

SWAN AND CANNING RIVERS MANAGEMENT AMENDMENT BILL 2014

Third Reading

MR A.P. JACOB (Ocean Reef — Minister for Environment) [12.08 pm]: I move —

That the bill be now read a third time

MR C.J. TALLENTIRE (Gosnells) [12.09 pm]: We have been looking at this bill for the best part of a week and have given it a fair amount of parliamentary time and consideration. The opposition has found that there is no case to support this bill's existence. We have repeatedly asked that the minister provide us with evidence of community requests for this amendment bill yet the government has been incapable of providing us with any indication of who has requested the amendments to the powers of the Swan River Trust. We asked that question on numerous occasions. The best we got came from the Premier. During debate we pressed the Premier for some evidence of a person or organisation that had requested that the Swan River Trust's powers be curtailed in some way. The best the Premier could give us, and the only example that we were given during the many hours we have spent in debate, was Chidley Point Golf Club, which is sometimes known as the Mosman Park Golf Club. He referred to its dissatisfaction about a comment that the Swan River Trust made about the colour of the awnings that the club wanted to put on its veranda. That is the only evidence that we have been given at any stage throughout the debate of community dissatisfaction with the current operations of the Swan River Trust. I note that the Premier's comment was couched in terms of the Swan River Trust having powers over people's private property rights. To my knowledge, the operation of the Chidley Point Golf Club and the colour of its awnings are not major property right considerations, but more a matter of aesthetics. I note from its website that the Chidley Point Golf Club has the fleur-de-lis as its emblem, which is a European royalist symbol. I have no idea what relevance it has to the Mosman Park Golf Club. I will not judge the golf club because it uses a European monarchist symbol. Why would I bother about that? The Premier was concerned about property rights because a comment was made about the colour of the golf club's awnings. That led to much debate and discussion during many hours of parliamentary time. Eventually, with the inevitable passage of this amendment bill, it will result in the curtailing of the capacity of the Swan River Trust. It is clear that no strong case has been provided; no evidence has been provided to substantiate and support the case for the curtailing of the Swan River Trust's powers—that is, its capacity to act as an independent body, independent of the Minister for the Environment. This amendment bill seeks to give the minister control over what recommendations and advice the Swan River Trust provides publicly. I contrast that with the strong support that exists in the community for the current arrangement under which the Swan River Trust operates.

During the course of debate, I mentioned the good work that is done by many groups and their positive association with the Swan River Trust. I referred to their ability to ensure that the trust has much on-ground capacity through the spirit of volunteerism and the different networks, and the credibility that comes when community groups are involved in delivering works, which also provides an enormous multiplier effect. As economic rationalists, I am sure that government members are aware that the injection of one dollar into the volunteer conservation sector will mean a return that is at least five times the amount that was put in; indeed, that is the standard. I refer to some of the work that has been undertaken by different groups. The Canning River Residents Environment Protection Association has just celebrated its twentieth anniversary. It has worked with the Swan River Trust by focusing on a section of the Canning River. For 20 years it has been working on projects such as river restoration and water quality monitoring. I note the importance of that community group's role in working with an independent Swan River Trust. The minister argued that we will see a continuation of that situation and that there will still be support for a group such as CRREPA in the Department of Parks and Wildlife. I am concerned that the Swan River Trust's connections with a major agency that has responsibilities right across the state will mean that the activities of a small local group will be forgotten. The minister has put out a media release today about a review of the state's cane toad strategy. Naturally, that is an activity with which the Department of Parks and Wildlife is involved. It is also involved with activities relating to threatened species on the south coast. I fully support the huge range of responsibilities that the Department of Parks and Wildlife has as its set of priorities, but I am concerned because, noting where our population is, the Swan and Canning Rivers are central to the lives of many Western Australians; indeed, they justify having a dedicated body—that is, the Swan River Trust—that can provide ongoing connection with people without the risk of its activities being lost in a large agency and spread across the whole of the state.

As I said, I attended the twentieth anniversary of CRREPA. It is appropriate that I acknowledge some of the people who have made that organisation such a success. I refer to Diane and Gary Matthews; Grecian Sandwell, who is the president; Colma Keating; and Max Grisby, all of whom have been stalwarts of the group since it began. I can well imagine the disappointment of a group that has received such positive support and assistance from the Swan River Trust when it realised that the Swan River Trust will no longer have anything more than an

advisory role. People will not be able to go to the Swan River Trust in the way that they can now. There will be no dedicated staff focused on Swan River matters, because they will be lost in a bigger agency.

