



SECOND SESSION OF THE THIRTY-SIXTH PARLIAMENT

**REPORT OF THE
STANDING COMMITTEE ON UNIFORM
LEGISLATION AND GENERAL PURPOSES**

IN RELATION TO THE

**RESERVES (NATIONAL PARKS,
CONSERVATION PARKS AND OTHER RESERVES)
BILL 2004**

Presented by Hon Adele Farina MLC (Chairman)

Report 22
November 2004

STANDING COMMITTEE ON UNIFORM LEGISLATION AND GENERAL PURPOSES

Date first appointed: April 11 2002

Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

“7. Uniform Legislation and General Purposes Committee

- 7.1 A Uniform Legislation and General Purposes Committee is established.
- 7.2 The Committee consists of 3 members with power in the Committee to co-opt 2 additional members for a specific purpose or inquiry.
- 7.3 The functions of the Committee are –
- (a) to consider and report on bills referred under SO 230A;
 - (b) of its own motion or on a reference from a minister, to consider or review the development and formulation of any proposal or agreement whose implementation would require the enactment of legislation made subject to SO 230A;
 - (c) to examine the provisions of any instrument that the Commonwealth has acceded to, or proposes to accede to, that imposes an obligation on the Commonwealth to give effect to the provisions of the instrument as part of the municipal law of Australia;
 - (d) to consider and report on any matter referred by the House.
- 7.4 For a purpose relating to the performance of its functions, the Committee may consult with a like committee of a House of the parliament of the Commonwealth, a state or a territory, and New Zealand and similarly, may participate in any conference or other meeting.”

Members as at the time of this inquiry:

Hon Adele Farina MLC (Chairman)

Hon Simon O'Brien MLC

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ISBN 1 9208 8634 6

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EXECUTIVE SUMMARY AND RECOMMENDATIONS FOR THE
REPORT OF THE STANDING COMMITTEE ON UNIFORM LEGISLATION
AND GENERAL PURPOSES

IN RELATION TO THE

RESERVES (NATIONAL PARKS, CONSERVATION PARKS
AND OTHER RESERVES) BILL 2004

EXECUTIVE SUMMARY

- 1 On Friday, November 12 2004 the Reserves (National Parks, Conservation Parks and Other Reserves) Bill 2004 stood referred to the Uniform Legislation and General Purposes Committee pursuant to standing order 230A with an direction from the House to report the Bill on or before Thursday, November 18 2004.
- 2 The purpose of the Bill is to: excise certain areas of land from State forest and timber reserves and other reserves; to cancel the purpose of timber reserves and to cancel other reserves; to reserve land for the purposes of national parks, conservation parks, a nature reserve and another reserve; and to effect certain other changes to land.
- 3 This report briefly discusses the Bill and hearings held with representatives from the Department of Conservation and Land Management and Geological Survey of Western Australia, Department of Industry and Resources.

**REPORT OF THE STANDING COMMITTEE ON UNIFORM LEGISLATION AND GENERAL
PURPOSES**

IN RELATION TO THE

**RESERVES (NATIONAL PARKS, CONSERVATION PARKS
AND OTHER RESERVES) BILL 2004**

1 REFERENCE AND PROCEDURE

- 1.1 On Friday, November 12 2004 the Reserves (National Parks, Conservation Parks and Other Reserves) Bill 2004 (**Bill**) stood referred to the Uniform Legislation and General Purposes Committee (**Committee**). Pursuant to standing order 230A(5) the policy of the Bill is not a matter for inquiry by the Committee.
- 1.2 Standing order 230A(4) ordinarily requires that the Committee report to the Legislative Council (**Council**) within 30 days of referral, however, on motion of the Leader of the House, the Council agreed to refer the Bill to the Committee with a direction that the Committee do report on or before Thursday, November 18 2004.
- 1.3 The purpose of the Bill, as stated by the Long Title, is:
- to excise certain areas of land from State forest and timber reserves and other reserves;
 - to cancel the purpose of timber reserves and to cancel other reserves;
 - to reserve land for the purposes of national parks, conservation parks, a nature reserve and another reserve; and
 - to effect certain other changes to land.
- 1.4 The Explanatory Memorandum states that the Bill will create ten new national parks, two new conservation parks, a new nature reserve, a new *Conservation and Land Management Act 1984 (CALM Act)* section 5(1)(h) reserve, and will make additions to the existing Mount Frankland National Park in Western Australia's south-west forests.¹

¹ Explanatory Memorandum, Reserves (National Parks, Conservation Parks and Other Reserves) Bill 2004, p1.

2 INQUIRY PROCEDURE

- 2.1 The Committee did not advertise for or invite submissions from the public because of its strict reporting timeframe. Details of the inquiry were placed on the parliamentary website at: www.parliament.wa.gov.au.
- 2.2 As a result of matters raised in the House by Hon Norman Moore MLC,² the Committee held public hearings on Monday, November 15 2004 with representatives from the:
- Department of Conservation and Land Management (Mr Keiran McNamara, Executive Director, and Mrs Sharon Colliss, Policy Officer); and
 - Department of Industry and Resources (Dr Tim Griffin, Executive Director, Geological Survey of Western Australia).
- 2.3 A copy of the transcript of the hearing with, and a supplementary letter from, Dr Griffin is attached as Appendix 1.³ A copy of the transcript of the hearing with Mr McNamara and Mrs Colliss is attached as Appendix 2 (Refer to section 6 of this report for further discussion).

3 THE COMMITTEE'S REPORT

- 3.1 It is usual for the Committee's reports to include discussion of aspects of uniform legislation, its scrutiny by the Western Australian Parliament, legislative structures, and scrutiny principles. The strict reporting timeframe does not allow such discussion and readers are referred to the Committee's *Twentieth Report* on the Reserves (National Parks, Conservation Parks and Nature Reserves) Bill 2004 (*Twentieth Report*) for further information.⁴

4 BACKGROUND TO THE BILL

Regional Forest Agreement for the South-West Forest Region of Western Australia

- 4.1 In August 1998 the former Council Standing Committee on Ecologically Sustainable Development reported on the Regional Forest Agreement (RFA) process in its *Second Report* titled *Management of and Planning for the Use of State Forests in Western Australia: The Regional Forest Agreement Process*.⁵ The RFA is also discussed in the

² Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, November 12 2004.

³ The supplementary letter is from Dr Griffin to the Committee dated November 17 2004.

⁴ Western Australia, Legislative Council, Standing Committee on Uniform Legislation and General Purposes, *Report No 20: Reserves (National Parks, Conservation Parks and Nature Reserves) Bill 2004*, September 2004.

⁵ Western Australia, Legislative Council, Standing Committee on Ecologically Sustainable Development, *Report No 2: Management of and Planning for the Use of State Forests in Western Australia: The Regional Forest Agreement Process*, August 1998.

Committee's *Twentieth Report*.⁶ The *Twentieth Report* includes discussion of the ability of the State to opt out of the RFA and amendment of the RFA.

5 OVERVIEW OF THE BILL

5.1 The Bill contains 21 clauses in four Parts:

- Part 1 addresses preliminary matters including commencement, plans and native title rights and interests.
- Part 2 addresses the creation of national parks.
- Part 3 addresses the creation of conservation parks.
- Part 4 addresses the creation of other reserves.

5.2 In the Second Reading Speech of the Hon Judy Edwards MLA, Minister for the Environment (**Minister**) it was noted:⁷

The introduction of this Bill will see the creation of the remaining new national parks promised under the Government's protecting our old-growth forests policy. The other new national parks and reserves committed under the policy are being created under the Reserves (National Parks, Conservation Parks and Nature Reserves) Bill 2004 and the Reserves (National Parks and Conservation Parks) Bill 2004 which were introduced to Parliament on 23 June and 22 September 2004 respectively.

5.3 Under section 9 of the CALM Act, cancellations of State forest require a motion or bill to be passed by Parliament. Cancellations of some class A reserves are required to be tabled in Parliament, or be by way of an Act in the case of national parks. The Explanatory Memorandum to the Bill notes that:⁸

- The most expedient way to effect the required action is through a single bill.
- The Bill will cancel State forest, a class A reserve, timber reserves and non class A reserves, close unwanted roads and create the final conservation reserves in one process.

