

CONSERVATION AND LAND MANAGEMENT AMENDMENT BILL 2020

Second Reading

Resumed from 24 September.

MR C.J. TALLENTIRE (Thornlie — Parliamentary Secretary) [3.11 pm]: I will begin by outlining the essence of the Conservation and Land Management Amendment Bill 2020, which is to enable the joint vesting of areas of the conservation estate. Members will be more familiar with the notion of joint management. Over the past 10 years, areas of the conservation estate have been jointly managed by conservation agencies and traditional owners with an interest. Now we are lifting things to another level with joint vesting; in other words, the actual ownership of the land. This is reflective of the history of the lands. In this NAIDOC week with the theme “Always Was, Always Will Be”, it is especially relevant that this legislation is before the house. It is a recognition of the connection that our First Nations people, Aboriginal and Torres Strait Islander people, have to the lands of this state.

This legislation is specific to the marine environment. Considerable work has been done to establish the joint vesting arrangements in the terrestrial conservation estate, but now we move to ensure there is clarity about the joint vesting arrangements in the marine environment. First Nations people, who are saltwater people, are especially interested in this. It gives them the opportunity to be great supporters of conservation lands. I will address a little later how important it is that we continue to establish our conservation estate. The point is that it means that the traditional owners, the First Nations people, will have management responsibility, but also vesting responsibility with those areas. That is very important. There is a great need for the knowledge of the traditional owners to be brought to bear in the management of the conservation estate. That is of great value, but it is important to recognise also the ownership of the land.

Currently, a body looks after the conservation estate from the broader community’s perspective; namely, the Conservation and Parks Commission, which has been in existence for eight or so years. Previously there was a split between the vesting body for the terrestrial environment, the national parks and reserves authority, and the marine parks and reserves authority for the marine environment. Under the Barnett government those two bodies were merged into the Conservation and Parks Commission. The aim of this legislation is to ensure that the Conservation and Parks Commission and an Aboriginal body corporate are jointly the vesting bodies for an area of the conservation estate. The Labor Party committed at the 2017 election to ensure that Aboriginal people be involved in the management of conservation reserves and to enhance the vesting status as well. It is very important to do that.

It is important also to go into the significance of the conservation estate. The McGowan government has made a strong commitment to increase the area by some five million hectares, which will represent a 20 per cent increase in the area of the conservation estate. Why is this significant? We all lament when we hear about biodiversity loss, species decline and animals and plants being listed on threatened species lists. Resuscitation, or emergency care, can be undertaken to protect the viability of a threatened species. However, it is best to make sure that everything has a significant habitat to preserve itself, to reproduce itself in its natural functioning environment. Many exhibits in the Perth Zoo, unfortunately, come from all parts of the world, not just Australia. We can see the conservation status of species from across the world and that, sadly, they are endangered. We can see what was the original habitat range and what the current habitat range is. That leads me to this point: invariably, the reason for the loss of a species, its demise and eventual extinction, is habitat loss. That is why the conservation estate is so important. It is a means of preserving habitat for the suite of plants and animals that are the life support system on the planet that are also our natural heritage. It is incredibly important that we preserve our natural heritage. As occupants of this land, we have a responsibility to do that.

Bringing in the notion of traditional owners being involved in the management makes sense. The traditional owners, the custodians of this land, have had a long, enduring connection with the land, for 65 000 to 70 000 years in some areas. They have incredible knowledge about how it functions; whether it is the use of things such as fire regimes or practices in hunting species at particular times of year—all kinds of land management. This is something that is almost intuitively understood by our First Nations people and it is important that we bring them into this management role and ensure that that status is fully respected and appreciated by elevating it to also being a vesting role.

Another dimension is the increasing area of conservation estate that we like to visit. Some parts, such as national parks, are very accessible. Wonderful interpretation information is available for those areas. New technology is available that enables people to interpret and appreciate areas.

