SWAN AND CANNING RIVERS MANAGEMENT AMENDMENT BILL 2022

Second Reading

Resumed from 29 November 2022.

HON NEIL THOMSON (Mining and Pastoral) [2.10 pm]: I rise on behalf of the opposition as the lead speaker on this bill. In doing so, I indicate that the opposition will support this bill. I think a number of questions will be brought forward as we proceed through the second reading stage and during Committee of the Whole. I expect this bill will go to committee because of some of its technical detail. It will be worthwhile doing that, given the Swan and Canning Rivers represent such an important community asset and it is vital there is some discussion of the long-term implications.

If I may, I am sure I have the support of all members in this place to take a moment to reflect on the passing of Stella Berry, who, sadly, was mauled by a shark in early February. I pass on my condolences to the family and friends and all those affected. It must have been a tragic and terrible situation to confront. It highlights the nature of the rivers as a blessing and a wonderful asset, but also a sad curse for that family.

The Swan and Canning Rivers are a partly untamed asset. Of course, the Derbarl Yerrigan is important and significant to our First Nations people. Anyone who has lived in Perth for some time in their life will know how important those rivers are to the Western Australian community. Protections have been put in place over many years as the City of Perth has developed around the rivers so that that wonderful asset—that wonderful gem—is available for all inhabitants of Perth to partake of in many ways. Certainly, my family and I are no exception to that.

With the beauty and partly untamed nature of that natural asset in mind, we come to this place to consider the legislation that governs and controls activities on the river and its surrounds—that is, the planning control area outlined in the bill. Over the years, I am sure the legislation has been the subject of some frustration for many a minister who has wanted to proceed with certain activities and experienced either community pushback or concern and had to maybe go through several hoops to get approval from either the Swan River Trust, when it operated in its full statutory way, or from the Department of Biodiversity, Conservation and Attractions now, no doubt still with advice from the trust. The Western Australian Planning Commission also has a critical role in setting up the overall parameters for what parts of the river are governed under those regimes.

I want to take a few moments to reflect on the importance of the rivers. A number of members in the other place got to their feet to speak on this bill. I had a look at *Hansard* and saw that many people reflected on the importance of the community groups that are involved in the management of the wetlands. There is a long history of people trying to rehabilitate certain parts of the wetlands along the river. In my former life, I worked in the Department of Planning, Lands and Heritage. I was a senior officer responsible for operational matters relating to the Western Australian Planning Commission, and I know that the Planning Commission played a key role in the management of land along the riverbanks. Under the Barnett government, work was done to mitigate and reduce the inflow of nutrients from the Swan Valley. That work is ongoing. It has occurred under both governments so there is a fairly bipartisan approach to protecting the river and ensuring that its health improves over time.

In times gone by, parts of the river were used as a dumping ground. That came to the fore when the old gasworks site in East Perth was rehabilitated. There are other sites along the river, such as the Belmont foreshore, where large amounts of toxic material were placed in the river. Of course, the beautiful area where Optus Stadium sits was also a dumping area. We hope we live in more enlightened times. Over the years, important work has been done to enhance the water quality and the environment, and reduce some of the challenges with erosion on the riverbanks, for example. I am sure there is a lot more work to be done. I know many would desire to see the reinstatement of more of the vital wetlands, which could project out into the river to enable fish nurseries and other important elements of the river.

It is a precious gem. I reflect on when my own family was growing up. We would go down and have picnics by the river. I am sure we could all share those stories. In my better days, when I was an avid swimmer, I would be part of the Barrack to Bank four-kilometre swim from where Elizabeth Quay is located to the University of Western Australia. The rivers certainly are a playground. There would be thousands of stories—countless stories—about why this river system is so important from ancient to modern times. Countless numbers of people passionately care about and feel responsible for the rivers. It makes our city something special. It presents us internationally in a way that is unique. That unique design is borne out in the Elizabeth Quay precinct development, which ensured that our city was reconnected with the Swan River. We are very blessed to have this wonderful asset in our midst. It is an asset that can be enjoyed by people in the metropolitan area and, no doubt, by people from the regions when they come down to Perth, like I do these days when I am in Parliament. We have a small apartment in the CBD that we utilise when we are down here on parliamentary days, and my best method of decompressing is to walk

down to Elizabeth Quay and wander along the foreshore. That is something that I enjoy doing. I am sure that we can all catch the spirit of the Swan River. That is why we believe it is important.

This bill is part of the Streamline WA process. I believe former Treasurer Hon Ben Wyatt was a keen proponent of Streamline WA, which was set up to encourage new investment in Western Australia. I think it is important that we reflect on that for a moment. As I said, the opposition supports the bill, but it is important that in going forward in the Streamline WA environment that is being established, the government uses its powers in a way that is going to be for the benefit of both the river and our community. That was the purpose of Streamline WA. This bill has come out of that process, or at least is consistent with the McGowan government's Streamline WA initiative. It is important to look at what triggered this process. Anyone who has been around government knows that the duplication of approvals processes can be problematic sometimes, and certainly if they are unnecessary. There has been a little bit of discussion about that with regard to permits and licences or the need to duplicate consultation, particularly around the amendments to the planning control area, which are matters that I would like to home in on just a little in our discussion. The bill is part of that initiative to encourage more investment in Western Australia.

I think it is quite revealing and important to point out that part of the media release on Streamline WA stated —

> The new initiative will improve how government interacts with private and community sectors, and develop best practice principles for creating and applying regulation

It also said —

> Steering committee to be established and will work with agency and department representatives and leaders from industry and community groups

Part of that announcement was —

> The initiative is an innovative whole of sector approach to develop best practice principles for making and applying regulation.

For my sins, one part of my career, as I have said before, was that I spent a fair bit of time in the Department of Treasury, working in the area of best practice regulation and reviewing legislation as it came through, and certainly as part of the national competition policy. That later morphed into best practice regulation. After my sojourn in Treasury, I went to work as chief of staff for Hon John Day, whom some members might know. That then morphed into the Office of Best Practice Regulation, which I believe was part of the Department of Treasury. We could say that it had the same pedigree as best practice regulation. I do not want to sound like a broken record, but I will: I know that as part of best practice regulation, there is a requirement to undertake a public interest test and look at all the alternatives, and to provide that to decision-makers. No doubt this bill went to cabinet. I can only hope that a full regulatory review was undertaken within the principles of best practice regulation and that it looked at the public interest issues and weighed the costs and benefits, including financial ones. We can see that this new regime is about encouraging more investment in Western Australia, as stated in the government's press release, and I am tying that to the objectives laid out in the second reading speech. I can only hope that a full and proper assessment was done and that proper consultation was undertaken with the community as part of that process. If we look at the principles of best practice regulation, we can see that that is what they are and that those are the processes that should be undertaken. Hopefully, that consultation occurred right across the sector, including with the people I mentioned—the types of people who have been involved. We talk about all the different interest holders in the river—those who take an active interest, those with a traditional interest or those who have a commercial interest. We hope all that consultation has been undertaken.

I know that cabinet confidentiality applies to cabinet documents, but part of my request is that it would be great if those assessments were more readily available as part of the second reading speech or the explanatory memorandum to a bill. It would be great if the evidence that had been provided was included in those documents, or at least referred to in the explanatory memorandum in more detail. Yet again we have a fairly important bill before the house—maybe I am understating it and it is a very important bill—but the explanatory memorandum is only two pages long. I do not know what the average length of explanatory memorandums for bills was when our side was in government, but whatever it was, I feel that the explanatory memorandums for a number of bills about which I have had the pleasure to speak in this place have been too perfunctory. They tend to be written in a relatively succinct way that I think undermines, to some extent, the ability of this place to undertake the analysis that is required to form the good opinions that we should form. Notwithstanding that, we continue to have the committee process in this place to unpick the legislation. As everybody would know, there are significant interactions that are sometimes challenging to unpick, but I will attempt to do that as we go forward with this bill, especially in the committee stage.

