NATURAL GAS (CANNING BASIN JOINT VENTURE) AGREEMENT BILL 2013

Second Reading

Resumed from 9 May.

MR W.J. JOHNSTON (Cannington) [4.06 pm]: I rise as the lead speaker for the Labor Party on the Natural Gas (Canning Basin Joint Venture) Agreement Bill 2013. In starting, I draw the chamber's attention to an article published in *The Weekend West* on page 6 of the business section entitled "Martu say they are open for business" by the journalist Peter Kerr. It is a very good article; it goes through in detail how the Indigenous community is looking for opportunities to be involved in the development of the state for the benefit of Indigenous people as well. The bill we deal with today, which deals with natural gas projects in the Kimberley, is the sort of thing the Martu people refer to in the article I just spoke of. The article is worth a read and people should look at it, because it puts the issues we deal with in this bill into context.

It is worth noting that this bill is unique in that normally a state agreement would not come to the Parliament at this early stage of a project. This project is effectively with an explorer, not with the developer, although, of course, the joint venture between the Australian company Buru Energy and the Japanese company Diamond Resources, which is part of Mitsubishi Corporation, wants to develop a project there. However, the issue is that nobody knows where the gas resources are or indeed whether there are any there at all. There is a range of estimates and I note that the US Energy Information Administration has provided information, to which the Premier referred in his speech, about possible shale gas resources around the world, and it would seem that the Canning Basin in the Kimberley contains an enormous amount of gas. According to the Premier's speech, I think it was three times the potential offshore resource. Of course, that has to be proved up. According to the Premier's speech, the US Energy Information Administration says there are about 229 trillion cubic feet of shale gas. Buru, the proponent, estimates that there is actually another 100 TCF of gas in addition to that estimate from the US Energy Information Administration. We have had some shale gas plays in the midwest, but this is the first large-scale shale gas play we have had in Western Australia. There are a couple of operating wells in the Cooper Basin in South Australia, but this is the first time we have tried to look at such a large resource. I draw the attention of the chamber to the sixth report, from the thirty-eighth Parliament, of the Economics and Industry Standing Committee, "Inquiry into Domestic Gas Prices". Chapter 8 looked in detail at the issues around the potential for shale gas, and if members want to know more, I urge them to look at that report. Unconventional gas is gas that is not held in a field. Of course, Buru thinks that it will find some field gas in the Canning Basin, but one way or another there is this question of: how will we deal with the unconventional gas resources, which are, potentially, extraordinarily large?

I have to make a quick point about the fact that this bill was declared an urgent bill not last week but the week before, yet was not brought on for debate until now. It is interesting that proposed section 3(3) of the agreement states that the agreement does not have to be ratified by the Parliament. For the benefit of Hansard, the words in clause 3 of the agreement on page 16 of the bill read —

> (3) If by 31 December 2013 the said Bill has not commenced to operate as an Act then, unless the parties hereto otherwise agree, this Agreement will then cease and determine and no party hereto will have any claim against any other party hereto with respect to any matter or thing arising out of, done, performed, or omitted to be done or performed under this Agreement.

I make the point that there is nothing urgent about this. It could have been dealt with at any point in time on any of the sitting days during the rest of the year. It surprises me that the Premier's remarks the other day that it was urgent and needed to be dealt with immediately were 100 per cent wrong. He can explain why he did not know the provisions of the bill and the agreement when he said those things. The Premier in his contribution also said that the agreement would operate regardless of whether the chamber passed the bill because the executive had already entered into the agreement with Buru Energy and its joint venture partners; therefore, the agreement would happen no matter what happened in the chamber. That is very interesting because the next paragraph of the agreement, clause 3, reads —

> (4) On the day after the day on which the said Bill commences to operate as an Act all the provisions of this Agreement will operate and take effect despite any enactment or other law.

In other words, the agreement states it comes into force only on the day after this bill becomes an act. The words of the Premier that this agreement will operate regardless of the views of this chamber and the other chamber are 100 per cent wrong; the agreement cannot come into effect until this chamber passes the agreement. That is not a surprise because the whole purpose of a state agreement is to set aside some law or other of the state. If it did not have that effect, there would be no point in bringing the state agreement to the Parliament—unless the

government were not trusted or something. We would not need the act if it were just enforcing the existing law of the state; there would be no need to bring the agreement to the Parliament. I am not quite sure why the Premier was 100 per cent wrong the other day. It could be because he did not read the provisions of the bill or the agreement or because he was not quite sure what he was talking about, or all of the above. One way or another, we have to understand that the Premier was 100 per cent wrong.

We also have to note that the purpose of this agreement is to set aside the laws of the state. I draw people's attention to clause 6 of the bill, which states —

> (1) The Agreement operates and takes effect despite any enactment or other law.
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> (2) If a provision of the scheduled agreement expressly or by implication purports to modify or exclude the application or operation of an enactment for a purpose or in relation to a person or thing, the application or operation of the enactment is modified or excluded for that purpose, or in relation to that person or thing, to the extent or for the period mentioned in the provision or necessary for the provision to have effect.

We are enacting the bill because we need the laws of the state to be modified. If we do not pass the bill, the laws of the state will not be modified and the agreement will not work. I am sure the Premier will be able to explain why he was 100 per cent wrong in his contribution.

Mr W.R. Marmion: Which clause was that one?

Mr W.J. JOHNSTON: It is clause 6 on page 2 of the bill. The bill makes it clear what the agreement is doing and there is nothing wrong with that because that is what state agreement acts do; they set aside other acts. As I said, if the Premier's comments were right, we would not be doing it. In other words, we are doing it because the Premier was wrong. That is an interesting issue.

I never understand why the Premier is so heated and pathetic on these types of issues. It is interesting to note some of the comments he made last week when we were dealing with the repeal legislation. He tried to put words in the mouth of the Labor Party. When I explained last week that the Labor Party's position was to have the Kingstream Steel agreement referred to a committee, he said —

> At the time, Labor members in this house who supported the Kingstream project advocated that the state should hand the $100 million to Kingstream.

He further said —

> We would not put taxpayers' money at risk, and we did not—despite the urgings of the Labor Party to do so.

The Premier's comments on page 765 of *Hansard* of 16 May 2013 were wrong; that was not the position of the Labor Party. If we read *Hansard*, as I did last week, we see that the Labor Party said that the Kingstream agreement should have gone to a parliamentary inquiry. As I mentioned, it was referred to a parliamentary inquiry but the parliamentary inquiry was never completed or reported. The Premier, in making comments about hot briquetted iron, said —

> BHP went ahead and built the HBI plant, and the government did its role. There was a mistake, and it was a crushing one. BHP, for whatever reason, chose a new technology for converting iron ore into HBI briquettes; it was an unproven, unused technology … it probably could have been built for the less than $1 billion, and it would have worked … It was a monumental mistake of management within BHP. Quite a few people lost their jobs over it.

Everything he said is true, but it is not what he said when he was the minister with the ability to make decisions about HBI. As the Premier said, quite a few people lost their jobs over it, but in 1999 he said that they would be heroes. We cannot just come into this place and say anything we want. We have to come in here with some thoughts, look at what is happening and take on board some of the comments of the other side. The Premier would have been much better served as a minister if he had referred the Kingstream legislation to a committee because the state's embarrassment in that matter would have been overcome. I do not know why he has that incapacity to be happy or to understand the position of others. I do not know why he brings his bullying behaviour into this chamber. It was interesting reading those debates and seeing that that bullying behaviour took place all those years ago as well as today.