I heard the Treasurer talking about the magnificence of the landscape in so many parts of the state as well. We can appreciate the country in all kinds of ways, whether at the level of species or right up to the landscape. This is reflected in the way the UNESCO World Heritage listing process works. At the very highest level, UNESCO talks about World Heritage places, and we are very fortunate to have a number of those in Western Australia. The UNESCO body also talks about the level of humans and the biosphere, with landscape, biodiversity and productive land use. That other level is listed as the level of humans and the biosphere. Then there is the geoparks level, which is more simply about an appreciation of the landform. The geoparks system has not taken off in Australia so much.

I believe it is very popular with the Chinese. This is not relevant to us today in these COVID times, but when many Chinese people look at where they will travel around the world, they look at World Heritage sites but they also look to visit geopark areas, because they are just enthralled by the landscape features.

Those landscape features so often define an Aboriginal connection with country and land. That is a very interesting part of that as well. When we are travelling in the marine environment visiting coastal areas around Ningaloo, Shark Bay and the Kimberley coast, with the amazing landscape and landform coastal environments there, we can look at them at the simple level of stunning geology. We can be told about the geological history of an area, and that can be fascinating in itself. It can be very instructive in telling us about how climates have changed, how different landforms have come to be, what the evolutionary impacts might be on various species of fish and marine mammals in an area and where whale-calving sanctuaries might be. That is all very interesting, but when this other element of the Aboriginal connection is brought in, there is then another dimension and level of richness of the natural and Indigenous heritage of the state of Western Australia. That is another great reason for us to pursue this joint vesting that establishes who traditional owners are. It gives them that recognition and it brings that story to the fore.

I am going away from the marine environment to the terrestrial just for a moment, but I recently had the opportunity of visiting some lands inland from Esperance with Doc Reynolds, who is an Aboriginal man passionate about Indigenous heritage. He was talking about songlines and demonstrating how various rock formations in the area signified boundaries of one tribal group's area and its intersection with another. We can see how there is a trading of stories and how two different groups would come to meet. There was an exchange of ideas and, indeed, very interestingly, an exchange of what we might call assets or goods. This is very important. It is further evidence that the whole idea of terra nullius was completely bogus, because there is the reality that the land was looked after and managed. Our First Nation people were trading and interacting with one another in a commercial way, in a sense, and in a very important cultural way.

Dr A.D. Buti: It was a legal fiction.

Mr C.J. TALLENTIRE: Terra nullius was absolutely a legal fiction; the member for Armadale is absolutely correct.

Visiting these areas with Doc Reynolds and appreciating our Aboriginal connection made the experience so much richer. It is all very well to see interesting eucalyptus species and other plants such as eremophilas and grevilleas, you name it, and the animals that depend on that habitat, but to appreciate how those ecosystems exist in relation to our First Nation people adds to the whole joy and appreciation of the culture. It has a very practical value as well in that it can help us to manage those lands.

Turning back to marine park reservations, for a long time it was thought the process would be very complex and it would be very difficult to find a means to have a joint vesting of the marine environment. Indeed, it has often been a struggle to have not just a marine park, but what has often been termed a sanctuary or no-take zone within the marine park. There has almost been a traditional kneejerk reaction from some commercial and recreational fishers who do not like the idea of the sanctuary zones. I think there is now a very strong appreciation in the commercial and recreational fishing sectors and the broader population about the benefits of having these areas where various demersal and pelagic fish species can reproduce, just to use the example of fish. I remember the term "big fat mothers" was used to describe the most reproductive fish. They populate sanctuary zones and their offspring go forth to the areas where commercial or recreational fishing is allowed. There is this central rejuvenation point that has benefits that extend far out. That knowledge has come about now, and I think it is far more appreciated by the whole of the Western Australian community that these no-take areas are of benefit to all. They help repopulate the whole. That is an incredibly important aspect. We have a very nice coming together of good scientific knowledge, with very much the science of the twenty-first century, enhanced by and working with the knowledge of First Nation people—bringing it together so there is a true appreciation and enduring benefits.