The point I am making is that we might get to a more streamlined process of legislation making if the explanatory memorandums actually had more information from within a best practice regulation framework. I think that would be a very good outcome. They should include some of the public interest tests that should be undertaken as part of

that process and a more detailed summary of the consultation that occurred and the feedback that was received. Those bits of material might enable us to come to an easier and simpler resolution on legislation before we finalise it through the committee stage. I make that comment because we see it as part of Streamline WA. From my web searches on Streamline WA—I will not claim that they were completely exhaustive, and I am happy to be corrected—it seems as though there was a bit of a flurry of activity under Hon Ben Wyatt. There is a requirement for the steering committee and working groups that represent the Department of the Premier and Cabinet and Treasury, which are the key players in the Streamline WA process, to do annual reports on reform activity. It seems like they are not readily able to be surfaced. Maybe they are available for every year up to 2022, but I got the impression that a fair bit of work was done under the former patron of the process, Hon Ben Wyatt, and that that work might have fallen away somewhat. I put that out there as a challenge rather than as a statement. I am sure the government will be the first to correct me if I am wrong, because the government is always happy to correct me if that is the case. That is my assessment of what appears to be going on with the media activity around that process and the reports. I could not find anything after 2019. Somewhere in the deep archives of Treasury, some poor public servant is undertaking this work. We probably would see more Streamline WA initiatives come through this place that would drive our economy if we went back to that process because it would encourage more investment in Western Australia. That is what we are hoping for, but that does not seem to be quite the situation at the moment. The assessment of this bill in particular will be interesting.

I will move to the explanatory memorandum in more detail and make comments about some parts of it. If I took a high-level view and assessed what was going on, it would be that the bill seems to be a good thing and seems to have the right intention. It will remove unnecessary duplication and processes. As I said at the beginning of my remarks, we must make sure that the processes will be sufficient and that we will meet community expectations, particularly around the planning control area through the Western Australian Planning Commission, if we are to take out bits of the planning control area that apply to the Swan and Canning Rivers planning control area. Certainly we do not want a single minister to have the ability to make arbitrary decisions. That is where I think part of the challenge might be going forward. I am open to be convinced on this. During this term of government, a number of amendments were made to the Planning and Development Act. The state seems to have taken away the ability of the local authorities to have control over planning decisions, for example. There are some changes in this bill or the bill that is about to come before this place, the Land and Public Works Legislation Amendment Bill 2022—I think that is the title of it—particularly around the vastly expanded definition of "public works". If someone had a suspicious mind, they might say that the government had particular projects in mind when it introduced the Swan and Canning Rivers Management Amendment Bill just after making amendments to the Planning and Development Act and introducing a new Land and Public Works Legislation Amendment Bill. When those three bills are finally promulgated, they might enable—we may find out whether this is correct as part of the discussion on clause 1—the decisions that will be made to be, effectively, within the remit of the Minister for Planning. We will need to consider that.

We know that some amazing developments have been undertaken along the banks of the Swan River. I have mentioned the tremendous development that I had the pleasure to be part of with Minister John Day. One of my roles was to help the minister establish the steering committee for Elizabeth Quay, which was called the Perth waterfront project at the time but was rebranded as Elizabeth Quay. That became an asset to our city and continues to be developed in the built form today. We know that will all be part of this legislation, but there might be other developments. There have been some media reports about developments on the Nedlands foreshore. Who knows what other developments the government has in mind. I do not want to suggest that the amendments to those three pieces of legislation are being brought in as part of an orchestrated campaign to completely remove other parties who might cause trouble in approving those developments, even within the government, such as the Minister for Environment, for example, undertaking an independent process of consultation. That will not be required if part of the planning control area is excised to provide, hypothetically speaking, a piece of land that happens to be a reserve under a management order. The enabling position under this act will be that that could occur through the WAPC. That is the same commission that has almost God-like powers for development approvals under the Planning and Development Act through the state development assessment unit process. We see that. There has been an interesting concentration of power. The WAPC has moved away from the purely strategic role it previously had to a more interventionist role on specific developments. Let us say there was a requirement to do a particular development on the Nedlands foreshore—I am using a hypothetical example—for a hot spring. The planning commission could be the sole arbiter in the process of consultation within the realms of the Planning and Development Act. The Planning and Development Act outlines the processes that must occur to excise an available planning control area that might previously have been jointly managed under the Department of Biodiversity, Conservation and Attractions, with, I take it, advice from members of the Swan River Trust. We could have that situation. Because we have now introduced another bill, the Land and Public Works Legislation Amendment Bill, which will broaden the definition of "public works", certain works could occur that might not even require approval within the remit of a development application through local government.

As I said, I had a suspicious mind when I thought this through. I encourage the parliamentary secretary who will be responding to this debate to think about that because I am putting him on notice about some of the questions that might be asked during the consideration of clause 1. That is one of my broad concerns about the part of the second reading speech that states —

> The amendment bill will also streamline processes that apply when the development control area or Swan Canning Riverpark is changed. Consultation is typically undertaken by the Western Australian Planning Commission under the Planning and Development Act 2005 when an amendment is made to the metropolitan region scheme. The bill will amend section 13 to remove the requirement for the Minister for Environment to conduct further consultation on changes to the development control area when that change relates to an amendment to the MRS that has already been approved under the Planning and Development Act and has been either subject to public consultation, or the amendment to the MRS is made by an act.

That basically removes the role of the Minister for Environment. I am sure that the Minister for Environment will be getting letters on this matter. I hope that he has a very powerful position in the cabinet because I am sure that when the Minister for Planning wants to develop a site along the river, the process for which involves seeking not just a licence—another methodology used for a development to occur that we will get to in a moment—that one method might be to simply excise from the river estate the parcel of land that might apply. As I said, that parcel of land might be a reserve that can then be excised under the new provisions that will be debated here in a few weeks. It poses some interesting challenges.

I am sure that my former colleagues in Treasury have probably gone over in detail and consulted with their colleagues in the Department of Biodiversity, Conservation and Attractions on other changes occurring under this legislation, which include the issue of duplication of licence agreements and permits. On reading through the amendments and looking at the existing act, it would appear that licence agreements will apply only when there is an issue with occupancy—that might be a little less clear than it should be. The second reading speech states —

> … licence agreements authorise non-exclusive occupancy and use of the river reserve by the licence holder.

