

**SWAN AND CANNING RIVERS MANAGEMENT AMENDMENT BILL 2014**

*Consideration in Detail*

**Clauses 1 to 3 put and passed.**

**Clause 4: Long title amended —**

**Mr C.J. TALLENTIRE:** Clause 4 summarises what is wrong with this amendment bill. The amendment entirely changes the role of the Swan River Trust by relegating it from its former function to an advisory body. Until the legislation passes, the Swan River Trust has planning, protection and management functions of the Swan and Canning Rivers and associated land. The government is proposing to change that role to an advisory role, so that the legislation will refer to the establishment of a trust to provide advice and perform other functions. That is a serious relegation of the trust's responsibility. In his response to second reading contributions, the Minister for Environment claimed that this is a machinery-of-government change. The minister needs to be honest with us and say that he is seeking to relegate the role of the Swan River Trust. There is no way that he can pretend that this is simply a machinery-of-government change when the government is reducing the capacity of the trust from a planning, protection and management function to simply the provision of advice and the performance of other functions. I would be happy to hear the minister explain how that is not a relegation of the functions of the trust. The minister has to be honest with Parliament and the people of Western Australia that he is seeking to relegate the functions of the trust. He needs to say that; please do not dress it up as a machinery-of-government change. It is a serious relegation of the capacities and responsibilities of the trust.

Let us look at the detail of it. The minister is taking away the trust's planning capacity; that is, its role to make planning decisions around the Swan and Canning Rivers. Surely the minister has seen the advice of eminent scientists in the field and eminent town planners. I well recall the words of Dr Wally Cox, a former chair of the Environmental Protection Authority, who said that to protect the environment we have to be in the planning area; we have to ensure that we have the capacity for environmental advice to inform planning decisions.

Dr Cox was referring to issues right across the state, but I think he would have agreed that for the process designed to look after the Swan and Canning Rivers, we had put in place measures to involve quality environmental science in the planning process, yet the minister is striking that out. He is striking out from this legislation a capacity for the Swan River Trust to be involved in the planning process. He wants the trust to simply provide advice and perform other functions instead of it being for planning, protection and management functions. That is a dramatic change. Planning is a very powerful driver of environmental standards in this state. If we do not have good, well-informed planning decision-making, we are leaving ourselves open to the very problems that caused the decline in the environmental health of the river in the first place. Planning is at the heart of good environmental decision-making. The minister must provide us with an explanation of why he has made this decision to strike out from the core of the act, through this amendment to the long title, the Swan River Trust's capacity to engage in all manner of planning decision-making. It is essential that the view of the Swan River Trust inform those decisions made by the WA Planning Commission.

**Mr A.P. JACOB:** I suppose, in a nutshell, the long title summarises essentially what this bill seeks to do, and that is correct. It is important to clarify that the role of planning, protection and management of the Swan Canning Riverpark absolutely will continue, and it will be operationally delivered through what will be the merged single conservation agency, the Department of Parks and Wildlife. Essentially, this change shifts the trust board from a body that oversees the direct operational function to one that has more of an advisory role.

**Mr C.J. TALLENTIRE:** The minister is saying that the board will have some sort of oversight capacity, but the minister has to come clean with the Parliament and say that previously the Swan River Trust had the capacity to provide advice to the WA Planning Commission, and that had to be heard. Now the Swan River Trust could only ever do that via the chief executive officer of the Department of Parks and Wildlife. That is not independent advice. Can the minister see that point?

**Mr A.P. JACOB:** To go directly to the planning and development side, in the first instance the Swan River Trust will still have the function under the metropolitan region scheme to provide binding advice on developments abutting the development control area, and that will still be able to be provided direct to the WAPC. So that remains. But I am not for any second trying to pretend that this bill means no change. Of course it means a change—that is the entire point of it—and it is a machinery-of-government governance change. I think what the member is getting at is, in a broader sense, the part 5 developments. That advice will go to the CEO in the first instance, and that advice will ultimately come up to me, as minister. Operationally, and as a functional process, that advice will still be available on the public record from the Swan River Trust board, and that advice from the Swan River Trust will form a part of the advice that comes up to me, as minister, as well. In a large sense, there is not really a significant change in how that functionally operates.

**Mr C.J. TALLENTIRE:** Is the minister suggesting that the CEO will decide on the advice that the Swan River Trust provides to the WAPC?

**Mr A.P. JACOB:** No, the Swan River Trust will still provide advice direct to the Western Australian Planning Commission.

**Mr C.J. TALLENTIRE:** I thank the minister for that. How many people are on the Swan River Trust board at the moment?

**The ACTING SPEAKER (Mr P. Abetz):** Members, for the purpose of the debate, when you ask a question, please resume your seat. If you do not, it makes it difficult for the camera people in terms of whom to focus on for the record. So, once you have asked a question, would you resume your seat, and then I will call the minister, and we can go that way.

**Mr A.P. Jacob:** Please ask that again.

**Mr C.J. TALLENTIRE:** How many people are in the Swan River Trust? But that is not the real issue here. Who provides them with the quality advice that they need to be able to make strong submissions to the WA Planning Commission? The fact is that those staff who were previously directly engaged by the trust will be no longer in that position. They will be shifted over to a major agency, the Department of Parks and Wildlife, and all their reporting will be to the CEO—that is, the director general of the Department of Parks and Wildlife. They will take all their instructions from the Department of Parks and Wildlife. The minister is saying that there will be some capacity for those 12 or so members of the trust to provide advice to the WAPC, but the minister has to acknowledge that those people are employed part time; I do not think any of them are full time.

**Mr A.P. Jacob:** No, there is very strong planning capacity on the Swan River Trust board.

**Mr C.J. TALLENTIRE:** They are not full-time employees on the Swan River Trust board; they are people who hold other jobs. They will not have the capacity to develop strong submissions in the same manner that they were able to do when they had staff who were able to work on projects for them. Sixty staff were working directly for the trust. The minister will remove those 60 staff and put them in the Department of Parks and Wildlife, and they will now report to the director general of the Department of Parks and Wildlife. That is an enormous reduction in the capacity of those board members to make strong submissions to the WAPC. What will the minister do to ensure that the trust has the capacity that it previously had of 60 professional full-time officers who were paid as public servants under the Public Sector Management Act? Sixty people in that position were providing excellent quality work. The minister has removed that entirely, but he is saying that the trust will still be able to provide material of the same quality to the WAPC for its assessment and decision-making.

**Mr A.P. JACOB:** In the first instance, I will address the capacity of the Swan River Trust board. It has eight members. That answers that specific question. We have ensured that there is very strong planning capacity within the board itself. Some of the board members, in and of their own right and in their other jobs, have extremely high levels of planning capacity. That has been an inclusion on the board and that will continue in the way that we set up the board. As to the staffing support that is provided, currently the staff are already under the Department of Parks and Wildlife employing authority, but effectively they are employed as part of the Swan River Trust as an agency. By no means are all those within the planning area, and there is no loss of staff in this legislation. It is simply a bringing together of those two departments. In terms of the overall planning capacity, it would be enhanced through this move because some very good capacity is currently contained within the Department of Parks and Wildlife.

**Mr D.J. KELLY:** I have listened to the responses that the minister has made to the member for Gosnells, and he will forgive me if I am not convinced that he has not watered down the planning function that the Swan River Trust has by the amendments in this bill. On the face of it, the minister has changed the Swan River Trust from an organisation that has planning, protection and management functions to an organisation that simply provides advice and performs other functions. The plain face of that change is quite dramatic. If we look at how the act will read if the amendments are made, I cannot see that the trust's planning functions will continue to be part of the long title of the bill. Even the word "protection" is taken out of the long title of the bill. When the powers of the Swan River Trust are to be interpreted into the future, if ever there is a dispute, as there sometimes is, people will come to the long title of the bill as part of the way the rest of the bill is to be interpreted. Reference to planning, protection or management functions have been taken out of the bill and the minister has replaced that simply with a really weak reference to the trust providing advice, which is a very weak term. Then the minister has simply added in, "and it will perform other functions". We could not get a more general term than "other functions".

