

RESERVES (TJUNTJUNTJARA COMMUNITY) BILL 2018

Second Reading

Resumed from 27 June.

MRS L.M. HARVEY (Scarborough — Deputy Leader of the Opposition) [1.38 pm]: I rise on behalf of the Liberal opposition to support the Reserves (Tjuntjuntjara Community) Bill 2018. It has been a long road to Damascus for this legislation coming to Parliament for the Spinifex people who inhabit the Tjuntjuntjara Community. When I did my research, I was quite interested to find a long story of these people trying to find a place and get tenure over the lands upon which they have lived for millions of years.

The Tjuntjuntjara community is inhabited by the Spinifex people. The Spinifex people were displaced from their homes during the Maralinga nuclear testing by the then government and have moved to several different sites since their displacement. In the 1980s, they moved from the Tjuntjuntjara site and onto another site called Ilkurlka. The community was successful in achieving compensation from the commonwealth after the 1985–86 royal commission into Maralinga, and that compensation allowed them to build an airstrip, put down bores and build a road 500 kilometres or so long from Tjuntjuntjara to Yakatunya and Wingellina, therefore connecting all of the Tjuntjuntjara Spinifex people by way of road. In 2000, after five years of negotiations with the state and commonwealth governments, they were successful in achieving a native title determination.

The community is run by the Pila Nguru Aboriginal Corporation, or PNAC, and is governed by the Paupiyala Tjarutja Aboriginal Corporation, or PTAC. The land upon which they are located is in the Great Victoria Desert Nature Reserve, which is a class A nature reserve of 2 495 777 hectares, and it is situated in the Shire of Menzies. That nature reserve was set aside for the purpose of conservation of flora and fauna in 1970. Interestingly, I believe that the Shire of Menzies is one of the largest shires in terms of landmass that we have and the least inhabited. Only 490 people live in the Shire of Menzies, and 240 of those live in the Tjuntjuntjara community, so it is a very, very isolated community and a very sparsely populated shire to manage. Even though members of the Tjuntjuntjara community have lived where they have since 1988, for the purposes of the rules and regulations of the state they have effectively been squatting on the Great Victoria Desert Nature Reserve. This legislation gives the community security of tenure over what has been determined by the commonwealth government to be its native title lands. As I said, they have been living there since 1988, and this legislation puts a registrable land interest over the area occupied, and also provides legal access to that land.

As I understand it, the bill does the following. It excises 78 578 hectares from the Great Victoria Desert Nature Reserve, and this will be in the form of a perpetual lease under section 83 of the Land Administration Act. The purpose of the lease is that it advances the interests of the native title holders, including for cultural and commercial purposes. It also provides that the head lease is exempted from the WA Residential Tenancies Act 1987, which will allow clarity about the community's ability to sublease for commercial, health, education and other uses. However, any residential tenancy subleases will still be subject to the Residential Tenancies Act 1987, which gives tenants and landlords the legal protections expected from a normal residential tenancy. The bill also removes certain protections from the mining and petroleum exploration recovery provisions otherwise applying to the nature reserve. The Mining Act 1973 and the Petroleum and Geothermal Energy Resources Act 1967 obviously have prohibitions and protections on explorative and extractive activities occurring in nature reserves, especially class A nature reserves. This legislation allows for the area contained in this lease to have those protections from those two pieces of legislation removed; however, there are still some requirements should the community undertake any explorative or extractive activities for oil, gas or other resources. When the legislation is effected, written consent of the Minister for Mines and Petroleum must be acquired before any explorative or extractive activity can commence, and the minister will be required by this legislation to consult with the Minister for Environment and obtain the recommendation of the PNAC before authorising any activity. Should the lot in the future revert to crown land, the Minister for Lands would also be required to consent prior to any explorative or extractive activity commencing.

The bill also provides for the granting of an easement under section 144 of the Land Administration Act, and that easement is 20 metres wide and 19.3 kilometres long. It covers a buffer of 10 metres either side of the existing track into the community. The easement is required because the track into the community did not form part of the native title determination and it is on land that is not subject to a native title determination. In fact, I believe native title has previously been extinguished on it. To ensure the community can access its land, it needs an easement granted to it over crown land. The track that sits in the easement will be required to be maintained by the community in the future. I understand from the explanatory memorandum that the easement is set to have a non-extinguishment principle applied to it, which ensures there is no question over whether the community is allowed access via the existing track.