I thought about that for some time. To a large extent, I would have thought that any type of activity would involve some non-exclusive occupancy on the river reserve, albeit transient in nature. What was clear is that this relates to the need for an approved development, as stated in the second reading speech —

> This duplication will be addressed in the amendment bill by amending section 32 to clarify that licence agreements are granted only when they relate to approved development …

The bottom line is that it is an approved development, and it is important to note that a development approval will be required for the construction of some permanent structure, notwithstanding that it has non-exclusive occupancy—maybe it is exclusive, but we will not go into that right now. Perhaps that will come up for discussion under clause 1, but some sort of development will be undertaken on that site. That is an important provision, so that is fine. The legislation will be making it very clear when a licence agreement is required, alleviating the need to have both the licence agreement and permit just to undertake some sort of activity. Apparently 68 activities will be affected by this provision. As part of the discussion, it would be very helpful to know what those activities are. I assume it will include activities such as the jet boat operating on the river out of Elizabeth Quay, for example, that takes people out for a spin on the river. I assume that that activity will require only a permit and not a licence going forward, assuming it already has the necessary facilities such as a berth and ticket box et cetera. It would be useful to know about that and perhaps be provided with some distinction around which activities these permits will apply to. Apparently this provision will affect 68 activities, and it probably plays into the broader goal of the Streamline WA initiative. I hope that that is the case because, as I said, I do not want Streamline WA to be applied by a more capricious Minister for Planning who might want to run roughshod over our local authorities, for example, to provide opportunities for development along the river by simply excising, as I said earlier, the area from the development control area all together.

There is a rather unusual provision in the legislation that includes some exemptions that my colleague Hon Tjorn Sibma might raise in more detail. Under rather unusual arrangements, the Matagarup Bridge zip-line will be able to continue to operate under its existing licence. It is always worthy of some discussion as to why carve outs exist in the legislation. I question why that was done because I am sure that plenty of other activities could have been subject to a carve out. Was the zip-line a special case and what were the reasons for that? It would certainly be worthy of a little more understanding as we go forward.

As I said, we support the Swan and Canning Rivers Management Amendment Bill 2022. We understand that businesses should be required to have insurance if they operate within the confines of the development control area because we certainly want to minimise the risk to the state, which is fair and reasonable given that insurance should be able to cover some of that cost, and to, in large part, at least have an avenue for some form of compensation for

persons who might be harmed by activities on the river. We also support the requirement for operators to have insurance as part of the permit. As the second reading speech states —

> … the requirement to take out and maintain insurance is currently a standard licence condition for commercial operators using the development control area, currently such a condition cannot be applied to permits.

Of course, it makes complete and logical sense that if we are not going to require operators to have a licence and a permit, that that loophole needs to be fixed because we do not want operators with a permit to undertake an activity and not be insured. I am sure that they are all insured, but I guess part of the legislation-making process is to ensure that we achieve security for our community. My final comment is on the detail. The bill will amend sections 38 and 133 to remove the requirement for delegation instruments to be published in the *Government Gazette*. I am not sure why that is occurring. It seems to be a trend, and it was something I was very aware of during my long public service career. I can relate to some concerns in the public service about that. It is quite a job for agencies to maintain delegations and keep them up to date, and it can be rather embarrassing for an organisation or a minister when a delegation is not maintained and somebody forgets to gazette a change in structure and suddenly there is no longer the appropriate legal authority to make a decision. That can be quite difficult. Call me old fashioned, but there might be some merit in having those delegations presented and maintained in some part of the register, although sometimes hard work has to be done. I think it is a bit of a symptom across government agencies now, because we have these huge agencies in which the left hand does not know what the right hand is doing. We saw examples of that last week when I asked a question on police assaults in the Kimberley, as that data was on the WA police website as well as in a spreadsheet called "time series". These are easily downloadable, which is great; they should be there as we should have information available for people like me, the media and others to access. That is part of how our democracy operates—on the basis of scrutiny.

Whilst we sit here and say, "That seems like a reasonable thing to do; we don't have to publish delegations anymore in the *Government Gazette*", the reason given in the explanatory memorandum is that this was identified as a streamlining amendment following a department-wide review of delegations undertaken in 2021. That is all that has been said about it. You can bet London to a brick—I think that is a saying—that the departmental review that was undertaken probably found all these holes and out-of-date delegations. I can just see it: some poor, relatively junior officer having to go trawl back through the *Government Gazette* and say, "This is where we missed this one. This is why that position now has the delegation." There are ways to make sure that the right language is used in the delegation. I know from my experience. In earlier times, I think the names of individual officers were put in some of those gazetted delegations. The *Government Gazette* was probably only a few pages thick; it was not a very big thing because we did not have a complex society like we have today. In the olden times, one could say that things were easier. However, my point is that, yes, we are sort of taking the government on trust here. The opposition has given the government the benefit of the doubt on a whole range of things. Maybe the opposition is being way too generous.

The opposition certainly does not want to stand in the way of the objective outlined as the original intent of that Streamline WA initiative, as that is important. However, all members in this place who have any affiliation with the river, me included, feel it is important to ensure that whatever regime is operating, and when the minister responsible for the regime takes bits out of that regime—this is a really important point to make—it will be operating in the most transparent and clear way possible, and that we will see the right outcomes.

Would this be a bill that I would put forward if I were the minister? I can say no; I would not put forward a bill like this. I would look at ways to make some of those decisions a little more transparent and at hardwiring the legislation around who has the permits and how that is done, as well as maybe look at the process and understanding it a little more. In saying that, as I said, the opposition will support the bill because it is hoping, giving the benefit of the doubt to the government, that the bill will actually achieve that objective.

That is largely all I would like to say. As I said, I could make a few other points, but I will take them up during consideration of clause 1 because those points relate to the procedures outlined in section 112 of the Planning and Development Act, "Declaration of planning control areas". I think section 113, "Amending or revoking s. 112 declaration", is particularly important. We will look at an interesting little interplay in more detail relating to carving out consultation requirements under the current act. I refer to an exemption to section 13(2) of the Swan and Canning Rivers Management Act that states —

> Before regulations are made for the purposes of subsection (1) the Minister must consult with —
>
> (a) the Minister for Planning; and …

This section is to do with regulations. When reading down, it also says that the minister must consult local government "of the district in which any proposed new boundary is located". There then appears to be a carve out of matters under the Planning and Development Act tied up in the existence of the declaration of planning control areas.

Maybe I have not been so clear on that matter, but I will take the bill through to Committee of the Whole to unpack it a little. This bill has too many interactions to go through within the context of a second reading contribution speech.

I am still trying to work it out. I think the parliamentary secretary will no doubt do an incredible job in unpacking it for the opposition and the public who will read *Hansard*. He will make sure that we are so clear about how these various carve outs and interactions with the new Land and Public Works Legislation Amendment Bill will work.

I say this to the house as my final statement. We support the bill. We have a lot of questions and we will no doubt work through those over the next couple of hours. With that, I conclude my comments.

HON TJORN SIBMA (North Metropolitan) [2.58 pm]: As I look over today's forecast business, I have a momentary lapse into commiseration with all members here, because the subject matter is particularly dry! I think we have the Directors' Liability Reform Bill to come on —

Hon Sue Ellery: The Teacher Registration Amendment Bill will be thrilling!

Hon TJORN SIBMA: Yes! Sorry. I do not know whether we will get to that, minister.

Irrespective of the lack of obvious charm of the Swan and Canning Rivers Management Amendment Bill 2022, it is absolutely an important and vital one to get right. I look forward to sharing the sentiment expressed by my colleague Hon Neil Thomson in his vote of faith in the parliamentary secretary representing the Minister for Environment. I look forward to crossing that threshold and having my faith adequately instigated in me in his management. I look forward to his contribution later.

I am speaking on the Swan and Canning Rivers Management Amendment Bill 2022 because I was the outgoing opposition spokesperson on environmental matters and this bill was one that took my interest. I received a very comprehensive briefing on it from departmental officials, I think towards the latter part of last year. As is sometimes my habit, I tried to follow the course of debate in the other place. Bearing in mind that this bill came on for debate reasonably late in the parliamentary year last year and that, frankly, there was probably not enough material to sustain the sitting hours, I think a baker's dozen of government members spoke to it. That is not to denigrate them; in fact, I think it reinforces a very important point: the Swan and Canning Rivers are something that we treasure as Western Australians and as residents of Perth. Obviously, the banks of that river system traverse and touch many electorates.

