

**NOONGAR (KOORAH, NITJA, BOORDAHWAN) (PAST, PRESENT, FUTURE) RECOGNITION
BILL 2015**

Second Reading

Resumed from 18 November.

MR R.H. COOK (Kwinana — Deputy Leader of the Opposition) [3.51 pm]: I am immensely proud to be speaking today on the Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill 2015. Of all the speeches I have made in Parliament to date, this is the one I have anticipated the most. I begin by acknowledging that we are meeting in the Parliament of Western Australia on the lands of the Whadjuk people of the proud Noongar nation. I want to acknowledge their elders, past and present, their ongoing connection to this country, and the protection and enhancement of their beautiful culture. I also want to begin with a little act of self-indulgence by acknowledging the passing of Mr Brian Wyatt, who left us recently. Many people would not be aware that Brian was a tireless and long-term advocate for Aboriginal rights, particularly native title. He was the Executive Director of the Goldfields Land and Sea Council and did some very important work on the native title challenges in very difficult circumstances in that area of country. He later became the head of the National Native Title Council. Sadly, he has left us. We should remember that he was one of those people, along with Peter Yu, Patrick Dodson, David Ross and the many great land rights advocates, who were there from day one when they were negotiating the original Native Title Act. In that sense, his passing is a milestone in the point at which we find ourselves now.

When I was the policy coordinator for the Western Australian Aboriginal Native Title Working Group, Brian Wyatt was the chair, and in leading the WA land councils group, he was leading them to promote agreements around native title and to try to overcome the division and the opposition, particularly from the Western Australia mining and farming communities, towards Aboriginal land rights. Through his quiet but strong leadership, he was one of the generation of leaders who took that debate from the hostility, conflict and division that it represented and through to the agreement phase. At that time, people such as Brian Wyatt were talking about what we are doing today, which is confirming a comprehensive agreement that provides a settlement of not only the legal issues surrounding native title, but also the comprehensive issues that Aboriginal people would like to see negotiated when they have the opportunity to sit down and discuss these issues.

By its very nature, the Noongar agreement is in fact a classic treaty; it is a coming together between two nations to agree upon certain things, and in doing so, finding a way forward together and recognising each other's sovereignty. By recognising each other's sovereignty, they decided how they would continue to coexist in a manner that they agreed to through negotiation. Yothu Yindi sung "treaty now", and that is what we are doing here; this is a treaty between the government of Western Australia representing the newcomers, and the nation of the Noongar people. We cannot underestimate the importance of this agreement. I want people to understand the importance of this agreement. This is not just a good native title outcome; this is world's best practice. Academics across the world who examine these things and talk about treaties and agreements on land rights are looking at this particular agreement as being the most modern, comprehensive and best practice in terms of how we do these things. That makes this agreement unique and a particularly important exercise.

From my point of view, I believe this is the single greatest act of sovereignty by the Noongar nation since settlement. We know that there are Noongar people who are represented by the different clan groups: Ballardong, Wagyl Kaip, Yued, Gnaala Karla Booja, South West Boojarah and of course Whadjuk. This bill represents all those groups coming together as one to agree upon a course of action. I do not think that has happened since settlement. This nation of people has been the most dispossessed, the most confronted by white settlement, the most dislocated and, in that sense, the most oppressed in terms of continuing cultural practices. This is the most single deliberate and important act that they have taken. I want to put on record just how proud I am that they have got this far. It is pretty humbling stuff. I am sure that one day the Premier will look back on his political career and think, "What did I do? What did I achieve in my time in government?" People might look to Elizabeth Quay or to the football stadium and great monuments to his time in office, but this agreement is the single most important thing this government can do. I take my hat off to the fact that it has been achieved. It is incredibly important.

I also want to talk about how difficult this stuff is. In my time at the South West Aboriginal Land and Sea Council I was constantly confounded at just how complex and difficult it is for Aboriginal land councils and native title representative bodies to conduct their work. They are dealing with a very complex and difficult piece of law. The Native Title Act would do anyone's head in. The best possible advice I ever received early in my time in native title was from a lawyer at BHP who said, "Son, whatever you do, don't try and learn the act because it will kill you." I think that was great advice. He said, "Leave that up to the lawyers." This guy was a lawyer himself. I am a lawyer too, but I am not going to try to do it. It is an incredibly complex piece of law, so state and commonwealth governments absolutely hammer the land councils in terms of trying to prove native

title and get rights under this particular act. It is tough work. I want to pay my respects to that generation of young lawyers inside the native title representative bodies who often come quite inexperienced into the legal area and take on some of the most experienced state and commonwealth solicitors in the employ of the governments and achieve incredible outcomes.