One of the questions a number of people raised in the second reading debate was where the idea of these changes came from. I think in the minister's reply he talked about it coming from the Australian Labor Party's platform. He cannot seriously suggest that he drafted these amendments based on the Labor Party's platform. Maybe the

minister could, in order to allow us to make sense of this amendment he made to the long title, give us comfort by telling us what the background of this bill actually was. Where did the idea for the alterations to the trust come from? The suspicion that we have on this side of the house is that it came from those people who wished to have the Swan River Trust relegated to a minor body instead of it being a strong, independent body with the ability to stand up for the Swan and Canning catchments. By changing the long title in the way the minister has done, it appears he has taken all the guts out. The trust was to have planning, protection and management functions. The minister has replaced that with the trust just giving advice and having other functions. If the minister wanted to be seen to be watering down the role of the trust, he could not have drafted a better amendment.

I am not convinced by the arguments the minister has put up to the member for Gosnells that this legislation does not reflect the general watering down of the role of the trust. But I specifically ask the minister to try to give us comfort. Can he tell us where the motivation for this amendment came from? Was it within the trust? Was it within the Department of Parks and Wildlife? Where, in fact, did the motivation for these amendments come from?

**Mr A.P. JACOB:** As I said in response to the member for Gosnells' question, the clause we are discussing fairly succinctly summarises what the government is seeking to do here. It is by no means a diminishing of those functions; they will simply be operated out of two separate areas. The planning, protection and management functions will continue and they will be done as a part of the broader dedicated conservation agency of this state. In answer to the question about some of the other functions that the Swan River Trust will be performing, one will be policy development. The trust will be developing policies for the protection and enhancement of ecological and community benefits and amenity; establishing targets for ecological and community benefits and amenity within the riverpark; preparing and dealing with strategic documents; advising the CEO of the Department of Parks and Wildlife on matters relating to development; advising the CEO of the Department of Parks and Wildlife on promoting the activities of other bodies having functions in the catchment affecting the riverpark; reporting to the Minister for Environment on the state of the development control area and the development on and adjoining the development control areas; providing advice to planning authorities so that proper provision can be made in planning schemes for reservation of land; and providing advice and promoting public education on matters relevant to the functions.

**Mr D.J. KELLY:** I am sorry I asked the minister a specific question around what the motivation or the genesis of this bill is because, on the face of it, it looks as though he is significantly watering down the protection of the Swan and Canning River catchments. People see the Swan River Trust as an independent body. Its people get up in the morning and know that their sole responsibility is to take care of those catchments. People see that the minister, by doing what he is doing with the Swan River Trust, is watering it down. One of the questions that people want to ask is: where did the idea for these amendments come from? Where ideas come from tell us a lot about what the motivation was based upon, and how it will be interpreted into the future. In answering my last question, the minister just jumped up to read out a list of duties or functions that will still be held by the Swan River Trust, but I asked him a specific question about where the genesis of this bill came from. Was a review done by the Swan River Trust, and did that review recommend that it be restructured in this way? Was a cabinet subcommittee set up to determine how best to protect the Swan and Canning River catchments? Was a review done by the Department of Parks and Wildlife? Was there a representation from a community group concerned about the protection of the Swan and Canning River catchments? Was there lobbying by persons with a financial interest in the development of areas around the Swan River?

Legislation comes to this place having been brought to government from a range of sources, and all we are asking is that the minister tells us what the genesis of this legislation is based upon. If he does not tell us, people will then think the government has something to hide, and that will encourage the concern that is generated when we look at the amendment to the long title of the act. People who think that he is actually watering down the protection for the Swan and Canning River catchments will think, "Well, if the minister who has brought this to Parliament won't answer a simple question like 'Where did the idea for this come from', then whatever he says about not wanting to water down the protection for the catchments we can't really trust him on, because he's not willing to be honest and up-front about where this legislation came from." It would help us understand why the minister is amending the long title in the way he proposes, if he would just be honest with the Parliament and tell us where this legislation came from.

**Mr A.P. JACOB:** I know the member for Bassendean is new to this place, but he is largely seeking to go back over things that we covered in the second reading debate, and I did actually respond to those concerns that he had raised in the second reading debate.

**Mr D.J. Kelly:** This is consideration in detail!

**Mr A.P. JACOB:** Exactly! He did ask the question about where the legislation came from. As I outlined in my response to the second reading debate late last night, I noted two key areas. One, I noted with interest, was part of the WA Labor policy platform going in —

**Mr W.J. Johnston:** No, it isn't; that is not true.

**Mr A.P. JACOB:** Yes, from 2011 it actually is, and the second part, as I clearly said —

**Mr W.J. Johnston:** Do not make false statements in the chamber.

**Mr A.P. JACOB:** One of our first commitments in our own biodiversity and conservation policy was that we would create a stand-alone, dedicated —

**Ms R. Saffioti** interjected.

**The ACTING SPEAKER:** Member for West Swan, I call you for the first—whatever time!

**Ms R. Saffioti** interjected.

**The ACTING SPEAKER:** Member for West Swan, I have called you to desist!

**Mr A.P. JACOB:** Mr Acting Speaker, if they do not want the answer, I can just sit down. We said we would provide a stand-alone, dedicated conservation agency.

We did that on 1 July last year with the creation of the Department of Parks and Wildlife. In looking at this as the Minister for Environment, I have decided that in keeping with that commitment, it makes very good sense on the machinery of government side to continue to have a dedicated conservation agency that also looks after river parks; hence we have this bill before us. I have answered that already on a number of occasions in this place.

**Mr W.J. JOHNSTON:** I want to clarify that answer. The minister is saying that the decision to make these changes was made on 1 July 2013.

**Mr A.P. Jacob:** That is not what I said.

**Mr W.J. JOHNSTON:** What did the minister say, then?

**Mr A.P. Jacob:** If you stop interrupting, I will get a chance to get it out.

**Mr W.J. JOHNSTON:** If the minister had used the English language, it might have been helpful!

**Mr A.P. Jacob:** If you stopped interrupting and had let me answer it, it would have been even more than helpful.

**The ACTING SPEAKER (Mr P. Abetz):** Members! One at a time, thank you. The member for Cannington has the call.

**Mr W.J. JOHNSTON:** The minister was asked a very simple question. I cannot understand why he is not capable of answering a simple question. It does not matter that the minister talked about this in his second reading speech. We are not talking about the second reading; we are talking about clause 4. The minister was asked how this came about. Was there lobbying from some organisation? Was it some individual who attended a 500 Club meeting with the minister? Did they suggest it to the minister? Was it some rich person with a big house in Nedlands who suggested it to him? Tell us how this came about. We know—because the Labor Party is in touch with the community—that it was not a demand from the community. It was not from the people who actually do the work on the ground, preserving the river park, who asked the minister to do this. No lobby group involved in the natural resource management system has asked the minister to do this. It has not come from anybody involved in volunteer work to improve the Swan and Canning Rivers; they have not asked for it. Was it simply imposed on the minister, like the electricity reform was imposed on the Minister for Energy? Perhaps the Premier woke up one day and came to cabinet with a submission saying, "This is what you're going to do, mate. Here you go, Albert, this is your plan." If that is what happened, tell us. We want to know who asked for this.