During consideration in detail, I asked the minister on several occasions to indicate how the new departmental structure would accommodate Swan River Trust staff. I put it to the minister, who said that this is a machinery-of-government change, that we needed to know whether there would be a unit, a branch or a division in the Department of Parks and Wildlife to which a group like CRREPA could directly go to talk about matters relating to their part of the Canning River. The minister declined to provide any insight into how the new structural arrangements will work. The minister's view is that this is an operational matter and one that he need not share with us. However, it is central to things. How will CRREPA and other groups that have worked so well with the Swan River Trust manage to gain direct access if the minister cannot tell us where in the agency the Swan River Trust staff will be located? That is a fundamental flaw in the way this issue is being presented to the community.

I have been talking to people from other community groups as well. In my electorate the Friends of Mary Carroll Park is a group that does a tremendous job working on local bushland matters with a direct connection into the Canning River—in an area of the Canning River, I might add, that is very severely stressed. We have just had the construction of the oxygenation plant at Nicholson Road. That is actually downstream of the target area that the Friends of Mary Carroll Park are involved with in the good work and magnificent efforts put in by Unice Robinson, Rebecca Rees, Shae Clark and Paddy Cullen. They have benefited as well from the capacity to have a direct connection to the Swan River Trust. In my good friend the member for Cannington's electorate, the Friends of Queens Park Bushland is a group that works on bushland matters that connect to the ecological health of the area and link with the Canning River. It is important in the work that Sian Mawson, Rose Mildenhall, Sue Marsh and Sara Saberi put in. It is essential that community groups can talk to someone in a focused agency such as the Swan River Trust; that they know on any given day they can get the guidance, support and equipment they need; and that they have direct access to information and know who to go to. However, now these staff members will be moved into the big Department of Parks and Wildlife, and the minister cannot share with us whereabouts in the agency those people will be located or the status they will have within the agency. Will they be located in a unit or a major division? I think we are entitled to know that, but so far the minister has been unable to enlighten us. That means that there will be great uncertainty. The capacity for people to continue to liaise will be seriously reduced. I do not think that is fair on these community groups. However, worst of all, it means that we will not have that ongoing liaison, or we will jeopardise that ongoing liaison in such a way that we might find that the work and all the goodwill of those groups in some way will be lost or hampered. I am thinking of things that should be happening at this time of year, such as the planting projects that should be getting underway and will need to be followed up. I know that the weeding work is already underway so that the planting is not just crowded out by a proliferation of weeds that are likely to take off as soon as the slightly warmer weather comes about September. These are crucial issues for the work of these groups and crucial for the health of the Swan and Canning Rivers; but it is an issue that I think has been overlooked by the minister.

Something else that struck me during the course of the debate was the proposed amendments to section 73 of the Swan and Canning Rivers Management Act. It became apparent that this government does not understand the importance of the role of these groups that are, yes, grassroots groups. They are hands-on groups that actually do on-ground work, but they also have incredible knowledge about the health and wellbeing of the river. They have great knowledge and they should be consulted as a matter of course whenever there are development proposals in their area. They should be contacted. We have had an opportunity to amend the legislation as it stands to make sure that it is as relevant to today as possible. It is clear in section 73, as it has been amended, that the legislation requires that the liaison on development proposals be with government agencies and with local governments, but there is no mention of key community organisations. Indeed, in response to my initial raising of this issue, the minister said, "But they're just interest groups." He said that as far as he is concerned interest groups are among the first to hear about these things. That is such a derisory manner in which to treat groups that are so passionate about what they do, that deliver such amazing results and that have such strong knowledge—to dismiss them as just interest groups. In all probability they will provide some information into a discussion about a particular development proposal. I find that insulting. I think it is really missing the point as well that in this day and age community consultation and community engagement is not only necessary to get the community on board, but also necessary to tease out the best available information. I made the point in debate yesterday that the best knowledge is not often in the government agencies, because there is such a dramatic turnover of staff and for one reason or another that knowledge does not necessarily come forward. A bit of corporate knowledge, a bit of history and a bit of understanding, perhaps where an old drain used to come into the river and what the likely sediment problems might be with it—that kind of very detailed knowledge—resides with the community sector. That is why, as a matter of course and as a matter of priority, when there are development proposals, it should be an absolute requirement and it should be respectfully placed in this legislation that community groups should be contacted. We should not hear this suggestion from the minister, "They're just interest groups and, yes, if they hear about it, we'll tolerate what they say." There should be an honouring of what they say. There should be a

commitment to assisting them make strong submissions, because we can take it for sure that the quality of their submissions will be of a very high order, will be well informed, will draw on all sorts of historical information and will provide us with the information we need to make the quality of decision that we should be looking to make.