I was guided by the brief contribution made by the member for Willagee, Hon Peter Tinley. I think it frames the ethic through which we should view this bill—and others like it—which touches on such a vital piece of the natural environment. He stated —

> Although this bill may seem to be a minor amendment, this chamber should always be diligent when attending to anything that deals with the natural environment to ensure that we make the right decisions on its behalf because it really does not get a voice. If you like, its voice comes many years after a decision is taken, such as decisions that impinge on any river or waterway.

I was actually taken by some of the really interesting contributions made by government members, some of which ventured into the lyrical; some channelled the inner Tim Winton! As a consequence, we actually learn more about the individuals—things that we would not otherwise have learnt. I learnt a great deal about the member for Burns Beach, Mark Folkard, who I consider to be a friend; I really like him as a local member.

This bill reinforces the centrality of that river system in the hearts and minds of all Western Australians. Whenever we talk about the way we administer black-letter regulations or laws around it, we cannot just dismiss this as "administrivia" or dry regulatory material; we are dealing with a living, breathing river system. I do not know whether it is because I am in a particularly complimentary frame of mind—one can sometimes be reflective and mature in these debates—but I thought the contribution made by the member for Mount Lawley was also particularly good. I single him out because he actually delivered some facts that he obtained from a fact sheet prepared by the former Department of Parks and Wildlife. I think it would actually be worthwhile reading some of it in. He stated, quoting from the fact sheet —

- The Swan and Avon rivers are actually the same river, sometimes called the Swan–Avon. The Swan River joins the Avon River at Walyunga National Park. The combined Swan–Avon River is 280 km long and flows from near Wickepin to the Indian Ocean at Fremantle. The Swan–Avon River drains a total catchment of approximately 126,000km2 .
- The Canning River begins in Wandering and flows through Armadale to Applecross, where it joins the Swan.

This is an enormous river system that draws catchment from most of the metropolitan area. It is also a feature where we have spent, some of us more than others, formative experiences in our own lives and our children's lives. For example, my son has undertaken swimming lessons at Bicton Baths—which is, for unfortunate reasons, presently more salient. Ensuring that we manage the Swan and Canning Rivers appropriately should be a foremost consideration of every Western Australian government. I note that the Barnett government introduced in, I think, 2015, the Swan and Canning Rivers protection strategy. I understand that that strategic document should be currently

under review. I will be interested to know what relationships, if any, there might be between that strategic review process and some of the operative implications of this bill.

What does this bill do, though? I think sometimes we get lost. It is actually reasonably straightforward, in my estimation. It proposes to remove regulatory duplication applicable to commercial operators, mainly from the tourism sector, conducting businesses within the boundaries of the Swan Canning Riverpark and development control area. The main amendment proposed to section 32 of the Swan and Canning Rivers Management Act 2006 will remove the requirement for commercial operators to obtain a combined licence and permit. Instead, operators will require only a permit, issued by the Department of Biodiversity, Conservation and Attractions, which I will shorten to DBCA from here on in. Operators will, however, need to take out and maintain insurance as a condition of their permit, and I think that is only currently required as a condition of a licence. This will require granting the CEO of DBCA a new regulation-making head power.

As upper house members, the blood should chill a little when reading about directors general having a new regulation-making head power. Hon Neil Thomson earlier made an observation about there being some regulatory advantage in not listing the instruments of regulation in the *Government Gazette*. I will say that that is potentially troubling in the long term, and it is something for which I think we should seek some justification.

However, in terms of the policy intent of this bill, as a Liberal Party member there is very little to object to. This is, in essence, good Liberal Party policy, and I am glad that the government is bringing it into the house for assent. However, the ideological purity and benefit of it notwithstanding, we actually do have to interrogate the detail of the bill to understand, as best we can, its implications.

It will also be worthwhile to try to place this bill within the overall government approach to deregulation. The headline government program in this space is Streamline WA, which I think was launched in late 2018. In the immediate time thereafter, even throughout the COVID period, I think that initiative resulted in some genuine and significant reforms of governing legislation, particularly in respect of reform through the environmental protection legislation and changes to the Planning and Development Act 2005. Those changes were very lengthy and extensive and the consequences, both good and ill, are still reverberating to this day. But after the introduction of the headline legislation, any actual evidence of the desired outcomes of streamlining through dispensing with redundant bits of bureaucratic administration and preventing people in the private sector from making investments and getting on and doing things, is very difficult to discern. I think that is largely because there has been reliance not on changing processing and systems, but on changing governing legislation, which takes a very, very long time to enact in practical terms, and a dependency on new cadres of public servants to undertake the approvals business of the government.

Reliance on the passage of a bill and dependency on finding the staff to implement new approaches has, I think, been demonstrated to be faulty. That is not to diminish the bill, but I think, fairly put, this is the low-hanging fruit of regulatory reform. To basically announce this as a highlight of the Streamline WA initiative does a disservice to the real business of government and the need to make good on the generalised strategic pledge that it would deliver.

Because the advantages of this bill have been implied in economic and commercial terms, throughout the course of my briefing I attempted to establish what definable benefit this will give to a present or future operator of an enterprise in the Swan Canning Riverpark in either time or financial savings. Frankly, I am still awaiting the answer, and I think I am awaiting the answer because the genesis of this bill was not through consultation with operators within the broader riverpark or the planning control area. The sui generis origin of this bill was out of the department itself through an exercise that I think is dealt with in the minister's second reading speech, which I will quote directly from —

> This amendment was identified as a streamlining amendment following a department-wide review of delegations undertaken in 2021.

That is great. I compliment the department on undertaking those kinds of efforts, but I suppose it is very difficult to determine the value of this bill against a raft of potentially more beneficial or more strategic deregulation initiatives that the department itself has identified. It would be useful for this chamber to get a sense of the bulk of work, the bulk of regulations and the bulk of cultural and systems changes that the department is seized of and has presented to the various ministers who have held the environment portfolio over the last five or six years.

I do not think this is the case, but I invite the parliamentary secretary to put my mind at ease somewhat. Obviously, there is a need for activation of our natural assets. I think we are now mature enough as a society to do that in a way that balances the need to preserve environmental values; in fact, there is a strong argument that the more something is activated, the more people will utilise it and see the benefit and the more invested people in the community will be in the ongoing welfare of that environment. However, activation can also be used in a pretty trivial and flippant sense. I am attempting to discern whether, by virtue of also streamlining the process by now not including the requirement for the Minister for Environment to conduct consultation on changes to the development control area, this will open up any new pathway for inappropriate developments that would not meet community expectations.

I say this because we are dealing with some sensitive ecology. Quite obviously, over the course of the last 200 years, the Swan and Canning Rivers have been used and abused in a variety of ways. There is some legacy. We have changed the health of that river system. It is improving, but we need to be mindful that we are not doing something by virtue of this that will open up a new pathway for inappropriate development. Developments on the river foreshore are always controversial to some degree. I am reminded of the proposal for a wave park at Alfred Cove some five or six years ago. As a matter of principle, I would love to see a new wave park, and I believe one is coming to Cockburn, but to put one in a Ramsar wetland would be completely inappropriate and quite obviously counter to best practice environmental management and probably a range of covenants to which the government has signed up. It also did not meet community expectations. However, we can get developments right, and developments that we have got right include Elizabeth Quay and the stadium, which I still call Perth Stadium, despite the chagrin of others. There is a need and an opportunity to inculcate and encourage sensible activation and sensible development, but if I am to understand this bill correctly, it is focused more on the present activation and will not potentially open up a new pathway of development. I am pro-development constitutionally, but there is a time and a place for things to occur.

