take more control over their heritage because, after all, it is the Aboriginal people who own it.