The other difficult part of this lies with the stakeholders. I have talked before about the shameful conduct of organisations such as the farming and mining lobbies back in the 1980s and throughout the 1990s when the Native Title Act was being settled. I started my involvement in native title in the early 2000s and even then the level of conflict from stakeholders was difficult to manage. They always used to say, “We’ll send in a Roger”, which meant to send in a smiling face to pave the way for discussion with an industry group, a company or a government. One of my jobs was to drive around the south west talking to local governments and trying to convince them that they had nothing to fear from native title. It was a tough job because there was so much hostility and suspicion about what native title represented and what people were trying to achieve under it. We really had a great deal of difficulty with that process. Finally, the native title representative bodies had to deal with communities that had been done over, generation after generation, by laws designed to oppress and dispossess them and make them lose their culture. To get them to come together under this sort of regime, which is a regime that is not particularly easy to work with, and get advantages out of native title was incredibly difficult because of their suspicions of the land council, the organisations, the governments and the businesses with which they had to negotiate. They were suspicious of each other because everyone was afraid that somehow their family, their people and their community were going to miss out. Members can understand the incredible difficulty that native title representative bodies or land councils must have faced in trying to bring them together to make a decision. In the case now before us, the South West Aboriginal Land and Sea Council has got to the point of deciding to surrender its native title rights for these other rights, interests and outcomes. What an extraordinary achievement!

The gall of this organisation was to first of all go out and say, “We are going to combine all of our claims and bring them together under the single Noongar claim. We will negotiate as one and make a deal with the government about how native title might exist in the south west.” Quite frankly, we were saying these things at the time and governments of all persuasions were simply laughing at us. They were saying that we would never achieve this or get this together. It was an extraordinarily bold-faced exercise. When the government continued to put on the pressure, the South West Aboriginal Land and Sea Council took its case to the courts. Through the incredible work of Vance Hughston and Tina Jowett, the council actually won the court case. I think that the government of the day, and I am very ashamed to say that it was a Labor government, thought that the case would just wither on the vine. Here is this dispossessed group of Aboriginal people and the government has said, “There is no way they will win their case in the courts. We will let them have their day in the court but then we will just flick them off.” Such was the tenacity and the preparation put into the witnesses, the evidence and the preparation of the case that they won. It is to our eternal shame on this side of Parliament that the government of the day marched into this chamber upon the court’s saying that it had approved native title, and said that it would appeal that case. Out of that debris and dishonour brought about by that decision, we set up a negotiation process, but it is to the absolute credit of this government that it decided to continue that negotiation process and we find ourselves where we are now.

I want to talk about some of the extraordinary people I have worked with. I know that it is a dangerous exercise when a person starts naming names, but I want to talk about some of the many people involved in this process. First I will pay credit to Mr Darryl Pearce, the controversial chief executive officer of the land council who originally proposed this idea of the single Noongar claim, and Mr Murray Jones who was the chairperson at the time. I also pay credit to Ms Lyn Lund who was an amazing second-in-charge and provided a lot of the stability for the organisation at the time. The legal team of Maxina Martellotta and Christine Cooper pulled together and did a lot of the leg work with the legal arrangements for this legislation, and Kate Morton, Ophelia Rubinich and Chris Owen are the anthropologists responsible for pulling together a lot of the research.

I also want to pay my respects to Etienne van Tonder, a South African lawyer. This was the first job he came to upon arriving in Western Australia as a future act lawyer. He must have thought he had come to a madhouse in trying to deal with native title. I also want to pay my respects to some of the board members at the time, in particular Mrs Janet Hayden and her daughter Charne Hayden. Her other daughter, Geri, was also a fellow staff member at the land council. Mr Glen Colbung played a great stable role as a long-term board member. Mr Jack Hill and Mr Graeme Minter were responsible for being involved in a lot of the negotiations.

I want to acknowledge some of the other staff who were around at the time—Mr Michael Blurton, Mrs Pat Rutherford, Ms Vanessa Ugle, Darlene Summers, Kevin Fitzgerald and John Hein, the long-suffering chief finance officer at the time. I also want to pay my respects to Mrs Geraldine Martin who I have very fond memories of working with at the time. I want to pay my respects to some of the senior Noongars who were involved in the native title debate at the time—Mr Charlie Kickett, Mr Spencer Riley, Mr Dennis Eggington,

Gordon Cole, Eric Wynne, Farley Garlett, Glenn Shaw and Ms Colleen Hayward. I also want to acknowledge Ms Cherry Hayward, whom I did not get to work with at SWALSC. I now know she was the chair for some time but I worked with her when I was at the Yamatji Land and Sea Council. I did not have an opportunity to work with Mr Oral Maguire but I knew him as a school student and a leader in the Noongar community. I want to acknowledge Mrs Theresa Walley not in the native title context but as an important member of my Kwinana community. I understand her ambivalence towards this agreement but I assure her it is an important one. I also want to acknowledge Mr Ted Hart who is the current chair of the South West Aboriginal Land and Sea Council. I worked with him for some time when I was there and he is a great character and a strength to the community. I want to acknowledge some other important members of the community—Mr Bill Lawrie, who played a role as a senior manager at the South West Aboriginal Land and Sea Council; Mr Stuart Bradfield, who was involved in the negotiations; and Ms Gail Beck. I also want to pay my respects to Mr Kim Scott who I understand was responsible for a lot of the wording in the draft before us.