We understand that it is a decision of government. That was not the question. The question was: who asked for this? That is a simple question, minister. The minister is either able to answer that very simple question put to him by the member for Bassendean, without being stupid and abusive, or he is incapable of answering that simple question. They are the two choices. The minister should get up and show us whether he is worth the money he is being paid. Tell us who made the decision and when the Liberal Party decided to do this, because we know it was not in the Liberal Party's election commitments. What changed the Liberal Party's mind between election day in March 2013 and the announcement by government? Who asked for it? Why is it happening? That is the minister's job—got the picture? The minister needs to prove he is up to the job. Up until now, as everybody keeps pointing out, the minister's next contribution to public policy debate will be his last. Not a single person in the environment movement thinks the Minister for Environment is doing a good job. Nobody thinks that. Everybody who works on the ground and everybody who is a member of any volunteer organisation who will be working this weekend cleaning the Swan and Canning Rivers thinks the minister is a

joke. Imagine a minister who sends out a request for people to nominate for awards and then cancels the awards after he has asked them to do that! That is the behaviour of this minister.

**The ACTING SPEAKER:** Member for Cannington, I do not think that is relevant to clause 4. Can you please refrain —

**Mr W.J. JOHNSTON:** I will explain why it is relevant. The minister was asked who asked him to do this. I am making the point that we know who did not ask him to do this. It was not the people he wrote to and asked to nominate for environment awards. They did not ask for this. None of the environment workers the minister sent letters to about nominating for an environment award asked for this change. We know that. Nobody involved in the environmental movement and nobody involved in volunteer work every weekend cleaning up the rivers, planting native vegetation and rehabilitating the Swan and Canning Rivers asked for it, so who asked for it?

**Mr A.P. JACOB:** That was exactly the same question as the previous question, which I thought I had answered very clearly. Once again, hopefully for the final time on that question, the Liberal Party had a very clear commitment—the member will have to hear me out here—going into the 2013 election, as part of its biodiversity and conservation policy, that it would create a stand-alone conservation agency. Within that policy, there are a range of powers ascribed to that stand-alone conservation agency. That agency was created on 1 July last year. In looking at it and having spent a few months in the role as Minister for Environment, I ultimately put up a proposal that to create a true, dedicated conservation agency, we will include river park management and hence we have this bill before us. That is the answer, plain and simple.

**Mr D.J. KELLY:** I thank the minister for that response. If he is saying that the genesis of this amendment came from a Liberal Party commitment at the last election—I will not dispute that because I have not read all the Liberal Party's commitments on this issue—and if we accepted, for the point of this debate, that there was a Liberal Party commitment in effect to do this, my question would be: how did that Liberal Party commitment come about? For example, did the Liberal Party commitment come about because of work that the Swan River Trust had done during the first term of government and that work resulted in the Liberal Party making that election commitment? Was it another government department's work that caused the Liberal Party to make that commitment? I doubt very much whether it was any community group. Was it someone else? Just saying it was because of a Liberal Party commitment, I suppose, adds one part to the jigsaw puzzle, but it does not give people the full picture as to where the idea came from. Some political parties might just wake up in the morning and make commitments but the best ones do not. There is usually some process that is worked through to get to that point.

I would be very grateful if the minister could tell us what prompted the Liberal Party to make a commitment at the last election that has generated this amendment that we are considering. As I have said, there is great scepticism in the community that what is being done is being done for the best reasons. People are very worried that the minister is watering down the protection of the Swan and Canning Rivers. I would be very grateful if the minister could tell us where that commitment came from, now that he has told us that at least in his mind this legislation has as its start point a commitment made by the Liberal Party. I am assuming that the minister will be able to tell me. The Minister for Environment was not the minister in the last government, so maybe the answer will be that he just does not know where it came from; it is just a Liberal Party commitment and therefore he is bringing it into Parliament. I would hope that now he is the Minister for Environment he would have researched it a little better. The minister has said it results from a Liberal Party commitment. Where did that commitment come from? Who approached the Liberal Party to ask that this legislation be brought into the Parliament in the way that it has?

**Mr A.P. JACOB:** Perhaps I was too generous in my response earlier when I outlined the thinking that I have followed since taking on this role. The reason the bill is before us is that I took the view that doing this will improve the capacity and expertise of both organisations ultimately to the benefit of the river and all the people who interact with and use the river. I firmly believe that; hence I have taken this proposal through the process and it is before us today.

**Mr C.J. TALLENTIRE:** If we accept the minister's idea that he thinks that this bill will improve the level of protection given to the Swan and Canning Rivers, what will he do if, according to the procedures that he has outlined, there is a conflict in the planning advice from the staff at the Swan River Trust—albeit a totally gutted Swan River Trust that will not be serviced by the 60-odd people it previously had—on submissions to the Western Australian Planning Commission's deliberations on a particular subdivision or something of that nature? The minister will have that advice, but the 60 staff to be domiciled in the Department of Parks and Wildlife will put forward advice that no doubt will be filtered through the CEO's office, and therefore through the ministerial office, so in fact there will be a conflict because the minister will have removed the capacity of the dedicated agency to provide clear and well-researched direction and advice to the planning process; I will get into the protection and management advice later. Instead, things will be duplicated. The potential for a conflict

must be enormous, unless of course the minister has some other approach in mind, and I would be interested to hear his view on that. It seems to me that if the minister is genuine in saying that the trust will be able to provide advice and that those in the agency working on matters to do with the Swan and Canning Rivers can provide advice—that is two streams of advice—how will he resolve a conflict?

**Mr A.P. JACOB:** A range of issues were raised and the member can interject if he wants to raise a specific one. As I have said, I do not see how that would make any difference. The employing authority of the staff who assist the trust will remain the same irrespective of this legislation. The same staff will be doing the same function, so I do not see why the situation should change. The Swan River Trust will remain in place to give that advice to me as the minister and it will form part of the public record.

**Mr D.J. KELLY:** My understanding of the Liberal Party's commitment at the last election was that it was going to work with the Swan River Trust, not abolish it, in effect. The minister might say that he is not abolishing the trust; the trust will still exist in name. However, I have had a look at the commitment made by the Liberal Party. Any ordinary person who read that commitment would have thought that the government would maintain the Swan River Trust in its current form—that is, as an independent, stand-alone agency. I may be new to this place, but it is not appropriate for ministers to give answers that are less than frank. The minister said, when I pressed him on the point, that the genesis of this legislation was in a Liberal Party commitment taken to the last election —

**Mr A.P. Jacob:** That's not what I said.

**Mr D.J. KELLY:** Maybe the minister can clarify it. I will ask him again. When I asked the minister what the genesis of this legislation was, he referred to the commitments that the Liberal Party made at the last election. I have just had a look at what I understand that commitment to be, and the commitment was that, if re-elected, the Liberal government would work with the Swan River Trust. If the average punter—in fact, I would say the average St Georges Terrace lawyer—read that, they would say that the Liberal Party was going to maintain the trust in the way that people currently understand it, which is as an independent, stand-alone agency. If I have misunderstood the minister's answer, he can jump to his feet and tell us the correct answer. What is the genesis of this legislation? If it was not a commitment made by the Liberal Party at the last election, where did it come from? The members of the community who have concerns about this legislation would be greatly comforted if the minister could at least be straight with everybody and tell Parliament and the people of Western Australia where this legislation came from.

**Mr A.P. JACOB:** At the risk of being verballed later, I make it extremely clear that I am not for a second trying to make out that there was an explicit election commitment by the Liberal Party to make changes to the Swan River Trust in this way. All I am saying is that I see this as a logical extension of a clear commitment to create a dedicated conservation agency. That commitment was initially fulfilled on 1 July last year—that is why I threw that date out earlier—and I see this as a logical part of building on that. I have taken a view in my time in this role that making this change will improve the resourcing capacity and combine the expertise of both agencies. That is why I think this will be a good thing for the ultimate benefit of the catchment of the Swan and Canning Rivers and also all the users and related people.