One thing we found with the various sanctuary zones and the management of marine parks is that it can be very costly. Preserving small areas and having boundaries in place with explanations of how different zones in a marine park operate to convey to the public to ensure there is proper respect of those zonings can be an expensive exercise. There is great virtue in increasing the size of the conservation estate and making sure we have good interconnections between different zones. That is all good ecosystem management and it is good bio-regional planning. There might be a whale species that moves from one area to another that needs to be accommodated so it has the different habitats it needs.

[Member's time extended.]

Mr C.J. TALLENTIRE: The extension of the whole conservation estate is very important. That way we get the best results. To do that hand in hand with First Nation people, the traditional owners, is so important. That way we get the very best benefits.

Having been a member of this place since 2008, I go along to schools in my electorate and make a point of talking to students about their aspirations when they leave school. When I started out, it was very common for young

Aboriginal boys to aspire to play AFL. In the next couple of weeks, I will be at Yule Brook College talking to the students in the Clontarf program. That program has lots of brilliant footy players, but I know that when I ask them what they think that they will be doing in a few years' time, they are just as likely to say that they want to be an AFL player or a ranger. They want to be involved in the ranger programs and that is tremendous. That is again where vesting helps us. It helps us to establish the foundations of very valuable careers on land that individuals not only have a connection with, but feel eternally connected to because they are, in fact, their traditional lands. That vested relationship makes it front and centre of their minds, which is very pleasing indeed.

Earlier, I mentioned the Ningaloo Marine Park. I note that on 4 August, following the historic signing of an Indigenous land use agreement for the proposed Ningaloo coastal reserves, the McGowan government announced that Ningaloo Coast will be jointly managed by the traditional owners, the Nganhurra Thanardi Garrbu Aboriginal Corporation, and the state government. That sort of development means so much to bringing forward all these benefits. It also means that we benefit from an increase in the size of the Ningaloo Marine Park. The agreement provides for the joint management and joint vesting of the existing Ningaloo Marine Park, which is pretty sizeable at 26 000 hectares. I understand that currently about one-third of that is a no-take or sanctuary zone. I think that that is set to increase, but I do not have the figures with me. The Ningaloo Marine Park and the Cape Range National Park, which is 50 000 hectares, and another 78 000 hectares of new conservation area that extends over approximately 215 kilometres of that magnificent Ningaloo Coast will be jointly managed.

These are really positive developments. There is broad community support for the expansion of the conservation estate in the sensitive Ningaloo area, where potentially visitation from tourists puts great pressure on the marine and terrestrial natural environment. We are all very aware of how many Western Australian tourists are travelling around the state at the moment. That is a tremendous thing, but when people visit those places—members have discussed this already today—pressure is put on accommodation and that puts pressure on the natural environment. At various times I have stayed in places like Coral Bay where an increased volume in patronage puts great pressure on things like water and wastewater treatment plants. If they do not get it right, effluent could leak into the marine environment. That will have really damaging consequences on the marine environment, not to mention unsightly and unpleasant consequences as well. It would be very embarrassing for us as Western Australians if we were to pollute such magnificent areas. We have to manage these areas in a benign way by leaving only footprints on the natural environment.

The Ningaloo case is interesting. The Ningaloo Indigenous land use agreement is the first ILUA that has been delivered under the McGowan government's Plan for Our Parks initiative, which aims to increase the conservation estate in WA by, as I said earlier, five million hectares over five years through new jointly managed parks and reserves. The Indigenous land use agreements will be used to establish things and then enable joint vesting to take place. That is indeed very important. We will be able to use some of those same principles in the Kimberley. The Kimberley is very precious. It is quite difficult to travel around because it is a fair distance from anywhere. Often it is expensive for people to do a coastal trip around the Kimberley, but it is magnificent nevertheless. I have only begun my Kimberley adventures and I look forward to seeing more of the Kimberley coastal environment in the future. But the area certainly resonates with the whole of the Western Australian community. We only have to think of the success of Tim Winton's *Dirt Music* and the story it tells about how magnificent it is to sleep outside on the north Kimberley coast. The area really touches the heart of all of us, so we can only begin to imagine how precious that area is to the Aboriginal people from that region and how deeply felt their connection is with the area. I recall one part of *Dirt Music* that describes how the reef sharks come in to watch the camper as he is sleeping overnight and how there is almost a bond between these wild animals and the camper. It is really stunning. *Dirt Music* is a wonderful piece of literature and the Kimberley is a wonderful piece of our Western Australian heritage.