⁶ Western Australia, Legislative Council, Standing Committee on Uniform Legislation and General Purposes, *Report No 20: Reserves (National Parks, Conservation Parks and Nature Reserves) Bill 2004*, September 2004.

⁷ Western Australia, Legislative Assembly, *Parliamentary Debates (Hansard)*, October 20 2004, p6940.

⁸ Explanatory Memorandum, Reserves (National Parks, Conservation Parks and Other Reserves) Bill 2004, p1.

- The national parks and reserves to be created under clauses 7 to 20 of the Bill will be vested in the Conservation Commission of Western Australia by virtue of section 7 of the CALM Act. The reserves created under clause 21 will be placed under the care, control and management of the Conservation Commission.
- 5.4 The Committee notes clause 6, which provides that nothing done by or under the Bill operates to affect any native title rights and interests. However, where those rights and interests are validly affected under the *Native Title Act 1993* (Cth) or a Western Australian law the clause will not apply.
- 5.5 The Committee also notes that some reserves and parks being created contain easements, excisions, depth limitations, or have exclusions from original proposals to address matters such as:
- Water supply: clause 8;
 - Potential reservoir and dam development: clause 9;
 - Gas resource potential: clause 12;
 - Water catchment areas: clause 15; and
 - Easements: clause 20.
- 5.6 In respect of clause 12, the Minister's Second Reading Speech noted:⁹
- The proposed Whicher National Park near Busselton is located adjacent to a gas field of economic importance to the State. It is recognised that the gas field may extend under the national park. To provide for potential future exploration and access to any such resource this reserve will be limited to a depth of 200 metres below the natural ground surface.*
- 5.7 In respect of clause 20, the Committee also notes that a nature reserve is to be created (referred to as 'Tone-Perup') as opposed to a national park. In this respect the Minister's Second Reading Speech noted:¹⁰
- Under the old-growth forests policy and the forest management plan 2004-2013, Tone-Perup was proposed to become a national park. However, it was recognised that the southern forest region regional management plan 1987-1997 proposed that the Perup state forest*

⁹ Western Australia, Legislative Assembly, *Parliamentary Debates (Hansard)*, October 20 2004, p6904.

¹⁰ Ibid.

become a nature reserve and the forest management plan 1994-2003 reaffirmed the intention to create the Perup state forest as a nature reserve.

The issue of whether this area should be a national park or a nature reserve was raised as part of the consultation process to finalise the reserve boundary. The Conservation Commission and the voluntary conservation movement, consistent with the original intent for the area, recommended that the reserve be created as a nature reserve and not a national park. Nature reserves are set aside for the purpose of conservation of flora and fauna and they are managed so as to maintain and restore the natural environment, and to protect, care for and promote the study of indigenous flora and fauna. Recreation that does little harm to the environment, such as bushwalking, is allowed, but the level of recreation facilities provided is generally less than for national parks.

6 PROSPECTIVITY

- 6.1 During debate in the Legislative Council on the referral of the Bill to the Committee Hon Norman Moore MLC raised the prospect of the Committee requesting the relevant government department to provide information on the prospectivity of each new reserve and park that will be created.¹¹
- 6.2 During the Committee's hearings on Monday November 15 2004 the prospectivity of each new reserve and park that will be created by the Bill and matters relating to resource prospectivity was discussed. The Committee also discussed the extent of activities permitted in parks and reserves, and in relation to Class A reserves.
- 6.3 In the course of the Committee's hearing with Dr Griffin, Executive Director, Geological Survey of Western Australia, Department of Industry and Resources (**GSWA**) documents were tabled by Dr Griffin. The Committee regrets that due to the restricted reporting timeframe, these documents were unable to be incorporated into the report, however, they are separately presented to the Council with the Committee's report (**GSWA Papers**). The GSWA Papers comprise:
- a) L Y Hassan, *Report No 65: Mineral Occurrences and Explorations Potential of Southwest Western Australia*, Department of Minerals and Energy, Geological Survey of Western Australia, Perth, 1998.
 - b) CD Rom: *GSWA Report No 65: Mineral Occurrences and Explorations Potential of Southwest Western Australia: 2001 update*, Department of

¹¹ Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, November 12 2004.

Minerals and Petroleum Resources, Geological Survey of Western Australia, Perth, 2001.

- c) Three pages of coloured maps extracted from Plate 1 in L Y Hassan, *Report No 65: Mineral Occurrences and Explorations Potential of Southwest Western Australia*, Department of Minerals and Energy, Geological Survey of Western Australia, Perth, 1998.
- d) Two page Table entitled *Summary of Mining and Petroleum Tenements on Proposed National Parks Third Reserves Bill for Southwest Forest Region*, printed 15/11/2004 (**Table Summary**).

6.4 The last document referred to above, the Table Summary, contains comments on the mineral and petroleum potential by reference to the name of the proposed park or reserve. Subsequent to the Committee's hearings a modified version of the Table Summary was provided by Dr Griffin to:¹²

- include a column that relates the clause numbers of the Bill to the names of the parks and reserves listed;
- correctly show the area referred to as 'Tone-Perup' (clause 20 of the Bill) as a nature reserve;
- indicate that the proposed Hester Conservation Park (clause 18 of the Bill) is covered in the western part by a granted exploration licence; and
- clarify matters that were raised during the hearing. For example:
 1. in relation to the proposed Greater Hawke National Park (clause 14 of the Bill), to reflect that the indicated status of a mineral or petroleum title as "active" means the same as "granted"; and
 2. to confirm that the designation "E" is an exploration licence for minerals and the designation "EP" is an exploration permit for petroleum.

6.5 It is the modified version of the Table Summary that is tabled with the Committee's report. A copy of the transcript of the Committee's hearing with, and a supplementary letter from, Dr Griffin is attached as Appendix 1.¹³ A copy of the transcript of the Committee's hearing with Mr McNamara, Executive Director and Mrs Colliss, Policy

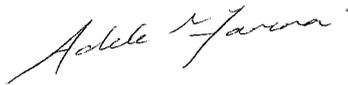
¹² Email from Mr Tim Griffin, Executive Director, Geological Survey of Western Australia dated November 15 2004.

¹³ The supplementary letter is from Dr Griffin to the Committee dated November 17 2004.

Officer, Department of Conservation and Land Management is attached as Appendix 2

7 CONCLUSION

- 7.1 The Committee commends this Report and the GSWA Papers to the House for consideration during debate on the Bill.



Hon Adele Farina MLC
Chairman

November 18 2004

APPENDIX 1
TRANSCRIPT OF THE HEARING WITH DR GRIFFIN,
DEPARTMENT OF INDUSTRY AND RESOURCES AND A
SUPPLEMENTARY LETTER FROM DR GRIFFIN

**STANDING COMMITTEE ON UNIFORM LEGISLATION
AND GENERAL PURPOSES**

**RESERVES (NATIONAL PARKS, CONSERVATION PARKS AND OTHER
RESERVES) BILL 2004**

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
MONDAY, 15 NOVEMBER 2004**

SESSION 1

Members

Hon Adele Farina (Chairman)

Hon Paddy Embry

Hon Simon O'Brien

Participating Member

Hon Norman Moore

Committee met at 3.03 pm**GRIFFIN, DR TIM****Executive Director, Geological Survey of Western Australia,
Department of Industry and Resources,
100 Plain Street,
East Perth, examined:**

The CHAIRMAN: On behalf of the committee, I would like to welcome you to the meeting. Thank you for attending at such short notice to assist the committee with its inquiries. The Reserves (National Parks, Conservation Parks and Other Reserves) Bill was referred to the committee last Friday and we must report by Thursday, so we are working to a pretty tight time frame. You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

Dr Griffin: Yes.

The CHAIRMAN: Today's discussions are public. They are being recorded by Hansard. A transcript of your evidence will be provided to you. Please note that until such time as a transcript of your public evidence is finalised, the transcript should not be made public. I advise you that premature publication of the transcript or inaccurate disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. If you wish to make a confidential statement, you can ask the committee to consider taking your statement in private. If the committee agrees, the public will be asked to leave the room before we continue. For your information, no members of the public are present at the moment.

Would you like to make an opening statement to the committee about the Bill or about whether you would prefer your evidence to be heard in private?

Dr Griffin: No, I do not have an opening statement. I am not exactly sure what the questions will be, so I will leave it and respond to any questions that you have.