[Member's time extended.]

Mr R.H. COOK: In particular, I would like to pay my respects to and display my huge admiration for Mr Glen Kelly and Ms Carol Innes. I do not think we will ever understand how hard it was to lead the community to reach this point. I think they have done an extraordinary job. At times we thought that the job was probably a bit too difficult and it would be a bit too hard to pull the community together as they have. Given that they have achieved what they have to reach an agreement in the most difficult of circumstances is an extraordinary credit to their leadership and strength. With the support of the organisation, they were able to bring people together to reach this agreement. What they have achieved is extraordinary. They have taken the organisation from a situation in which, slightly before their time, this positive determination on native title was achieved. They have kept the organisation together through very difficult financial circumstances, through very difficult community and legal circumstances and through circumstances in which a bunch of stakeholders were banking that at some point the organisation and the negotiations would fall over, but they did not. It is an extraordinary achievement.

In some respects, this is a totally uncharacteristic outcome. As I said—the Premier was not in this place earlier so I will say it again now—what he has done with this legislation will be the single biggest achievement of his government. I think it is an extraordinary outcome—reaching agreement about what is essentially world's best practice in native title outcomes. I do not understand how the government can do this on the one hand—achieve an incredible outcome that acknowledges sovereignty, respect, negotiated outcomes and sustainable futures—but on the other hand sponsors a bill such as the new heritage bill into this place, which in some respects is complete anathema to what we are achieving here. I do not understand how the government can introduce this bill, which is so well informed, so well intentioned and such an important part of a process but then talk about closing communities in the way that it has. I understand that we have retrieved some of that situation. Hurtful things were said in that context. Why do we now have this legislation?

I also want to draw to Parliament's attention the fact that during the court case, the court convened on some country that was considered so important to the Noongar people that they wanted the court to convene on this piece of land so that they could talk about the importance of country and how important this particular piece of country was in practising their culture. That piece of land is now subject to the Roe 8 construction process. On the one hand, we acknowledge the importance of country and culture and sacred sites and so forth, but, on the other hand, we are about to construct a highway right across this country. The irony should not be lost on us when we look at these things.

Perhaps the team that the Premier had negotiating some of these things need to be put in charge of other aspects of government policy because it is clear that this group of public servants has got it and other groups of public servants are so behind in modern thinking about how we deal with these things that we find ourselves in these circumstances.

Under this agreement, I understand that the South West Aboriginal Land and Sea Council is proposed to be recognised as the central service organisation. The central service organisation is, of course, that charged with implementing a lot of the community development programs and outcomes that result from the native title agreement. I also want to draw Parliament's attention to the fact that the South West Aboriginal Land and Sea Council has had over 50 per cent of its funding cut since the agreement was made. This organisation is under extreme pressure. One of the cruel aspects of the Native Title Act is that native title representative bodies are funded by the commonwealth government to determine whether native title exists and to reach native title outcomes. The great irony is that the commonwealth then devolves itself of responsibility for funding or, as the Premier pointed out previously, under the last two federal governments, it is responsible for funding parts of the compensation packages associated with it. Native title groups find themselves with native title but are then unable to access any funds to enjoy those native title rights. I think there is an obligation on the government to not only reach agreement on native title matters and other matters that relate to this agreement, but also bring

resources forward so that the South West Aboriginal Land and Sea Council can realise its role as the central service organisation. This is an important part of the process. It is no use reaching an agreement if they cannot then implement that agreement in a manner that upholds their role as one of the partners in that agreement.

It has been pointed out to me that there has been no funding, for instance, to the land council for its authorisation meetings. I have heard conspiracy theories that there was a view in government that it would prefer the agreement to fall over rather than succeed and that is one of the reasons the authorisation meetings were not funded by the state government. I do not believe those conspiracy theories but that is something that was put to me. I ask the Premier whether he could clarify what role he sees the state government playing in providing resources so that the South West Aboriginal Land and Sea Council can realise its role as the central service organisation, and what ongoing resources will be made available until the organisation can use other forms of revenue and streams of income. As I have said, we have often seen people around the country achieve native title but then they do not have the resources to enjoy that native title. It would be a great pity if we get to this point of passing this important legislation and having the native title agreements ratified by the tribunal in the Federal Court only to see all this goodwill undermined by the ongoing tension between the parties to achieve best outcomes. I think it is important that we make sure that SWALSC can provide that role because getting to this point has been a superhuman achievement for SWALSC.

As I said earlier, this is an incredibly important process and the single most important thing this government can do. I want to ensure that we secure the benefits of this agreement and that we can now move forward to secure those benefits and make sure that the Noongar community can realise them. This is a comprehensive package that, although it surrenders native title, secures all kinds of other economic, cultural and material benefits. It is a complex package—by its very nature it has to be complex—and resources have to be made available for them to achieve the result. It is a very respectful piece of legislation.