I note the Premier's speech at the James A. Baker III Institute for Public Policy at Rice University on 13 April 2010, a copy of which is available on his website. This was an important speech by the Premier in laying out some of his views about the development potential in Western Australia and our new and emerging role as an

energy superpower. It is interesting that unconventional gas reserves in Western Australia were not mentioned at all. I was quite surprised about that when I read his speech in April 2010. I was surprised when I was doing the research with the other members of the committee on the gas inquiry. I visited the James A. Baker Institute and met with Professor Peter Hartley, the head of the Baker Institute, who now also has a joint appointment at the University of Western Australia. Peter Hartley is, of course, a Western Australian. I was surprised when the Premier made his speech at the Baker Institute in April 2010 because Buru Energy had already given evidence to the inquiry that we were undertaking that it was exploring the Canning Basin. I wonder whether the Premier actually understood the consequences of unconventional gas for Western Australia because he said in his speech that unconventional gas had effectively killed off the plan to export Australian gas to America as LNG. Of course, that is true; that is exactly what happened. However, I do not know why the Premier's speech explains that the revolution was arriving here in Western Australia as well. Indeed, there was no reflection in the Premier' speech about the fact that coal-seam gas had already brought LNG project proposals to Queensland and that there were discussions that those proposals, which were a revolution in Australia, were leading to increased prices for gas on the east coast in the same way that our LNG exports have led to higher prices in Western Australia. The US Energy Information Administration had already published its estimates of the Canning Basin gas reserve by the time the Premier made his remarks to the Baker Institute in April 2010. I, along with the member for Riverton, who is now the Minister for Energy, attended the Annual World Shale and Oil Gas Conference and Exhibition in November 2010 as part of the research for that report and we gained a detailed understanding of the issues surrounding shale gas. We met and spoke with not only industry representatives from the United States, although that was very important, but also shale gas players from Argentina, South Africa, Poland and China. We were provided with very detailed maps and information at that conference on the potential resources available in Australia. The people we met told us that there were clear opportunities for shale gas in Western Australia. Therefore, I was a bit surprised that the government had been so slow in responding to the opportunities, threats and other issues surrounding shale gas in the Canning Basin. The Economics and Industry Standing Committee tabled its report "Inquiry into Domestic Gas Prices" on 24 March 2011. It was a well-received report that has bipartisan support and has generated a lot of discussion in the community. That was the first time anyone had investigated the actual cost of gas in Western Australia, as opposed to the supply of gas. Those two issues are directly related because we can have a lot of gas but if it is too expensive to use, it does not assist us.

I turn now to some of the provisions of this agreement that we are being asked to agree to. Basically, there are three elements of the agreement. The first is a gift to Buru Energy and its partners. That is a gift that is not enjoyed by others. We are removing the usual requirement for these proponents to hold ground. Normally, after six years a proponent would have to apply for an extension of its right to continue to explore, but there is a penalty when the proponent does that. The penalty is that the proponent loses 50 per cent of the leases held by the proponent. This agreement sets aside that relinquishment obligation so that the proponent will be allowed to keep all the leases on that land. There are obligations—I will talk about them later—to build a domestic gas plant, and if that plant works, there is also an opportunity to build an LNG plant.

I will quote from the Premier's second reading speech in which he said —

> The Petroleum and Geothermal Energy Resources Act 1967 was not drafted with the recently emerging unconventional gas sector in mind. The limited suspension of relinquishment obligations recognises that proving the technical and economic feasibility of the Canning Basin commercial shale gas potential will require some years of high level expenditure and technical development. This has been the case for shale gas in the United States of America despite the presence of the most experienced petroleum services sector in the world.

That is 100 per cent true; what the Premier said is 100 per cent factual. Of course, it is also true of other projects in the Canning Basin. I have a very important question: is it intended that this benefit will be granted to other developers? This is a very important question that needs to be clearly answered by the government. We have had some discussion about that in our briefing with the Department of State Development and the Department of Mines and Petroleum. However, they can tell us what is in the bill but they cannot tell us the policy issues involved. It would be great if the government could put down a clear provision about its policy position on this issue. The Premier is 100 per cent right: it probably will take quite a long time for Buru Energy or any of the other companies to prove up the resources and demonstrate that it actually works. Even though shale gas works in the United States, we do not know as a matter of fact whether the gas is actually in the shales and that the gas can be mobilised when all the work that is needed to be done is done. We do not know whether there will be more gas in one location and less in another location. We do not know any of those things. What the Premier said is 100 per cent true, but it is also 100 per cent true for all the other players—both Western Australian and international companies—that are also at work in the Canning Basin in the Kimberley. The Premier's comments

in his second reading speech appear to be saying that there is a systemic problem—that the Petroleum and Geothermal Resources Act 1967 does not suit the needs of the shale gas player. If that is the case and that is a systemic flaw, why is there not a systemic solution? That is a fundamental question that needs to be answered. The Labor Party does not say that this is a fatal flaw in the agreement, because the agreement needs to be looked at on its merits, and I will talk about that in a minute, but if there is a systemic problem, why is there not a systemic response? If it is not a systemic issue, that needs to be explained also because the bill appears to say that there is a systemic issue.

It is also important to look at what happened to the shale gas players in the US because they also have use-it-or-lose-it arrangements for their operations. Those arrangements have forced the operators in the US to produce gas even when the cost exceeds the return. Gas producers in the US are producing gas at below the cost of production. We then end up with a very low gas price because extra gas is being produced. That is one of the issues that leads the unconventional shale gas revolution that we are all talking about. I am not saying that is a fatal flaw in the bill but we need a clear explanation from the government about whether or not this problem is systemic. As the United States already had pipeline infrastructure, and generally speaking the shale gas plays are where there was already gas pipeline infrastructure, it meant that when companies were being forced to produce, they could actually put the gas in a pipeline.

The fundamental problem here is the Canning Basin is so remote that there is no transport infrastructure for the gas. I read on Buru Energy's website that it has found some oil in some of the spots up there. Oil is different because it can be transported very easily. There are not the same issues around an oil play as there are around a gas play. There is a real issue because there is no infrastructure. If they were to spend five or six years finding the resource, they would not necessarily be able to produce the gas even if it was technically feasible because there would not be anywhere for them to put the gas. Although I understand why the government says what it does, I want to know: if it is systemic, will there be a systemic response or will only Buru and its partners get the benefit that is being described here because of the problem that the Premier has identified?

I will probably ask some questions when we go into consideration in detail. Minister, please, do not just yell across the chamber and abuse or intimidate or say that we are against this or in favour of that. This is a serious issue. There are other players I have spoken to who say they do not understand what is happening. I have also spoken to Buru.

Mr W.R. Marmion: Are you referring to me?

Mr W.J. JOHNSTON: No. I was not expecting my good friend the Minister for Mines and Petroleum to do that. By the way, Madam Acting Speaker (Ms J.M. Freeman), he is not in his own seat. I will get Madam Acting Speaker to toss the minister out!

Mr J.M. Francis: Or I can yell across the chamber!

Mr W.J. JOHNSTON: Yes, you can! I was meaning the minister whose bill it is.

Without that provision I cannot imagine that Buru Energy and its partners could get the project done on time. They would spend six years searching for gas. By the time they found a developable resource, they would have to give up half the resource and some other company would come in, peg the land and get the benefit of Buru's work. I am unconvinced that is fair. If it is a systemic issue, there needs to be a systemic response. Nothing that we have been told to this point in our briefings says that there will be a systemic response. I would need an explanation as to why that is occurring. The other point is Buru could go out and find that none of this reserve is recoverable. The number of people who have tried to get that gas out of the Whicher Range in the south west shows that just because there is gas, it does not mean money can be made out of it.

The next issue I turn to is the question of native title. The WA Labor Party is very, very concerned about the question of native title.