I also want to touch on the mechanics of ecosystem-based management, recognising that it is a part of the whole vesting and joint management process. It is really necessary to manage things like fisheries, chemical and noise pollution, and vessel traffic. Earlier I touched on how tourism is increasing and how that is having a largely positive effect, but it must be correctly managed. Some people have said that we need to think carefully about the carrying capacity of sensitive areas such as the Shark Bay world heritage area or the Ningaloo world heritage area. We need to think about how many people should be on the coast at any one time and make sure an adequate number of beds is made available. But we actually need to limit the number of beds. I use "beds" in a very general sense; I am talking about beds in hotels and beds in various campsites, including wild camping sites. We need to regulate the number of people who are in the area at the one time so it can cope with the volume of human traffic. If too much pressure is put on the environment, there will be consequences. This has happened on some parts of the Ningaloo Coast, particularly on the stations where grey nomads and others use the tracks extensively and carve out tracks on the coastal dune system, which leads to erosion and other problems. We have to be able to manage the number of visitors to these places to ensure that this natural part of our natural and Indigenous heritage is there for future generations.

I also want to touch on an issue around ecosystem-based management—that is, how taking a single-species approach to managing an area can get us into trouble. If we just worry about the numbers of a single fish species, we may

not protect the whole ecosystem. We could miss the broader implications and there could be a species decline if we look at only an individual species. There are many pressures on our coast environment. I think that a joint vesting arrangement will help us to navigate those challenges in a much more thorough and connected way. In preparing this speech, I thought about the mass stranding of long-finned pilot whales. We still do not understand why that happens. There is a general theory that it occurs because the whales are chasing food, and their navigation system and ability to send out clicks and monitor where they are in the marine environment somehow fails them. We have to wonder, though, whether the problem around acoustic pollution has some role to play. I know that the oil and gas industries are very aware of the impact of their seismic surveys, and likewise is the Navy. The Australian Navy, and also the United States Navy, are very aware of the consequences of the use of sonar and other acoustic tracking and navigational systems and that that is potentially the cause of some of the terrible whale strandings that we see.

The point of this legislation is all about helping us look after our marine environment through this wonderful thing of joint vesting. We can be very proud as Western Australians that we see our First Nation people as absolutely joint partners in how we look after our natural and Indigenous heritage. It is very appropriate for NAIDOC Week that we are bringing this legislation forward. I think this will further inspire more young people from Aboriginal or Islander heritage to be involved in conservation and in the management and interpretation of our conservation estate, explaining it to people and helping people who are perhaps city-dwelling and from a European or North American background appreciate the uniqueness of the Western Australian heritage.

MS L. METTAM (Vasse) [3.41 pm]: I rise in support of the Conservation and Land Management Amendment Bill 2020. The key elements of this bill include the joint vesting of marine reserves with the Conservation and Parks Commission and an Aboriginal body corporate. The bill broadens the conservation purpose of marine parks for the protection of Aboriginal culture and heritage, and clarifies the application of the Conservation and Land Management Act and regulations for the management of unallocated crown land.

I state from the outset that the Liberal opposition will be supporting this bill. As the shadow Minister for Fisheries, I will make some comments about the feedback that I have received from the fishing industry specifically. Some concerns have been raised from an industry perspective, and I will get onto that.

I also make the comment that it is quite timely that we are bringing this matter on for debate during NAIDOC Week. I acknowledge the theme of this year's NAIDOC Week as "Always Was, Always Will Be", which recognises that the First Nation people have occupied and cared for this land for over 65 000 years. With that, I make the point that we certainly support, and there is broad support for this among industry, the notion of extending the joint vesting to marine reserves. It is fair to say that this bill is in part an acknowledgment of the traditional owners' connection to land, sea and country. Since 1993, there has been a greater degree of acknowledgment and engagement in law of this rightful connection to land, sea and country. That has been through the native title legislation and through other pieces of legislation. The extension of joint vesting to marine and terrestrial reserves highlights the obvious and deep connection of First Nation people to land, sea and country.