The minister has not done that through amendment in this place to the bill. However, I know that he has the capacity to talk to colleagues in the other place, and if he is not going to suggest that amendments be made there to the bill, I implore him to spend some time talking with the natural resource management groups and he will realise that they are highly skilled professionals. I think of a group like SERCUL, the South East Regional Centre for Urban Landcare group, and the Perth NRM group. Those organisations have that fascinating but very powerful blend of paid staff who are mobilising the capacity of volunteers. It is a unique blend. It is something that I think has been developed in Australia and is part of the landcare movement. The capacity to have professional people comes out of that movement. They are given an often fairly modest wage but they do not complain about that because they are passionate about what they do and they realise that they are in a unique situation of being able to mobilise the spirit of volunteerism and the energy in the community.

Turning now to another issue, the minister acknowledged that the Swan River Trust has never issued a river protection notice, yet considerable mention is made of river protection notices throughout this amendment bill. There are even some transitional arrangements that allow for the eventuality that a river protection notice might be issued in the dying days of the current arrangement, and that the treatment of that river protection notice could be handed over to the new arrangements. We have that in the transitional arrangements. In the history of the current arrangements that came into effect in 2006–07, not a single river protection notice has been issued. I have to wonder why there is this optimism that a river protection notice might be issued in these dying days of the current arrangements. I asked the minister which circumstances he imagined would give rise to the issue of a river protection notice, and he was unable to discuss that with me. He was unable to present an example. He dismissed the question and said, “Let’s not get into hypotheticals.” Surely if we have something as powerful as a river protection notice that could be a very useful instrument, we should be talking about the sorts of circumstances in which we would use that river protection notice.

I hear many debates in this place in which members refer to police powers and other measures that empower agencies to look at prosecutions and ways of issuing notices. Members talk about examples and situations that might occur, work out the calibration of penalties that might be associated with that and consider the relativities of different levels of offences. But when it comes to the issue of a river protection notice by the Swan River Trust, and for that process to be handed over to the chief executive officer of the Department of Parks and Wildlife, no example is given at all. I put examples to the minister, such as matters to do with excessive use of nitrogen and phosphorous that cause algal blooms in the river. I suggested to the minister that in the case of the misapplication or wrongful application of such fertilisers he could consider issuing a river protection notice. Of course, given the way things are laid out in the current act and through this amendment bill, that will continue to be the situation. There is a process by which there is dialogue between the person identified as a possible offender and the agency. There is a back-and-forth dialogue, so the person is given the opportunity to show cause, and there is an opportunity for them to amend their ways, and that is reasonable. But the minister could not discuss the sorts of situations he could imagine a river protection notice would be issued. I think that is particularly telling. It strikes me that this government has no intention of using any of the regulatory teeth available to the Swan River Trust, which will soon be available to the CEO. The minister wants this to be just soft soap. He wants the Swan River Trust to give some gentle advisory information. He does not want the CEO of the Department of Parks and Wildlife to cause any ripples on the river or in society at large; he just wants it to be all gentle, gentle, and if offences occur, he is prepared to turn a blind eye to them, because he could not discuss with me the sorts of offences for which he would contemplate issuing a river protection notice. He did, quite rightly, indicate that there are other laws that can deal with pollution events. That is true, but that is all the more reason I would like to hear from the minister—he had his advisers with him when we first discussed this—about when it would be more appropriate to issue a river protection notice than a pollution protection notice. Why can the minister not discuss that with us? It suggests that there is no vigour in this government’s desire to stand up for and protect the environment using the available regulatory mechanisms.

I go back to the original point I made: this government does not like anything that looks regulatory when it comes to the environment. It might have created a Department of Environment Regulation and some powers within that legislation, but I note the very slow time in which offences are considered and prosecuted. The minister and I have ongoing discussions about a particular case at Oakford to do with a bio-organics company and the appallingly slow process in which that company has been brought to account. I hold fears, though, that with the Swan River Trust losing its power to the CEO of the department who will be taking direction from the minister, that the government will take even more control of things and slow things down more so that there is less enforcement of environmental regulation. The Premier’s claim, after an encounter he had at a Mosman Park