[Quorum formed.]

Mr W.J. JOHNSTON: We have advice that the suspension of the relinquishment arrangements is in fact ultra vires the national Native Title Act. We have been advised the reason is that it removes the rights of traditional owners and native title claimants. We have received advice that the traditional owners and native title claimants would have a right to further negotiate after six years, and five and five et cetera; that those rights are therefore being removed by this bill over that 17 000 square kilometres of the Kimberley that is covered by those five particular leases that are being protected. I make the point that not all Buru leases are being protected; it is only five specific leases covering 17 000 square kilometres. We would appreciate knowing whether the government has advice on that issue. We raised this again during our briefings, but appropriately we were not advised of the advice that has been provided to government on this issue. We consider this to be very important.

We backed the government on the issue of the James Price Point agreement bill last year because that was the will of the traditional owners at that time. We take the views of traditional owners very seriously. We do not have advice from traditional owners saying that they do not support this agreement. I have spoken not only to representatives of the Indigenous community in the Kimberley but also to the company. I am aware they are continuing to negotiate over native title issues, and I wish them well. I am sure that people of goodwill, as outlined by Mr Kerr in a recent article in *The Weekend West,* will come to a solution for those issues, but it is still important to us to know whether the government also has advice. We have only received preliminary advice. I make the point that if that advice is correct, that does not mean this agreement ceases to exist; it just means that to the extent the agreement is inconsistent with the national Native Title Act, it is of no effect. Given that is the key issue in this bill in respect of the relinquishment provisions around 17 000 square kilometres of leases, it is key to the whole thing. If that preliminary advice that we have received is correct, Buru and its partners are being sold a pup because they will not get what is of course the most important issue—the right to keep the 17 000 square kilometres of leases available to them.

We will trust the advice the government gets on this if it is made available to the opposition. I note that if the advice is not made available to us on this issue, it is then on the government's head. If the government says that everything is okay but later on a court declares some provision of this is invalid, that will be the Minister for State Development's responsibility. We hope that the minister recognises his responsibilities in that regard. I note that the Minister for State Development staked his career and his reputation on the Kingstream project, but apparently that did not mean that he staked his career on it or his reputation! As I say, we are happy to have the advice. If the government wants to provide it to us in some private way outside the chamber, we are happy for that too, but we want to see some advice on the question of the consistency of this legislation with the national Native Title Act. We do not believe it is appropriate for this Parliament to pass provisions that are ultra vires. I make the point that even if we do, it is of no effect, but given that is one of the core functions of this bill, we would like some reassurance on that issue.

The Labor Party also notes the different attitude to traditional owners represented by this legislation from that to the traditional owners for the James Price Point agreement. I note that the Premier went to the beach with the traditional owners and signed the deal for James Price Point. I note that he negotiated the deal; he talked about it at every opportunity he had. Some might say—in fact, I would say—that he puffed up his chest and talked about it all the time. The Premier also backed Labor's Carol Martin, and the Premier rightly criticised racist attitudes reflected in people's attitude to the traditional owners and their agreement on James Price Point. That is why we are a bit confused about what the government is doing with this agreement. We have been advised by traditional owners that this agreement was negotiated without their input.

Mr W.R. Marmion: This agreement?

Mr W.J. JOHNSTON: The Natural Gas (Canning Basin Joint Venture) Agreement. They were not equally involved in the way that the Kimberley Land Council and others were involved in James Price Point. We have been advised that there has not been direct involvement of the traditional owners or the KLC. We also note that there is no Indigenous package attached to this agreement. The James Price Point package was, in round figures, roughly $100 million from the government and an expected $1.5 billion from the companies. I will again quote the Premier in the chamber on 14 August 2012. He said —

> In May 2009 on the beach at James Price Point there was a historic signing of an agreement between the Indigenous people, the state government and Woodside that included the area of land being available for the project and a total of $1.5 billion in benefits for Aboriginal people over a 30-year period, including land, money, jobs, housing, health and education—all worthy things—with most of the $1.5 billion to be delivered in that form rather than simply as cash. That is an historic achievement. It is one of the most, if not the most, significant acts of self-determination by Aboriginal people in this state, in stark contrast to Noonkanbah 30 years earlier.

The Labor Party applauds what happened with James Price Point, but we are not sure why James Price Point, which affects 35.3 square kilometres of coastland, led to the Premier negotiating a $1.5 billion benefits package, whereas there has not been an outcome on behalf of the Indigenous people of the Kimberley with this agreement, which will potentially affect 17 000 square kilometres of the Kimberley. What value does the Premier place on these Indigenous rights? Of course, I am not saying that every square centimetre of the 17 000 square kilometres will be alienated from the traditional owners. Of course not. Firstly, as I have already put on the record, we do not know where the gas is, and when the gas is found, the whole 17 000 square kilometres will not be occupied by companies. As I have already acknowledged, the companies are in proper negotiations with the traditional owners for access to land, and I wish the parties well in that endeavour. This is not a question for the companies; this is a question for the government. Why was James Price Point worth $1.5 billion in advance of a project

being delivered, but there is no agreement by the government in advance of this project, which clearly may well affect perhaps not 17 000 square kilometres but certainly a large area?

What does a shale gas play look like? There is a photo of it in chapter 8 of that report. There is a pad, an access road, a well and a feeder line coming out of there. There is a 100 square kilometre box—an area of 10 kilometres by 10 kilometres—for each of those shale gas wells. Basically, when they drill down, they go horizontally beyond the wellhead using this wonderful horizontal drilling technology that allows them to drill about five kilometres away from the base of the well that has been drilled. That is why there are about 10 kilometres between each of the wellheads, because it goes out for five kilometres in each direction. It might be a little more because there has to be a bit of space. But, one way or another, in roughly 100 square kilometres, there is one well, one road and one feeder line. That is a lot of impact on the Kimberley. It is not intense like a gas plant, but it will still need a lot of space. Then there will be a gas plant, feeder lines and a gas line. We just want to understand the government's position and why this agreement is different from the James Price Point agreement, which had a large, and welcomed, benefits package for the Indigenous community in the Kimberley.

I think I have got my head around the technical issues on what is and what is not a pipeline, but I will get that on the record during consideration in detail. The reason I think this is quite important is that when gas plays are adjacent to each other, and when the Buru project has played out, a feeder line will not be available to a play next door, but it might be useful for the other person to use that feeder line, because a pipeline is not always a pipeline; sometimes it is a feeder line. The domestic gas pipeline will be declared infrastructure, which will be available to everybody, but the feeder lines will not be. I have asked some questions about that, so I need to get clarification. It is a technical issue. I am sure the Minister for Mines and Petroleum knows all about it, given that he is the responsible minister at the moment. I could probably ask him now. He could jump into his seat and tell me the answer. I will get that on the record because I think it is important. We do not want to see sometime in the future the Buru project play out, as all projects do, and then somebody coming in next door and having to build another feeder line. It will be an issue only when there is potentially overlapping infrastructure, but it is important.

We also want to raise some issues about local jobs. I know that the shadow minister for local jobs, the member for Cockburn, will make some comments about local jobs, because it is a very important issue for us.

I now want to quickly turn to the question of gas reservation. I make the point that this agreement continues the gas reservation policy of the Carpenter government of requiring 15 per cent of the gas to be reserved for domestic use. The way that this will be delivered is by saying that the company cannot have a liquefied natural gas project; it will have a domestic gas project. That is probably a good idea. If the gas reserve that we all predict turns out to be a resource that is available for production, there would be so much gas that Western Australia would never use it. So it is appropriate to think about sharing it with our energy-poor neighbours such as Japan, Taiwan and Korea. I note that China is not amongst them because China expects to have three times more shale gas than Australia. I do not have problems with the idea that we will share our energy endowment with our neighbours, but it is a bit different because we expected that domestic gas would be 100 per cent available for domestic use.