The CHAIRMAN: The interest in this Bill is fundamentally to try to ascertain the mineral prospectivity of each of the sites that are the subject of the Bill, be they national parks or nature conservation reserves. It might be best if we were to just run through each site. Would that be easiest, Norman?

Hon NORMAN MOORE: I am the reason that you are here, Dr Griffin. I apologise for that.

Dr Griffin: That is all right.

Hon NORMAN MOORE: It was an attempt by me to obtain some information about the prospectivity of a range of new national parks and nature reserves that are being created, bearing in mind that if mineral deposits are present, the consequences of them becoming national parks is significant in the context of future mining. What I really want to know before the Bill is dealt with is the prospectivity of each of the reserves. I guess we will need to know whether your agency has been involved in any of that work.

Dr Griffin: We have been involved in discussions with the Department of Conservation and Land Management, particularly on each of the nature reserves and national parks proposals, and we are always asked about the prospectivity of these various areas. On occasions we have been successful

in having boundaries modified to address particular concerns we have with the proposals. One of the things that is always very difficult for us is to be definitive about mineral deposits, and where they are likely to occur. There are many examples in which people assume - not everybody assumes this, but some do - that an area has low prospectivity and so it is pushed to one side, and then 10, 20 or 30 years down the track something significant is found there. This is one of the difficulties we have in addressing the prospectivity of these regions. The sort of responses we generally give seem to be very vague, but the reason for that is that we just do not have the information we need to make a definitive statement. Even in those situations in which we might feel we can make a definitive statement, we must recognise that new technologies, new ways of looking at things or new theories might mean that the area could become highly prospective and actually contain significant ore bodies. By way of example, we all saw what happened in the north Perth basin some 20-plus years ago. Discoveries were made there and a pipeline to Perth was put in. A lot of exploration activity took place and a lot of players felt that there was a future for their company in exploring the north Perth basin. They failed in their exploration efforts to find anything, and, for some 20-odd years, it was not a place to go and explore. In the past couple of years new theories and new technologies have allowed and encouraged people to go back into that area, and they have made significant oil and gas discoveries, which are pretty important for the community of Western Australia. That just illustrates the difficulty you face in being definitive about what the real prospectivity is.

The CHAIRMAN: I suppose in that regard we can deal only with our current knowledge of each of those sites.

Dr Griffin: That is certainly the case, yes, and we can make judgments on our current knowledge, but we must recognise that knowledge is very limited in many instances.

[3.10 pm]

Hon NORMAN MOORE: Do you have information that you could provide to the committee in respect of the proposed national parks and reserves in the legislation that is before the House?

Dr Griffin: I have several things. I have a series of maps, and I have a table that lists each of the proposals. It has a brief review from our point of view of whether it is moderate, high or low in terms of prospectivity for minerals and petroleum. I can provide you with that. I can also provide you with maps that help explain why it is in those categories. Would you like me to give you that?

Hon NORMAN MOORE: That is all I want, really.

Dr Griffin: The other thing I have brought along is that back in 1998 we produced a report, "Mineral Occurrences and Exploration Potential of Southwest Western Australia". Subsequent to that, a couple of years ago we actually did an update of that report, so we have included the update of that report. What is probably of more use to you at this point is this table, which lists the proposed national parks. There are two pages for each of these. They are not stapled together, unfortunately. To go with that there is a series of maps. We have four copies of those. You would probably realise that as an agency we are very concerned about the level of exploration, which is quite low in Western Australia. We are trying to promote Western Australia as a destination for international exploration dollars in both minerals and petroleum. We also see that the exploration effort that is carried on in Western Australia does not have a significant impact on the environmental heritage of the State. It does have some impact, as does any activity such as urban development and agriculture, but we see the minerals industry as having a pretty low-level impact, yet it has a huge return to the State. Part of our efforts are in trying to encourage exploration into Western Australia, so we try to be fairly optimistic about areas for potential mineral discoveries rather than locking areas away and saying we will concentrate only on those areas in which we know there is great potential. We try to encourage companies to do the investigative and scientific work to determine whether there is a resource there. The basis for that is to try to sustain the

economy, which is part of our whole lifestyle in Western Australia. It provides us with the resources to do the things we do.

The CHAIRMAN: Do you want to go through each one of these sites, Norman, or are you happy with the table that you have been provided with?

Hon NORMAN MOORE: I am happy with the table I have been provided with.

The CHAIRMAN: So we do not need a site-by-site assessment?

Hon NORMAN MOORE: No. I am assuming, Dr Griffin, that the proposed national parks and reserves listed in the left-hand column are the ones that relate to the particular proposals in the Bill.

Dr Griffin: It is the same documentation that I was given.

Hon NORMAN MOORE: The Bill gives the number of the reserve. It does not actually say what it has been called.

Dr Griffin: Yes, it is the same one.

Hon NORMAN MOORE: What we probably need to do is relate the name -for example, Mt Roe - to the particular clause of the Bill that covers it.

Dr Griffin: Okay.

Hon NORMAN MOORE: Would that be hard to find?

Dr Griffin: It would not be too hard. Mt Roe is clause 15.

Hon NORMAN MOORE: Could you go down the list and do it for all of them?

Dr Griffin: It might be easier if I start at the front.

Hon NORMAN MOORE: Yes. If you could tell us which ones are which, it would save a lot of mucking around.

Dr Griffin: The first one is Mt Lindesay National Park, which is clause 7; Mt Frankland South National Park is clause 8; Dalgarp National Park is clause 9; Mt Frankland North National Park is clause 10. The question is where Mt Frankland National Park fits in. I am not sure; that must be in clauses 10 and 8, and clause 11 relates to it as well. Clauses 8, 10 and 11 all refer to Mt Frankland National Park, if I am not mistaken.

Hon NORMAN MOORE: That is fine.

Dr Griffin: Whichever National Park is clause 12; Lake Muir National Park is clause 13; Greater Hawke National Park is clause 14; Mt Roe National Park is clause 15, which I think we have; Easter National Park is clause 16, which I think we have; Bramley National Park is clause 17; Hester Conservation Park is clause 18; Kerr Conservation Park is clause 19; and Tone-Perup Nature Reserve is clause 20.

Hon NORMAN MOORE: I wonder whether you can tell us what the current law provides for in respect of exploration and mining in national parks.

Dr Griffin: My understanding is that the current Government has taken the view that it will ban mining and exploration -

Hon NORMAN MOORE: No, I mean the current law, not the current Government's policy.

Dr Griffin: The current law?

Hon NORMAN MOORE: Yes.

Dr Griffin: I am not sure of the current law. My understanding of the way we are applying it in the department is that when an exploration licence application comes in for exploration in a national park, it is not allowed and the park is excised from the application. We have in the past discussed the existing national parks and how they work in terms of applications. In the past they have been

dependent on the advice we have given to our customers. If an application post dates February 2000 - when did the Government come in?

The CHAIRMAN: In 2001.

Dr Griffin: Then they are told that it is unlikely to be approved. It is therefore only applications before that time that have any standing. Obviously, mining leases, titles and whatever that are granted have good standing; and if there is a proposal to make a change, we have been advised to treat it as though it will have good standing unless the Government decides to compensate a tenement holder if it intends to take away the tenement holder's rights.

[3.20 pm]

Hon NORMAN MOORE: My understanding is that in the event that a mining company has an application for a mining lease or has a mining lease in a national park - none of these has happened since the Government has been in office - the proposal needs to be put to Parliament, and both Houses need to approve it before mining can take place. Is that your understanding?

Dr Griffin: Yes, that is my understanding in the case of a national park or a class A reserve.

Hon NORMAN MOORE: Has there been any of those in the past four years, that you know of?

Dr Griffin: Not that I am aware of. I am not involved in the titles side of things.

Hon NORMAN MOORE: None has come through Parliament, so I can assume only that none has happened. Is your understanding of the Government's policy that an application for an explorational licence or a mining lease is not to be granted?

Dr Griffin: That is right.

The CHAIRMAN: In national parks only?

Dr Griffin: That is the policy for national parks. It is a difficult area when we are asked to talk to companies about this. We have flagged that they need to check what they are doing, but it applies to high category reserves such as class A reserves, the status of which can be changed only by two Houses of Parliament.

The CHAIRMAN: Is a nature reserve a class A reserve?

Dr Griffin: Some are and some are not.