golf club, that there has been an erosion of property rights is absolutely false and without foundation. There is no evidence at all that there has been an erosion of property rights. On the contrary, we know that Western Australians expect us as parliamentarians to pass legislation that will protect the river; that will mean that those who cause pollution events, cause fertilisers to get into the river that leads to mass fish kills, and are involved in speeding on the river using jet skis in areas near bird sanctuaries and in protected areas, are brought to book. People also expect that whenever there is a problem, such as the erosion of foreshore riverbanks, there will be an agency that takes charge and that we will not have the current situation in which the Department of Transport says, “We will leave that to the Swan River Trust”, and other authorities say that they will leave it to the Department of Transport. We need an overarching body. After all, that is the intent of the original legislation; that there is good catchment management and there is a body that has an overarching role to bring together all the different agencies to protect the Swan and Canning Rivers. But we have lost that. We are reducing the Swan River Trust to playing an advisory role in the future, instead of it being a strong body, with teeth, that has the capacity to bring the community together with those agencies and make sure that everyone plays their part in protecting the river.

The passage of this bill reduces things further—in fact, numerous times throughout the debate we have used the term “that it guts the capacity of the Swan River Trust”. That is what this bill really does: it guts the Swan River Trust and leaves it as a bit of an empty shell; an advisory board that will continue to operate and to meet, but will not be able to gather its own independent information without the minister checking on it. It will even affect down to the detail of the minister having access to USB sticks and floppy disks—if they still exist—that have information about the meetings of the Swan River Trust. The desire of the Barnett government to take control of this agency suggests some degree of vengefulness. The opposition has not been able to establish where that came from. The opposition gave the government plenty of opportunity to say where the request for the changes came from, but no example was given at all. Instead, we are told about obscure things like golf clubs complaining about directions they have received on the colour of awnings.

This legislation represents a turning back of quality regulation for the Swan and Canning Rivers. What was really needed was a catchment management body with stronger legislative teeth, because there will be more and more problems. The fact is that algal blooms, fish kills, inappropriate use of the river and foreshore erosion will continue. A strong Swan River Trust could have used the goodwill in the community to turn those things around. Unfortunately, this government is missing that opportunity.

MR W.J. JOHNSTON (Cannington) [12.39 pm]: I want to make a brief contribution to the third reading debate of the Swan and Canning Rivers Management Amendment Bill 2014. I make the point again that the Canning River is at the heart of my electorate and that the environmental groups active in on-the-ground work on behalf of the environment in my electorate are the people with great knowledge and great commitment to the improvement of the river. When we compare photographs of what the river looked like 20 years ago with what it looks like now, there is no doubt about the benefit delivered by those groups on the ground to the environment. I made the point to the minister during consideration in detail that they are the groups that should be listened to. I do not understand why the government will not consult with the groups that actually do the work. If an improvement is required, one would think that the government would go to the people involved in making those improvements to get advice, but the government has chosen not to do that. The minister wants to be able to say that the Swan River Trust still exists, but, of course, all the powers, authorities and capacities of the Swan River Trust are being taken away from it so that it will end up being just a headline for a media release. It is not an honest way to present what is happening.

The South East Regional Centre for Urban Landcare, which has its headquarters in Beckenham, does not give this bill its tick of approval, yet it is the most significant group in the south east corridor working on the environment. Groups such as the Canning River Residents Environment Protection Association, which the member for Gosnells referred to in his contribution, work in concert with SERCUL. The Wilson Wetlands Action Group, the Two Rivers Catchment Group, the Canning River Regional Park volunteers and the Bannister Creek Catchment Group are all groups that work on the ground to improve the situation for the Swan and Canning Rivers, but they have not been consulted. Their views have not been taken into account. If their views had been taken into account, we would not be opposing this legislation.

As the member for Gosnells pointed out, the government cannot tell us whose views are being taken into account. It may well be that it is simply the views of the Liberal Party. That is fine. The Liberal Party is in government, and if that is what it has done, that is what it should tell us, instead of pretending that this is somehow in response to community demands. As was discussed at length during consideration in detail, it is not as though the Liberal Party said it would do this at election time. I always find it amusing that the minister draws out some page in the Labor Party’s state platform to try to argue that the Labor Party somehow or other asked for that. Firstly, the Minister for Environment is misinterpreting the words; and, secondly, if he was listening to us, we would not be running this bill through the house. He can hardly say that the basis for his decision is a single

paragraph in the Labor Party's extensive state platform but then not listen to the Labor Party's views, or that somehow or other he is the only person in the entire universe who is entitled to interpret that one clause without reading any of the other clauses around it or taking into account any of the information provided to him by the member for Gosnells and others. It is deeply embarrassing for the minister that he cannot explain any of the reasons behind legislation that he has introduced. This is not the time for reflections on the minister—I will not reflect on his inability to make those explanations—this is about the legislation itself and the fact that it is not supported by the community. It is not wanted by the community and it is not supported by the groups doing the work on the ground to improve the condition of the rivers.

