LAND ADMINISTRATION (SOUTH WEST NATIVE TITLE SETTLEMENT) BILL 2015

Second Reading

Resumed from 17 March.

MR W.J. JOHNSTON (Cannington) [5.05 pm]: Consequent to the passing of the Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill 2015, we need to make amendments to the Land Administration (South West Native Title Settlement) Bill 2015. The bill does that. It is part of the package of legislative changes that arise directly from the Noongar settlement. It is important that Parliament continue to support the processes to deal with the Noongar settlement. It is interesting that the question of land tenure was greatly contemplated by the colonial authorities. The member for Victoria Park set out some of that discussion in his contribution to the Noongar recognition bill.

There is often confusion about some of the land tenure arrangements in Western Australia, particularly in respect of pastoral leases. There is often commentary around pastoral leases that people own the land. They do not own the land; they own the lease. The lease is a right to use the surface of the land but it is not a tenure of the land itself. The reason for that is that the imperial colonial authorities wanted to ensure that there was not large-scale taking of Indigenous rights. That was the specific reason the imperial authorities imposed pastoral leases on Western Australia. It arose out of the experience in New South Wales, Victoria and Queensland when squatters took control of the land and then asserted a right to ownership. That is why we have this funny situation in Australia in which a squatter is a rich landholder whereas everywhere else in the world a squatter would be seen as a person who is probably destitute and simply occupying a corner of somewhere or another without any rights. It is quite interesting to look at the poems of Henry Lawson and other colonial poets to see the use of the term "squatter" in respect of the rich landholders. By the time it came to Western Australia, the colonial authorities had worked out how to overcome that problem, which is where they got the idea of a pastoral lease. That meant that the settlers had the right to use the land but not own the land. Now, 125 years later, we are just rolling over the pastoral leases and there is still often a misconception in the community about the rights that come from the pastoral lease. That is why there is often discussion about whether there should be a broadening of the activities that are allowed under the pastoral lease. But the pastoral lease has never been paid for; it is still crown land. Native title claimants can claim native title on pastoral leases because that was specifically contemplated by the colonial authorities in setting up the regime for pastoral leases in the state—to protect those Indigenous interests.

We are dealing with the south west of the state, which is obviously Noongar land. But at some time in the future, I think the Parliament of Western Australia will have to deal with other Indigenous groups and their rights to country in the same way that we are settling matters with the Noongar people. How many outstanding claims are there in Western Australia—30 or 40? Certainly, I think that one of the commitments that the Parliament of Western Australia should make to the Indigenous people of Western Australia is for a specific time line for the settlement of all those outstanding claims. It is incredibly powerful to allow Indigenous communities to have clear rights to the land that they have occupied for thousands of years. It must have been an incredible journey for Indigenous Australians to arrive in and settle all parts of our nation.

Recently, as part of a Public Accounts Committee trip to New Zealand, I had a short time to visit the Te Papa museum on the harbour in Wellington. It is a brilliant museum. The best thing about it is that it tells the story of New Zealand not as the Maori and pakeha stories of New Zealand, but as a continuous tale of settlement from the original Maori arrivals to the arrival of the whites in New Zealand. That is really the opportunity that we have here in Western Australia. We are doing a very important piece of work with this bill as part of the Noongar settlement, but it leaves a challenge to us all to settle the claims of those other Indigenous communities in Western Australia.

As I say, imagine what it was like 40 000 or 50 000 years ago. It was probably 60 000 years ago, because there is evidence of 35 000 or 40 000 years of settlement at Lake Mungo in New South Wales, and that is a long way from the Northern Territory. It is so long ago in history that Indigenous settlement may as well have been at the dawn of history effectively. It is just unbelievable. I was raised in a large family and my sister who was at university doing anthropology when I was a young teenager used to say, "Don't forget that Australia has the oldest settled culture in the world. There's nowhere in the world that has a culture predating Australian Indigenous culture." That is an extraordinary thing. When we visit different parts of the world, we see the way that they celebrate their ancient cultures. Now is our opportunity to do exactly the same in Western Australia. The Noongar settlement is part of that. The next challenge is what we do for all other Indigenous communities in Western Australia.