I have said in this place before—I will take advantage of the fact that Mr Speaker is currently in the Chair—I join the member for Mandurah in calling on the Parliament to fly the Aboriginal flag on the flagpoles of Parliament House, as is done in every other house of Parliament in the country, to acknowledge our recognition of Aboriginal people, as we are doing in this legislation today. As a sidenote, we should also each day acknowledge the traditional owners of the country. As we commence the day's proceedings with a prayer, we should also do so with an acknowledgement of country.

I place on record my absolute admiration for the Noongar people for achieving this extraordinary outcome, and congratulate the people who have worked in that organisation who, against all the odds, have managed to achieve this great native title settlement agreement, and I look forward to them realising the benefit of this agreement through ongoing resources and capacity and to continue to take the Noongar nation forward.

MR T.K. WALDRON (Wagin) [4.21 pm]: I rise to make a relatively short but extremely genuine contribution in support of the Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill 2015. The Noongar people are the traditional owners of the south west land—there is no doubt about that—and this bill gives recognition to that. I say well done to the Premier and to everyone involved. The member for Kwinana mentioned the South West Aboriginal Land and Sea Council with which I have had quite a bit to do over the years, and all the Noongar clan groups. I did not attend the meeting, but I spoke to many groups in my area who said that the process has been long and sometimes hard. But here we are today, and it is a wonderful thing. There is no doubt this bill is extremely important to our Noongar people and will provide certainty going forward. I think it will create lots of opportunities for not only our Noongar people, but also all Western Australians. It is a really good thing.

The Wagin electorate that I represent covers around 73 000 square kilometres of land that is under this agreement. A lot of Noongar people live right across that area. I have lived in this area over my lifetime and have been fortunate to have had strong links to and associations with Noongar people ever since I was a little kid. It has probably helped me in my life. Dad always employed local Noongar guys in the Kojonup area where we farmed. I think he liked to employ them so that he could get them to play football as well, because they were outstanding footballers! My dad and mum had really strong relationships with the Noongar people. I remember that my mum, in the late 1950s, did a lot of work with Aboriginal women in our area, particularly with mothering and birthing and those types of things. It was a really good experience for me. I attended a little school at Jingalup, where quite a large number of Noongar kids attended. I was very friendly with two kids, who I would like to remember today, Michael Cox and Wayne Daly. Wayne was heavily involved in Aboriginal movements. Unfortunately, they have both passed on. We were the same age. I am 64, but Wayne passed away in his mid-50s and Michael passed away last year. I always remember them because they were very good at sport. I could take it up to them a bit with cricket and footy, but not when it came to marbles! I do not know whether any other members went to school with Noongar kids, but when it came to doogs they used to clean us up all the time! My relationship with those kids through sport helped me understand Noongar people better in my own area.

I want to mention sport. As members know, I love my sport and sport is one thing that has really helped not just Noongar people but all Indigenous people. In my area, sport is probably the main thing that has helped reconciliation with Noongar people and for us to understand the Aboriginal culture better. It has played a huge role in the local area, particularly around Narrogin, Kojonup, Katanning, Wagin and those sorts of areas, where there are highly respected Noongar sportspeople right across that area. I am glad that sport contributes in that way.

I also remember the early years when there was racism; there is no doubt about that. I remember the native reserve in Kojonup. I remember as a kid—I could never understand it—going out with my dad to pick up people to work at the farm. I remember asking dad why they lived up there in funny little houses. I did not quite understand it, but as time went on I got to understand it. If members ever attend The Kodja Place in Kojonup, which is a wonderful facility on the main highway, they will see that it has a replica of the little buildings the Indigenous people used to live in on the Kojonup reserve. That reserve was still there when I was playing cricket as a teenager. Thank goodness it is no longer there. That was part of life in those days; there was a segregated bar for the local Noongar people. When I think about it, it was ridiculous, but that is the way it was. We have come a long way and I congratulate everyone who has brought us to where we are today. What we are doing today is a huge step and I again congratulate the Premier.

I want to mention a couple of issues in my electorate, where some good work has been done. I mentioned The Kodja Place because the process to establish it is the one thing that I have seen in my home area that represents genuine reconciliation and genuine recognition of Aboriginal people. That brought together the local Noongar people, the traditional owners locally, with the huge Italian community and, if you like, the white Caucasian community. The process of getting The Kodja Place together, the building works and programs, has made a lot of white people in that region recognise the full worth and talents of and to learn the culture of Aboriginal people; and vice versa, I think it has given the local Noongar people a better understanding of how our society works. It has been a great thing.

I want to mention Jack Cox, who I think is 81. Jack Cox is a legend of our area. If members go to The Kodja Place, they will probably see Jack; he does a bit of Aboriginal cooking and takes people for walks et cetera. Jack is featured in George Stewart's book. George Stewart used to take his famous boxing troupe to the shows, and Jack Cox used to fight in George's boxing troupes. He was a state champion and, had Jack gone on, he would have had a great career. He is a terrific bloke and a leader of not only the Noongar people in Kojonup, but also the whole community.