The other issue that requires some focus is the carve-outs that my colleague Hon Neil Thomson referred to previously. I think that presently there are under 70 operators; there might 68. I do not know whether all those operators are private sector operators or whether some of the operators include the local government authorities. I expect there would be a few, considering the location that we are talking about. Why has it been determined that this proposed new approach is not applicable to, or is inappropriate to apply to, the zip-line operators at Matagarup Bridge and the seaplane service? I would seek an explanation for why that is the case, but also, with a forward view, will this set up a difference in the way that future proponents might be treated? Is there a danger threshold? Is there something unique about those two operations that occur presently that mean that they have been carved out of this bill, and what will that mean for proponents into the future?

It could be said that lack of regulation is a good thing for business in and of itself, even though there are not necessarily any calculations to substantiate the claim that they will be beneficiaries of this, but I am interested in understanding more forensically the potential benefit this will have on the staff within the Department of Biodiversity, Conservation and Attractions itself. I am prepared to accept at face value that a minor amendment such as this might save individual desk officers added time and burden in effectively duplicating a task on the same issue. That said, I have not seen any cost–benefit analysis. I am not necessarily asking for anything deeply detailed, but to get a sense of the burden that those officers are dealing with in their current regulatory functions would be to the advantage of this chamber and would go some way to circle the wagons again to understand what pressures officers and the department are facing and whether the measure proposed in this bill will go very far at all in alleviating those pressures and delivering the kinds of streamlining benefits that are insinuated in the minister's second reading speech and in the bill itself. Otherwise, this is an interesting bill. I commend the government on moving on this. I would just like to see much more in this direction. I look forward to the parliamentary secretary's reply, if there are no other speakers today, and I do not think there is.

HON DARREN WEST (Agricultural — Parliamentary Secretary) [3.19 pm] — in reply: I rise to speak on the Swan and Canning Rivers Management Amendment Bill 2022. I begin by acknowledging the traditional owners who have lived along the Swan and Canning Rivers for thousands of years—the Derbarl Yerrigan, as it is called. I think that would be a good name to use in the future for that beautiful piece of water that runs through Perth and its tributaries that run from Wickepin and Wandering in the Agricultural Region, as the member said. I acknowledge the opposition's support for the bill—thank you for that. I look forward to going through minor details in Committee of the Whole.

As has been suggested by members and is stated in the second reading speech and the explanatory memorandum, this bill is part of the Streamline WA initiative to reduce red tape and duplication in government agencies. The government has a pretty strong record on reducing red tape, and this is yet another example. It is always important that members of the public have confidence that there is no duplication in, nor unduly delay for, approvals. The situation in which people need a licence and a permit is unwieldy and cumbersome, but that will change with the passage of this legislation.

I acknowledge Hon Neil Thomson in his new role as shadow environment spokesperson and the good work done previously by Hon Tjorn Sibma in that space, including his extensive and exhaustive queries about this bill during the briefing stage. It is certainly good that it had that scrutiny.

Hon Dr Steve Thomas: Excellent work!

Hon DARREN WEST: It was excellent work, yes.

I also acknowledge Stella Berry. On behalf of everyone in government, I convey our thoughts, sympathies and condolences to her family and many friends. It was a dreadful story, but bodies of water come with danger; we just do not think that something like that could ever happen. It was a terrible turn of events and our thoughts are with Stella's family and friends at this terribly difficult time.

The Swan and Canning Rivers have been managed and protected for thousands of years by the people living here. It is incumbent on us, as a government, to continue that custody and to work with the traditional owners and those who want to recreate on and use the rivers. Hon Tjorn Sibma made the particularly good point that there is always a balance to strike in allowing access to this wonderful body of water in a way that will ensure we manage its environmental sustainability, because we are not going to be the last people here; people have been wandering around, recreating on and using these rivers for thousands and thousands of years. I am sure that we all want that to continue so that in a thousand years' time there will still be a healthy, but popular, body of water to manage.

Members showed a bit of interest in the debate in the Legislative Assembly. I note it was quite a long debate, which I think reflects the level of interest in and passion for the Swan and Canning Rivers, the Derbarl Yerrigan, by members of the other place. They made some interesting and quite enlightening speeches about how people feel about and interact with different parts of the river. The members, as representatives, were able to bring those views to Parliament. A lot of community groups were mentioned. There are a lot of very passionate people. When we start talking about our rivers and wetlands and the natural environment, it quite rightly ignites passion in members of the community and causes a lot of debate. That is why we are very proud that we are making these changes that will protect the integrity of the environmental management of the rivers in a way that is less cumbersome and unwieldy for those who wish to apply for permission to use the river. It will be more streamlined going forward.

I will not address all the points raised in members' contributions to the second reading debate because we will go into Committee of the Whole, and we can drill down into the detail of the bill when we do that, but I will make a couple of points. I am pleased we are taking a bipartisan approach to the river—may that continue. I think governments of all persuasions have over the years acted in the best interests of the rivers whilst trying to strike a balance between people being able to use the rivers and protecting the rivers. I am sure that will continue. I note Hon Neil Thomson made the point that there is more to do; there will always be more work to do on the rivers because the rivers and the population are ever-changing. There will always be debates about the rivers and balances to strike; together we can do that. We are confident that the passage of this bill will encourage more investment into operators on the river. It is a wonderful place to work and play, and to enjoy.

I want to clarify something Hon Neil Thomson said. He said the explanatory memorandum was two pages. I think the member might have been referring to his copy of the second reading speech. The explanatory memorandum is more extensive at about six pages. I am just checking that the member has the right document.

There was a flurry of activity when Ben Wyatt first developed Streamline WA because there was a backlog of streamlining to be done. We are working through that now, and that process will continue wherever possible.

The member made a couple of points about insurance. We need to be confident that everybody has the relevant insurance. We live in an increasingly litigious society, so we need to make sure that the state government is not at any risk when granting permits or issuing licences. Insurance is something that will be insisted upon. I think it probably was before, but we are just covering off on that. Questions were asked about the Matagarup zip-line and the seaplanes business that have had some level of exemption; they will continue to operate under their existing licences. We will no doubt go into more detail on that.

Hon Tjorn Sibma brought up some good points about the debate in the Legislative Assembly. They were very good speeches. If members have a bit of idle time, they should take the time to read them; they were well thought out and read speeches. While I was sitting here listening to Hon Tjorn Sibma, I was thinking that that one river system drains about half the Agricultural Region, which is significant.

Again, we are removing the duplication of licences and permits. Hon Tjorn Sibma made the point that that is good Liberal Party policy. That makes me a little bit nervous, member. I guess if we can all agree on this—clearly we are meeting in the middle—there will be a good outcome, generally. We will deal with the cost savings for operators in the committee stage. I think it will be a more streamlined, simpler and easier process that will be the same for everyone. I am not sure about the dollar cost savings, but anything that reduces duplication and extra work will be welcome.