I thank the Australian Petroleum Production and Exploration Association for providing me with the "Domestic Gas Market Interventions: International Experience" report by EnergyQuest. APPEA provided this report to me and to everybody else who asked for it because it is trying to argue against domestic reservation. In my view, this report proves the support of domestic gas reservation. I quote from page 13 of the EnergyQuest document. In respect of the United States, the report states —

- Wholesale gas prices are set by the market.
- The growth in unconventional gas in the United States has been facilitated by the free market.

Both of those things are true but it is not an entirely free market because until very recently, when there was an approved project for export to Japan, they were only able to use the gas found in America in America or with a free trade agreement partner. Most of the countries that buy LNG are not FTA partners of the United States. The reason they have a low gas price is that they have an oversupply of gas, and the way the market works, the oversupply has delivered a low price for gas. That is what we would like to see in Western Australia as well—an oversupply of gas so we can have a low domestic gas price. My argument, and the conclusion we reached in the inquiry, is that the reason we have a high gas price here is that we are connected to the highest priced location in the world. As I said before, and I will say it again, if there was a world price for gas, we would not need a reservation policy. We do not need a reservation policy for liquid fuels because there is a world price and we can calculate what the price is plus transport and that is how much we pay. Gas is not like that. As we need a pipeline and an LNG processor, I think the technical term is that it is fungible. I am not a university graduate but I

understand that that is the correct word. As gas is not fungible, we have all these different prices. Page 27 of the EnergyQuest report refers to Norway, which is probably the most successful gas economy in the world.

Mr F.M. Logan: It doesn't rely on the free market.

Mr W.J. JOHNSTON: No, it does not rely on the free market. In fact, page 29 of the report states —

> The Norwegian "Ten Petroleum Commandments" (Ten Commanding Achievements, 2012) approved by the Norwegian Parliament in 1971, are still the basis of Norwegian policy:

Then it goes through the state interventions. This EnergyQuest report makes the following comment about Norway on page 30 —

> Government interventions with domestic gas market implications are directed towards reducing greenhouse emissions, limiting use of gas. Gas plays a minimal role in Norwegian energy consumption and use is restricted by government policies on power generation.

We have this extraordinary position where one of the most successful gas economies in the world is completely run by intervention. That intervention is partly designed to prevent the gas being burned in Norway, which is an extraordinary situation. This is a great report, and I really thank APPEA for providing it to me. I am sure APPEA will explain why it comes to the opposite conclusions to the ones that I am reaching from reading it. It is a great association and I look forward to continuing my relationship with it. That is the position that I take out of that report.

I will not speak for much longer. I know that a number of my colleagues have issues related to their portfolio areas, and the member for Kimberley has issues related to her community because we are talking about her community.

In summary, the Labor Party will go into consideration in detail. We might have a bit of a conversation when we get there. We will happily look at things. We are not opposed to the bill. We are not opposed to the idea of an agreement. It is not a bad idea to have an agreement that requires the joint venture partners to build a domestic gas project first, because they can then have an export project. I note that when Mitsubishi bought into the project, its media release talked about the ambition of exporting gas. Again, I make the point that there is a bucketload of gas in the Kimberley so we can afford to share it with our energy-poor neighbours, and that is part of the future of Western Australia. We would like the Premier to clearly demonstrate the benefits of this agreement to Western Australia and to the traditional owners, and the fairness in the agreement to other explorers in the Canning Basin. I have spoken to the company and I have let it know our position so it is not a surprise to it. Is the government saying that this is not going to be done for other explorers? Is it saying that it is a systemic thing? Just because we have an agreement with New Standard Energy or Hess does not mean that we cannot have a Buru Energy agreement. I am not trying to make anybody nervous about that. The Labor Party needs to be clear what those reasons and benefits are.

I have not canvassed the issues of the environment. I know that many people in the community have concerns about shale gas and the question of fracking. I make the point that there is nothing in this agreement that deals with the issue of fracking. Indeed, the agreement specifically says that all the normal environmental arrangements will apply to any proposal for fracking. I know that my colleague the member for Gosnells will talk about that. I hope he might also include the commentary by the Green movement about this issue on behalf of the Labor Party in the same way that I did for the James Price Point legislation. I think it is worthwhile getting the community's views about these things on the record. The more we talk about stuff, the better informed people are. I have the opposite view of the Premier on these things. I think that negotiating, talking and discussing is a strength, not a weakness. I encourage people to have a say on this very important legislation.

MS J. FARRER (Kimberley) [4.56 pm]: I rise to speak on the Natural Gas (Canning Basin Joint Venture) Agreement Bill 2013. There has been no consultation with traditional owners whatsoever. The first step that should be taken is to show some respect to these people. We see this project covering a huge area of the country for some of the biggest language groups across the west and into part of the East Kimberley areas, including the Nyikana–Mangala, Karrajarri, Gooniyandi, Ngurrara, Tjurabalan, Walmajarri, Juwaliny, Yawuru, Bunuba and some Jaru land. There are 10 different language groups. These languages are different from each other. A few are similar in dialect. We all know that a development of this type will have a big impact on the land use and practises of local Aboriginal people, and also the social impact that will occur once areas become established. Why is our Premier supporting large multicultural joint venture partners such as Mitsubishi, which we hear are foreign owned, and not protecting the rights of some of his most disadvantaged constituents?

The interaction between the state agreement act and the future act regime of the Native Title Act clearly blunts the few powerful instruments that traditional owners have in those areas by consistently and negatively affecting

their rights to negotiate or to object to this development, which covers an enormous area of 17 000 square kilometres. That area is bigger than Perth through to the outer lying suburbs, which is estimated to be roughly 300 kilometres in circumference. The area of this project extends from Broome and Derby, which are in the Shire of Derby–West Kimberley, through to Halls Creek in the Shire of Wyndham East Kimberley. That accommodates the Gooniyandi and the Jaru groups. We all know that when any changes or development in that 300-kilometre radius around Perth is proposed, people are consulted by their shires or electorates before any development occurs. Why does this government pretend that it does not need to speak to anybody? This government needs to meet and speak to native title holders about their lands. It should remember that these lands are home to a large number of Aboriginal people. Respect should be shown to these people and their families. After all, their native title rights have been recognised as only they can speak for their country. I believe that the Premier should meet with members from these 10 different language groups within the claim area that Buru has outlined. After all, it is their country and lands and it is recognised under the national Native Title Act as belonging to them and their families. Respect should be shown at all times. If some mining companies can do this, surely this government should be able to do this. After all, we are elected into government for only a few years, not forever.

MR C.J. TALLENTIRE (Gosnells) [4.59 pm]: I rise to speak to the Natural Gas (Canning Basin Joint Venture) Agreement Bill 2013 and raise some of the concerns in the community about the whole issue of fracking, which would necessarily be a part of the eventual exploitation of the gas reserves that Buru Energy is seeking to make a part of this state agreement act. I know that over the course of the last year, questions were asked in the other place by Hon Matt Benson-Lidholm about Buru Energy's proposal. He put some questions to the Minister for Mines and Petroleum about the scale of activity that has already gone on in the Canning Basin. The response to his questions of 25 October 2012 was that seven exploration and six appraisal wells had been completed by Buru Energy in the Canning Basin. It turns out that only one of those wells was actually the subject of fracking; the others used conventional techniques. However, one well, known as Yulleroo 2, had undergone the technique of fracking.