One of the great things that has happened is the return of the Carrolup artworks. Carrolup was a mission where children of the stolen generations were taken. It is located between Kojonup and Katanning and I remember travelling there with my mum when she provided mothering services there. I never knew about the Carrolup art until it was rediscovered at a university in New York.

Mr B.S. Wyatt: It was Colgate University.

Mr T.K. WALDRON: I should remember Colgate because it is the toothpaste! The return of that artwork has been a wonderful thing. I have been to a few functions at Carrolup, and recently I met a lady who I went to school with at Jingalup, which I talked about before. I never knew until the other day that this lady had been through Carrolup. It is amazing to see where those people are now, knowing where they have come from. The return of that artwork has made a lot of local people recognise what happened in the past, which is poignant. If ever members get a chance to see the art that those young Aboriginal boys did at Carrolup in the 1940s and 1950s mainly, they will see that it is absolutely outstanding. It was bought by someone and ended up at Colgate University. It was found stored away in boxes where it had been for years. It is now back in Western Australia, which is a wonderful thing, and it means a lot to those local people.

We talk a lot about multiculturalism. In Katanning, which is major centre in the electorate I represent, Noongar people have always played a big role. It is interesting that Katanning is probably the most multicultural place outside of Perth because of the influx of people from other parts of the world, starting way back about 40 years ago when the Cocos and Christmas Islands people came with the opening of the abattoir. Multiculturalism has brought together the town of Katanning, which I can remember being a very split town. The people of Katanning are now proud of their town and embrace multiculturalism. The Noongar people have played a big role in that important change in our region.

I would like to close by saying that I have been lucky. Over the years I have learnt a lot from Noongar people and I am proud to think that I have been able to help a lot of Noongar people. This bill, which gives them recognition, is a great thing. I say well done to the Premier. From a government point of view, he has led this, and it would not have been easy. I congratulate him for that. I hope that we can continue to work closely with the Noongar people and all Indigenous people. I am confident that we will, because I think that most people in our community have a desire to do that. I look forward to being more involved. With that, I say, well done. I support the bill.

MS J.M. FREEMAN (Mirrabooka) [4.31 pm]: It is an honour to speak to the Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill 2015. I acknowledge the traditional owners of the land on which this Parliament stands, the Whadjuk people of the Noongar nation, and their elders past and present. I thank the previous contributors to the debate, in particular the member for Kwinana who from his previous work has a very good understanding of native title and reconciliation. Like the member for Kwinana, I also congratulate and thank the South West Aboriginal Land and Sea Council, in particular Glen Kelly, Carol Innes and all the people in SWALSC for the amazing work they did, along with the government, to bring this bill to fruition. I congratulate the government for bringing this bill to the house, because it is something we should be very proud of.

In preparing for this debate, I got hold of a copy of *It's Still In My Heart, This Is My Country: The Single Noongar Claim History*. I recall that in 2009 every member received a copy of this book; I certainly got one. I could not find my copy but I know I have received one. I probably took it home and it is sitting on a bookshelf somewhere. The book was written by John Host and Chris Own and released in 2009 and is based on the South West Aboriginal Land and Sea Council Single Noongar Claim. I will quote from it extensively in my contribution to this debate.

I note that the Noongar nation is made up of a number of different groups: the Amangu, Yuat, Whadjuk, Pinjarup, Wardandi, Ballardong, Nyakinyaki, Wilman, Wirlomin, Ganeang, Bibulmun Mineng, Goreng, Wudjari and Njunga. The member for Kwinana put it so well when he said that bringing all of those groups together in one claim is worthy of our praise. I understand that this is an Australian first because it is the only claim that has ever been resolved in a metropolitan area, and the Western Australian Parliament should be proud that it has managed to do that. As the member for Kwinana rightly pointed out, this bill will be a well-studied document in the settlement of native title claims and in delivering a native title agreement. I understand that six Indigenous land-use agreements will be entered into with the Noongar people. This bill before us is part and parcel of the agreement and the settlement with the Noongar people. That will also include the Noongar boodja trust, the Noongar corporations, the Noongar land estate, the cooperative and joint management of the south west conservation estate, land access, Noongar standard heritage agreement, Noongar heritage partnership agreement, the Noongar housing program and economic and community development capital works program and a Noongar land fund, all of which are testament to the great work done by the South West Aboriginal Land and Sea Council and the government, but mostly by the Noongar people. I quote from the book —

The resilience of Noongar people with their strong familial networks coupled with their traditions, laws and customs is responsible for their strength.