MR C.J. TALLENTIRE (Gosnells) [5.12 pm]: I rise to speak to the Land Administration (South West Native Title Settlement) Bill 2015. This bill gives us an opportunity to reflect on the journey that Western Australians have made in recognising the importance of prior ownership of and the ongoing connection that Indigenous

people have with their land. I think we have made some enormous strides in the last 15 or 20 years in the journey that we have been on. I can remember studying at the Muresk Institute of Agriculture 20 years ago. I know that the member for Geraldton also did studies there a few years before I did. When I was there, there was much discussion about the issue of native title. There was a fear and a suspicion of anything to do with native title. But what have we seen in the years that have gone by? People have come to realise what native title is about. It is an act of generosity by the traditional owners, who are prepared to share their lands with others, recognising that they have their native title rights while, at the same time, those native title rights can, in many instances, coexist with others who have an interest in that land.

This settlement bill goes a lot further. It takes us beyond the issue of native title claims. It has at its heart the issue of Indigenous land use agreements, which I particularly want to dwell on. I note that the bill refers to the six Indigenous land use agreements that are in place: the Ballardong People Indigenous Land Use Agreement, the Gnaala Karla Booja Indigenous Land Use Agreement, the South West Boojarah #2 Indigenous Land Use Agreement, the Wagyl Kaip & Southern Noongar Indigenous Land Use Agreement, the Whadjuk People Indigenous Land Use Agreement and the Yued Indigenous Land Use Agreement. It is very interesting to look at the terms and conditions in these land use agreements, because we realise that people are in fact looking at ways to have their traditional rights respected so that they can have access to reserves to gather flora and fauna and, indeed, ochre and perhaps other minerals so that that traditional activity can continue. As the member for Cannington said, this will ensure the continuation of one of the oldest civilisations on earth. We should see it as a great gift to all Western Australians that we have in our midst the continuation of one of the most ancient civilisations and the only one that has been in existence for 30 000 or 50 000 years. Depending on which anthropological reading is taken, the estimations go out even further. That is something that we have to respect and also appreciate. It is an absolutely remarkable thing. It is only in recent years that Western Australians have come to realise that fact and embrace it as a real gift that we can all enjoy.

There is a generosity of spirit that comes with native title settlement arrangements such as this. There is this idea of sharing access and sharing the responsibility of protecting the natural heritage and exploiting and monetising in some way the bio-prospecting values. I think of things such as sandalwood. We know that many people want to commercialise sandalwood production and are pursuing that, but I am not sure how successfully, because it is quite a challenge to have a sandalwood plantation and to make sure that the essence is right and that it is a marketable product. We all know that sandalwood is incredibly valuable. Some of the estimations are that sandalwood is worth around $10 000 to $15 000 a tonne. We will debate in this place in the next few days legislation that will amend the Sandalwood Act. Currently, the penalty for the illegal taking of sandalwood is in the order of only $200. It is long overdue for us to correct that, because clearly people could take sandalwood illegally and risk a penalty of only $200 while, at the same time, it is likely that they could cash in that sandalwood for around $10 000, or possibly even $15 000, a tonne. There is a serious problem. That is an example of harvesting natural materials and we want to ensure that Indigenous people, the traditional owners, who in some cases will be the subject of Indigenous land use agreements, can enjoy the fruits of whatever they seek to harvest from their lands. We have to do that in an equitable way, and this is something I am curious to pursue a little further when the Premier gives us his commentary on the second reading debate contributions—the issue of an amendment to the Land Administration Act around the profits à prendre provisions in section 91, and how that situation is going to work. We have a situation at the moment in which we are amending section 91, which is titled "Licences and profits à prendre over Crown land, grant of". We are seeking to insert proposed section 91(7) towards the end of section 91, which reads —

> The operation of this section is affected by the *Land Administration (South West Native Title Settlement) Act 2015* Part 4.

This means that the operation of this act will be affected by the Land Administration (South West Native Title Settlement) Bill 2015, which we are about to pass. I am unclear as to how section 91 of the Land Administration Act is going to be affected by this bill, and I am really keen to get more detail, because it describes how the Minister for Lands can grant various licences over land. For example, section 91(2) provides —

> The Minister may —
>
> (a) fix or extend the duration of; or
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> (b) determine fees and conditions in respect of; or
>
> (c) review; or
>
> (d) with the consent of its holder, amend the provisions of,
>
> any licence or profit à prendre granted under subsection (1).