As other members have already said, the process of fracking is not entirely new; it has already been used in the oil and gas industry, but it needs to be recognised that as an onshore process, it is somewhat new. It is also a relatively new process to combine fracking with directional drilling over many kilometres. It is something that we are learning about, and that is the issue here: we are talking about the advent of a new type of gas reserve, and for that reason we need to tread very carefully. We need to look at the experience of other places around the world and what problems they have faced.

Many people in the Western Australian community have seen reports, movies and videos of this process in Pennsylvania in the United States, in respect of Marcellus shale. For a number of reasons it seems that that has been very badly conducted; there have been all kinds of damaging impacts there from that process, and the situation there is analogous to the situation here in that the technologies used and the geological location of the reserves are similar to our own. We have probably all seen images on YouTube of people in Pennsylvania turning on their drinking water taps and seeing water come out, but then putting a cigarette lighter flame to the water and finding that it catches alight because of the methane content in the water.

How has all this come about? It seems that some of the companies involved in the process in Pennsylvania have not done their job properly. There has been a high rate of well failure, and this has resulted in water reserves becoming contaminated by parts of the Shale gas reserve, especially the methane aspect. That is particularly noticeable when we see these images of people lighting what appears to be a stream of fresh water coming from a kitchen tap, and it catches alight. It is quite frightening. When we consider that that potential is there, people are naturally concerned.

I think it is essential that we allay that community concern by making sure that we have a fully transparent environmental impact assessment process around fracking, and that it takes place on a region-by-region basis; not necessarily well by well.

I return to the points that Hon Matt Benson-Lidholm raised in his question to Hon Norman Moore late last year. Hon Norman Moore's response in respect of Yulleroo 2 was that this was the only well to have undergone fracture simulation in the Canning Basin. However, he then said that he was prevented by legislation from revealing the chemicals used. The community straightaway becomes concerned when it hears things like that, and terms like commercial-in-confidence. This is the advent of a new era in onshore gas exploration in Western Australia, and already people are being told, "Sorry, we can't tell you up-front what chemicals are going to be used in the fracking process." Hon Norman Moore went on to say that once plans had been approved by the Department of Mines and Petroleum, Buru Energy would provide the environmental plans for well operations on its website, and that these environmental plans would detail the chemicals used in fracture simulation.

That response was in October last year, and we have since seen the release of that information on the Western Australian Onshore Gas website. There is a lengthy report on the website with a number of appendices that outline some of the chemicals used. However, I have to say that it does not instil confidence. The report goes into each of the chemicals used in the process. The report is provided by BJ Services Company's "Material Safety Data Sheet"; this is a Texan company. The assessment reports give a rating for each of the chemicals used and talk about whether or not the chemicals are hazardous. For example, citric acid is listed; it is explained what it is used for and what the risks are. Of course, in the case of citric acid, the risks are fairly minor. But then we go on to see some of the other chemicals that are used and it is not quite the same picture. What really concerns me is that some of these reports were prepared a very long time ago—some as long ago as 1999 and 2000—and do not appear to have been updated. One example is tetramethylammonium chloride, which is used in the fracking process and is an aqueous solution of a quaternary ammonium compound and polymers. It is used as a clay control chemical.

I am not going to pretend to have any expertise in this domain at all, but I simply make the point that Buru Energy did not provide adequate explanation of what was going on when it put this first well down in the Canning Basin. Initially, the community was told that it did not have the right to know what chemicals were to be used, but then when the information was released, it was incredibly brief, cryptic and very old. That suggests to me that there are inadequacies in the process.

One could argue that the release of these chemicals that are used in the fracking process is not going to damage aquifers that are much higher in the geological profile than the shale gas, and that is probably the case. Most of the aquifers that we would ever be likely to want to access in the Canning Basin for any form of horticultural activity are going to be far shallower than these deep shale areas where the gas is located. Nevertheless, shale fracking requires the construction of many wells that will perforate aquifers, and that is where the risk of contamination arises. One would think that it is possible to construct wells that do not leak, break or pose any risk. However, the information from a professor of engineering at Cornell University, Anthony Ingraffea, is that US statistics show that six to seven per cent of shale gas wells drilled through groundwater leak dangerous pollutants within three years—a figure that will only increase as wells corrode over time and cement casings crack and degrade. I hope that it is possible to have wells that do not crack or corrode and degrade. That is exactly why we need the most rigorous of processes in place to ensure that that is the standard we get and that it is a condition of an approval on this kind of development. The issues around fracking are real and have been the unfortunate experience of people living elsewhere in the world. Hopefully, in Western Australia we can ensure that we do things differently and we can adhere to much higher standards.

As the shadow minister, the member for Cannington, foreshadowed, I will put on the record some of the concerns relayed to me by those in the environment movement who have already put enormous efforts into examining all issues around fracking. Advice from the Conservation Council of Western Australia states —

> Social conflict will be exacerbated by the fact that under the WA Petroleum Act, farmers do not have a right of veto to prevent unwanted shale or tight gas mining on their land.

That situation has been talked about in not only the Canning Basin but also the midwest region. I note the member for Moore's presence in the chamber, and constituents of his will have contacted him about this issue. The advice continues —

> Many feel helpless to prevent the damage to their farms and communities that gas fracking will inevitably entail. This is an issue that has been of considerable concern to, for instance, the WA Farmer's Federation, who have lawyers working fulltime representing the interests of farmers in disputes with gas companies that want to build gas mines on their properties.

I am not sure whether that situation will necessarily apply directly to farmers or pastoral leaseholders in the Canning Basin, but it could well apply to those constituents that the member for Kimberley referred to and those traditional owners of the area. Naturally, they will have an interest in the good management of lands in their area and a say in what goes on in them. The advice from the Conservation Council continues —

> The significant liabilities that landholders are likely to be left with as a result of gas fracking activities includes reduced access to groundwater, contaminated ground and surface water, ongoing fugitive methane emissions, high-risk and uninsurable infrastructure on farms, and very significant surface disturbance with associated loss of agricultural productivity. Given this it is easy to see why the level of anxiety in regional communities regarding the threats of gas fracking is rapidly increasing.
>
> Despite all this, community understanding of what is at stake remains low in Western Australia. This lack of awareness flows from a failure by the government to engage the people of Western Australia in conversation about shale and tight gas mining.

> It will be noted that most people—perhaps even in this parliament—have no idea what shale and tight gas fracking involves, what the risks are, and what experiences in other regions can tell us about whether it is an industry that we want to see imposed on iconic regions of Western Australia. Despite that lack of knowledge, and the failure of any social licence that it implies, the government is intent on pushing forward with development.
>
> That is both to be regretted, and resisted.
>
> It is to be noted with particular regret that attempts by the environmental movement to be involved in community consultation have been rebuffed by this government, potentially setting up Western Australia for a completely unnecessary cycle and divisive cycle of conflict. The government's failure to consult brings to memory recent failures of consultation that triggered waves of community anger, James Price Point.

The point is well made that we need broad community consultation. We need to engage the community so that people have a full understanding of what the risks are and what is at stake, and that they really understand the technology and have a clear understanding of the difference between shale gas and coal-seam gas. It is vital that people understand those things. The advice to me from the Conservation Council continues —

> … **The environmental impacts of shale and tight gas fracking will be unacceptable, and have not been assessed.**
>
> Shale and tight gas fracking industrialisation of the Western Australian landscape will contaminate groundwater and creates very significant surface environmental disturbance
>
> Shale and tight gas fracking involves the drilling of wells, most of which pass through groundwater aquifers, in order to target gas held in shales or tight sandstone. The fracturing process itself require many thousands of litres of chemicals—including many known carcinogens—to be mixed with millions of litres of water then pumped into the wells at extreme pressures to fracture the deep-lying gas bearing rocks, in order to release that gas.
>
> Onshore shale and tight gas fields resemble something similar to aerial bombing ranges, with tens, hundreds, sometimes thousands of cleared well pads with associated truck parking and space for gas compressing facilities and so forth. Each such clearing will be up to several hectares in area. Other associated infrastructure required to develop a gas-field including access roads for each of these well pads, and the pipelines required to transport gas either to market domestically, or to LNG facilities for export.