Hon PADDY EMBRY: And a conservation park is the same, but obviously there is some difference between that and another reserve -

Dr Griffin: No, a conservation park is for multiple use; it is not strictly for environmental protection.

The CHAIRMAN: So there is no prohibition to mining or exploration in a conservation reserve?

Dr Griffin: That is why those two proposals for Hester and Kerr were turned into conservation parks rather than national parks. There were tenements over those areas at the time this was proposed. We argued that they were areas of high prospectivity and should come under a multiple land use category.

Hon NORMAN MOORE: Is this in the context of the multiple land use policy that was around when I was there?

Dr Griffin: Yes. It reflects the fact that because there are those existing tenements, it was not in the best interests, I suppose, to push those areas into becoming national parks. As I left the office I had a query on the Hester proposal, but someone said there is an application for an exploration licence in that area, and I am not sure whether it was there before the proposal or whether a new application has come in since. However, there is certainly a granted exploration licence on the Kerr proposal.

Hon NORMAN MOORE: Are there any granted tenements in any of the proposed national parks?

Dr Griffin: Yes. A granted exploration tenement cuts across the Kerr proposal.

Hon NORMAN MOORE: I am referring to the first page, and the national park proposition as opposed to the conservation park proposition. You have some interest holders but whether they hold tenements -

Dr Griffin: Yes, that is right. The only other ones there are pending. There is an active exploration permit for petroleum on the Greater Hawke National Park and also a granted exploration permit for petroleum on the Whicher National Park.

Hon PADDY EMBRY: To the best of your knowledge, has a permit been granted and has exploration started? In other words, have the companies spent money?

Dr Griffin: I cannot tell you whether that is correct. However, under the legislation a company is required to spend money on those granted licences.

Hon PADDY EMBRY: Within a time -

Dr Griffin: Within a time frame, and failing that it can lose its licence.

Hon NORMAN MOORE: Is your understanding with conservation parks that the Government's policy is for them to have multiple land use, and that that allows for exploration and mining?

Dr Griffin: Yes, exploration and mining on conservation parks.

Hon NORMAN MOORE: Just so I have it absolutely clear, with national parks the Government's policy is for no mining -

Dr Griffin: No exploration or mining in national parks.

Hon PADDY EMBRY: I know particularly well the proposed national park of Tone-Perup, where it appears there may be some value in the gravel. I do not have a partnership in that farm but it is shown quite clearly on this map. The blue coloured area is shown as a proposed new reserve. Will local authorities be able to establish gravel pits to service the quite extensive gravel road in that area, or will that be prohibited?

Dr Griffin: I understand that that is not prohibited. In cases for which there has been a need to preserve access to gravel in a proposed national park, the area has been excised, including an access road into those areas. It is my understanding that on occasions CALM itself allows gravel extraction within the national park to maintain its roads. As I said earlier, I understand that where there is a significant gravel source for development, CALM will excise it from the park.

Hon PADDY EMBRY: Did you provide these maps?

Dr Griffin: No; they came with the Bill.

Hon PADDY EMBRY: In the area to which I referred, there are a couple of isolated areas that are shown in white in between Northern and De Landgrafft Roads. Are those sites reserved for gravel mining? Obviously they are too small for them to be farms.

Dr Griffin: I do not have any knowledge of why those areas are shown in white.

The CHAIRMAN: I notice that in the "Comments" column, you state in a number of instances that ongoing exploration would be allowed in the forest conservation area. Alongside Tone-Perup, for example, are the words "forest conservation area - would allow for ongoing exploration". However, petroleum potential is low and the mineral potential, at least in the north, is low. I am unsure what is the meaning of mineral exploration and prospectivity. Does it indicate that some minerals might be found there, but not necessarily?

Dr Griffin: Even in areas where the potential is high, there will not necessarily be minerals over all of it. There will be parts in which we expect to find minerals and parts where we will not. Whether it will be big enough for a mine is the second question. Where the ground is low, I guess we are arguing that, based on our current knowledge, it is less likely significant mineral deposits will be found.

The CHAIRMAN: Am I right in saying that if it is low, it is less likely than if it is high, but that even if it is high, there is no guarantee that you will find any minerals?

Dr Griffin: You might find some mineralisation, but there is no guarantee that we would find a significant area of mineralisation, let alone a mineral deposit that proves to be economic. That is why we find that the footprint for the mining industry is very small relative to most other activities. It represents a very small area of the State.

The CHAIRMAN: In which of these sites listed here of proposed national park are we actually certain about mineral prospectivity through any exploration having been undertaken? We would like to know with some certainty?

Dr Griffin: As I said earlier, the two conservation parks are the ones. According to some of the comments here, Dalgarp is of particular interest to us because it is very close to the Greenbushes tantalum mine. Western Australia is the biggest producer of tantalum in the world. One expects there would be an opportunity to find a similar sized ore body somewhere in the region.

The CHAIRMAN: There has not been any exploration.

Dr Griffin: There will have been some exploration, yes.

The CHAIRMAN: Do we know whether any tantalum has been found?

[3.30 pm]

Dr Griffin: We are not aware of any significant mineralisation. It currently has applications for exploration licences on it. One of the difficulties we face is that we are largely looking at the surface; we are only starting to develop tools that will allow us to look below the surface with any certainty. The exploration to date is that generally people have gone across the surface and picked up what was obvious. Now we are starting to build tools that allow us to look deeper. That is the reality if future projects are going to involve deeper mines, rather than surface mines.

Hon NORMAN MOORE: I have a follow-up question to the question asked by the Chairman. You commented that forest conservation areas would allow ongoing exploration, but that relates to national parks. How would exploration be permitted when we have already determined that exploration and mining will not be permitted?

The CHAIRMAN: Excuse me if I am wrong, but I think what Dr Griffin is saying is that if we have a forest conservation area rather than a national park, ongoing exploration on that site would be enabled.

Dr Griffin: Yes. The comment sheet refers to comments from our department to the minister, and states what we would advise him. From our point of view, if there was a conservation park, we would be able to do additional exploration.

The CHAIRMAN: So that would not be an uncommon comment that you would provide to the minister?

Dr Griffin: Not at all. That is fairly standard. As a follow-up to that, we have been looking at limiting the depth. You will notice in clause 12, the Whicher National Park, that a 200-metre depth limit is being placed on that. We have also looked at that as another option, because we can do a lot of exploration from the air without getting on the ground. There is that potential. If we are not surrounded by a national park where we cannot get on the ground, we can do a lot of work around the area. On that basis, it may be decided that the area in the national park has great potential. Our

argument is that we could put a drill rig outside the park boundary and drill underneath the park and get access to gas or hydrocarbons. Further, we could even take it the next step and put a decline in, drive underneath the national park and extract an ore body without impacting on the conservation value of the surface.

Hon SIMON O'BRIEN: In practical terms, how far could you drive that decline?

Dr Griffin: Declines are 20 kilometres long, so we can come in some distance. I am not sure about Roxby Downs in South Australia, but I understand it has a very long decline into its ore body. It has a very deep ore body. We have to think about the future, because future ore bodies are going to be deep so we will be going deeper and deeper.

Hon NORMAN MOORE: When you have made comments to the minister about these particular national parks, you have indicated that if they were conservation areas as opposed to national parks, it would be better from the point of view of exploration.

Dr Griffin: Yes.

Hon NORMAN MOORE: And in cases in which you believe there are known deposits in excess of 200 metres down, you have made provision in these recommendations for the park to go down only 200 metres?

Dr Griffin: We think 200 metres is probably too deep a lower boundary because we know from experience that 30 metres is the depth limit normally placed on securing the surface. That is based on the old mines of 100 feet. If you had good ground, you could come within 100 feet of the surface, recognising that if the ground conditions are poor, you would need to lower that limit or increase that depth limit. That could be substantial if cavernous limestone or something like that was beneath the surface. The petroleum drill hole at Whicher Range is 4 000 metres; that is the test drilling that has been done recently. That is well below the 30 metres.

The CHAIRMAN: That is well below the 200-metre limit.

Dr Griffin: Yes.

The CHAIRMAN: There is also the Vasse Shelf gas project.

Dr Griffin: The Vasse Shelf gas project is different because the coal, which we understand is the source of the hydrocarbons that have been sought after in Whicher Range, is uplifted; it is much shallower. Therefore, coal outcropping occurs at the surface in some places.