I quite like quirky bits of legislation and the bill, quite quirkily, corrects a technical error whereby the description of the eastern boundary of the nature reserve when gazetted in 1970 incorrectly places the Deakin Obelisk in the

state of South Australia, even though it is located on the border. Of course, given that my dad is a surveyor and retired as a Surveyor General, I am probably one of the few people in this place who knows what the Deakin Obelisk is. It is a concrete plinth with a copper plate on top of it, and it marks the border of Western Australia and South Australia. It was put in place as closely as could be determined at 129 degrees east in 1926, I believe, when the borders were established between the states. There is a corresponding monument called the Kimberley Obelisk at the top end, near the border of the Northern Territory and Western Australia. For surveying nerds who might be reading *Hansard*, there is Surveyor General's Corner, which is the point between the Northern Territory, South Australia and Western Australian borders. It is a place that people can visit if they are adventurous enough to travel the Gunbarrel Highway and get permission from the community that has native title over Surveyor General's Corner. In actual fact, there are two Surveyor General's Corners and one of them has been determined to be in the correct place. Obviously, as technology improves, we are better at defining where these cadastral boundaries fall.

As I said, the legislation does more than just one thing. We are really supportive of this legislation and I think it is really important that we acknowledge the efforts of the Tjuntjuntjara community over time. It was displaced during the Maralinga nuclear testing, and its members were determined to hold onto their culture and language, and to stay on the lands they had been custodians of for centuries. They live in one of the remotest, most water-barren parts of the country, and they are maintaining their traditional culture for their children and grandchildren, and holding onto it for as long as they can. It is a very well governed community. Notwithstanding that, its members have not had tenure over the land over which they sit, they have a thriving community. There are health and educational facilities and there are facilities for tourism. But, obviously, the difficulty the community has had is that if it does not have a registrable land interest, it is very hard to get grant money coming in, and people cannot get loans if they want to build a house or a facility. This legislation will empower the community to improve itself to perhaps put some additional tourism offerings in for people who want to travel to the remotest parts of our beautiful country and visit and understand a little bit more about a very, very traditional Aboriginal culture. The opposition supports the legislation and I commend it to the house.

MR D.T. REDMAN (Warren–Blackwood) [1.50 pm]: I would like to speak in support of the Reserves (Tjuntjuntjara Community) Bill 2018. It is the culmination of a process that was started when I was lands minister. There have been a number of examples around the state in which these land tenure issues have emerged where Aboriginal communities have finally settled. In a formal sense, there is a conflict with the nature of the land tenure that sits under those communities. Both sides of politics have been working through and trying to resolve these issues to the benefit of the communities. I do not think anyone has any issues with that. It has been quite a long process to get to this point, but it gives a level of security. A range of tenure issues emerged in relation to Aboriginal remote communities in particular, in trying to bring economic benefit to those communities, but this bill will confer a level of tenure security that will support investment and commercial activities, and enable the community to take charge of its own future. As the Deputy Leader of the Opposition mentioned in her contribution, this bill undertakes a couple of things. It excises an area of 78 578 hectares out of the Great Victoria Desert Nature Reserve, which is designed to be the footprint for the community, places it on a level of tenure under a crown lease to the Tjuntjuntjara community, and gives a formal easement right to access that land tenure.

A couple of things are significant here. I am very pleased to see that the government has made some investments in this community. I have been watching this very closely following the term of our government—investing in remote communities and in policy settings to lead to better outcomes. I think there is some \$24 million on the table here, for housing, water, sewerage and a range of broader community infrastructure. Also, as has been pointed out by the Deputy Leader of the Opposition, tenure change also allows scope for housing management agreements, which the member is very familiar with. They allow investment and what might be called mutual obligation in housing management.

The other significant factor is the impact that the tenure change has on mining. While the lands remain in a tenure as A-class nature reserve there are significant limitations on mining and exploration activities. This tenure change allows the land to be treated as a crown reserve, in which case the Minister for Mines and Petroleum can approve exploration and mining activities. The minister is obliged, through this legislation, to consult with the Minister for Environment and the native title holders. Significantly, there is no veto right on mining, but, as with all other mining activities in the state, there is responsibility on the mining company to settle any native title issues that emerge. This bill, allowing for the excision of this piece of land, allows opportunities for the community to potentially benefit from mining. A level of prospectivity sits under this land, although I am not sure of its nature.