There is a picture emerging of a huge change to the landscape of the Canning Basin. There will be dramatic change where this gas resource exists, where it is exploitable and where there are recoverable reserves. The community needs to be apprised of that up-front; we need to have the opportunity to discuss what it will really involve to know how dramatic that change to the existing environment will be. The advice from the Conservation Council continues —

> Each frack well also requires one or more settlement ponds, in which stored fracking fluids pose a very high risk of contaminating surface water in the surrounding environment, as well as creating high levels of dangerous atmospheric pollution. This is particularly the case with post-frack 'produced water', which contains a range of other pollutants released from the deep lying shales—most notably radon (the second highest cause of lung cancer in Australia), and a range of lung damaging volatile organic compounds.
>
> Contrary to what we often hear in this debate, considerable amounts of shale and tight gas fracking activity has occurred around the world—particularly in the United States. Some regions that have seen intense activity have geology that is analogous to that in Western Australia. These locations can be used to illustrate some of the potential for environmental harm that shale and tight gas industrialisation brings with it. Amongst observed harms have been impacts that range from irreversible hydrocarbon and chemical contamination of groundwater aquifers to induced seismic activity.

The risks we face could be enormous, that is why we have to proceed with caution. I realise there is an argument that says these concerns can or will be dealt with in a reasonable manner at a later stage, but I think there is naturally great concern when people hear about a state agreement act being signed between the state and just one proponent, and it is being done without the benefit of an exhaustive, transparent process. That naturally raises people's concerns.

[Member's time extended.]

Mr C.J. TALLENTIRE: I quote a little further from the advice given to me —

> Much has been made by industry about our Shale deposits and how they are at a considerable depth from groundwater. The industry claims that because of this depth the proposed activities are safe and the likleyhood of contaminating groundwater is very small. This has been a theme of industry lobbying that appears to have gained considerable traction within government departments, and indeed within cabinet, judging from recent public comments made by Mr Marmion.

Who was the then environment minister and is now Minister for Mines and Petroleum —

> It is true that many shale and tight gas source rocks lie at a considerable distance from groundwater resources. It is not true that this means the risks of groundwater contamination are significantly less.
>
> The major pathway for pollution of groundwater is, indeed, precisely the well itself, not migration of chemicals or gas from the target rocks. Each well, no matter what its eventual target depth, will be drilled through one or more groundwater aquifers and it is this which introduces pathways for contamination from leaking wells.

I think that emphasises the point I was making earlier that the risk of contaminating aquifers is what is really of concern. In Western Australia, we are very dependent on groundwater and I think that situation will only continue. Our reliance on groundwater for agriculture, horticulture and for human consumption is, of course, very high.

The report goes on —

> Although effort is made to ensure that these wells are well-built and protect groundwater resources, no gas well is fail-safe—and indeed, a growing body of research has shown that they suffer extremely high rates of failure, exposing the surrounding environment from to pollution.

I will come to a conclusion with my quotes from this advice. They go on —

> Finally, it is to be noted that we have little to no detailed information about the natural interactions between WA's groundwater systems and the underlying geology. If pollution incidents do occur, we have little understanding about the type or scale of damage to the environment, to farmland, and to public health that might flow from such incidents.
>
> To allow development of a shale and tight gas fracking industry in WA is to allow a very large and risky experiment which could permanently compromise the groundwater that Western Australia relies upon for drinking, agricultural production, and food security.
>
> Until a thorough assessment of the likely cumulative impacts of gas fracking in WA has been undertaken, development of this industry should be put on hold.

I hope that during the course of this debate the Premier will outline some intent to ensure that there is a full cumulative assessment of the potential risks. It would be reasonable and appropriate for that to occur. Perhaps it is reasonable to say that this bill should proceed without the benefit of that full assessment, but the Premier should at least indicate whether that will take place. So far in Western Australia we have not had a full assessment of the environmental impacts of fracking and that is an unacceptable situation. Yes, we are at the early stages of looking at this technology to exploit shale gas, but it seems entirely reasonable to me to look at all the information and what went wrong in that region of the United States as well as where it has been done well and see how others have got it right. We should check what sorts of well casement failure rates others have had. We need to check those things.

The state agreement act stands and it will no doubt proceed through this house. It gives us the perfect opportunity to let the community understand the risks and allay some of their concerns at the same time. Perhaps then we can proceed with an industry that will be of economic benefit to the state and managed in a way that does not damage or put at risk our environment.

MR F.M. LOGAN (Cockburn) [5.24 pm]: I rise to add a few comments about the proposed state agreement bill that is before the house, the Natural Gas (Canning Basin Joint Venture) Agreement Bill 2013. The very basis of the agreement is set out in the second reading speech. I wish to quote from it again because it summarises the whole reason behind and need for the state agreement act —

> The state wishes to encourage accelerated expenditure by the joint venturers in such continuing exploration and evaluation of natural gas resources. Accordingly, for the purposes of the agreement, certain provisions of the Petroleum and Geothermal Energy Resources Act 1967 will be modified as set out in the agreement, including to allow the abovementioned petroleum exploration permits to be renewed twice—that is, within a limited suspension period—without the normal 50 per cent relinquishment obligation.

That is really the guts of the reasons for the state agreement act in the first place. The reason that I have quoted from the original second reading speech and explained the reasons to the house is that when this agreement initially came before the opposition and prior to the briefing that was provided to the opposition by the government, I could not get my head around why we need a state agreement act in this state for the purposes of gas or oil exploration. It is the first of its kind in Western Australia and it is the first of its kind in Australia. State agreements are usually over major, major projects or pieces of infrastructure that require a state agreement to override existing provisions to allow the project to proceed because of the scale and nature of the project proposed by the state agreement. In this case, a giant operation or project, such as the iron ore mines in the north west or the power stations in Kwinana, is not being proposed for a state agreement. This state agreement does not propose a project of the type covered by the Alcoa state agreement or the Cockburn Cement state agreement. It is simply a state agreement for access to land for the purposes of exploration primarily for domestic gas supply to the market here in Western Australia. That is why other members of the opposition and I were particularly concerned about why we would bring into the house a state agreement of this nature. After the briefing that was provided by the government, I certainly felt a lot easier about the reasons behind the state agreement act. It is needed to deal with the relinquishment provisions of the Petroleum and Geothermal Energy Resources Act 1967. For that reason, I can understand why the Premier and the government have chosen to do the state agreement as it is before the house.

However, the agreement act applies to five of the 17 tenements that Buru Energy and its joint venture partners have in the Canning Basin. To that extent, the state agreement act is constrained to those five tenements. It does not allow the joint venture partners to gain access or to have that benefit of overriding the Petroleum and Geothermal Energy Resources Act across all its operations in the Canning Basin. It is limited to the five tenements as highlighted. The question that I put to the representatives of the Department of Mines and Petroleum and to the Premier because, to my mind, it was not sufficiently answered by the department is: what is to stop a neighbouring tenement holder from coming to the government and asking for a state agreement act in similar terms to that of Buru Energy? I draw members' attention, for example, to the tenements held by Backreef Oil Pty Ltd that are right in between the five tenements held by the Buru Energy joint venture partners. I refer to Ensearch Petroleum (Western Australia) Pty Ltd, Exceed Energy (Australia) Pty Ltd and Kingsway Oil Limited. What is to stop any of those companies coming to the government and saying, "Look, we're exploring for gas in the same region. We also commit to supply gas to the domestic market purely for domestic consumption if we strike more than we expect. Obviously, we would like to probably do some liquefied natural gas out of that as well, but we are committed to providing gas to the domestic market and we too would like a state agreement that would allow us to override the relinquishing obligations of the Petroleum and Geothermal Energy Resources Act."