**Mr D.J. KELLY:** Does the minister understand how someone who read the commitment that the Liberal Party would work with the Swan River Trust if it were re-elected would feel a bit cheated by what he is now doing? Would he accept that a reasonable person who thought that the Swan River Trust was doing a great job and wanted to ensure that there was continued protection of the Swan and Canning Rivers might have used the Liberal Party's commitment that it would work with the Swan River Trust to determine how they would vote? Can he understand that people who read that commitment and supported the Liberal Party at the polls would feel that the minister is now cheating them and that he has broken the commitment given at the election? I understand that the minister has said that he formed the view since becoming minister that X, Y and Z should happen, but let us be honest, minister; the commitment that the Liberal Party took to the election was that it would work with the Swan River Trust. As I say, the ordinary punter and the average St Georges Terrace lawyer would have read that commitment and thought that, if the Liberal Party was re-elected, the Swan River Trust would continue to operate in the way that people understand it. Would the minister accept that he has gone back on what was said in that commitment at the election and that people have a right to be suspicious about his motivation for bringing this legislation to the house? The minister is making a very significant change. His primary responsibility is not to his colleagues in cabinet; his primary responsibility as Minister for Environment is to protect the very fragile state of the environment in Western Australia. He is probably feeling very happy about being made a minister, and congratulations and all the things that come with that. However, he will be judged by the legacy that he leaves in Western Australia.

**The ACTING SPEAKER:** Member for Butler, you cannot walk between the Chair and the speaker without getting the approval of the Chair.

A member interjected.

**The ACTING SPEAKER:** I certainly did not, no.

**Mr D.J. KELLY:** The minister will be judged on how well he protects the environment. My understanding is that this is the first major piece of legislation affecting the environment that he has brought to the house since the election, so I ask him whether he appreciates that people who may have supported him at the election after reading the commitment that the Liberal Party would work with the Swan River Trust would now feel cheated by what he is doing with this legislation.

**Mr A.P. JACOB:** I accept that my role as Minister for Environment will ultimately be judged on the results that we achieve. In fact I welcome that, and it is for that exact reason that I am proposing this change. Rather than having a staff cohort of just 50 people, I believe that making them part of a far larger staff cohort of more than 1 600 people, as well as the budgetary advantages in being able to work as part of a larger team, will lead to better river outcomes, and that is simply why this bill is here before us.

**Mr D.J. KELLY:** One of the things that does not do a great deal for the confidence that people have in a role such as the minister's is when he gets asked a straight question and completely ignores it. I asked the minister, given his election commitment that he would work with the Swan River Trust, whether he understood that people would feel as though they had been somehow cheated by what he is now doing. I asked the minister whether people who read his election commitment and understood that, if re-elected, he would work with the Swan River Trust in as much the same entity as it is currently, would feel cheated by what he is doing now by radically altering it. I asked the minister that question. It is a pretty simple question, and his answer would help people understand and interpret the change he is making to the long title of the bill; but he absolutely and completely refused to answer it. He gave an answer as though he did not know what I was talking about. It does not build confidence in the public when someone in the minister's position, with his responsibilities, completely ignores a fairly straightforward and simple question. I will therefore ask it one more time and perhaps the minister will give us an answer. Does the minister understand why people who read the Liberal Party's election commitment at the last election—that if the minister were re-elected he would work with the Swan River Trust—are now feeling as though they have been cheated and that the minister has gone back on that commitment by bringing into the house this legislation, which will radically alter the way the Swan River Trust is operating? Can the minister simply answer that question?

**Mr A.P. JACOB:** That is a bit of a random accusation from the member for Bassendean. We are clearly working on fulfilling our election commitments. As I said, we started quite quickly, within a few months, creating that dedicated conservation agency. The Swan River Trust will continue. It will still have a very strong role to play, more aligned with bodies such as the Marine Parks and Reserves Authority and the Conservation Commission of WA, and I am happy to stand on our Liberal–National government record in this space. There are projects such as the Kimberley Science and Conservation Strategy, which has \$81.5 million invested into amazing outcomes out there; a 200 per cent increase in marine park gazetted areas within this term of government; and a range of others outcomes. As I said, this is a clear opportunity to combine the resources and expertise of both agencies to the benefit of both agencies, and I am happy to stand behind it.

**Mr D.J. KELLY:** I do not think the minister can defend what he is doing with this bill by referring to other projects that the government has undertaken. The reason the minister is bringing in this bill needs to stand on its own two feet. I do not think the minister has given a satisfactory response on how this legislation fits within his election commitment, but I will ask him one other question on this point. The minister has said that he believes this change will be advantageous to the protection of the Swan and Canning Rivers. I have tried to get the minister to tell us the genesis of the legislation, but he has been less than forthcoming on that. Can the minister identify any community group that supports this legislative change? Dozens of community groups work very hard in some way to protect the catchments of the Swan and Canning Rivers. I am interested to know whether any of those community groups support the minister's legislation. So, are there any groups? Are there any industry groups that support it? Simply: who else, other than the minister, supports this legislation? I suppose I am most interested to know whether any community group supports this legislation—presuming that the minister has done some consultation. Which community groups support it based on the consultation the minister has done? Secondly, can the minister identify any other group that actually thinks what he is doing is to the ultimate benefit of the catchments of the Swan and Canning Rivers?

**Mr A.P. Jacob:** I am hoping to respond to that.

**The ACTING SPEAKER:** The minister needs to seek the call.

**Mr C.J. TALLENTIRE:** If the minister was cogitating and about to respond to the member for Bassendean, I will sit down and enable him to respond.

**Mr A.P. JACOB:** My apologies for that; I was just giving it a moment's thought. When we came out with the announcement, we were incredibly forthcoming as a government. The legislation is before us now but we actually announced that we would be looking at this matter last year. By no means have I tried to ambush anybody in the way this legislation has come before us. A range of groups came out and supported the move. A range of groups came out with a degree of trepidation. That is not what this is about for me. As Minister for Environment I am charged with responsibility for a range of resources and opportunities to achieve the best outcomes that I believe I can for our environment generally—and in this case for the Swan and Canning Riverpark. I believe that this is a great opportunity for me to put those resources to the best possible use, and I accept that all of the groups that hold an interest in this matter will ultimately judge us on the results. In fact that is absolutely right and proper, and that is the way it will be done.

**Mr D.J. KELLY:** The minister said that a number of groups came out in support of the legislation. I wonder whether the minister can tell us which groups came out in support of this legislation. I am interested to know, because no-one in the range of groups in the community sector that I am in touch with and have spoken to supports this legislation. The minister has told us that a number of community groups support what he is doing through this legislation. I would really appreciate the minister telling the Parliament which community groups he says support this legislation.

**Mr C.J. TALLENTIRE:** I do not know whether the minister is reflecting again, but it seems not.

**Mr A.P. Jacob:** Probably not; no.

**Mr C.J. TALLENTIRE:** The member for Bassendean so clearly asked whether the minister can name the groups that have come out in support of this legislation, or indeed the names of those groups that were asking for this kind of amendment to the legislation. On both counts the minister's silence demonstrates that there never were groups asking for these amendments. In fact I do not think the minister has had any group come out and say that this is a good thing. The minister's silence on that speaks volumes.

I need to ask the minister, though, about this conflict that I believe he is creating, which is highlighted in this amendment to the long title. The minister is saying that the Swan River Trust will still have an advisory capacity. The minister is therefore reassuring me that the trust will still be able to make submissions on proposals, but he is also telling me that those staff will be working with the other 1 400 people in the Department of Parks and Wildlife and that they will naturally take direction from the CEO. That is the way it works in the public service. The direction will not come from the general manager of the Swan River Trust anymore. That point is specifically made further on in the legislation; the trust's direction will come from the CEO of the department. When the CEO of the department asks the Swan River Trust to produce advice on a particular development proposal—to use that kind of example—and the trust submits another set of advice, what will the minister do if there is a conflict between those two pieces of advice?

**Mr A.P. JACOB:** Even under the current function, under part 5, it is the minister's decision. In the event of a conflict, one option available to the minister other than an out and out decision—which is that role—under section 78 of the act, the minister can appoint a review committee. As I quickly said in response to an earlier question, it is my expectation that the advice received from the Swan River Trust will form part of that package as a clear part of the board's advice that comes to me as minister.