The CHAIRMAN: As I understand it, petroleum is found at the depth of 1 500 metres, which is well below the 200-metre level.

Dr Griffin: Yes, but the problem with petroleum is that when it is found close to the surface, the traps will leak. However, with coal-bearing methane, these days people are looking at shallower depths again. Putting a depth limit on it is always difficult because we must look into the future and try to understand what the technology will be. The 200-metre limit is also being used offshore for petroleum exploration.

Hon SIMON O'BRIEN: I refer to the Dalgarpur National Park mentioned at clause 9 of the two-page explanatory memorandum. I can see that the mineral potential is high for a diverse range of metals, including the world-class tantalum, lithium, tin - Greenbushes style - vanadium, nickel and base metals, such as copper, lead and zinc. It is pointed out that exploration would be allowed in a forest conservation area and cautions that parliamentary approval would be required for a future mining lease.

The CHAIRMAN: If it becomes a national park.

Hon SIMON O'BRIEN: If it becomes a national park, which is what this legislation proposes. Is my understanding of that document correct so far?

Dr Griffin: Yes.

Hon SIMON O'BRIEN: Is it a correct interpretation to say that the department raised with the minister a cautionary note that in effect some substantial mineral wealth that we do not know about could be locked up in that particular park?

Dr Griffin: That is correct.

Hon SIMON O'BRIEN: Was there a strong divergence of opinion on that matter?

Dr Griffin: I am not sure of the opinions that were expressed. When the minister first became part of this process, he said he wanted the department to provide him with fair and honest advice to the best of the department's ability.

Hon SIMON O'BRIEN: Which minister was that?

Dr Griffin: Minister Brown. That is what we do. On some occasions I have been involved in arguing about advice with the minister and other ministers, but I have never been involved in the decision-making process at the end of the day.

Hon SIMON O'BRIEN: What is meant by the reference to "sovereign risk issue"?

Dr Griffin: That reference is to a company that takes up an exploration licence in an area. The Western Australian mining industry takes pride that a company that does the right thing by getting an exploration licence can expect to be given approval to extract the mineral that is found. There is a clear recognition that conditions will be placed on doing that, and that those conditions can change from time to time; for example, native title issues and environmental issues in particular have changed over time. Companies understand that the working environment changes. The issue of sovereignty refers to the department encouraging companies to explore a site on the presumption that they will be able to mine it and the department then telling the companies that it has changed its mind and will no longer allow the companies to mine the site. That would send a very bad message to the exploring companies. The companies could potentially spend a lot of time and money on exploration only to be told that they cannot proceed. Although the Government would always be fair and try to compensate them for their loss, that detracts from the companies doing further business in Western Australia.

The CHAIRMAN: Following on from that, I notice that the status of these approvals is pending, which means that the exploration licence applications have not been assessed and therefore have not been granted. In that case, it could be questioned how sovereign risk would become an issue if the company had not been granted an exploration licence and there is no certainty that just because a company submits an application for a licence the licence will be granted.

[3.40 pm]

Dr Griffin: Yes, that is true. The situation with most of those, I suspect, is that they were applications that came in after the Government came to power and that is why they have not been progressed, because we are waiting on the outcome of this decision. I should point out that some people who put up applications were not aware of the areas in detail about where proposals were to go ahead, so they were perhaps not as smart in terms of putting in their application as they might have been at that point.

The CHAIRMAN: Nevertheless, the question about sovereign risk is unlikely to arise except in the situation of the granting of the licence.

Dr Griffin: In reality, yes. That is exactly right. The issue, though, is that the decisions often get a little confused when somebody has sat on an exploration licence for two years and then does not get it. You are exactly right: that issue should not affect it because they came in knowing there was a proposal to turn this into a national park and the policy was to ban exploration mining in national parks. If that goes ahead, they would not get their exploration licence.

Hon PADDY EMBRY: You may have touched on this before, but I want to get it clear in my mind. When you are assessing the potential, is “mineral potential” based merely on what minerals you feel may be there, or does it also allow for the cost of the actual exercise with the technology as we know it today? In other words, something may be low to moderate, as set out on page 1. Does that mean that it is unlikely minerals will be found there, or is it unlikely that minerals will be found there in sufficient quantity to be payable with today’s technology, but may not be payable under tomorrow’s technology?

Dr Griffin: Yes. That is an interesting question and it involves two issues. The first is that the level of mineralisation is not known to be particularly high, and that is a good example because it is on the Leeuwin complex and there are some gold occurrences in that area. This map shows Bramley, and there are a couple of gold occurrences south of there. The chance of mineralisation existing is low, but also, as you point out, with today’s technology the chances of finding an economic ore body are also low.

Hon PADDY EMBRY: I am still not quite with you. They are two separate things. You have put the one under “petroleum potential” as low. That obviously has some potential compared with nil, but is it also based on the economics as you know them today? In other words, is it low based on the deposit that you feel may be there, or do you believe it is of low potential because of the costs of extraction - or a combination of the two?

Dr Griffin: It is mainly low because of what we think is there. We have not really taken into account the cost of extracting it because we do not have much information. Until we know what the mineralisation style of the deposit is, we really do not understand the cost of extraction.

The CHAIRMAN: Are there any further questions?

Hon NORMAN MOORE: With regard to the exploration licences already in place, such as in Whicher, Amity Oil has been granted an EP - I guess that stands for petroleum exploration?

Dr Griffin: Yes, exploration permit.

Hon NORMAN MOORE: It states that the EP covers the total area of the proposal and future exploration is essential. Is Amity’s situation under control in the sense that you are saying that anything below 200 metres is not part of a national park, but if they are going to drill they will have to drill from outside the national park? Is that how it is going to work, bearing in mind they have a granted exploration permit?

Dr Griffin: I am not sure how that is to be covered or managed.

Hon NORMAN MOORE: If Parliament makes the decision next week that this will become a national park called Whicher, and Amity Oil has a granted petroleum exploration licence over that area, what will happen?

Dr Griffin: I have no idea.

Hon NORMAN MOORE: Under the Government’s policy, is it fair to say that the company would be told that it cannot do anything?

Dr Griffin: Under the Government’s policy, it would go into some sort of negotiation process -

Hon NORMAN MOORE: For compensation?

Dr Griffin: Either to gain access or for compensation.

Hon NORMAN MOORE: Kerr Conservation Park is “granted in E”. I presume that is okay if the multi-use policy exists.

Dr Griffin: Yes.

Hon NORMAN MOORE: You have a question mark next to sovereign risk. There a number of pending ones. What is an “active petroleum”?

Dr Griffin: I was looking down the list; I am not certain why that has been called active.

Hon NORMAN MOORE: Could you find out for us?

Dr Griffin: I certainly can.

Hon NORMAN MOORE: I would like to know the difference there.

The CHAIRMAN: To clarify, Dr Griffin has been asked to advise the committee with regard to the Greater Hawke National Park and how that differs from the grant.

Hon NORMAN MOORE: Yes.

The CHAIRMAN: Will you come back to us at a later time, acknowledging that the committee must report back to the House on Thursday?

Dr Griffin: It will be first thing tomorrow.

Hon PADDY EMBRY: The map probably shows this, but with the Whicher Basin one and the proposed Whicher National Park, if the legislation passes and exploration ceases, will it be far to the boundary and where the company can drill etc on that angle?

Dr Griffin: I do not know.

Hon PADDY EMBRY: Is that because it is a technical question or -

Dr Griffin: No. I do not know where the boundaries are because other national parks surround the Whicher National Park. I am not sure where those boundaries are.

The CHAIRMAN: Are there any more questions?

Hon NORMAN MOORE: That information has been very helpful. I appreciate it.

The CHAIRMAN: Thank you, Dr Griffin, for taking your time and meeting the committee at such short notice. We would be obliged if you could provide that information.

Dr Griffin: I will pass it through my contact.

Geological Survey of Western Australia
Department of Industry and Resources
100 Plain Street
East Perth

Sheena Hutchison
Committee Clerk
Standing Committee on Uniform Legislation and General Purposes
1110 Hay Street
West Perth

**Transcript of Evidence
Reserves (National Parks, Conservation Parks and other Reserves) Bill 2004**

Dear Sheena

Please find attached the corrected transcript.

You will also notice I have added extra words on pages 7, 8, and 9 to improve the clarity that is evident in the context of a conversation but not as clear when written where it can be viewed in isolation.