To my mind, that question was not properly answered by the department. The question that I put to the Premier is: what would the government do if another company came along with a similar proposal asking for a similar state agreement act that overrode the provisions of the Petroleum and Geothermal Energy Resources Act, and where does it stop if one or two more companies ask for the same waiver of the hand-back obligations of the tenements? How many state agreements can we make for the Canning Basin? Does this set a precedent for other areas where there is shale gas? For example, what is to stop a company in the midwest from asking the government for similar provisions for a similar state agreement act? What is to stop a company operating in the Whicher Range around Busselton from telling the government that it has difficulty accessing the tight gas in the Whicher Range and that it too would like a state agreement act? Where does it stop? What are the boundaries around this particular state agreement act that may curtail other companies from asking the government for a similar state agreement for their operations? I would like to know the answer to those questions because the agreement we are dealing with sets a precedent for resource exploration in Western Australia. It is a critical question that the government must answer. It cannot be answered by the department because the department comprises public servants and does not set policy for government. This is a question that can be answered only by the Premier and the government of Western Australia, and I would be very interested to hear the Premier's views on that.

Another issue I will raise about the state agreement act relates to the obligations the joint venture partners have to Western Australia, the local community and local industry. Clause 6 of the bill is a commitment by the joint venture partners to provide community and social benefits, and it lists a number of provisions that the agreement partners will enter into to make this agreement work. The first of those commitments is assistance with skills development and training opportunities to promote work readiness and employment for persons living in the north west; the second is regional development activities in the north west region of the state, including partnerships and sponsorships; and the third is a contribution to any community projects, town services or facilities having regard to the impact of the domgas project or the LNG project, as the case may be, on towns or communities in the north west region of the state. This community development clause, and what comes out of

it, goes to the very point the member for Kimberley was driving at earlier in her speech about the need to hold discussions and negotiations with local community groups. I would like to know how many discussions there have been about the community development plans between the proponents of the project in the Canning Basin, Buru Energy and its joint venture partners, the state government and the member for Kimberley. After all, she is the member for Kimberley. She is the representative of all the people in the Kimberley and I am sure she has fairly strong opinions about what should come out of those community development plans. She probably has a lot of questions about what she would like to see come out of the community development plans that are set out under this agreement. I bet that the member for Kimberley has not been involved in any of those things. I would like the Premier to give a commitment that the member for Kimberley will be involved in the provisions of this state agreement act, particularly the community development plans and their provisions under clause 6 and how they will impact on her constituents and the member's communities in and around the Canning Basin and across the community generally. I would like to know, and get a commitment from the Premier, how the government will involve the member for Kimberley in discussions over the community development plans. She is, after all, the state representative of all the people in the Kimberley.

Another issue the member for Kimberley talked about was the negotiations between the Buru joint venture partners and the Indigenous and community representatives in the Kimberley. Of course Buru Energy has had negotiations with the direct native title holders who are affected by the five tenements that are proposed to be covered by this state agreement act and others. My understanding is that there have been significant discussions with Indigenous groups. However, the point that the member for Kimberley made was that there are wider implications for more than just the traditional owners who are affected by this state agreement act. Traditional owners across the Kimberley may benefit from the state agreement act. How are they to be involved in this state agreement act? How will they provide input into the community development plans and what role will they play in those community development plans? Clause 6(1)(a) is about providing assistance with skills development and training opportunities to promote work readiness for persons living in the north west of the state. We are talking about the whole of north Western Australia. The member for Kimberley has specific claims and demands for job opportunities for the people in the Kimberley who are unemployed and who are very unlikely to get jobs unless projects of this type go ahead. How can she ensure that her constituents are involved in the community development plans and can get access to the skills and development training opportunities that come with this state agreement? How does she ensure that her constituents get access to the provisions set out in clause 6(1)(a)? Clause 6(1)(b) refers to regional development activities in the north west region of the state, including partnerships and sponsorships. I am sure that the member for Kimberley could name a number of partnerships and sponsorships off the top of her head that she would like to see occur with traditional groups and organisations in the Kimberley as a result of the state agreement act, but I bet that she and other groups that the member for Kimberley could refer to have not been involved in any discussions on the state agreement act. How do we overcome that and ensure that the binding commitment on the partners and the parties to this state agreement act actually bring about a benefit and a change to the communities in the Kimberley, particularly the Indigenous communities? Clause 6(1)(c) states —

> contribution to any community projects, town services or facilities having regard to the impact of the Domgas Project or the LNG Project as the case may be on towns or communities in the north west region of the said State.

[Member's time extended.]

Mr F.M. LOGAN: The north west is a very broad region. I am sure the member for Kimberley would like to know how her communities, towns and Indigenous centres will benefit from any community projects that come out of a domestic gas project or LNG project that may emerge on the ground in Kimberley as a result of the successful implementation of this state agreement act. I am sure she would like to hear that. I know that she has not been involved in the likely outcome of those community projects; that is, how they would be implemented on the ground. That absolutely needs to be addressed. It needs to be addressed with the member for Kimberley because, as I said, she is the state representative of that area. That is clause 6, "Community development plan".

I will now turn to clause 7, "Local industry participation plan", otherwise known in a lot of state agreement acts as local content provisions. This clause basically binds the parties to acknowledge the need for local industry participation benefits flowing from this agreement. There is no binding requirement that the joint venture partners purchase their equipment from Western Australia or even seek to have their equipment designed or manufactured in Western Australia. However, it does refer to traditional wording that has been used in some local content agreements about purchasing, calling of tenders and the letting of contracts to local industry. By "local", I mean Western Australian suppliers and manufacturers on the contracts. The bill refers to "full, fair and reasonable opportunity". The Premier has a very close interest in this particular state agreement act because of the benefits that ultimately might flow to Western Australia from the successful exploration of shale gas in the

Canning Basin. It would be a massive fillip to the Western Australian economy and domestic gas suppliers in general should the joint venture partners be successful in extracting that shale gas, particularly in large volumes. Given that the Premier will take a very close interest in this state agreement act and the activities of the joint venture partners, his interest should also include ensuring that the joint venture partners—one of them is Mitsubishi, which might have completely different views about where things are designed and manufactured in terms of supplying equipment to the final extraction and cleaning of gas—engage local engineering companies so they are directly involved in the benefits of the successful exploration and extraction of gas from the Canning Basin.

Over the past few weeks in Kwinana, United Construction has closed its doors. Only a few years ago, it had the largest fabrication facilities in the whole of Australia. It has since been surpassed by another engineering player here in Western Australia, but up until then it was the largest fabrication facility in Western Australia. At one point it had 600 people in its operations and employed 150 apprentices. Today the place is empty and it has closed. Across the road from United Construction was Western Construction. It, too, has closed its doors. Western Construction had been running as an engineering and fabrication company for over 50 years in Western Australia. Two stalwarts of the original engineering industry in Western Australia are now closed. Other companies are struggling. I accept there are a handful of companies in Western Australia that are doing okay at the moment in terms of their order books for fabrication, but by and large the rest of them are struggling to get projects through the door and to keep people employed. We have already seen Western Australian unemployment levels increase. If we drill down to where the unemployment numbers come from, we see that they come from two areas—from the mining sector as people are laid off as projects get deferred or are mothballed because of the impact of price drops, and from the engineering and manufacturing sector as companies lay people off because of lack of work. The work that may become available under this state agreement act rests on the success of the joint venture partners in their exploration. I imagine the Premier will say hence the need for the state agreement act; the joint venture partners need that surety to spend vast sums of money to explore at deep levels for shale gas.