**Mr C.J. TALLENTIRE:** Is the minister saying that the transparency around any variation in the advice he receives will be public or not public?

**Mr A.P. Jacob:** Yes, public.

**Mr C.J. TALLENTIRE:** Would the general public be able to bear witness to the fact that the minister has received, say, a major dredging proposal for the river and the Swan River Trust might say, "No, that's very damaging; it could upset the flow of nutrients; it could upset the swimming patterns of the dolphins in the river", or anything like that, and he gets some other advice from the CEO, who is reporting directly to the minister? Will the minister allow that advice to be publicly open for comment?

**Mr A.P. Jacob:** Yes.

**Mr C.J. TALLENTIRE:** Where would people see that advice? Will it be publicly on the Swan River Trust website? We will get to this on further clauses, but I note that the Swan River Trust website will be removed, so how will people find the information about a difference in advice coming from the two separate organisations—from the trust itself and from the department?

**Mr A.P. JACOB:** The CEO's report will be published on the website. As part of that, it will include the stand-alone advice of the trust as a body as it comes up and it will be available for public review, even before it comes to me as minister for a decision.

Mr Chris Tallentire; Mr Albert Jacob; Mr Dave Kelly; Mr Bill Johnston; Ms Simone McGurk

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**Mr C.J. TALLENTIRE:** We will come to this later, but it is my understanding that the Swan River Trust website will be removed and the information will all be on the Department of Parks and Wildlife website. Is the minister saying that he is prepared to have on the DPaW website advice from the Swan River Trust that is in conflict with advice from DPaW itself?

**Mr A.P. Jacob:** Yes; I am.

**The ACTING SPEAKER:** Member for Gosnells, because we are coming to that matter in a later clause, do you want to leave the discussion until then?

**Mr C.J. TALLENTIRE:** Thank you for the advice, Chair, but I want to pursue it a fraction further at this stage because of the nature of the long title discussion and because it is around the creation of a conflict here. I think it could be presented to the Western Australian public in a way that it can participate in the discussion, but I am fearful this advice will be buried on the DPaW website. The DPaW website already covers the whole of the state, obviously, and it is a very difficult website to navigate. Is the minister saying that he is prepared to have this conflict openly demonstrated on that website? If the CEO did not like the advice coming from the trust, what guarantee is there that that conflict will be openly on display?

**Mr A.P. JACOB:** It will be highly operational in the way that plays out. I have certainly made clear my intent that it will be laid out for public consumption as a clear part of the process. One of the checks and balances that always exists is this place, for example, and there will always be an opportunity if the member feels that has not been communicated clearly. I am sure we can deal with that at that time. I am happy to state on the record that the intent is for that to be clearly articulated and accessible in that way.

*Division*

Clause put and a division taken, the Acting Speaker (Mr P. Abetz) casting his vote with the ayes, with the following result —

Ayes (31)

Mr P. Abetz	Ms W.M. Duncan	Mr R.F. Johnson	Mr D.C. Nalder
Mr F.A. Alban	Ms E. Evangel	Mr R.S. Love	Mr J. Norberger
Mr C.J. Barnett	Mrs G.J. Godfrey	Mr W.R. Marmion	Mr D.T. Redman
Mr I.C. Blayney	Dr K.D. Hames	Mr J.E. McGrath	Mr A.J. Simpson
Mr G.M. Castrilli	Mrs L.M. Harvey	Mr P.T. Miles	Mr M.H. Taylor
Mr V.A. Catania	Mr C.D. Hatton	Ms A.R. Mitchell	Mr T.K. Waldron
Mr M.J. Cowper	Mr A.P. Jacob	Mr N.W. Morton	Mr A. Krsticevic ( <i>Teller</i> )
Mr J.H.D. Day	Dr G.G. Jacobs	Dr M.D. Nahan	

Noes (17)

Dr A.D. Buti	Mr D.J. Kelly	Mr J.R. Quigley	Mr P.B. Watson
Mr R.H. Cook	Mr F.M. Logan	Mrs M.H. Roberts	Ms S.F. McGurk ( <i>Teller</i> )
Ms J. Farrer	Mr M. McGowan	Ms R. Saffioti	
Ms J.M. Freeman	Mr M.P. Murray	Mr C.J. Tallentire	
Mr W.J. Johnston	Mr P. Papalia	Mr P.C. Tinley	

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Pairs

Mr S.K. L'Estrange	Ms L.L. Baker
Ms M.J. Davies	Mr D.A. Templeman
Mr J.M. Francis	Mr B.S. Wyatt
Mr I.M. Britza	Ms M.M. Quirk

**Clause thus passed.**

**Clause 5: Section 3 amended —**

**Mr C.J. TALLENTIRE:** Clause 5 seeks to delete definitions. I am concerned about the nature of these definitions being deleted and the subsequent removal of important aspects of the Swan River Trust. I note for example that clause 5, amending section 3 of the act, seeks to remove from the term “account” from the terms used. In the current act “account” means the Swan River Trust account referred to in section 42. I am very concerned that this seeks to remove the capacity of the Swan River Trust to be the recipient of donations, benevolent funding and all kinds of arrangements that a body with the reputation and integrity of the Swan River Trust has the capacity to receive. I imagine that the minister will tell me that there is still the opportunity for

people to donate money to the trust, but I fear that that will not be the case or that there will not be the same sense of donations going towards a specific purpose around the activities of the Swan and Canning Rivers such as environmental and repair works, replanting, water quality monitoring or any of those activities going on at the moment for which donations are received from the community in general. I fear that if the word “account” is removed from the definitions, that capacity will be lost. People like to make donations to all kinds of environmental organisations and there are times when people prefer to donate to activist organisations, but I think there are also times when people want to donate to a body that will do the on-the-ground work, which is very much the tradition of the Swan River Trust. People had confidence that a body that was ultimately overseen by government through an act of Parliament was a safe and reliable place to which donations could be forwarded. If the account is being struck out, that capacity for the trust to receive funds will be removed, and I ask what alternative arrangements will be made. Prior to the minister getting into that, could he just tell me what rationale he has for striking out a receiving account? I am very keen to hear his explanation.

**Mr A.P. JACOB:** This relates to the definitions in the legislation. It is largely operational in nature and obviously a part of that machinery-of-government change. The point the member for Gosnells made about the Swan and Canning Rivers Foundation account is picked up later in the legislation and remains in section 131 of the act. We have some small amendments in this bill and the member may want to address those in greater detail when we get to the particular clause, but the foundation account still remains.

**Mr C.J. TALLENTIRE:** I thank the minister, but I am concerned that if we address only the removal of the definition at this stage—this is perhaps a question for the Acting Speaker as well—I might find that when we get through to the relevant clause, I am told that we missed the opportunity to debate the situation of the account. Is the minister suggesting that the foundation account will still stand?

**Mr A.P. Jacob:** That is correct.

**Mr C.J. TALLENTIRE:** Why then, is the term “account” that refers to the Swan River Trust account referred to in section 42 of the act being deleted? I see that all manner of deletion is proposed for section 42 of the act. Regarding what the account currently delivers, section 42(1) of the current act states —

An account called the Swan River Trust Account is to be established —

- (a) as an agency special purpose account under the *Financial Management Act 2006* section 16; or
- (b) with the approval of the Treasurer, at a bank as defined in section 3 of that Act, to which the funds referred to in section 41 must be credited.

It is important to note what those funds referred to in section 41 are. Section 41 states —

**Trust’s funds**

- (1) Subject to this Act, the Trust is responsible for managing its own finances.

I guess it is already being noted that the trust will no longer have management of its own finances. Section 41 continues —

- (2) The funds available to the Trust to enable it to perform its functions under this Act or any other written law are —
  - (a) moneys borrowed under section 45; and
  - (b) any other moneys lawfully received by, made available to, or payable to, the Trust under this Act or any other written law.