In fact, the former Liberal–National government oversaw the increase in the state's marine parks and reserves from 1.5 million hectares in 2008 to more than five million hectares, representing a 233 per cent increase in these reserves. The Kimberley Science and Conservation Strategy recognises the largest interconnected system of marine and national parks in this state, which will be jointly managed by traditional owners. In relation to the joint vesting, this bill is in some respects an extension of the provisions made under the previous government to respect the Aboriginal cultural rights to land, sea and country. The Conservation and Land Management Bill 2015 amended the Conservation and Land Management Act 1984 to deliver our election commitment on the joint vesting of lands for Aboriginal people. This bill enabled the joint vesting of terrestrial conservation reserves with the Conservation and Parks Commission and an Aboriginal body corporate. This joint vesting currently exists in national parks, nature reserves and conservation reserves. The bill was introduced by the former Minister for Environment and, as I have said, had support from both sides of this house.

I turn now to some questions that industry is seeking to have answered. To start with, I would like the Parliamentary Secretary to the Minister for Environment to clarify the material impact of this joint vesting on the management and use of land for Indigenous culture and for other Australians, as well as in relation to the terrestrial conservation estate. I had the benefit of speaking about this bill to a former Minister for Environment, now the Mayor of the City of Joondalup. He was quite positive about the meaningful difference that it had made to the management of terrestrial lands. The purpose of this was to acknowledge the connection of our First Australians with land, sea and country, a history that extends over 650 000 years before European contact. Although there are some questions about this provision, this is in many respects an extension of a process that started under our government, as I have stated. However, there are questions about what this will do to the current zoning and permitted activities in these areas.

The major concern and need for clarification that I have heard from industry is about the amendment to section 13B of the CALM act to broaden the conservation purpose of marine parks by including the culture and heritage of

Aboriginal persons as the fourth purpose. The current conservation purposes are the proper conservation of the natural environment, the protection of flora and fauna, and the preservation of any feature of archaeological, historic or scientific interest. This bill will add a new purpose of the culture and heritage of Aboriginal persons. I am asking, and the industry is asking: Will this be a reason to create other conservation estates going forward? Will this shape and trigger additional conservation estates in the form of marine parks as well? There has been some feedback that this may be a shift away from what has been understood as the purpose for marine parks, which is the conservation of the natural environment. These are fair questions to ask about how this will change the management of marine parks and the obligations of that management, given that they have so far been clearly defined around the proper conservation of the natural environment as well as features of archaeological, historic or scientific interest.

Expanding on the reason a marine park can be preserved is different from accounting for the traditional owners at the table as major stakeholders in the park, and I would just like some clarification around that. As I have stated, I have spoken to industry bodies and individuals in the industry and there is support for the inclusion of traditional owners and ensuring that they have a seat at the table. Their involvement in the process is necessary. However, the proposed addition to the conservation purposes has raised some questions and industry is seeking clarification. It will presumably shape the management of the protection and usage of these parks, and it has raised some concern among stakeholders in the industry who have respected the science undertaken to define these marine parks in WA. Those who have enjoyed and have a justified right to access these areas, understandably, have raised some concern about how this will work. There is a call for a definition in this bill of “culture and heritage of Aboriginal persons”. For most of us, I think it is obvious, but the fact that the definition is absent from the bill raises some concerns about how that will shape the management of these parks going forward.

I refer to consultation. I will read a section of a letter received from the Western Australian Fishing Industry Council in a moment, but these industry bodies play an important role in the fishing industry in this state. WAFIC represents the commercial sector, 85 per cent of which is in remote coastal communities, representing a significant part of regional WA. The commercial fishing sector provides \$400 million to the state’s economy and supports many of our regional family businesses.