The origin of this bill came from within the department. The Streamline WA government initiative asked agencies to look for levels of duplication and ways to avoid them and remove them. Duplication is not naturally, willingly put into legislation. It often comes through amendments and changes over time. All of a sudden, we realise we have extra processes than was perhaps initially intended. By amending the act, we will remove those extra processes, and that is welcome.

Hon Tjorn Sibma talked about the need for balance. He said that the minister will no longer need to consult on a development control area. I know there will be questions on that. We will deal with them in committee. But I assure the member that future decisions will not be diluted—pardon the expression—or made easier as a result of the passage of this legislation. Future decision-makers will always endeavour to strike a balance between the beautiful natural environment and the ability for people to recreate on and use our wonderful rivers and waterways. The member asked whether exemptions will become the norm. I do not suspect they will. They are in existing and

relatively new licences. I do not think that will set a precedent, but, again, I am sure some questions will be asked about that.

I am sure removing duplication will benefit DBCA staff and make life easier for our wonderful public servants who work in all our government agencies. It will make their jobs more enjoyable as well.

I guess that is about all. The bill is important. We want to remove duplication. I think that is now a bipartisan goal, and that is good to hear. I think this legislation will make life easier for a lot of business operators and the agency, with a more straightforward and streamlined process for all to use. I look forward to the Committee of the Whole.

Question put and passed.

Bill read a second time.

Committee

The Deputy of Committees (Hon Sandra Carr) in the chair; Hon Darren West (Parliamentary Secretary) in charge of the bill.

Clause 1: Short title —

Hon NEIL THOMSON: Before I ask a question about clause 1, I acknowledge that I need to correct what I said during the second reading debate about the explanatory memorandum being a two-page document; for the record, it is six pages long. I just make that point.

What I would like to raise and discuss under clause 1 relates to Streamline WA. We are talking about an additional investment. I would like, if I can, to ask two questions or to break it into two parts. Clearly, there is the component in relation to making life a little bit easier through the issuance of permits, which seems to be a fairly small part of this process. I would like to also, if I could, get some commentary from the parliamentary secretary about the additional investment the government might be considering or considers plausible with respect to the changes to the provisions around the planning control area and making it a little bit more streamlined and easier to actually effectively change those, and whether there has been any contemplation within that scope as part of the development of this bill.

Hon DARREN WEST: I am not exactly sure what the member is asking about. Is it about consultation? What is the question, sorry?

Hon NEIL THOMSON: What I will do is that I will ask just one question at a time. The government is saying that this will make business easier. Are there any businesses that the government contemplates will be impacted by this? Maybe the parliamentary secretary could outline what those businesses would be, and what they might be into the future.

Hon DARREN WEST: The purpose of the bill is to provide clarity and a better regulatory framework so that there is less confusion about whether a licence and a permit are required. It is not so much about attracting investment. We think that the prospect of investment will be enhanced by the passage of the bill. The bill is more about streamlining the process, creating more clarity for those who want to operate businesses on the river and creating a more robust regulatory framework.

Hon NEIL THOMSON: What the parliamentary secretary is saying is that the government might be winding back the claim that this is part of the Streamline WA process. I am trying to understand whether the parliamentary secretary is saying that this is not about investment. That seems to be the main purpose of Streamline WA. Is the parliamentary secretary saying that this is not part of that, or is it something else?

Hon DARREN WEST: Streamline WA is about having better regulatory processes and reducing duplication. That is what we are trying to do with Streamline WA. That is what we have moved into this bill.

Hon NEIL THOMSON: I mentioned in my contribution to the second reading debate that 68 businesses that operate on the Swan and Canning Rivers—Derbarl Yerrigan—will potentially be impacted by this change. I assume that most of those businesses will not be required to have a licence and will be able to operate just with a permit. I assume that when the bill is promulgated, they will simply have their licences revoked. Is that correct?

Hon DARREN WEST: Sixty-six of the businesses will transfer from licences to permits; they will all become permits. The seaplanes and the Matagarup Bridge zip-line will be issued with licences. One is more of a commercial arrangement and one is more of a regulatory arrangement.

Hon NEIL THOMSON: Will the 66 businesses that will have their licences revoked all be required to have new permits or will they operate within the remit of their current permits?

Hon DARREN WEST: I am advised that all the conditions on all current licences will be transferred to permits, so the same conditions will apply. The bill contains quite specific provisions about how that will work. Those transitional arrangements are very clear in the bill.

Hon NEIL THOMSON: Some of this is getting to other clauses of the bill, but by dealing with them under clause 1, we may end up avoiding the requirement to deal with them later.

Hon Darren West: We can avoid duplication.

Hon NEIL THOMSON: We can avoid duplication! That is what this is all about; it is part of this amazing process that the government has gone to in Streamline WA. We can do that here in the Parliament as well!

I assume that if any of the existing permits for those 66 businesses do not have a requirement for insurance or any other requirement that might be part of the new permit system, those permits will be updated before they are reissued. Is that correct?

Hon DARREN WEST: That is correct.

Hon NEIL THOMSON: I ask this just out of curiosity, because it seemed that the need to do this was a big part of the second reading speech and the explanatory memorandum. Do any of the 66 not have insurance or are not required to have insurance under their permit, or do they all have insurance, but it is their licence that requires them to have insurance? Is that just a transition of the existing requirements under their licence?

Hon DARREN WEST: As far as we are aware, all those licence holders currently have insurance.

Hon NEIL THOMSON: For the sake of streamlining this, I will ask about the two businesses that are part of the carve out. We are a little perplexed about why that has occurred. I note that one business is the seaplane business and the other is the zip-line business. I will come to the non-exclusive use of occupancy for the seaplane later. I think that matter may be discussed in answer to my next question. Put simply, why did the government carve out these two? Was it the result of representations by the operators?

Hon DARREN WEST: No.

Hon NEIL THOMSON: Why did the government come up with this rather quirky legislative requirement to carve out these two operators and, effectively, grandfather their current arrangements?

Hon DARREN WEST: These two arrangements were negotiated to a commercial agreement for non-exclusive access to those areas. The businesses that are on permits will remove a prohibition so that they will be able to access and operate their business under those conditions.

Hon NEIL THOMSON: Is the parliamentary secretary saying that those two businesses would have required a licence to fulfil the requirements of the licence, whereas the other 66 businesses will not require a licence going forward?

Hon DARREN WEST: The two licences that have been granted were negotiated for non-exclusive use under that particular arrangement. The other permits have been granted to remove a prohibition so that the businesses will be able to access those areas and use them.

Hon NEIL THOMSON: I think that clarifies that. If I could home in on the issue of non-exclusive use, I note that the licence for the seaplane, by definition, is for non-exclusive occupancy. I am trying to envisage other types of activities. If a seaplane has non-exclusive occupancy, why would a jet-boat business operating on the river not also have non-exclusive occupancy? If it provides any clarification, the way I thought the bill was presented in the second reading speech is that licence agreements would be granted only for businesses with a related approved development. I wonder what development was required for the seaplane to operate. I assume the business has a mooring, berth or something that required development to be undertaken and that the other 66 businesses do not have a development that they are required to utilise. I can maybe understand the zip-line business because of the development on the bridge for the zip-line. Can the parliamentary secretary explain what that development might have been that classified it as non-exclusive occupancy?

Hon DARREN WEST: These licences have been created because, in the first instance, there is no development, but, moving forward, future developments will need a licence. It is a transitional-type arrangement. All existing developments have permits, but, going forward, future new developments will need a licence. The two businesses that the member mentioned were issued licences because they are relatively new and did not require any development.