We see here that by striking this out in the definitions—we can get to it in more detail when we come to the deletion of section the act—there is a clear intent to remove the capacity, I believe, for people to make donations very specifically to the Swan River Trust. The minister said that the foundation account will still stand, but I am concerned that there will not be the same connection between the decision-making of the eight Swan River Trust members and the money that is received. For someone making a donation it might be a reassuring line of accountability to know that they can talk to those members of the trust about how their donation is used. That donation might be small or it might be fairly considerable, and I acknowledge that when the corporate sector makes donations to bodies such as the Swan River Trust, it likes to feel that there is a strong connection between that corporation and the body. I acknowledge the work that companies such as Alcoa have done and the donations and contributions they have made, but if corporates are to make donations in the future, they want to feel that there is an easy and strong line of communication with the body receiving the money. I gather from what the minister is saying that there will still be a foundation account—we will get to who actually administers the money in that foundation account—but by striking out this definition, the Swan River Trust will not have control over the money it receives. I ask the minister whether he has canvassed the views of potential donors about how they would feel about donating to a more generalised trust or fund foundation than this very specific Swan River Trust account.

**Mr A.P. JACOB:** As I said, new section 129 will go to the functions of the foundation, which are —

- (a) to attract and retain continuing public interest and financial support for the objectives of the Act; and
- (b) to encourage donations to facilitate the achievement of the objectives of the Act.

Proposed section 131 of the act outlines a range of issues with the Swan and Canning Rivers Foundation account and picks up on those definitions on the donor site, so those things are accounted for later in the bill. However, as a part of this change, yes, the lines of financial accountability will now often run through the CEO of the Department of Parks and Wildlife.

**Mr C.J. TALLENTIRE:** Can the minister point me to evidence that suggests that people are prepared to make donations to CEOs of government departments?

**Mr A.P. JACOB:** The Department of Parks and Wildlife has a very good level of community engagement in this space as well. To use volunteers as an illustration, the Swan River Trust has some 700 volunteers as part of its dolphin watch program and the Department of Parks and Wildlife attracts some 4 700 volunteers. Within the scheme of state government and agencies, and especially large agencies, DPaW is very good at community engagement, in my experience, and I think that is a good example of how this will be a good fit.

**Mr C.J. TALLENTIRE:** I thank the minister for the information about the willingness of Western Australians to volunteer for environmental works, but my question was about the willingness of people to donate. We are talking about the deletion of the Swan River Trust account, which has come up in the definitions. Does the minister have evidence that people will be prepared to donate to the director general of a government department for the sorts of purposes to which they donate to the Swan River Trust? I thank the minister for the information about volunteering; we can come back to that issue. My question is very specific: what evidence does the minister have that people will be prepared to donate to a government department and a director general of a government department?

**Mr A.P. JACOB:** As I said, I would go on past experience and the Department of Parks and Wildlife's ability to engage with people throughout the community scale. I used the example of volunteers, who ultimately donate their time, but the big end of town and the resources industry have significant partnership levels with the Department of Parks and Wildlife. The agency is very well experienced at operating in that space. It may lead to greater engagement with business and stronger links. That is purely speculative. I am happy to stand on the record of the Department of Parks and Wildlife in that philanthropic and business engagement space. Again, it is a good example of why these two agencies coming together are a good fit. We will not necessarily be hitting the same people up twice, and there may be opportunities to package partnerships on an even larger scale.

**Mr C.J. TALLENTIRE:** I cannot say that I find the minister's answer satisfactory. We will come back to the issue of the account. I will assist the minister in some way by suggesting that his advisers get some information about the arrangements in place for the transfer of the money that is currently in the account. More importantly, they could get evidence that people will donate cash. I take his point; yes, corporates will be prepared to work with a major government agency. But I am talking about the people who make a \$50 or \$100 donation to contribute to the dolphin watch program, the Swan-Canning clean-up program or the revegetation of part of the Swan River foreshore near where they live because they are concerned about those things. The minister has to provide this Parliament with evidence that that will still occur; that people will not be dissuaded with the fear that they are giving their \$50 or \$100 donation to a major government department and wonder not only why they would do that when they pay taxes, but also what level of accountability there is. At least when people make a donation to the Swan River Trust, they can talk to the eight trust members to find out where the money has gone. I flag with the minister that we will return to this issue. We need to question other definitions. I note that the bill will strike out the term "general manager". That suggests that there will no longer be a general manager of the Swan River Trust. If that is the case, can the minister explain what the title will be and what public service level the head of the unit, branch or division will be within the Department of Parks and Wildlife that will house the 60 or so staff from the Swan River Trust? What will that division be called? What will be the equivalent of the person; what grade will that person operate at—the person who will be bestowed with what is now the title of general manager?

**Mr A.P. JACOB:** That particular query is highly operational and not contained in the bill. The bill makes it clear that where the act currently refers to the "general manager" and the "Swan River Trust", there will be the CEO of the conservation agency that is the Department of Parks and Wildlife.

**Mr C.J. TALLENTIRE:** The best that the minister can point to is that we will no longer have a general manager of the Swan River Trust—the person who has responsibility for the direction of some 60 staff and who has detailed and intimate knowledge of the programs of the trust—rather, the general manager will be replaced with a CEO, a director general of a department of some 1 400 people and there will be the same level of intimate

knowledge of the programs of the agency. This is not only an operational matter; it is also a structural one. The minister said that this is a machinery-of-government change. If it is simply a machinery-of-government change, it is reasonable that the minister explain to Parliament how the arrangements will ensure that the new structures will be equivalent or superior to the existing ones. The minister has suggested that the 60 staff will be in a very large agency and that they will receive the same level of direction as they now get from the general manager when there are meetings and committees. I have already touched on planning and decision-making committees at which the general manager has a position at the table. How will the minister ensure that the general manager role is adequately fulfilled at those sorts of meetings by a director general who is already on many other things? His time must already be incredibly stretched. The minister is suggesting that the director general will slot into all the roles that are currently occupied by the general manager. I do not think that is physically possible, because the director general is already so stretched so there will have to be delegation. It is not a detailed operational question; it is an important question for us. Who in the Department of Parks and Wildlife will receive that delegation from the director general? We need to be reassured that this so-called machinery-of-government change will deliver as efficient a public service and as good a quality of service that is equivalent to or superior than the one we have. How will the minister replace the general manager? It is being struck from the definitions; what term will be used to describe the person who goes in there? If the minister's response is that it will be the director general, that is not realistic—and it is not being honest with Parliament. We need to know what level of public servant will be doing the day-to-day work of representing the Swan River Trust in all manner of events where the general manager is currently doing that work. What level of public servant will attend those meetings and put the case for the protection and management of the Swan River Trust? We need to know so that we can be reassured that the change in arrangements does not lead to a diminution of the role of the Swan River Trust. We do not want to go from a senior person who is currently titled general manager to somebody who is only at a junior level. The general manager currently represents the Swan River Trust at all sorts of high-level meetings. I am fearful that if the minister cannot reassure me of the arrangements in place, the director general of the Department of Parks and Wildlife will delegate to someone else who is fairly junior. This is further evidence, in fact, that we are downgrading the role of the Swan and Canning Rivers.

**Mr A.P. JACOB:** As it pertains to the act, those roles will now be filled, in a legislative sense, with the CEO being the chief executive officer of the department. How that functionally plays out still largely remains to be seen, but the member is correct in asserting that there is the ability for the CEO to provide delegations, and that will be worked out as a part of the internal structures of the Department of Parks and Wildlife as an amalgamated agency between the current Swan River Trust and the Department of Parks and Wildlife.

**Mr C.J. TALLENTIRE:** I thank the minister for that. I do not find that response satisfactory, but I want to keep moving on with these definitions. The minister is also striking out the definition of “officer of the Trust”. Can the minister explain who is an officer of the trust and how that will affect the representation of all things to do with the Swan and Canning Rivers?