Those strong familial networks remind me of an elder who lives in the area that I represent, Doolan Leisha Eatts, who I have spoken about in this Parliament many times. I remember Doolan Leisha telling me about Wally, her husband, and his search for his family and whose mother was part of the stolen generation. Doolan Leisha said to him, “You know, Wally, I’ve never known an Aboriginal person not to have a big mob, and you’ll find yours.” That trust in family, in familial networks and in people, that feeling of belonging, is what this bill before us is all about. The need to belong is one of the many hurts that the Noongar people have felt living on their land since colonisation. It is a heartfelt need of all humans, but particularly for Noongar people whose identity is so strongly tied to familial networks. This recognition bill and previously the changes to the Constitution speak very much to that feeling and need to belong.

I have told this story before, but I will repeat it. I took Doolan Leisha Eatts to the garden party at Government House for the Queen’s visit. I thought that taking her was something that I could do for her, out of respect, so that she could meet the Queen of Australia, not necessarily of Noongar country. While we were standing there, Prince Phillip came up to her and said, “Oh, hello, and what are you doing here?” She responded quick smart, straight off the bat, with, “I belong here. This is my people’s land”, to which his startled reply was, “Oh, well, thanks for loaning it to us.” To the delight of the surrounding crowd, she pointedly and quickly responded, “We didn’t. You took it.” I marvel at her wit and ability to look past so many hurts and issues. She knows who she is and how strongly she feels. Her presence of mind comes out through that story. That good-natured interchange summed up for me that our perspective on this still comes from afar. When we look at this land, we are still looking at it from afar. Our history has the illusion of starting somewhere else, in Britain, with the Queen, instead of potentially being rich and rewarding if we were only to embrace and celebrate this nation’s first people and their inherent sovereignty of this land. I am referring not to a foreign sovereign, but a people’s sovereignty.

During a question and answer debate at a recent housing conference hosted by Tony Jones, Mick Gooda, the Aboriginal and Torres Strait Islander Social Justice Commissioner, was asked whether the sharing economy would be able to meet the needs of homeless people. The sharing economy includes Uber and Airbnb, which is using this model to design a new way of finding spare rooms and sharing them with homeless people. Tony Jones asked the other panellists about the sharing economy and whether it could be used as an effective

tool to tackle homelessness. Tony Jones turned to Mick Gooda and asked what he thought of the sharing economy. Mick Gooda looked at him and said, “Our mob has been sharing forever. We know that economy; it is our economy we’ve been sharing.”

That was to the delight of everyone in the crowd who laughed and enjoyed it. Again, it shows that capacity for wit and the capacity to share with us, the wetjala, this aspect of a culture which, frankly, we did not want to know about when colonising the country, and that we still have not necessarily embraced as our own. This bill before us is part and parcel of embracing it as our history.

This legislation before us disguises the many years and work that have gone into getting it to this place. The bill recognises the people who owned this land before the British settlers came to establish the Swan River Colony. Captain Stirling, having convinced the Crown that the soil was fertile, argued for the colony. I understand that previously people had looked at the land and said, “No, it’s pretty sandy soil.” Then Captain Stirling came, went along the river, did not get far out of the boat at Ellenbrook and found fertile soil. I understand this took place in 1827. He went back to Britain and petitioned the Crown to establish the Swan River Colony. I could not find a copy of the story but I have heard that it was called the “Swan River Land Development Corporation”. I am not entirely sure about that. When I asked the education officers to clarify that for me, they said that they were not particularly sure but they do know that when he came, the land was divided into long strips with the idea of selling it to the younger sons of the landed gentry. We all know that in Britain during that period the first son in such a family got the land, the second son went to the military, the third son went into —

Mr C.J. Barnett: The church.

Ms J.M. FREEMAN: Yes, he went into the church. The fourth, fifth, sixth and seventh sons—for example John Septimus Roe was a seventh son—had to go out and find their wealth in the world. When the Swan River Colony was first established, the idea was to divide the land into strips so that they would have an estate.

Mrs G.J. Godfrey: The reason for that was so that each had river frontage.

Ms J.M. FREEMAN: There we go! I thank the member for Belmont; it was so that they would have river frontage. They would not want an estate without river frontage, would they?

Mrs G.J. Godfrey: It was to set them up.

Ms J.M. FREEMAN: Is it not true, though, that if we were going to set ourselves up in an estate, of course we would want river frontage?

Mrs G.J. Godfrey: They had to get access for transport on the river.

Ms J.M. FREEMAN: That is true too. Okay, I will give that to the member as well; it was not just because they were the landed gentry and wanted the views! Obviously that did not come quite as easily to some people. I note that the British military established an outpost in 1826 at King George Sound. When Captain Stirling went back to Britain to petition the Crown, he said that it would not cost anything to develop the colony. That is because at that stage the New South Wales and Victorian colonies were costing the Crown a bit.

While talking about King George Sound, I must say that I was captivated by the remarkable capacity of Kim Scott in his book *That Deadman Dance* to take the reader back to that time in King George Sound. He illustrated what could have been a remarkable history of collaboration and development, with Aboriginal people sharing their knowledge of the land and the sea that was so rich with whales and the bounty it brought to the settlers but it was not enough because disease, drought and racism overcame the rich potential of that era. While we are talking about opening up the Swan River Colony, I note that Captain James Stirling was predisposed to doing that as he was related to the leaders of the British East India Company and could see the potential for the Indian Ocean trade.