In the briefings, I was told that the Indigenous land use agreement, which was a part of the package to be settled for this excision, has been agreed upon. In essence, the new lease to the prescribed body corporate is the outcome of the ILUA, and that has been to the satisfaction of the Tjuntjuntjara community. Once this bill passes through both houses, there will be a much higher level of land tenure security than at present, which will allow for opportunities in community development, housing and all the other activities appropriate to a remote Aboriginal community, as well as some prospective potential mining prospectivity, if that plays through.

The head lease, as I understand it, will be with the Pila Nguru Aboriginal Corporation, which is the prescribed body corporate, but there is scope to sublease to the Tjuntjuntjara Aboriginal Corporation, which is the service provider and the administrative body for the activities of the day-to-day running of the community.

This bill is really important, and has the support of the National Party. I remember the former member for Kalgoorlie, Wendy Duncan, who became a life member of the National Party at the weekend, was pushing for this measure. She had a very close association with those communities and an interest in getting better outcomes—in this case the land tenure outcomes—for communities that had settled on areas with inconsistent land use tenures under them. She was seeking resolution of these issues, and that is one of the reasons it is being pursued, and, typically, has the support of both sides of the house. It takes a long time to get through this process. This outcome, once it goes through both houses, will be absolutely welcomed by the Tjuntjuntjara community, and is not before time.

MR K.M. O'DONNELL (Kalgoorlie) [1.56 pm]: I take this opportunity to contribute to this debate on the Reserves (Tjuntjuntjara Community) Bill 2018. I have lived in the goldfields since 1984. When I got there as a police officer, one of the first things I did was drive out to a place called Coonana, 170 kilometres out of Kalgoorlie—Boulder.

Mr M.J. Folkard: Were you lost?

Mr K.M. O'DONNELL: That is another story. My wife even said, on my first trip into the bush, “Stay with the vehicle.” I said, “I’m a trained police officer!”

That was where I had my first meetings with the mob from Tjuntjuntjara. The people in Coonana and Cundelee were the remnants from Maralinga. Over time, I developed good talking relationships with them. Some members here—Fremantle, Morley, Armadale, Mount Lawley, Baldivis—could ride a push bike across their electorates in an hour or two. The member for Mount Lawley might take longer.

Several members interjected.

Mr K.M. O'DONNELL: I do not have that luxury. The members for Pilbara and the Kimberley also do not have that luxury. We have to fly. I wanted to fly to Tjuntjuntjara. The airport there is outstanding. I got to catch up with a few of the people out there, and it is time for me to give my thank you. I said from day one that if the government helped my electorate I would acknowledge it. In Tjuntjuntjara it was brought to my attention that the funding had been cut from the mobile dental service that had been coming regularly to the community. I contacted the Minister for Aboriginal Affairs and the Minister for Health. I got a contact back from the Minister for Aboriginal Affairs saying, “Kyran, leave it with me”, which is fantastic. Within weeks I got a message back that the mobile dental service was back in action in Tjuntjuntjara. I thank the government, and the people of Tjuntjuntjara thank the government. I have a couple of minutes.

Several members interjected.

Mr K.M. O'DONNELL: It is not filibustering.

In 1986, the officer in charge of the police asked me to head out to Coonana because a nomadic family had come in from the desert with their sons. They had had no contact with civilisation.

Mr M.J. Folkard: That’s not true. I was there!

Mr K.M. O'DONNELL: No, they probably would have turned around and gone back if they had met you!

I went out to Coonana and came across Mick and Damian Rictor. They had never been to school. The first white person they had ever seen was in the community. The father was not happy with what he saw, allegedly, and so he and his wife turned around and went back into the desert. Mick and Damian were left behind and stayed in the community. As I said, they had had no schooling, no education and no dealing with society. They knew nothing about society and civilisation. They were placed on unemployment benefits. They were given money. I visibly saw them holding cash and other people going up and taking a note and giving them a can of beans. They had no contemplation of money. The good thing is that Mick is an outstanding painter. The sad thing is Damian Rictor—we as a society had let him down. We as a nation had let him down.

Debate interrupted, pursuant to standing orders.

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