Hon NEIL THOMSON: That clarifies that. Existing developments will not require a licence going forward. All that has been ticked off. We have 66 operators, some with a development and some without, I assume. Maybe they all have a development of some type. Maybe I will ask the questions one at a time. Of the 66 operators who will move to having a permit, do they have an existing development that, if they were to start now, would trigger this non-exclusive occupancy component of the bill?

Hon DARREN WEST: No.

Hon NEIL THOMSON: The two businesses that the parliamentary secretary talked about have plans for development and that is why they made representation to the government as part of the requirement for the carve out. Is that correct?

Hon DARREN WEST: They did not make any approaches or representations to the government, but they had an existing licence, and to make the transition seamless, they will remain on a licence, but all the others will transfer to permits.

Hon NEIL THOMSON: I can only assume that those licences already have a provision for further development within the terms of the licence. Is that what the parliamentary secretary is saying?

Hon DARREN WEST: The licence is more about enabling the activity than the development.

Hon NEIL THOMSON: So the licence is more about enabling the activity than the development. The parliamentary secretary is saying that the licence agreements are only granted when they relate to an approved development, so there is obviously some approved development already in that —

Hon Darren West: By way of interjection, member, that is correct moving forward.

Hon NEIL THOMSON: I understand that the parliamentary secretary wants to move on, but I just need to clarify one thing. Can the parliamentary secretary tell me whether for the other 66 activities, no approved development will require a licence going forward?

Hon DARREN WEST: They will not have a licence. They will have a permit.

Hon NEIL THOMSON: I assume that the answer to my question is that there will be no further development. I am struggling to understand why one is required to have a licence going forward when there is a requirement to have development. I will move on, because I have made my point.

With regard to the streamlining component, in the government's own words, there is a need to encourage investment in Western Australia. That is one reason why we support this bill because we, on this side of the chamber, are all about responsible investment. But we also see a trend occurring within this government with the interaction between various pieces of legislation that will use a head of power to manage a development control area, as found in a provision in the Planning and Development Act. The second reading speech states that the amendment bill will streamline processes when the development control area is changed. We agreed with changing the process. We understand that it will now entirely rely on the processes within the Western Australian Planning Commission under the Planning and Development Act. Will the process of removing that requirement for the Minister for Environment to conduct further consultation result in a different type of consultation that might potentially impact stakeholders?

Hon DARREN WEST: Future developments will have to go through the WAPC planning process under the Planning and Development Act anyway. If the Minister for Environment feels that he wants to do further consultation as a result of that, he or she can do that.

Hon NEIL THOMSON: But this is about amending the development control area. If we were to amend the development control area, particularly if we were to excise components of it, normally these two parallel processes would operate. If we are going to change the boundaries of the development control area, will we be entirely reliant on sections 112 to 118 of the Planning and Development Act? To make sure that I am in the right spot, this is the part of the Planning and Development Act that refers to development in planning control areas. Is that correct?

Hon DARREN WEST: This is, again, part of the streamlining process. The WAPC has a tried and true consultation process. We are saying that it is not compulsory to repeat that consultation process. That is a decision for the minister. If the minister is satisfied that the WAPC process is adequate, the operator is not required under this act to duplicate that process. Again, it comes back to streamlining the duplications within the process, given that a rigorous consultation process is already in play.

Hon NEIL THOMSON: As part of drafting the bill, was any feedback received from sectors of the environmental movement about this specific change?

Hon DARREN WEST: The Swan River Trust was consulted twice with involvement from community representatives and there was plenty of opportunity to give feedback. The Swan River Trust supports the bill. Consultation also happened with other government agencies that are involved with the Swan and Canning Rivers.

Hon NEIL THOMSON: Were any concerns raised about the removal of the role of the Minister for Environment within the process?

Hon DARREN WEST: No.

Hon NEIL THOMSON: That is very heartening. I am pleased. I may discuss the second part of my question in committee under this specific clause, but I will flag with the parliamentary secretary an element within the existing development control area that ties back to this issue of licences. Section 115(1) of the Planning and Development Act states —

> A person who wishes to commence and carry out development in a planning control area may apply to the local government in the district of which the planning control area is situated for approval of that development.

Will the local authority still be required to provide that approval for the development control area for the Swan and Canning Rivers?

Hon DARREN WEST: Can I ask the member to reframe that question? We are not quite sure what he means by "local authority" and whether he is referring to this bill or the Planning and Development Act.

Hon NEIL THOMSON: I am referring to the Planning and Development Act because it is relevant to this debate on clause 1. As part of the Swan and Canning development control area, we are looking to amend the way that is amended—that is doublespeak, but that is exactly what it is. We are looking to change the way the boundaries of that development control area are effectively changed. It is important to note that currently under that development control area, a person who commences or wishes to commence development in that area needs to make an application to local government. We have people here who know all about how the specific Swan and Canning control area operates, which operates under this part of the Planning and Development Act. To do any development, one may apply to local government for that development approval. Does that currently apply within the context of the Swan and Canning development area?

Hon DARREN WEST: The question is still a little obscure. Perhaps I can help by saying that the final decision on development within the Swan and Canning DCA rests with the Minister for Environment.

Hon NEIL THOMSON: We might make it through to 4.30 pm yet. I put on notice that when we get to clause 5, I will want to burrow down more deeply into this specific issue because clause 5 refers to an amendment to the metropolitan region scheme as approved under the Planning and Development Act. The essence of my question is: is the current requirement of local government to be involved in the development and applications within the Swan and Canning development control area important? As I mentioned earlier, if I took a cynical mind on this, having a more streamlined process to excise bits from that planning control area might impact to some extent the way decisions are then made about development—for example, the development of a facility such as a health spa in Nedlands and whether that would have an impact if the government then sought to take out a particular area from the Swan and Canning development control area. I am curious whether the Tawarri hot springs proposal sits within the Swan and Canning development control area.

Hon DARREN WEST: Yes, as far as we are aware. We look forward to clause 5 with even more anticipation!

Hon TJORN SIBMA: I have caught only part of this discussion. In my second reading contribution I noted something that is identified by the government itself about the transition arrangements. The 68 operators that currently operate under a dual permit and licence regime will transition across, except for the operators of the Matagarup Bridge zip-line and the Swan River seaplane. Forgive me, but I did not quite hear this: can the parliamentary secretary explain again why those two operators are not captured by the transition?

Hon DARREN WEST: This has been extensively canvassed by Hon Neil Thomson. Essentially, these two licences were negotiated arrangements and to make them seamless, we have transferred them to licences and they will continue. All the other existing longer term arrangements will transfer to permits.

Hon TJORN SIBMA: Presumably, the arrangements as they apply will continue to apply to the operators of the zip-line and the Swan River seaplane. For how long are their licences valid? At the conclusion of the term of those licences, will they transition into this new set of arrangements or will they continue to be carved out?

Hon DARREN WEST: We think it is 10 years and then they will transfer again onto licences but we will clarify that and I will inform the member if it is different.

Hon TJORN SIBMA: I thank the parliamentary secretary for following up on that. I look forward to that reply. I suppose the other dimension to this is obviously whether any circumstances might arise in the future in which a particular class of activity or business operation will necessitate both the licence and the permit being granted, or will it be the case from the commencement of this legislation, once it passes, that all future commercial operations will be captured by this streamlined approach? Might there potentially be some outliers?

Hon DARREN WEST: This will remove the duplication. If there are future applications to access and use, they will be on permits, but there will not be duplicate licences and permits required.