**Mr A.P. JACOB:** This change will mean that officers will now be departmental staff of the Department of Parks and Wildlife.

**Mr C.J. TALLENTIRE:** The minister is saying that the officer of the trust will now be someone from the Department of Parks and Wildlife, but how can the minister be sure that that person will have the specific expertise in matters to do with the Swan and Canning Rivers when they come from a major agency? I get back to the point that I made earlier. We really need to know what will be the name of the division, the branch or the unit—whatever place it has in the hierarchy. What will it be called? In the Department of Parks and Wildlife, will there be a unit that is dedicated to doing all those tasks that are so important for the Swan and Canning Rivers?

**Mr A.P. JACOB:** As I said earlier, the bill, as it lays it out, is relatively straightforward. It is simply that step of replacing that body of the Swan River Trust in an operational sense, and the current general manager with the CEO of the department. Going forward, I assume that the CEO will make delegations and restructure accordingly. That has not yet occurred, and certainly that is not something that we would seek to legislate, so we are not seeking to effect that through the legislation.

**Ms S.F. MCGURK:** I want to ask about the trust website. I know the minister is dying to hear my question. What will happen if people want to know what is happening with the river, and what is to happen with all that information that is currently contained within the trust website?

**Mr A.P. JACOB:** We addressed that earlier. It will be a part of the Department of Parks and Wildlife website.

**Ms S.F. MCGURK:** Perhaps the minister could elaborate on that. Will it be a section within the department's website? Why would the minister not have a stand-alone website and continue to operate in that way? It is certainly very useful for people who are interested in the river to find information about water quality, particular

catchment areas or foreshore issues. They have been able to access that sort of information on the trust's website. Within a general department website, some of those things are often not as accessible.

**Mr A.P. JACOB:** This is simply the legislation. It does not seek to do all things; it just enables the action to take place, that action being the restructure. As I said, that will form a part of the now Department of Parks and Wildlife's website. I have used the comparison many times. We have the Marine Parks and Reserves Authority and the Conservation Commission. It will be structured in a similar way to the way in which they are structured. Without locking us into anything, I imagine that it is likely to have its own stand-alone area.

**Ms S.F. McGURK:** I understand it is not usually the function of the legislation to spell out what would be contained in a website, any sort of publication or the like, but I think it is an opportunity for us to find out exactly what the government's intention is in regard to giving the public information about important matters relating to the Swan and Canning Rivers. As I said, I have some concerns, and I think a number of people would have concerns, that if that sort of information is subsumed into the general department website, it is at risk of being lost and not as accessible to people. Currently, having a stand-alone site that provides people with an opportunity to explore the site, I think, has been beneficial for people who are interested in the health of the Swan and Canning Rivers and the other related areas.

**Mr A.P. JACOB:** I understand the concern. My only point is that we cannot seek to structure our website through legislation. As I said about part 5, or the planning approval side—I am putting it on the record now as a part of *Hansard*—I expect that the website would most likely have an individual tab area or a menu area dedicated to that. But I am not a programmer so I by no means know the technicalities of what that structure would be. There are always mechanisms, and members can certainly ask me questions about it down the road as it happens. But I am happy to put on the record that the intent is that it would be structured in that way.

**Mr C.J. TALLENTIRE:** Following on from the discussion about the website arrangements, I wanted to look at another definition relating to the executive body. I understand that that executive body would be the executive that reports to the director general of the Department of Parks and Wildlife. Is that the nature of that executive body that is referred to in the definitions?

**Mr A.P. Jacob:** Yes.

**Mr C.J. TALLENTIRE:** My understanding is that that executive body includes the executive directors of the various divisions of the Department of Parks and Wildlife. I know that the minister is reluctant to get into discussion about the structure of agencies, but I am concerned about the accountability of that executive body. Given that it reports to the CEO, it is not a body that could be deemed to be anywhere near equivalent to the trust itself. Could the minister explain the role of that executive body? As a bit of background, when we consider the more controversial issues that the environment portfolio has faced over the last 20 years, I think it is fair to say that the director general has not always been well served by the advice that he has received through that executive body. I recall well the reluctance of that executive body to understand community sentiment around something like old-growth forest campaigns. The executive body of the then Department of Conservation and Land Management was unable to really understand where community sentiment was at on that issue. We saw some dramatic improvement when the Labor government came to office in 2001, because I think the environment minister at the time, Dr Judy Edwards, realised that there was a serious disconnect between public sentiment and the views of those on that executive body. I am concerned about the level of accountability that will go with that executive body. It is a definition that the minister is seeking to insert into the act, but with it comes a whole host of roles and responsibilities. An act is referred to in the definition in the bill, which states —

*Executive Body* means the Conservation and Land Management Executive Body established by the CALM Act section 36;

I have looked at section 36 of the CALM act, and I think it is important that I read out the five subsections. They state —

**Executive Body established and nature of**

- (1) The Conservation and Land Management Executive Body is established.
- (2) The Executive Body is a body corporate with perpetual succession.
- (3) Proceedings may be taken by or against the Executive Body in its corporate name.
- (4) The Executive Body is to be governed by the CEO.
- (5) The Executive Body is an agent of the State and has the status, immunities and privileges of the State.

That sounds to me like a body that will be well removed from public discussion. My fear is that we will not have an executive body that is close to the sentiment, wishes and environmental aspirations of Western Australians, especially their concerns about the Swan and Canning Rivers. Can the minister explain how this executive body will work in a way that is close to the operational manner of the Swan River Trust? The Swan River Trust was renowned for its community contact—its closeness to the community. The minister is bringing in this executive body, giving it extra powers in the act, but how will the minister resolve conflict on that?

**Mr A.P. JACOB:** I fundamentally disagree with the proposition that the executive body is not accountable in its present form. It is obviously accountable under the Public Sector Management Act. It is accountable through the CEO and to me as the Minister for Environment. I stand in this place as a minister responsible for them and accountable for them in Parliament. A very high level of accountability flows through that structure; indeed the tried and true, and established structure of our entire system of government. I would not for a second say that I see this structure as being in any way unaccountable or any lessening of the accountability of our actions over the Swan River.

**Ms S.F. McGURK:** I want to take up the issue that was raised by the member for Gosnells. I think it is entirely appropriate to talk about what accountability that new body might have to the public. By that I do not mean that it is operating contrary to legislation or to any of the normal means of accountability that a public sector agency would be expected to act within. Of course I would expect, and have every reason to believe, that it would operate in an entirely appropriate way. What government agencies are not always good at, or do not really have the resources to do, is to respond immediately to public sentiment on particular issues. The Swan River Trust, by its representative structure in the members of the trust, had an opportunity to be immediately responsive to issues raised when it was thought they had merit. I understand that members of the trust will continue in an advisory capacity, but that really needs to be via the minister and then through the normal channels of government to the Department of Parks and Wildlife.

People who are passionate about the river have put in hours and hours of work in a voluntary capacity. For instance, people have assisted to manage the area around the foreshore that I spoke about last night. I know that all along the Swan and Canning Rivers, particularly in the metropolitan area that I am familiar with, people have put hours upon hours into preserving and rehabilitating the foreshore. It is reasonable that they would want from the body managing the river system a body that is responsive to their views and demands, and that can react to those issues immediately. That is entirely appropriate, but it is not always possible in government. Government cannot always respond to people's wants. Not only is it not always possible, but also it is not always appropriate. In this instance, I think it is an element that is contained within the trust as it currently stands prior to the changes envisaged by this bill. It is possible that we are taking a step backwards, particularly as it relates to volunteers and their input into how the river system is managed.

Members of the Friends of East Fremantle Foreshore were very impressed in their interactions with the Swan River Trust. It was not only the expertise of trust staff, but they also felt that the trust was interacting with them in a manner that was a bit more responsive at times than their local council. I am concerned that that sort of responsiveness may be lost in the structure that this government is embarking on through this bill.