The Swan and Canning Rivers—I must say probably more the Swan River than the Canning River—are icons in the Perth community. People have a great affection for the Swan River. Many people, like my son who is into rowing, use the river regularly. People fish in it and ride jet boats on it. I can hear the jet boats on a Sunday morning from my house. It is used by many people. The member for South Perth regularly refers to the ferry service from the city to South Perth. When my children were younger, one of the great cheap thrills for them was to be taken on a ferry ride from the city to South Perth on a weekend. The Minister for Environment is doing the Labor Party a big favour today because he is not listening to the community by introducing this legislation. The minister will see from debate during consideration in detail that this is not a response to any issues that the minister could identify. It is not a response to the people who are working to improve the environment. The minister is not even claiming that it is a response to property developers or others saying that the Swan River Trust is getting in their way. He has not even said that that is the reason he is doing it. There must have been a reason, yet he cannot articulate it to us. That is disappointing because I expected that that would be able to be achieved.

This is not good legislation. I do not understand why the minister thinks that an independent group making decisions about the river is bad. Why does the minister want to gut that organisation? Remember, it is not as though the minister is powerless under the existing legislation. The government can do many things, regardless of recommendations from the Swan River Trust. I am sure the minister has his reasons, but he has never explained any reasons for doing what he is doing. On a number of occasions during consideration in detail the minister referred to the fact that it will be better for the Swan River because there will be a larger organisation to look after it, but he never explained that that larger organisation has enormous responsibilities. Members can read the transcript of evidence given by the former head of the former Department of Environment and Conservation in an inquiry by the Economics and Industry Standing Committee into the management of former pastoral leases by DEC. They can read what he said about that former department's level of resources. I would bet members \$100 that the next time there is an inquiry and the head of the Department of Parks and Wildlife gives evidence about the resources available to the agency, he will say the same thing. That larger agency does not have the resources to do its existing work, and the minister is now adding all this additional work. That gives no-one any comfort. We can look at what the government did with the emergency services levy. It has increased the amount that individuals in the community must pay for the emergency services levy and withdrawn tax funding from the Department of Fire and Emergency Services. The effort by government is being reduced. The same thing will happen here. Getting rid of the Swan River Trust will lead to a significant reduction in the effort of government.

It is not as though the government has told us why it is doing this and who asked for it. It is not as though the minister said, "There's a bunch of property developers who haven't been able to get their developments done and that's why we're doing it." It is not even an evil purpose—there is no purpose for this! Why is the minister not able to tell us which groups support the decision? The members for Gosnells and Bassendean and I, along with other members, have outlined organisations in the community that oppose this decision. We have not heard from any organisation that is in favour of it. As the member for Gosnells pointed out, on only one occasion was the government able to raise an issue in which it says the Swan River Trust was interfering in property rights.

The government's behaviour in respect of the phosphorous content of fertiliser is an example of the government getting things wrong. We are not sure whom it is listening to to make those wrong decisions. The member for Bateman pointed out during the debate the huge extent of the catchment of the Swan and Canning Rivers—it is nearly as large as Tasmania. The government is taking away from the specialist agency the powers and authorities that were designed to deal with these matters. At a time when everybody knows that taking the big picture is the best way to manage catchments, the Minister for Environment is going in the opposite direction, yet he cannot tell us who recommended that he take that approach. I would respect the minister more if he simply stood and said, "The Liberal Party made the decision; that's the end of it." At least we would get the picture. That the Minister for Environment will not even take responsibility for the decision is extraordinary. We have had no proper explanation about why we are doing it, there is no support for it in the community and no plan for the future but breaking down the holistic catchment management that we all know is so important. None of these decisions is the right way to approach this.

When I talk to the groups doing the work on the ground, the one agency they hold in high regard is the existing Swan River Trust. The fact that the minister is attacking that organisation by taking away its powers and authority will be to his detriment. It means he will not be supported by not only the tree-hugging greenies that the Liberal Party likes to talk about, but also the people who are actually out there in gumboots every weekend planting, weeding and helping the river.

Debate adjourned, pursuant to standing orders.