I also make the following comments to clarify the transcript:

- In reference to existing national parks, top of page 4, there is a sentence that makes no sense and therefore causes confusion, that begins, "In the past they have been dependent...". This should be deleted, as it appears to reflect my utterances as I struggled to find a clear way to express how the department deals with exploration applications over areas being considered for national park status as apposed to existing national parks.
- In reference to comments on the Hester proposal, top of page 5, and as stated in my email yesterday, there is a granted exploration licence that covers part of the area of the proposal.
- In reference the 200 metre depth limit, top of page 7, "we", refers generally to the exploration industry at large.
- In reference to the Vasse Shelf, bottom of page 7, I appear to have heard Vasse Shelf, not North West Shelf when responding to a comment by the Chairman. Consequently, my remarks relate to the Vasse Shelf and not the North West Shelf.
- The Vasse Shelf is located immediately to the west of the recent Whicher drilling and the proposed Whicher National Park, the subject of the discussion up to that point.
- In reference to sovereign risk, top of page 9, my comments relate to the perception that can be created, which can have a significant detrimental impact, despite the legality of the issue.

Please provide me with a copy of the finalized transcript.

Yours sincerely



Dr T J Griffin
Executive Director
17 November 2004



APPENDIX 2
TRANSCRIPT OF THE HEARING WITH MR MCNAMARA
AND MRS COLLISS, DEPARTMENT OF CONSERVATION
AND LAND MANAGEMENT

**STANDING COMMITTEE ON UNIFORM LEGISLATION
AND GENERAL PURPOSES**

**RESERVES (NATIONAL PARKS, CONSERVATION PARKS AND OTHER
RESERVES) BILL 2004**

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
MONDAY, 15 NOVEMBER 2004**

SESSION 2

Members

Hon Adele Farina (Chairman)

Hon Paddy Embry

Hon Simon O'Brien

Participating Member

Hon Norman Moore

[3.50 pm]

McNAMARA, MR KEIRAN

**Executive Director, Department of Conservation and Land Management,
Locked Bag 104, Bentley Delivery Centre
Bentley, examined:**

COLLISS, MRS SHARON

**Policy Officer, Department of Conservation and Land Management,
Locked Bag 104, Bentley Delivery Centre
Bentley, examined:**

The CHAIRMAN: Thank you both for attending at such short notice. I have to go through some formal matters. My name is Hon Adele Farina, and I am the Chair of this committee. The other committee members are Hon Simon O'Brien and Hon Paddy Embry. Hon Norman Moore is a participating member of the committee for the purposes of this Bill. On behalf of the committee I welcome you to this meeting and thank you for attending to assist the committee with this inquiry. The Bill was referred to this committee only last Friday. We have until Thursday to report to Parliament. We have a short time frame to deal with it.

Have you both signed the document titled "Information for Witnesses"?

The Witnesses: Yes.

The CHAIRMAN: Have you both read and understood that document?

The Witnesses: Yes.

The CHAIRMAN: Today's discussions are public. They are being recorded by Hansard. A copy of the transcript will be provided to you. Please note that until such time as the transcript of the public evidence is finalised, the transcript should not be made public. I advise you that premature publication of the transcript or inaccurate disclosure of public evidence may constitute a contempt of Parliament and may mean that material published or disclosed is not subject to parliamentary privilege. If you wish to make a confidential statement, you may ask the committee to consider taking the statement in private. If the committee agrees, any member of the public will be asked to leave before we continue. Do you have a view about that; are you happy for your information to be on the public record?

The Witnesses: Yes.

The CHAIRMAN: I assume you have very little information about why you have been brought before the committee. The committee is considering the Reserves (National Parks, Conservation Parks and Other Reserves) Bill 2004. A query has been raised about the mineral prospectivity of the national conservation parks and other reserves that are listed in the Bill. We have just heard from Dr Tim Griffin from the Department of Industry and Resources. He has provided us with an outline of mineral prospectivity for each of the sites. To begin, it would be helpful if you could give us some guidance on government policy for the different reserves and national parks being created under the Bill and how it varies from the current law.

Mr McNamara: Do you mean in respect of mineral prospectivity?

The CHAIRMAN: For example, with national parks the government policy is that there will be no mining or exploration. However, that may not actually be the law.

Mr McNamara: The Bill creates new national parks and other reserves in accordance with the Government's policy to protect old-growth forests. Under that policy, the forest management plan has been produced through the statutory public comment processes of the Conservation and Land Management Act and through assessment by the Environmental Protection Authority, and with approval from the Minister for the Environment in the latter part of last year. The forest management plan has been in effect as of 1 January 2004. The forest management plan provides the details of all the proposed national parks and other reserves under the Government's old-growth policy. The Minister for the Environment went through a process of consultation with stakeholders and the general community on the fine-scale boundary delineation of all the proposed parks and reserves. Following cabinet consideration in each case of the views and comments that were received, final decisions were made on boundaries, and those are reflected in this Bill and the other two Bills that give effect to the new national parks proposals. In respect of exploration and mining, the Government had a pre-election environment policy of no exploration or mining in national parks and nature reserves, applicable to both minerals and petroleum. During the term of the Government that policy has been adhered to, but applications for tenements and the like that were in the system before the election date of 10 February 2001 have been treated in accordance with the policy that existed at that time. They have been progressed by the Department of Industry and Resources under the existing legislation and the pre-existing policy. The government policy on no exploration or mining in national parks and nature reserves has been given effect by administrative action during the term of the Government. There has not been an amendment to the Mining Act or other relevant legislation to put that policy explicitly into law. In law it is still possible to provide for exploration and mining in the different classes of reserve - national park, nature reserve, conservation park and other reserves. There are differing provisions according to the type of reserve, be it national park, nature reserve or the others, and the class of reserve, be it class A or not class A. A range of different provisions applies to help determine whether exploration and mining can be permitted. Those provisions variously involve either the recommendation or the concurrence of the Minister for the Environment. They variously, in some cases, involve parliamentary approval. Of course, any proposal for exploration or mining is referable by anybody to the Environmental Protection Authority for assessment under the Environmental Protection Act. That is the broad framework.

The CHAIRMAN: Would it be accurate to say that a national park, conservation park or nature reserve could be an A classification or a B classification?

Mr McNamara: The Land Administration Act was amended some years ago now, so that there is still the classification of class A, but the old classifications of B and C were removed from the Act. A reserve now is either class A or simply not class A, as I understand it.

The CHAIRMAN: Does the policy apply only to class A?

Mr McNamara: The policy is written in terms that simply say no exploration or mining in national parks and nature reserves; it is not explicitly written in terms of class A or otherwise. Administratively it has been given effect to across national parks and nature reserves during the term of the Government, with the exception of the tenement applications that were on the table at the time of the election.

Hon NORMAN MOORE: Are any national parks not class A?

Mr McNamara: Not to my knowledge.

Hon NORMAN MOORE: I just wanted to know whether there was some generally accepted view that if it was a national park it was a class A reserve.

Mr McNamara: They certainly normally are. If I may add to that, it is not the Act that we administer, of course, but as I recall the Mining Act, for example, the Minister for the Environment's power of concurrence with exploration and mining applies to national parks as a

category of reserve rather than only to A-class national parks. It is in nature reserves where the Minister for the Environment's power differs between A class and not of A class reserves, and similarly in conservation parks. That is my recollection of the Mining Act.

[4.00 pm]

Hon NORMAN MOORE: This Bills creates 10 or so national parks and a couple of conservation parks. I understand that the Government's policy is that there will be no mining or exploration in the national parks that have been created but that some multi-land uses are available under the conservation parks. That could include exploration and mining. Is that your understanding?

Mr McNamara: The policy I have referred to is exclusive. It refers to national parks and nature reserves. It is silent on conservation parks. This means that the policy that had been in place previously and the policy that is reflected in the legislative framework applies, which means conservation parks are available, potentially, for exploration and mining, subject to - in the case of a class A conservation park - the concurrence of the Minister for the Environment. If it is not a class A park, the power of the Minister for the Environment is one of recommendation to the Minister for State Development.

Hon NORMAN MOORE: In respect of mining in conservation parks, does the requirement for parliamentary approval relate only to class A reserves, or does it relate to national parks?