We need to know about the nature of these licences granted by the Minister for Lands under section 91, because the wording of proposed section 91(7) is that the operation of the section will be "affected"; I think that is a fairly vague term. Does it mean it is going to be affected in the positive or in the negative? We would like to think that that is going to be in the positive and that this will actually open up opportunities for people. That would be consistent with the spirit of this legislation, which describes things like Indigenous land use agreements and how an ILUA can be developed over an area where native title has or has not been determined. We know that there are many areas where native title is yet to be determined, but we can still use the good wishes of various claimant groups to work together to strike one of these Indigenous land use agreements.

Indeed, this was a discussion point when we were contemplating the renewal of all the pastoral leases in the state in the lead-up to 30 June 2015. We were saying that there could be scope for the leases to be renewed or for leases to, in fact, be modified, and that this would require the development of an Indigenous land use agreement, especially when there would be a diversification project. I know that the Minister for Lands has recently announced that he wants to change the leases or give current leaseholders—there are about 500 of them in the state—the option of switching from a pastoral lease, under which it is obligatory that they graze cattle or sheep on the land, to a rangelands lease, and that there be an opportunity for diversification. That is all very well, but we need to consider the commonwealth Native Title Act and its provisions around future acts and how the traditional owners might view some of those diversification opportunities. That has to be consented to by the traditional owners. The way to achieve that consent is through an Indigenous land use agreement, so I am very pleased that in this bill we see a clear mention of how Indigenous land use agreements are going to be part of the south west settlement.

It all seems to be coming together and that is a positive thing, but there are some technical aspects we need to have clarified, and I think there are still some questions about how native title rights coexist with the rights of other people. I know that there would be some in the pastoral industry who would still contest aspects of the nature of that coexistence. But, after all, an Indigenous land use agreement is about making sure we have employment and economic opportunities for native title groups on their lands, and that is something that can be achieved and delivered for people who are, after all, traditional owners or, if native title has not been conferred, members of various claimant groups.

As I said, this is about recognising the generosity of our first peoples and how they have sought to accommodate the fact that there has been a mass wave of firstly British and then other white colonisers of their country, and that they have wanted to work with the development that that colonisation has brought to the state. That is a positive thing, and in this bill we see how the detail of it is going to be worked out for the south west. I know it links to other legislation we have been discussing in this Parliament and that is something that works well too.

This interplay with the Land Administration Act is a very important matter, and I note that the bill provides that if there is an inconsistency between this legislation and the Land Administration Act, this legislation will prevail to the extent of the inconsistency. I think that is a very positive thing, because I know that in many areas, the Land Administration Act is seen as being all-powerful. I would have concerns if it were not specifically spelt out that this legislation will prevail over the Land Administration Act, because there are definitely some provisions in the LAA that make its powers absolutely enormous. When we look at the powers the act has in terms of pastoral leases—recognising that pastoral leases cover some 35 per cent of the surface area of the state and, indeed, a very significant part of this south west native title settlement area—we can see that it is a major aspect of things.

I am keen to learn more about the whole land base strategy that is proposed in the legislation. The bill provides for the implementation of a land base strategy, which will be for the establishment of the Noongar land estate and the grant of a land access licence for each of the six regional corporations. I take it that those six regional corporations are the bodies that are the subject of the Indigenous land use agreements that I quoted earlier. That, again, is something that we need to have clarified.

The areas of land involved here are very significant. After all, this will involve the surrender of native title claims over 200 000 square kilometres of the south west and it will also mean that the Noongar people will receive $50 million per annum for 12 years and the transfer of up to 320 000 hectares of crown land to a trust. I am wondering how fair an exchange that is; one can only assume that there have been very, very extensive negotiations, and that they have been conducted on an equal footing—that it has not been a matter of negotiations taking place whereby one side has infinitely more power than the other and that there has been some resourcing. From what I can see, that is something that Australia has got right. I think this goes back to the time of the Keating government and Paul Keating's famous Redfern speech and his recognition of the importance of righting the wrongs of the past and of making sure that when it came to native title negotiations, we gave the various native title bodies the legal capacity and resources to pursue their cases in a way that would be just as strong and powerful as those who might be arguing against the legitimacy of native title. I think it is very

important that we do that job of resourcing those groups so that the various claims and legalities can be fully tested and fully explored. I am very happy to support this legislation. I am not sure who else will be speaking on this bill, but perhaps other members will want to add their support to it.