As I said, this bill before us does not indicate how long it has taken to get to this place. The South West Aboriginal Land and Sea Council lodged the Single Noongar Claim on 10 September 2003. The book *“It’s Still In My Heart, This Is My Country”: The Single Noongar Claim History* is based on evidence given by the claimants in 2004 and 2005. The book and the claim establish that the rich heritage and history are unknown to many, including me, a seventh generation Australian. My family arrived on the *HMS Drummoyne* in 1831, and would have settled on some of that land carved up for settlers who came here for a new life. What a loss it is to not know that history for someone like me; I have no other history than being a seventh generation Australian. I work with a lot of people who have come from all over the world as newly arrived Australians and their multicultural heritage and history frames who they are. I am framed as a seventh generation Australian by a post-colonialist history without a good knowledge of the Aboriginal history of the area to which my family came to live. Unlike the member who spoke previously about that, I grew up in a city. There were Aboriginal kids at school, but there was no recognition of them and no discussion of their history. I have said in this place

before that in fact we were taught more about apartheid in South Africa than about our own history and Aboriginal people.

As outlined in the book, the early histories of WA were produced by a variety of men but were predominantly narratives of colonial achievement. The book details how the early histories were for the promotion of the sale of land, and how they referred extensively to Aboriginal people but always in terms of their relevance to colonial development and the capacity to use them to develop the land—not as in employment as such but more as a resource. The book then goes on to illustrate how this changed in further histories, so that Aboriginal people had to be dealt with as “a problem” when they questioned authority. That certainly came through in *That Deadman Dance* by Kim Scott. He illustrated how the early settlers in King George Sound worked with Aboriginal people to set up a whaling industry, who showed the settlers where the whales migrated through the sound. Then they worked with them to establish sheep stations. But, again, when drought and famine came to the area and Aboriginal people could no longer provide food for themselves, they started to take squatters’ sheep. The ramifications of that were that Aboriginals came to be seen as “a problem” and massacres ensued.

[Member’s time extended.]

Ms J.M. FREEMAN: *That Deadman Dance* eloquently illustrates that decisions were made during pivotal periods to include Aboriginal people as part of society, and then they were excluded as “a problem”.

The preface to *“It’s Still In My Heart, This Is My Country”*: *The Single Noongar Claim History* outlines the flawed nature of some of the anthropological work until recently on the Noongar people. The studies assessed them as a dying race and were driven by ideological perspectives of assimilation policies and views based on “problems”, not people, focusing on reducing the conflict of people aggrieved by the removal of land and the killing of those people. The book highlights the recent anthropological work that concluded that Noongar culture is multifaceted, diverse and maintains a structural integrity all of its own.

Justice Wilcox made a determination in the case of *Bennell v State of Western Australia*—the Noongar claim—after taking evidence at Towerrining Lake on 19 October 2005. In his determination that there was a native title claim, he noted —

- the most notable feature was the surprising proportion of the witnesses who claimed they still continued to hunt and/or fish, either for themselves or in order to teach their children or grandchildren, ...

He went on —

[I]n carrying out these activities, the witnesses strive to follow traditional laws and customs and ... many of them ... are actively teaching their skills, and those laws and practices, to younger members of their families ...

That is certainly my experience. In fact, strangely enough, I am aware that happens in the community I represent. I represent around 1 200 Aboriginal people in the Mirrabooka community from a total surveyed population of about 41 705 Aboriginal people, which is about 2.9 per cent of the electorate. The proportion of Aboriginal people in greater Perth is about 1.6 per cent, so the proportion of Aboriginal people in Mirrabooka is a good 1.5 per cent above that average. Working with Aboriginal leaders in the area, I know they strive to teach and follow some of the traditional laws and customs. It is a responsibility and a joy they take on to equip young people and that is certainly evidenced by Len Yarran and Shane Garlett of Wadjak Northside Community Group. As they tell me, they take “young fellas” out to country to demonstrate how they belong and the strength of that knowledge in their hearts. That capacity to belong and knowledge of country can give them resilience in their day-to-day lives in the city. I am sure that there are a few kangaroos killed for tucker.

I was extraordinarily proud just last week, on Wednesday I think, when the Minister for Aboriginal Affairs came to Balga to attend the opening of the Wadjak Northside Community Group building. Alongside Balga Senior High School, this group of people has been working with young people to equip them with tools for life around education, resilience, compassion for other people, recognition of their culture and pride in their culture. It was great being there when the Minister for Aboriginal Affairs came and the young men taught Aboriginal dance by Len and Shane predominantly, but other people as well, went out the back of the centre where there is a large corroboree area—a decorated sanded area—and danced in celebration of the opening. It was so heartening and such a beautiful thing to witness when afterwards Len Yarran spoke of his vision for the Wadjak Northside Community Group and the building, and the work it wants to do.