Mr McNamara: The requirement for parliamentary approval, once again, is in the Mining Act, not the Conservation and Land Management Act. My recollection of the Mining Act is that the parliamentary approval of mining, as distinct from exploration, applies to national parks in all cases and to A-class nature reserves and conservation parks. A detailed bulletin is published by what is now the Department of Industry and Resources - it was probably published under the Department of Minerals and Energy in its time - that details these matters quite fully.

Hon NORMAN MOORE: The problem at the moment is that there is a policy and a law that are different, so trying to understand what is happening is a little difficult in the short period we have. Just quickly, in respect of this Bill again, the two conservation parks - Hester and Kerr - are presumably class A. Hester is dealt with in clause 18.

Mr McNamara: I will refer to the explanatory memorandum.

Hon NORMAN MOORE: Clause 19 refers to just a reserve.

Mr McNamara: Clause 18 deals with Hester Conservation Park. It is proposed to be class A, under the Bill, but according to clause 19 the proposed Kerr Conservation Park is not proposed to be class A. My understanding is that it has not been made class A under the proposal in the Bill because there is an existing exploration licence over a broader area that does not include an exclusion for the area of the proposed conservation park. Mineral tenements are issued over often rectangular areas, or graticular blocks and the like and, not infrequently, while the outer boundary is over a large rectangular or whatever shaped area it is not infrequent for them to be issued with an exclusion for some part or parts within that outer boundary. In this case, there is an exploration licence over a larger area without an exclusion for the proposed Kerr Conservation Park, and for that reason, in terms of honouring the tenement holder's rights, it is not proposed to be class A.

Hon NORMAN MOORE: Which means what?

Mr McNamara: Which means that the Minister for the Environment has a power of recommendation in respect of exploration and mining activity, but the decision rests with the minister for mines. Once again I think I am correct in saying that, not being class A, parliamentary approval would not be necessary for mining to proceed, subject of course to the general comment that I made earlier that anything is referrable to the Environmental Protection Authority.

Hon NORMAN MOORE: This is a hypothetical, so tell me to get lost if you want to, but if Peter John Brooks were to own exploration licence 2469 over that conservation park, and that were to be

relinquished or he did not proceed with it, would it be the intention of your department that that be an A-class reserve once the existing mining applications had been dispensed with?

The CHAIRMAN: I think that is probably a question of policy.

Hon NORMAN MOORE: That is why I am asking it. Would you rather it was an A-class reserve?

Mr McNamara: There is a general view, I guess, that reserves under the Conservation and Land Management Act are preferably class A for purposes of their security, but that is a matter that would have to be addressed on a case by case basis. There are required consultations with a range of other agencies, including the Department of Industry and Resources, whenever there is not only a reserve creation but a reserve reclassification, and that would have to be considered on its merits at the time. I would need to refer to the forest management plan itself. I do not recall that the plan specifies an intent to seek A class at the time of the relinquishment of the tenement, but that is a matter that would need to be checked.

Hon NORMAN MOORE: Is Kerr a particularly special environmental area?

Mr McNamara: I have no particular comments to make about the values of that reserve individually other than to say that the totality of the proposed parks and reserves is meant to protect the old-growth forests of the south west and be representative of the range of ecosystems and so on. Having said that, there is no old-growth forest in Kerr. It is part of the representation of the broad range of ecosystem values in the south west forests.

Hon NORMAN MOORE: Thank you. That has been very helpful, and I appreciate the opportunity. Would you excuse me, Madam Chair, but I need to attend to another matter.

The CHAIRMAN: Can I just clarify that all of the sites that have been identified in the Bill were identified in the forest management plan and have been turned into either a national park or a conservation reserve?

Mr McNamara: The answer is yes. They are all dealt with in the forest management plan. The only variation subsequent to the forest management plan is that, as a consequence of the process of the stakeholder consultation on detailed or fine-scale boundaries, some adjustments have been made to boundaries. That possibility was specifically provided for in the forest management plan. Just to give an example, the reserve created by clause 17, the proposed Bramley National Park, had two shire gravel reserves excluded from it compared with what was proposed in the forest management plan.

The CHAIRMAN: Can I clarify also that the Department of Industry and Resources was consulted with regard to the boundaries for the parks?

Mr McNamara: Yes, on a number of occasions, in that the forest management plan was developed through a process that involved the release of a broad discussion paper, followed by the release of a draft forest management plan for the statutory public comment process under the Conservation and Land Management Act, followed by the release of a final approved forest management plan, in addition to which there was the release of the boundaries for each and every proposed national park and conservation park for 60 days public comment, with the exception of two that were released for 30 days. The Department of Industry and Resources was provided with and took the opportunity to comment during those processes, and its comments were part of the Government's final deliberations at cabinet level in terms of the agreement on the final outcomes in the Bill.

[4.10 pm]

Hon PADDY EMBRY: I am sure these things are very clear to you, Keiran. My understanding is that a lot of that area of new reserve in the proposed Tone-Perup park, the blue area on the map, has already been logged. What area on the map are you trying to preserve for old-growth forest that has

already been cut for timber? My interpretation of old growth may be wrong, which is why I am asking.

Mr McNamara: The Government's old-growth forest policy protects all old-growth forest. It also names other areas that are not necessarily old growth, or even mostly old growth in some cases, as proposed national parks and other reserves to have a fully comprehensive and representative system of conservation reserves in the south west forest. Tone-Perup, which is in fact proposed as a nature reserve under the Bill following the public consultation process, is about 19 or 20 per cent old-growth forest. The reason for its proposal as a conservation reserve, in this case from some degree of personal familiarity, is that there are quite high fauna conservation values out at those eastern margins of the main forest belt. In particular the Perup area, which is part of the main Tone-Perup reserve, has for a long time been regarded as one of the most important fauna conservation areas in the forest and, indeed, was set aside from logging activity, or much of it was, back in the forest department's days because of its importance for fauna conservation. So, although there has been cutting over a reasonable proportion of that area and it is certainly not all old-growth forest, its fauna conservation values at that eastern margin of the main forest belt are quite significant.

Hon PADDY EMBRY: When you say the eastern forest belt, are you referring to the green area to the east?

Mr McNamara: I am really referring to that area pretty well at the eastern margin of the main forest belt from north of Mundaring through to the Walpole-Denmark area.

Hon PADDY EMBRY: I have forgotten the name, but the very small kangaroo, the tammar I think, is certainly in much more plentiful supply there than was thought following your fox-baiting. I am very familiar with that area. I used to farm in part of what is shown there, so I really know that area extremely well. That is why I was asking you about that area.

Hon SIMON O'BRIEN: You mentioned consultation with stakeholders. Who were the stakeholders generally, and were they self-identified or identified by some other process?

Mr McNamara: I might not get the list complete in recalling it from memory.

Hon SIMON O'BRIEN: Sure.

Mr McNamara: The forest management plan process itself was widely known; it was advertised in the media. There was a lot of discussion around that, but more particularly in respect of the release of the boundaries for the finer scale of consultation. In each case there was an advertisement, I think repeated in the media a couple of times. There was a media statement by the Minister for the Environment. There was a mailing list that we used that always includes agencies, such as the Department of Industry and Resources; the Department of Environment, in terms of its Water and Rivers Commission responsibilities in particular; various utilities, including Telstra at the Commonwealth level; the local government authorities in each case; the main voluntary conservation groups; the representative Aboriginal bodies for the area; and various other peak groups that were always identified. I should have included the Forest Products Commission in the agencies. There was a direct approach to those sorts of groups as well as general advertisement.

Hon SIMON O'BRIEN: Has the Department of Industry and Resources fully participated in the process?

Mr McNamara: It generally responded in those processes and in the normal processes of government in terms of the preparation of cabinet documents.

Hon SIMON O'BRIEN: Did you have any points of departmental disagreement between your office and the Department of Industry and Resources in relation to any prospectivity question?

Mr McNamara: I think those matters go to matters of policy that were discussed between ministers in the final determination of cabinet positions on the proposed Bill.

The CHAIRMAN: I do not know that CALM is qualified to comment on prospectivity in any event. It can only comment on -

Hon SIMON O'BRIEN: I wanted to know if any objections were raised during your consultation process by one of the stakeholders that you have identified and only DOIR, and did they object on the grounds of prospectivity to any of the proposed parks?

The CHAIRMAN: I think we have that information from the DOIR officer, and that -

Hon SIMON O'BRIEN: I am sorry. I did not realise that you were one of the witnesses. I would have put the question to you.