Hon TJORN SIBMA: I thank the parliamentary secretary. Again, forgive me because I was detained on urgent parliamentary business, conferring on other matters of government business, but we previously dealt with the new regulation-making head power for the CEO of the Department of Biodiversity, Conservation and Attractions. Does that not already exist insofar as licences are concerned? Is there actually a genuine need to create a new, additional head power, or could that regulation-making power be perpetuated as it is currently exercised without the creation of a new one?

Hon DARREN WEST: This is about additional clarity between a licence and a permit, so we deemed it necessary.

Hon NEIL THOMSON: I refer to the hypothetical hot springs development. I think it is good to use an example like that because it helps us understand how this legislation might impact. As far as my understanding of the

Planning and Development Act is concerned, under the current arrangements a person who wishes to commence and carry out development has to make an application to the local government, so the development application goes to the local government. For the sake of *Hansard*, that falls under section 115 of the Planning and Development Act. Under section 116, the commission may approve or refuse a section 115 application, so then it goes up to the Western Australian Planning Commission for approval or refusal. That will apply under that planning control area because it is part of the massive estate called the Swan and Canning Rivers development control area. Under the parallel legislation, the Swan and Canning Rivers Management Act, there would also have to be a double application. If the proponent says that they want to develop a hot spring spa or whatever on the water, or close to it, there will have to be a licence and permit. Those are the current arrangements.

When this bill is passed, it is my understanding that two pathways will be able to be applied. Firstly, I do not think there is any change to the pathway with regard to a development like that on the river, if it stays within the Swan and Canning development control area—no change whatsoever, because a licence and a permit will still be required. That will therefore require the Minister for Environment to consult and the planning commissioner to approve. It will also require consideration by local government. That is my first point. I ask the parliamentary secretary to please clarify this, because these are technical things, and I am trying to work out what is actually going on here. If there is a desire by the state government to progress that application with less red tape, the commission would take action. I guess I am asking how this will work under the new arrangements for the changing of the boundaries of the development control area. I assume the commission would be required to undertake the appropriate process, so there is no role for the Minister for Environment.

Firstly, would a development on the river like hot springs require a licence, a permit, consideration by local government and approval by the commission?

Hon DARREN WEST: I am unable to answer any questions about the Planning and Development Act, but I can tell the member that the final decision about any development within the development control area of the Swan and Canning Rivers rests with the Minister for Environment.

Hon NEIL THOMSON: Does that final decision rest with the provision of a licence or a permit?

Hon DARREN WEST: Sorry, I was trying to listen to the member and the advisers at the same time. Could the member repeat the question?

Hon NEIL THOMSON: Does the mechanism for the final decision rest through the provisions for both a licence and/or a permit?

Hon DARREN WEST: No.

Hon NEIL THOMSON: How does the Minister for Environment make a final decision on a development approval like that within the development control area?

Hon DARREN WEST: Under part 5 of the Swan and Canning Rivers Management Act.

Hon NEIL THOMSON: If the commission decides in its wisdom to excise part of the development control area, could it be done without consideration by the Minister for Environment? I am not talking about whether this has been discussed in cabinet, just whether, from a legislative point of view, that would solely rest with the Western Australian Planning Commission.

Hon DARREN WEST: That is quite hypothetical. We are not really across the technical aspects of the Planning and Development Act; we are discussing the Swan and Canning Rivers Management Amendment Bill 2022. I must say, I think I have probably exhausted this line of inquiry. The final decision for developments within the development control area rests with the Minister for Environment.

Hon NEIL THOMSON: I appreciate that. If the parliamentary secretary does not mind, I will just refer to the second reading speech. I think it is really important to stretch this point. We have read this before; I understand that we do not have advisers from the Department of Planning, Lands and Heritage, but there are a lot of interactions between different bits of legislation in this bill. In fact, I would suggest that there might be interactions with the Land Administration Act and the Public Works Act as well. Who knows? There might be a whole range of other acts. It all comes down to where the second reading speech states —

> The bill will amend section 13 to remove the requirement for the Minister for Environment to conduct further consultation on changes to the development control area …

Maybe the parliamentary secretary can help me and clarify what "to conduct further" means? If I can help the parliamentary secretary to focus just on the role of the Minister for Environment rather than the role of the Planning and Development Act, this is what was said in the second reading speech —

> The bill will amend section 13 to remove the requirement for the Minister for Environment to conduct further consultation on changes to the development control area …

Will the Minister for Environment be involved at all? That is my simple question.

Hon DARREN WEST: Just to be clear again, the Western Australian Planning Commission will conduct its own consultation process. It is extensive and quite exhaustive and is a tried and true consultation process. At the end of that, should the minister choose to do further consultation, he or she will have the capacity to do so under this legislation, but will not be required to do so.

Hon NEIL THOMSON: Maybe it could be clarified by adding a little extra to the second reading speech. Will the Minister for Environment have an approval requirement for changes to the development control area? Will the Minister for Environment have a say? I am not talking about consultation. It is the bit that is missing here. Will the Minister for Environment have a say over the changes to the development control area?

Hon DARREN WEST: Yes.

Hon NEIL THOMSON: Under what provision will the minister have a say on that? Could the parliamentary secretary help me?

Hon DARREN WEST: Yes, according to section 13 of the act.

Hon NEIL THOMSON: I will probably have a look at that a bit more, but I have some further questions on clause 1. The issue is in relation to some of the other activities that occur on the river, such as Department of Transport activities. It has a role in relation to moorings when people have their boats parked up on the river. Will they be subject to these permits or will this apply only to the commercial operators operating on the river?

Hon DARREN WEST: The member is right; they will be dealt with quite separately. This legislation deals with, for example, operators of charter vessels, hire vessels and surf skis. Those sorts of operators operating on the river will be covered under this legislation. Moorings come under a separate piece of legislation.

Hon NEIL THOMSON: In a similar vein, I would suggest that Royal Perth Yacht Club and those sorts of outfits on the river would have exclusive possession in relation to the activities. They will not be affected at all by anything. I assume they will not require a licence to operate. Is that correct?

Hon DARREN WEST: I am very impressed with the member's knowledge of yacht clubs. Yes; they will not be included under this legislation. They are not one of the 66 operators and will not be included under these permits; they have lease arrangements.

Hon NEIL THOMSON: Lease arrangements will not be affected at all. That is a separate process completely. There are probably a number of leases that are applied for under management orders with the Department of Transport, for example. I am thinking of the Department of Transport leases on the foreshore at Elizabeth Quay. I think there is a nice restaurant there that is managed by the Department of Transport. It will be completely outside the scope of the requirements of these particular provisions.

Hon DARREN WEST: The member is correct.

Hon NEIL THOMSON: In the hope of trying to truncate some of the discussion on further provisions, I note that there is a provision in relation to the waiver of liability by licensees. This came up in discussion about the need for insurance. One of the provisions that has been put into the bill is to do with the waiver by the licensee of any liability in tort that may be incurred by the CEO, the trust and the state in connection with the occupation of the land and waters to which the licence agreement relates or a relevant activity. What effect will the waiver have on indemnity as agreed to under that provision?

Hon DARREN WEST: All licence holders and permit holders will be required under this legislation to hold insurance.

Hon NEIL THOMSON: I am talking about the specific waiver of liability by the CEO. It seems that that could be a negotiated provision. Does the parliamentary secretary anticipate that that will be a requirement for all licensees?

Hon DARREN WEST: Yes.

Committee interrupted, pursuant to standing orders.

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