The Premier would be aware of this organisation because in 2014 it won a Premier’s Award for working with the City of Stirling on cultural orientation and the Mooro Country tours. I took one of those when they were first established and it was amazing. I was taken to Lake Gwelup, which I grew up near. I grew up in the Innaloo–Karrinyup area. The suburb we lived in changed its name over the years and is currently called Karrinyup, but it is not far away from Lake Gwelup. I used to go there as a young 12-year-old and have a sly

cigarette when we were not supposed to, and there I was going as an adult and being taught about the most amazing history around Lake Gwelup. I found it had been a hunting ground and different parts of it had been birthing areas. When there were slaughters of Noongar people in the area of the city, I think probably in the area of Kings Park, but I am not entirely sure—history has been written on this—they sought refuge in Lake Gwelup. They would go to Lake Gwelup from the sea at certain seasons, when it was not a season to be near the ocean because of the cold and wind. They went back to Lake Gwelup as it was a water source.

As we all know, because we have all seen the painting upstairs, Noongars have six seasons, not our four, and those seasons determined when they moved. That was an amazing experience. I reiterate that I find it amazing that I am a seventh generation Australian who is 50 years of age and I only started discovering these things at age 49 years. I hope this bill opens up this whole history. I went to Lake Gwelup as a kid, and to know that it has this rich past and history and that other people belonged to the land must frame our society and give it a different textural context for the future. Hopefully this bill will give this different texture and a capacity to move into the future with a shared history, not a separate one.

In Justice Wilcox's determination, he found that the evidence showed overwhelmingly that the Noongar people shared spiritual beliefs, which included feeling good or safe on their boodja because of the presence of familiar or friendly spirits or the description of spirits; ways of getting rid of unfriendly spirits, especially before fishing or hunting; places to avoid, regardless of cleansing, because of bad spirits; and creation stories for particular country, spiritual totems and wagyls. This is certainly borne out in the stories that Doolann Leisha May Eatts has put in her book *Doolann: our country, my Nyungah home = ngullah boodjah ngaadj Nyungah myah*. She writes about her experience growing up as a Noongar, but she also has at the back of her book some of the stories that her grandmother passed on. There are other stories in "*It's Still In My Heart, This Is My Country*" that people's grandparents passed on to illustrate some of the teachings and some of the things that need to be known about living on the land. Both books are in the Parliamentary Library. The member for Belmont is reading Doolann's book at the moment. I have a copy that I will bring her and the member for Victoria Park. If anyone else wants a copy, I have signed copies I can bring in to make sure that Doolann enjoys her story being shared throughout the Parliament.

Justice Wilcox also found on evidence that there was a common language in the south west. The same Noongar language that was recorded at King George Sound by Matthew Flinders in 1801 and Phillip King in 1821 was being spoken by Noongar people in oral histories recorded in 1998. As I said, the journey to this bill has been a long time coming and the respect shown by Justice Wilcox was rejected by the state and federal government in their appeal and the subsequent High Court judgment, which referred the claim back to the Federal Court for a re-hearing to establish whether observance of the laws and customs had continued substantially uninterrupted.

As so aptly put in the book "*It's Still in My Heart, This Is My Country*" —

... the more scars colonialism leaves on Aboriginal groups the less likely a determination of Native Title will be made and upheld.

The more difficulty brought on by colonialism, the more difficult showing uninterrupted laws and customs would be. It is with a heavy heart that I also acknowledge the role that the Labor government of the time played in this and note that the end of the preface to the book serves as a lesson to me and my colleagues. It states —

At the time of writing, —

The book was published in 2009 —

the issue of Native Title in the South-west remains unresolved although positive signs have emerged with the newly elected Liberal-National State Government of Western Australia indicating they will adopt a more conciliatory mediation based approach to native title.

In December 2009 the WA government entered into a heads of agreement with the South West Aboriginal Land and Sea Corporation to commence negotiations. This government should be congratulated for that. We on this side have a heavy heart that we did not do that. I was certainly outside protesting when the state government sought to appeal Justice Wilcox's determination. There is a picture in the book, but I cannot see myself.

In closing, I think we have moved this far, and there is not much further to go to fly the flag of the Aboriginal people of this community outside this house, because the land on which we stand is Noongar land—always was and always will be.

It is only appropriate that each day we acknowledge the Aboriginal people and their elders, past and present. I congratulate everyone on bringing this matter to fruition. They should be very proud of themselves. I will put this book back in the library so that it is available. It is a very good read and gives us a context of the history and the anthropology and refers to Daisy Bates and the damage she did and how she treated Aboriginal people in this

area. It contains really great stories, such as the Lilly Hayward story, which I have not had a chance to talk about which, most importantly —

... reveals the Noongars as industrious and enterprising people.

Let us celebrate Noongar people; let us celebrate this Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill 2015.

Debate adjourned, on motion by **Mr J.H.D. Day (Leader of the House)**.