The CHAIRMAN: I am just saying that I think it is inappropriate to ask the question of this witness on the basis that he was not personally involved in the process, and that question was asked of and answered by the officer from the Department of Industry and Resources.

Hon SIMON O'BRIEN: I have asked the question, and you are simply wanting to intercede and not have the question asked.

The CHAIRMAN: I think the officer has answered the question to the best of his ability. Are there any other questions?

Hon PADDY EMBRY: If there was not a problem in the previous person being asked the question and giving an answer, just to clarify our colleague's -

Hon SIMON O'BRIEN: If we need to argue about it we will go behind closed doors. We should not dispute it while -

The CHAIRMAN: I am happy to answer that. You are asking a question about mineral prospectivity. CALM does not assess prospectivity; that is not its role.

Hon PADDY EMBRY: That was not the honourable member's question.

The CHAIRMAN: It was. Would the witnesses mind leaving us for a few minutes so we can sort this matter out, thank you.

Proceedings suspended from 4.18 to 4.25 pm

The CHAIRMAN: Thank you for returning. Hon Simon O'Brien will continue his questions. Obviously, you know the guidelines under Standing Order No 330, which provides that when a committee examines a public servant, questions of policy shall not be asked of that person but shall be directed to the responsible minister. The public servant is entitled to decline to answer any question on a matter of policy. It is a matter for you to determine whether you are able to answer the questions or decline and refer the matter to the minister so that the minister can reply to the committee.

Hon SIMON O'BRIEN: Which, of course, is provided for in the standing orders. You mentioned in connection with finalising the areas to be marked out as reserves that you had engaged in consultation with stakeholders. Is that correct?

Mr McNamara: That is correct.

Hon SIMON O'BRIEN: I recall that you have already provided us with a summary of the process through which you sought participation from a wide variety of interests. One of those was the Department of Industry Resources.

Mr McNamara: That is correct.

Hon SIMON O'BRIEN: It was an identified stakeholder. I think we have also established that DOIR provided some responses when invited to do so - it made some submissions.

Mr McNamara: That is correct, yes.

Hon SIMON O'BRIEN: Did DOIR in any of its submissions raise any objections or other negative observations about the boundaries of any of these reserves on the basis of the mineral prospects that may be contained therein?

Mr McNamara: The Department of Industry Resources made direct written submissions to CALM. As is normal, it also provided advice for consideration in cabinet deliberations. In its submissions to CALM, it pointed out some matters of specific concern. In response to a specific concern that involved a known mineral resource or deposit, some accommodations were made. I refer in particular to the proposed Whicher National Park, covered in clause 12. Given the gas potential and the known Whicher gas field in that general area, DOIR sought a limitation on the depth of the proposed national park and requested that it be defined at a certain depth below the natural ground surface. That proposal has been accommodated in the Bill with a depth limit of the proposed Whicher National Park of 200 metres below the ground's surface. It also pointed in particular to a known titanium deposit for which a mining lease had been granted. On the basis of that request that area was also excluded from the proposed Whicher National Park, under clause 12. Beyond that, I would characterise the advice from the Department of Industry and Resources as broadly supporting or not objecting to a range of the proposed reserves. In some other cases, it offered general views about prospectivity or the likelihood of finding minerals. On that basis, DOIR expressed its view that some of the areas in question should receive some other category of reservation rather than the national park, nature reserve or conservation park as proposed in the Bill. That was all on the table, and it was taken on board in the process of the Government's final deliberations about the Bill and in light of the very clear commitment of the old-growth forest policy to create this range of national parks and other reserves.

[4.30 pm]

Hon SIMON O'BRIEN: I think this has been covered before, but I would like you to confirm whether no exploration or mining will be permitted under current government policy on the reserves that are being created.

Mr McNamara: Once again these matters are essentially the province of the Mining Act, not the Conservation and Land Management Act. As I outlined in response to an earlier question, the Government's policy of no exploration or mining in national parks and nature reserves is a policy that has been given effect to administratively during this term of government, with the exception that tenements that were applied for pre 10 February 2001 are proceeded with according to the policy that existed at that time and in accordance with the existing legislation, which has not changed with respect to these matters. In terms of the areas that are to become national parks and other reserves under this Bill, the current law allows for the possibility of access for exploration and mining. Government policy is to prohibit that in the case of national parks and nature reserves.

Hon SIMON O'BRIEN: You are right, that was raised earlier. My question then is: which minister exercises the right, or the power, to refuse on an administrative basis? Will it be your minister or the minister with responsibility for mining?

Mr McNamara: The leases, licences, tenements - I do not have the terminology necessarily right in terms of the provision of the Mining Act or the petroleum legislation - but the granting of those instruments is the power of the minister for mines. In effect the policy is given effect by the way the minister for mines exercises those powers under the Mining Act and the petroleum laws, of which several come into play. I say again what I said earlier, that in the case of national parks and A-class nature reserves and A-class conservation parks in the south west, the Minister for the Environment has the power of concurrence and would not, in accordance with the policy outlined, grant that concurrence.

Hon SIMON O'BRIEN: Without concurrence, the proposal could not go ahead?

Mr McNamara: For those categories and classes where concurrence of the Minister for the Environment is required, the minister for mines cannot issue the relevant tenement without the concurrence of the Minister for the Environment.

Hon PADDY EMBRY: Is what you just outlined current law or is that what is being proposed in the changes to the consultation process and the final word being with your minister as opposed to the minister for mines? Is that what is actually changing?

Mr McNamara: No, it is not. I have outlined the current law and the application of the Government's policy to the current law. The third reserves Bill before the Legislative Council does not amend either the mining or petroleum legislation in any way to change the regime that applies to access for exploration or mining. This Bill is simply an instrument by which the various reserves are created, whereas the provisions that govern access for exploration and mining are in the Mining Act and various petroleum Acts.

Hon PADDY EMBRY: I trust that I am not asking for secrets. Does that mean that if a proposal was put to Cabinet and the Minister for the Environment had a different view from another minister, would the Minister for the Environment's view take precedence, or would Cabinet overrule the minister?

The CHAIRMAN: I do not know whether Keiran can answer that question.

Hon PADDY EMBRY: Fair enough, it was probably an unfair question.

The CHAIRMAN: Is it usual and to be expected that the Department of Industry and Resources would object to the creation of any national park or conservation reserve in view of the Government's policy and the objectives of that department, which are to further exploration and mining?

Mr McNamara: For obvious reasons, when progressing proposed reservations it has always been the standard practice of the former Department of Land Administration and now the Department for Planning and Infrastructure to consult with local governments, the Department of Industry and Resources or its predecessors and the relevant water agencies. The Department of Industry and Resources makes its views known during that process. However, in this case it is clearly the Government's policy to create these reserves through its old-growth forest policy. The Bill reflects that policy with the allowances outlined in it, which I have described, by which mining activity can be conducted in a national park regarding some very specific matters relating to a gas field and a titanium deposit. The Department of Industry and Resources raised those matters with the Government.

The CHAIRMAN: Earlier you said that when the department advised you of a known reserve of mineral or petroleum, efforts were made to excise that area from the national park or conservation reserve boundaries in which there was a known reserve, such as the Whicher Range, which you just mentioned.

Mr McNamara: When there was a known, identifiable reserve with a granted mining lease, that is what applied, as in the case of Whicher Range.

Hon PADDY EMBRY: I will add to that question. Correct me if I am wrong, but the question was when an attempt was made, was the department able to accede in every case to that request?

Mr McNamara: With regard to this Bill? There are two other Bills.

The CHAIRMAN: We are dealing with only this Bill.

Mr McNamara: Okay. I referred also to clause 17 and the two shire gravel reserves that were excluded. We identified those and acted. Those exclusions in clause 17 and those I have referred to in the Whicher Range are the only such exclusions in this Bill for that purpose.

Hon PADDY EMBRY: They are the two I was asking about.

Mr McNamara: They were very specific cases put forward by the Department of Industry and Resources.

Hon PADDY EMBRY: Were you able to accede to the department's request or recommendation?

Mr McNamara: The decision of the minister and the Cabinet was made in light of the information about the titanium deposit and the Whicher Range gas field. The Government then made a decision regarding the depth limit and the exclusion of the titanium area.

Committee adjourned at 4.40 pm