**Mr A.P. JACOB:** I could not agree more about the importance of accountability and representative bodies. Indeed, the most accountable and most representative body is this place. These changes will result in even clearer lines of accountability and reporting through this place. In my view this actually increases that.

**Clause put and passed.**

**Clause 6: Section 11 amended —**

**Mr C.J. TALLENTIRE:** Clause 6 seeks to make major amendments to section 11 of the act. Before getting to section 11, I must say that I find it extraordinary that an amendment to section 10 of the act is something we are putting off until consideration of clause 53 of this amendment bill. I believe it is a major amendment. It is something that I will be able to touch on in this discussion about clause 6 because it relates to the definition of a catchment. The development control area is currently defined as the area within a catchment. I am referring to section 10, but clause 6 seeks to amend section 11. It seeks to insert at section 11(2)(a) —

a part of the catchment area and a part of the Riverpark; and

We are touching on this issue of what is a catchment and what is the area covered by a development control area. I find it greatly disturbing that we are going against all sensible interpretation of what a catchment is. We are restricting the area of control of the Swan River Trust's powers down to "a part of the catchment". Instead of taking the true view that a catchment is a catchment and we live within a catchment, this clause to amend the legislation is such that the powers are relevant to only a part of the catchment. That issue is probably better dealt with when we get to clause 53, but I find it extraordinary that such a crucial issue when it comes to discussing

the management of the Swan and Canning Rivers is left to a very late clause in the amendment bill. I would like to hear the minister's comments on that and then I will proceed into some more detail about the nature of the proposed amendments in clause 6.

**Mr A.P. JACOB:** The member raised this in his second reading contribution last night. Let me state absolutely for the record that there is no reduction in the catchment being proposed by this bill. There is no shrinkage of the planning area whatsoever. The full extent of the application of the Swan and Canning Rivers Management Act will remain unchanged. Picking up on those word changes referred to by the member for Gosnells, those changes were recommended by the Parliamentary Counsel's Office. During drafting, PCO recommended that minor change to remove any doubt that provisions applying to the catchment area and river park also apply to the river reserve.

**Mr C.J. TALLENTIRE:** I hope the minister was able to provide the best interpretation from professional catchment managers as to what a catchment actually is, because surely this is a case of determining what is the whole and what is the subset. The whole is the catchment; we are all within the catchment. To then change definitions around so that we talk about "a part of" the catchment—that to me is a subset of the catchment. Does the minister get that point and, if so, why was it not conveyed to the drafts people who he was communicating with?

**Mr A.P. JACOB:** As I said, there is no attempt here to change anything from how things function or are defined. This was raised by the Parliamentary Counsel's Office in a drafting sense as a better way of defining exactly what the member is talking about, which is capturing all of that area as it currently stands. There is no change to the area under the act or to the boundaries, and this wording certainly seeks to encapsulate everything. As the older wording said "within", it was simply the advice that "a part of" was a better form of wording to capture that.

**Mr C.J. TALLENTIRE:** I thank the minister. It seems like an unsatisfactory situation brought on by people who perhaps are expert legislators not fully grasping the sense of a term in its true geographic and scientific sense, but we can return to that issue as we proceed. I flagged that clause 53 actually tackles this. However, it is so central to the discussion of this legislation that I will say again that I think it is extraordinary that we are not able to get to grips with the issue until we get to clause 53, having debated long and hard all other aspects of the bill. The point of clause 6 is to make a series of deletions and then to insert a piece relevant to the Land Administration Act 1997. Proposed section 11(8A) reads —

Despite the *Land Administration Act 1997*, the placing of the care, control and management of the River reserve with the Trust is only for the purposes of section 23 and does not otherwise limit the functions of the CEO under section 33.

I think I understand here that the minister is seeking to turn the Swan River Trust into a vesting body for the Swan Canning Riverpark. I have heard him say at various stages during the debate that he sees the trust as being a body similar to the Conservation Commission or similar to the Marine Parks and Reserves Authority. But if the minister simply wants to descend the role of the trust to being that of a vesting body, he really is again missing the point of the capabilities of the Swan River Trust. Could the minister please explain this limitation on the functions of the CEO under section 33? Is that limitation such that the CEO would only have certain powers and that the trust itself will only have vesting powers?

**Mr A.P. JACOB:** Yes.

**Mr C.J. TALLENTIRE:** I thank the minister for that brief response. I suppose that means he is revealing his view that the Swan River Trust should just be a vesting body, failing to understand then that the Swan River Trust is so much more. Its history has had, as we have touched on extensively, planning powers; that it has had a serious management role. To my knowledge, the Conservation Commission and the Marine Parks and Reserves Authority do not have those same management roles in the same way that the trust has had. They have not had the capacity to own boats, as the Swan River Trust has done, to undertake water quality monitoring. They have not had the sorts of online continuous monitoring of dissolved oxygen level details that the Swan River Trust has had. There is not a similarity there; that is the point I want to make here. The minister is trying to further reduce the role of the Swan River Trust. He is taking away from it that responsibility for being a manager and the provider to the broader community of much-detailed information. I remember when the minister brought into this place big laminated charts showing aspects of water quality in the upper reaches of the Canning River most recently, and in parts of the Swan River. He used that information to show how the nutrient levels are tracking, and to demonstrate how his expenditure on an oxygenation plan at Nicholson Road on the Canning River is justified. That is the sort of information that the minister should be able to communicate.

I know the minister will put to me that the Department of Parks and Wildlife is able to present that information, but the fact is that with the Swan River Trust being there—this relates to the previous discussion as well about

the importance of the Swan River Trust website—the minister has a dedicated body providing information; this was an easy to find and locate body. How will we be sure that a vesting body that is nestled away in the Department of Parks and Wildlife will be able to present that information in the same way? How will the minister be able to receive the necessary explanation of sometimes complex scientific information? Anyone who receives those graphs of the water quality monitoring, recognising that that is continuous water quality monitoring, presented on a weekly basis on its website knows that the service is excellent! That is fantastic. That is the great service and information that the Swan River Trust has been providing, but it requires a high degree of interpretation. The minister will have advisers to bring that interpretative ability to him, but it will be very hard for members of the general public to do that analysis and access that level of support they currently have been getting. I know that when I first saw those graphs, my first thought was to turn to a community group, the South East Regional Centre for Urban Landcare, which was then able to refer to the support information that it received from the Swan River Trust. The complexity of the information that we get on these matters is such that a dedicated body is needed. To say that it will just be a vesting body in the same manner in which the Conservation Commission or the Marine Parks and Reserves Authority do their work does not hold up at all. Can the minister please explain to me his rationale behind making the Swan River Trust an equivalent to the Marine Parks and Reserves Authority or the Conservation Commission?

**Mr A.P. JACOB:** All that work will continue. Rather than the Swan River Trust continuing to be part of a stand-alone agency of around 50 or so people, it will now continue in an exponentially larger organisation with in excess 1 600 staff and considerably larger budgets. My view and belief is that this will enable even better outcomes in that space, and hence we have this legislation before us.

**Mr C.J. TALLENTIRE:** I note the minister keeps suggesting that by moving the Swan River Trust into a big agency, a mega-agency, that it will have more capacity. He really needs to explain further because his suggestion is that the trust will access additional expertise from elsewhere in the agency. If he suggests that, he must acknowledge that that will be to the loss of work that officers in DPaW are applying to other areas of the state. There is no magic pudding here. Extra capacity is not generated out of an agency by asking it to have greater responsibilities like that proposed. The minister will be taking from somewhere, so perhaps he needs to indicate to us where he will reduce capacity in the Department of Parks and Wildlife if it really is the case that he will increase capacity for the Swan and Canning Rivers.

Debate adjourned, pursuant to standing orders.