[Member's time extended.]

Mr C.J. TALLENTIRE: The situation for native title in this state is improving. People are realising the significance of it, and they are respectful of the recognition of our first peoples. When relinquishments are made, a fair deal is done, as this legislation demonstrates. We are embracing the sharing of the wealth of the south west of the state, and the whole idea of sharing the wealth and access to land, including access in a spiritual way, as well as to the recreational, environmental and commercial benefits and opportunities provided by that land. One of the great things that we have learned from our first peoples is that this land is much more than a landmass to be exploited. It has great mineral wealth, but there is so much more to it than that. It is our responsibility to look after the land, nurture it and respect it in the same way as the traditional owners have for 50 000 years or more. I will conclude my remarks there and commend the bill to the house.

MS J.M. FREEMAN (Mirrabooka) [5.33 pm]: I wish to put on record a few points about the Land Administration (South West Native Title Settlement) Bill 2015. I have placed on record previously my congratulations to the government for bringing this settlement to fruition and, in particular, the Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill 2015, as a settlement of the Indigenous land use agreement.

Although I understand that this legislation is part of the settlement, and that it is a full and total settlement, there is always much more work to do in the way that our community works with the Noongar people to ensure that they are respected as the first people and seen as part and parcel of the Australian community. Part of that is that the land will be allocated to a land administration organisation. I understand that will be tendered for and that organisation will hold the land for a certain time. A trust will be established for 12 years, and 320 000 hectares of land will be transferred to it. Questions need to be asked about how that land will be found and allocated.

Of particular concern to me is that currently large asset sales are taking place in Western Australia to retire the debt incurred by the Liberal Party in its two terms of government. Part of that asset sale is a fire sale of land. Some land is currently being sold in Mirrabooka, along Dianella Drive, where it comes onto Yirrigan Drive, just behind Channel 10. It is a particularly picturesque piece of land that will have amazing views over Dianella and into the city. Quite a few pieces of land in and around Mirrabooka are owned by the Crown, particularly the Department of Housing. I will be intrigued and interested to know whether this fire sale of land means that less appropriate land will be allocated to the trust and whether the Noongar people will be left wondering whether, in entering into this agreement, they received the value they should have from that 320 000 hectares of crown land.

Large areas of bushland in Mirrabooka have a strong association with the Whadjuk Noongar people in the area I represent. One of the Aboriginal elders in the area, Walter Eatts, has been talking about a book they have been writing about what it was like for young Indigenous people in the past, collecting and hunting in the area that is now the Mirrabooka bushland. The difficulty is that if the Mirrabooka bushland, which is Bush Forever, is allocated to the trust, it will not have any value for the trust, because it is Bush Forever. I suppose I would like clarification that, although there is an attachment to that land that can continue, it will not be seen as a way of transferring this land, which has no inherent value because it is covered by Bush Forever and which is important for the migration of birds. I am interested in getting a response from the government on this issue. How will the government designate land to be transferred?

I also note that connection to the land is incredibly important to the Whadjuk Noongar community in the area that I represent in working with young people, particularly young people at risk. We are very fortunate to have the Wadjak Northside Aboriginal Community Group, which has recently been established on Princess Road in Balga. Len Yarran and Shane Garlett are working really hard to establish a cultural centre that brings in the broader community, especially some of the newly arrived Australians, so that they experience a positive exposure to Aboriginal people in the area, and their goals, hopes and achievements. Those two blokes are great at taking young people out onto country. They teach them important cultural aspects of the country, but they also like to have a bit of a hunt, because that is part and parcel of sharing their culture and kinship links. They also like to go to the coast, because the Whadjuk people in that area used to go from the coast into the country to fish and teach young people about sustaining themselves on the natural produce that this rich country has provided for over 40 000 years.

Questions around land have to be answered too. If suddenly some of the land that the Wadjak Northside Aboriginal Community Group goes to country on goes back into this trust, there are aspects of access and capacity to consider. Therefore, that is quite an important issue that seems to me to be slightly unresolved. We

would not want such a distinguishing, landmark piece of legislation that is to be congratulated to fall into disregard because of how it is applied to the trust and the land that goes into the trust.