Additionally, Recfishwest states that recreational fishing represents \$2.4 billion in economic return to families and Western Australians; it puts a strong value on recreational fishing and also has an impact on the livelihoods of Western Australians. The industry, through a range of measures such as bag and size limits and respect for marine parks, supports the sustainable fisheries here in Western Australia. We have 20 marine parks in the state, which will soon include two additional marine parks with South Coast Marine Park and Buccaneer coming on board as well as an expanded Marmion Marine Park. The inclusion of Marmion Marine Park will mean a 23 per cent increase in our marine estates.

We are seeing more fisheries certified than anyone else is seeing internationally and we have some of the best and most sustainable benchmarks in the world. There is a lot of respect for the work that has been undertaken by previous governments and a lot of support for sustainable fisheries going forward. The inclusion of an Aboriginal body and the joint vesting of these marine parks is certainly welcome, but there is some need for clarification of the amendment proposed to section 13B(1) of the act.

There is also some concern about how the marine parks will be managed given what has been described by industry as an inherent anti-fishing philosophy within the Department of Biodiversity, Conservation and Attractions. It is hoped that this is balanced with the fisheries division of the Department of Primary Industries and Regional Development. I have also received feedback that industry would like a ranger who is a fisheries scientist and can have a greater involvement in the management of marine parks going forward.

The Aboriginal body corporate will have equal advice and review of management plans and the industry is very keen to understand how that would work. The industry seeks examples of what recreational or commercial activities could be impacted on by this bill. This is a new and potential impact on its activity, so it would like to understand what that may well look like. Furthermore, industry has an appetite to understand whether, if there are impacts on current operations, there will be an opportunity for compensation and how that would relate to the Fishing and Related Industries Compensation (Marine Reserves) Act 1997.

As I have stated, the first feedback that I received from the industry was that it was not aware of what this legislation was about and what it involved, and that was not recently; that was when the bill first came to this place. No doubt, there has been—I hope—some further consultation since. But this legislation took many industry bodies by surprise and I understand, and I am hopeful, that there has been quite a bit of work undertaken since to understand what it actually means.

I will read an excerpt, if I may, of a letter that I received from the then CEO of WAFIC about this legislation. It states —

We note the Premier’s commitment to ‘rights of traditional owners’. These rights are generally seen as conceptually different to ‘culture and heritage’. The fishing industry supports the Premier’s commitment.

The industry has participated in many native title claims, supported consent determinations wherever possible and sought that all legal rights to the marine domain should be recognised and respected (including protection of rights not yet subject to a determination).

Accordingly the following questions arise:

- How will native title rights be recognised and managed in Marine Parks, noting they are not the subject of the proposed amendment?
- How does section 13B(1) translate legally into a head of power to create Aboriginal Specific Purpose Zones (as we understand are being contemplated for the Kimberley)? What is intended by those zones?
- Given the broad words of Section 138(1), will all areas of a marine park (whether in an Aboriginal zone or otherwise) be subject to legal limitations on fishing and recreational activities unless they are consistent with the ‘protection and conservation of the value of the marine park to the culture and heritage of Aboriginal persons’?
- How will shifts in culture and heritage values or shifts in understanding and recognition of those values affect recreational and commercial fishing, given the wording of Section 13B(1) ...

These are fair questions. WAFIC is also concerned about the lack of response to that letter. I hope this letter has since been responded to, as it was sent back at the beginning of September when this bill was introduced and first came to the attention of the Legislative Assembly.

The Western Rock Lobster Council was also unaware of the bill when it was first presented and what it represents. I have had feedback from Recfishwest along those lines as well.

Mr R.R. Whitby: There was extensive stakeholder consultation. I think in the early stages some of those groups declined the offer of a briefing and then subsequent to that they had briefings. That’s how it played out.

Ms L. METTAM: I am just telling members the feedback I have had from industry. I hope that there has been a catch-up since the beginning of September when I raised these concerns and provided some feedback from industry. Certainly, it was seeking clarification on what these proposals will mean in terms of the material impact on livelihoods.

Debate adjourned, pursuant to standing orders.