Just in closing, I want to make members aware of a book that I have been reading. I am not very far through it, so I will not share too much of it with members, but it is called *Dark Emu Black Seeds: agriculture or accident?* by Bruce Pascoe. I found this book fascinating. We all know that when Australia and, indeed, Western Australia were settled, there was the issue of saying that there was no possession of the land, no land ownership, by Aboriginal people, and therefore terra nullius gave the British Empire the capacity not to have to enter into a treaty as it did in New Zealand and in other parts of the world. Terra nullius also gave the British the capacity to exploit their belief on looking at how the land had been used. Land is such an important aspect in how our society operates in terms of ownership, capacity and how we build our wealth in the community. When the British first came, there was a view that there was not an agricultural aspect to the land. I will quote from the book, which states —

> When Europeans began their classification of eras and the peoples of the world they decided that five things signified the development of agriculture: selection of seed, preparation of the soil, harvest of the crop, storage of the surpluses, and large populations and permanent housing.

For the Europeans, that showed "civilisation" as such, so for a long time there was a view that the first nations' people were not an agricultural people and that they had less formalised communities around agriculture. *Dark Emu Black Seeds* shows that there was quite an extensive agricultural background to Aboriginal communities. There were the burn and produce communities; people cared for the land and, in fact, they used ash and other produce to compost the soil. With the arrival of the settlers, some of the foods, such as yams, that Aboriginal communities had been cultivating were eaten by livestock, and the ground was trampled by livestock. Areas that had clearly shown that people had agriculture, a necessity, and organised production for communities were, firstly, disregarded by the settlers and, secondly, destroyed by many of the settlers. Maybe it is just my naivety that I had not known that until this point, but it was amazing to come across that. Bruce Pascoe states in his book —

> Archaeologists found a 25,000-year-old grindstone at distant Kakadu in the Northern Territory. The bakers of antiquity. Why don't our hearts fill with wonder and pride?

He is saying is that the Aboriginal people of this country, the first nations' people with whom we so proudly make up this country, give us the history that makes us, as Australians, feel proud. He notes in his book —

> … Judith Furby, University of New South Wales, found grindstones at Cuddie Springs, near Walgett, western New South Wales, which had been used to grind seeds more than 30,000 years ago, making these people the world's oldest bakers by almost 15,000 years, as the Eygyptians, the next earliest, didn't bake until 17,000 BC.

There was the whole idea that Aboriginal people did not build houses and did not store grain; however, Bruce Pascoe goes on to state that when we go through the records of explorers, we see that indeed many communities built houses and harvested and stored grain. Certainly, an agricultural industry existed at that time. In some cases, Aboriginal people would leave their grindstones and move to other areas, the settlers would come in and take their grindstones and then they would come back and the stones were not there. It would have taken thousands of years to make that tool smooth to be able to do that. Definitely, cultivation was a feature of Aboriginal land use. As descendants of the British Empire, we and, I suppose, myself—my family settled here in 1830 and were sent out to farmland around Toodyay—and the community need to know that the Aboriginal people did that agriculture very resourcefully and in a manner that was accepting of the climate and the old soil. We came from a country where our soil was alluvial and still had volcanic ash in it, which gave it a lot more capacity to grow things, whereas the Australian soil was ancient—thousands and thousands of years old—and Aboriginal people were indeed cultivating it. The book does go on—unfortunately, despite my best intentions, I have not got through a bit more of it to share with members. There is an indication that Aboriginal people not only had agriculture—they tilled and grew yams and such things in the land—but also kept livestock and did quite extensive fishing and other aspects that we now see today as part of a thriving agricultural industry.

It is important that we have recognition of a community that had enormous land use and commitment to its land. When we pass this bill, which is so bound up in how we see and allocate land, we should do so in a manner that respects and understands that this is giving back land that the first people of the Noongar nation as a whole, including the Whadjuk people, were using fully, productively and consistently. They were able to sustain themselves, their families and their communities, and I think that is something that we, in passing this legislation, should recognise and pay tribute to. Thank you.

MR R.H. COOK (Kwinana — Deputy Leader of the Opposition) [5.50 pm]: I just wanted to make some brief comments on the Land Administration (South West Native Title Settlement) Bill 2015. This is obviously a very important aspect of the overall agreement with the South West Aboriginal Land and Sea Council and the

Noongar people. We know the importance that land has in Aboriginal culture. That is as important to the Noongar people as it is to people who live in less dislocated parts of Western Australia. This is a very important aspect of the agreement and I think the government has done a great job in bringing a particularly technical aspect to bear in bringing the agreement to life.

The package with the Noongar people provides for $1.3 billion in land and other assets in exchange for surrender of native title of about 200 000 square kilometres of land in the south west. That aspect of surrender was always the difficult part in bringing this agreement to life. This legislation asks people already with very few possessions to give up more possessions. These people are dispossessed and disadvantaged members of the Aboriginal community; the Noongar community in particular is dislocated, given that members of that community live in the first part of the state to be settled by white people. We are asking them to compromise to achieve a better outcome. This group of people has been badly treated over generations, and their continual experience of dialogue and negotiation with government, authorities and white people or settlers to this state generally has been a negative experience. To suggest to them that they then turn around and give up something that they have is asking them to make a great sacrifice indeed. Members should remember that when this agreement was being generated in the early 2000s, native title was often spoken about, and people were reaching some very affluent and important future act agreements with mining companies in the Pilbara and the Kimberley. It was a time when people looked to native title as perhaps the one thing they had, the one shot in the locker, to get ahead. When we come to a group of people and ask them to surrender and give up that shot in the locker in exchange for an agreement that will not take place for some time in the future, we begin to get an understanding of just how important and how difficult this agreement has been to bring to bear.

Native title existed over 200 000 square kilometres of the south west in discrete, difficult-to-identify, I suspect, remarkably small patches of land, which ultimately would have been incredibly hard to exercise any rights over. On the one hand we say that we acknowledge that these people have native title rights over this land, but on the other hand we say that we cannot identify it in large part because it is in small town reserves; to a certain extent in national parks, although that is a limited form of native title rights and interests; and small pieces of unallocated crown land that might, and probably do still, exist in the south west. But the process of going about and identifying them was an incredibly difficult task, and I do not think that has taken place yet. In addition, to exercise any meaningful rights over those parcels of land would have been even more difficult. It is a commonsense approach to say that we acknowledge the Noongar people have rights and interests over this land, but we want them to give it up for something much better, and that is a better future. That better future is in the form of income, economic opportunities and land.

My understanding is that this bill facilitates the identification of land that will be transferred into the Noongar Boodja Trust for the purposes of ongoing and continued prosperity and economic development. But some land, I assume, will be set aside for cultural observance and other important reasons. But this legislation starts that process of exchanging those parcels of land over which native title to the extent we could or could not identify existed, and then produces an estate that ultimately will deliver benefits for the Noongar community. It is a huge opportunity. It is in no small part down to the great resilience and courage of the Noongar community that it was able to reach that position. Particularly at the time of the signing of this agreement, there was obviously quite a bit of controversy within the Noongar community over the virtues or otherwise of this agreement, and large sections of the Noongar community, many of whom lived in my electorate, came to the decision that it was too much to ask. For the Noongar people to give up native title in areas in the south west in which they had some understanding that native title existed in exchange for an agreement that ultimately they would benefit from was too much to ask. They saw the agreement as in some ways stealing the sovereignty that they enjoyed with native title over that land. That was the beginning of the movement within the Noongar community that often spoke of not giving up sovereign rights to this land and that the agreement dispossessed them of that sovereign right.

As I said in the debate on the previous bill to do with this agreement, the Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill 2015, my view is that this is the greatest act of sovereignty that the Noongar community could undertake. This is the Noongar community saying that they acknowledge and accept that they are the traditional owners enjoying native title rights over these hitherto largely unidentified areas of land and that they will take that sovereign right and exchange it for another form of sovereignty, which is the freehold interest in lands that will ultimately be transferred into the Noongar Boodja Trust. I say once again that far from stealing the sovereign rights of the Noongar community, this and the other bills that we have considered in the context of the agreement enshrine that sovereignty. To the point that it may or may not be of interest to members of the Noongar Aboriginal community, it does so in a way that means that the rest of the community acknowledges that sovereignty as a result of an action in this Parliament. This should be seen as a positive thing.

We have moved on from those historically entrenched negative attitudes about somehow providing Aboriginal people with rights and interests in land, particularly acknowledging that their Indigenous rights will be about

stealing backyard properties and contravening the rights of mining companies to do as they will. Far from those negative and racist campaigns of the 1990s and the 1980s, we now see a point at which we are acknowledging those sovereign interests and those entrenched Indigenous land rights in a totally uncontroversial and bipartisan way. I think that is a pretty exciting step for us to take. From that point of view, this is a very important part of the agreement process, because this is about our good faith and how we make available those patches of land that will ultimately be transferred into the Noongar Boodja Trust. The impact of that will be to give the Noongar community absolute sovereignty over that land once and for all, because no longer will it be a right and interest about which lawyers continually argue; it will be formed in the rights and interests about which there is very little debate and about which, particularly on the point of freehold rights, there is great understanding. That is why I commend this bill to the house.

Sitting suspended from 6.00 to 7.00 pm

MR B.S. WYATT (Victoria Park) [7.00 pm]: I rise to make a few very brief comments on the Land Administration (South West Native Title Settlement) Bill 2015. Most of the comments I will make on this bill I have already made on the Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill 2015 which we dealt with earlier tonight, regarding the broader settlement of native title in the south west of Western Australia, basically, of a Single Noongar Claim. This bill, in effect, gives effect to part of the settlement terms. When I was giving my contribution on the recognition bill, I went through in some detail the piece of advice that was given to the South West Aboriginal Land and Sea Council by barristers Hughston and Steggall on 28 October 2013, because I thought it was certainly worth the attention of the house as well as anybody who is listening to the audio or who will read the *Hansard*. That advice is on the website of the South West Aboriginal Land and Sea Council for everyone to read. This advice was taken by SWALSC to effectively address three main issues—firstly, in respect of the merits of the state's offer; secondly, on ignoring the quantum of compensation as opposed to seeking a litigated resolution and the possibility of success of a single Noongar claim through a litigated hearing; and, thirdly, the likely time frame of that litigation option. I went through those issues in my earlier speech and will not do so again. I went through why a settlement is always preferable to the litigated option. The barristers who provided this advice set out the elements of the state's offer whilst they were considering the decision on the value of that offer. They pointed to the fact that it includes —

> The transfer into the Noongar Boodja Trust of a maximum of 20,000 hectares of Crown Land in freehold and the creation of up to 300,000 hectares of managed reserves or leasehold from Crown Land in multiple parcels across the South West Region within 5 years of the Settlement date.

Importantly, it also provides for each of the six Noongar regional corporations to be granted a land access licence. According to the explanatory memorandum to the bill, those licences will allow Noongar people to —

> … access and undertake customary activities on certain unallocated Crown land and unmanaged reserves …

These licences will be of significance to those six Noongar regional corporations because, effectively, they will be issued under this legislation and on the terms and conditions that I understand will be set out in each Indigenous land use agreement. These licences will allow for activities on the land such as visiting and caring for sites and country; gathering, preparing and consuming bush tucker and bush medicine; conducting ceremonies and cultural activities; camping on country; lighting camping and ceremonial fires; and having meetings on country. Even though native title is being surrendered, these important licences will effectively allow native title rights to take place on those relevant lands, which is an important part. I would be interested to hear from the Premier by way of his response or in the information he is going to provide to the relevant shadow minister, the member for Willagee, about who will make the decision on when the licences can be granted and who will make the decision on whether a licence can be revoked, and what involvement the six Noongar regional corporations will have in any revocation of those land-access licences. Other members have gone through the land-based strategy, and I previously outlined the 20 000 hectares effectively of freehold land and 300 000 hectares of crown land.

I want to briefly refer again to the late Rob Riley, whom I mentioned in my contribution on the Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill earlier this evening. Rob, who was a very close friend of my father, was the subject of a biography by Quentin Beresford in 2006. It is a very good biography because it outlines Rob's struggle for land rights and the battles he fought for recognition. That is why it is worth reflecting on the Land Administration (South West Native Title Settlement) Bill, because it does indeed recognise the importance of land and country to Aboriginal people. Rob was a proud Noongar man. He spent a lot of his life in public advocacy for land rights. I just want to quote from page 331 of Mr Beresford's book, where he writes —

> Rob's views on native title have been given currency in recent times. Those who fought as he had done for a Canadian-style, regional agreement approach to the Mabo High Court decision saw this come to

> fruition in the recent Ord River agreement involving the Miriuwung Gajerrong people. Pat Dodson led the negotiations, which produced a landmark agreement regarded as being beyond the capacity of the courts to deliver. The deal struck with the traditional owners covered future land use, compensation, economic development and land management. It also dealt with health and educational outcomes and established an $11 million fund co-managed by the state and the traditional owners to supplement mainstream services. In negotiating the agreement, Dodson said that it was 'as much about dealing with past injustice as it is about providing for future land use in the region'. Rob would have agreed wholeheartedly with his friend.

It is worth reflecting on that simply because Rob's life was very significant in respect of Aboriginal affairs in Western Australia and certainly as a national leader. I think he would have been delighted with this outcome, bearing in mind the thoughts of Mr Beresford around the Miriuwung–Gajerrong agreement back in 2006. Rob was around during some pretty brutal times, such as the Noonkanbah dispute, which is outlined in the book in some detail. There is also a chapter titled "Betrayal: The Demise of National Land Rights", which covers the battle and disappointment that Rob had with the then state and federal Labor governments over land rights, and then, similarly, his very bitter battle with the then Leader of the Opposition, Bill Hassell, on land rights. The point I make is that this legislation is not something that we could have expected even 20 years ago. A lot has happened in Aboriginal and non-Aboriginal relations and also in the politics around Aboriginal affairs over that time. I think Rob's life was very much one that involved a very strong, aggressive fight in the political sphere—I do not mean in terms of violence, but in terms of having to be very, very firm in his views and to articulate his views very strongly. Rob made a number of speeches at the National Press Club of Australia and around Western Australia. When people read the story about Rob they can see the frustration that he had with the governments of that day. Yet, now, here we have this legislation. It flowed on from the Miriuwung Gajerrong Corporation established in 2006, and now the Noongar native title settlement, which I think Rob certainly would have enjoyed watching, had he still been with us. This is an important part of the settlement. It is something that the Labor opposition supports strongly. Is my understanding that there will be some questions in consideration in detail, but I do not anticipate them to be terribly controversial. This settlement is for 20 000 hectares of freehold and 300 000 hectares of basically leases, as I understand it, which are being transferred to implement the land-based strategy to be held by the Noongar Boodja Trust. I want to make the point again, as I made about the Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill 2015, that this is a very, very important component of the settlement of native title because it brings to the heart of that settlement the thing that Aboriginal people value the most: country—ownership of country, care of country, and the fact that Noongar people will be able to access country for the purposes of traditional use in carrying out those cultural activities that I referred to previously. I am delighted to support the Land Administration (South West Native Title Settlement) Bill 2015.

MR C.J. BARNETT (Cottesloe — Premier) [7.12 pm] — in reply: Again, I thank members opposite for their support of the Land Administration (South West Native Title Settlement) Bill 2015—indeed, for their support of the two bills.

To very briefly recap, this bill is the practical implementation of some of the provisions of the native title settlement between the state and the Noongar people. As with the Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill 2015 that we have just dealt with, this bill requires its passage and commencement as a precondition to the settlement itself. Each Indigenous land use agreement relates to a different area of land in the south west of the state. The bill provides for the implementation by the Minister for Lands, acting on behalf of the state, of certain obligations under the settlement's Indigenous land use agreements. The bill also provides for the implementation of land-based strategies to establish the Noongar land estate, the grant of a land access licence to each of the six regional corporations, and for related matters.

The Noongar land estate is land allocated to the Noongar Boodja Trust to be held for the benefit of the Noongar people. The estate will result in the allocation of up to 20 000 hectares of freehold land and up to 300 000 hectares of crown land, either under lease or as reserves, under management order to the Noongar Boodja Trust. A land access licence will be granted by the Minister for Lands to each regional corporation that is established and the Indigenous land use agreement will allow those people to access and undertake customary activities on certain unallocated crown land.

The implementation of the legislation is obviously necessary and sensible. I understand that some detail and explanations might be required. The member for Willagee—the lead speaker who spoke last week—made a number of observations and sought clarification, probably extra information, of some of the bill's provisions. I would like to thank staff from the native title unit, not for responding to my requests, but they have very diligently produced a detailed summary of the points raised by the member for Willagee with explanations and further information. I seek leave to table this document, and I will also ensure that a copy is forwarded to the member for Willagee.

Leave granted. [See paper 3987.]

Mr C.J. BARNETT: My understanding is that we will adjourn the debate after the second reading vote and then return to deal with the bill in detail. I am not avoiding any stage of consideration in detail, but I think that document will provide the extra explanations in most of those areas that members are probably looking for.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.