Taking the most positive approach one possibly can to this state agreement act, if the joint venture partners are successful in accessing shale gas and getting the shale gas fracked and flowing in a way that allows large volumes of gas to underwrite the entire project and for domestic gas suppliers to be provided, that will require two major pieces of infrastructure—one is the domestic gas plant, which effectively is a cleaning and drying plant to prepare the gas for transportation, and the other is the pipeline and pumping stations. That pipeline would connect, let us hope, to one, two or more of the five proposed tenements in the Canning Basin in and around Broome. That would connect back to the Telfer pipeline that runs north and then south east out of Port Hedland. That project, known as the great northern pipeline project, would be an extensive pipeline effectively connecting Port Hedland through to the other side of Broome. Those are two components of infrastructure that will be needed by the joint venture partners should they be successful in their exploration activities—the domgas plant, possibly a domgas storage tank as well, and the pipeline project and the pumping stations to connect into the Telfer pipeline that runs out of Port Hedland. That is a significant amount of work. I ask the Premier to take as much interest in where that work is designed and who does the engineering, fabrication and construction work as he does in the exploration activities and the supply of domestic gas in the first place. The benefits of a successful exploration by Buru Energy and its joint venture partners is not just the supply of gas, which is, I agree, critical to the needs of the state, but also the jobs, the work and the money flow that will be created by the local content of that project.

If, as I said, it is successful, the domgas plant itself will be significant in its size. A domgas tank may well be involved, which would also be quite large. The pipeline project is always going to be beneficial to local industry and, of course, the construction of pumping stations would also be beneficial to local industry. Whilst I acknowledge the wording of the local industry participation plan provided in clause 7 of the state agreement, more than simply words are needed; action is needed to ensure that the benefits of successful exploration by the joint venture partners in the Canning Basin bears fruit for not only local industry generally, but also the local engineering industry.

The only other question that I have about the agreement bill—I say to the Premier that it may well be that I was not listening properly in the briefing—relates to provisions in clauses 10 and 11 of the schedule that set out not just the parties' obligations to define a pipeline corridor and then the joint venturers' obligations to submit proposals for the domgas project. Premier, does that include actually building the pipeline as well? Does the state agreement commit them to build the pipeline or put forward proposals to build the pipeline? I cannot remember. If the Premier could clarify that matter it would be helpful.

I support fully the other members' comments in the house. I hope that the joint venturers are successful in their exploration for domestic gas because, as the Premier knows all too well, from 2015 onwards, there will be some

difficulties in the supply of domestic gas to the market here in Western Australia. Despite the state's continued export of LNG, the success of the project will go some way to alleviating that tightness in the market.

DR A.D. BUTI (Armadale) [5.53 pm]: I also rise to comment on the Natural Gas (Canning Basin Joint Venture) Agreement Bill 2013. The member for Gosnells in his usual articulate way mentioned a number of concerns or issues on the environmental front that need to be examined in regard to this proposed legislation. I will not attempt to show that I have the member for Gosnells' knowledge on environmental issues; I will leave that alone. But I really want to follow on from some of the comments made by the members for Cannington, Kimberley and Cockburn about native title and Indigenous rights. It is quite interesting because the Premier's behaviour or modus operandi in this matter vis-a-vis James Price Point is quite stark. That has already been mentioned by the speakers previous to me, but I would like to add some further points.

The Premier would realise that under native title, there are certain procedural rights concerning native title that Indigenous holders or potential native title holders have. When native title has not been extinguished, certain procedural rights under the Native Title Act come into play. I refer to the future act regime, and of course this deals with future acts after 1996.

In the second reading speech by the Premier I do not recall him mentioning Indigenous peoples or Indigenous rights at all, which is interesting in itself. Under the Native Title Act, it is possible to not comply with the procedural rights regime if it is considered to be an issue that will not materially affect native title interest. Sometimes exploration requests can be seen not to materially affect the interests of native title holders, but I do not think that will be the case in the legislation before the house. However, it will be interesting to see whether this act seeks to override the procedural rights obligations under the Native Title Act; and, if so, of course the provisions will be in violation of the Native Title Act.

I am sure the Premier realises that if that is the case, there will be some constitutional problems under section 109 of the Australian Constitution. This matter has a familiar ring to it because the Premier was a member of the Court government back in the early 1990s, which acted in a disgraceful manner in trying to override the rights that were afforded to Indigenous people as a result of the Mabo decision that was then enshrined in legislation through the Native Title Act. I went back to look at some interesting newspaper clippings from that period. I refer to *The Australian Financial Review* of 17 March 1995. The article refers to the act passed by the Court government, in which the current Premier was a senior minister of, namely, the Land (Titles and Traditional Usage) Act 1993. The article states —

> The High Court has upheld the Commonwealth's Mabo law, casting doubt on more than 10,000 mining and pastoral titles issued under conflicting West Australian legislation.
>
> The court found that the State law, which introduced the concept of "traditional usage", was inconsistent with the Commonwealth's legislation and the Racial Discrimination Act.
>
> It found that the Mabo legislation passed by the Commonwealth in late 1993 was lawful, at the same time ruling invalid the whole of the competing legislation introduced by the WA government.

Then there is a quote from the federal Leader of the Opposition of the time, Mr Howard, who said that native title was going to be unworkable. I remember the debate that occurred around 1993–94 in Western Australia; it was toxic. Led by the Court government, it was absolutely toxic. It was an absolute disgrace. It was a time when commercials showed the black hand of a child posted on a diagram that read, "Your land" or "your backyard"—I remember the backyard—"is in danger". There was all this uncertainty. It was going to be the end of the resource industry, and, of course, we have had a long mining boom. So much for native title being a threat to the resource industry of Western Australia! That debate was an absolute disgrace.

I refer to *The West Australian* of 17 March 1995.

Mr C.J. Barnett: Who ran the ads?

Dr A.D. BUTI: It was the mining industry. But I do not think the Premier or his government at the time were protesting about those ads. If anything, they were fuelling the issue. The debate that happened in this chamber at the time, the legislation that was passed and then the High Court challenge fuelled that toxic debate, Premier.

Mr C.J. Barnett: You come in here and lecture and you omitted who ran the ads.

Dr A.D. BUTI: I did not omit anything.

Here is another heading —

> **$4m bill for futile battle**

> The State Government's futile native title battle against the Commonwealth has cost WA tax-payers more than $4 million and meter is still running.

An editorial of *The West Australian* states —

> Premier Richard Court's Mabo folly has left a costly stain on WA history.
>
> His foolhardy pursuit of an ideological fantasy has left WA morally isolated, derided, out of pocket and beset by increased confusion and uncertainty about the effects of Aboriginal claims to their traditional lands.
>
> The High Court ruling that unanimously —

Remember, it was a 7–0 High Court ruling. It was Justice Dawson who was in dissent in Mabo, and actually he, even in this decision, ruled that the WA legislation was in violation of the Native Title Act. The article continues —

> The High Court ruling that unanimously threw out WA's ill-conceived challenge to the Commonwealth's native title legislation is a disaster for the Court Government—and a needlessly expensive embarrassment for the people of WA.

No wonder the Premier has left the house; I am sure he must be embarrassed.

The article continues further on talking about the folly of such legislation in such an act. I refer to another article from *The Australian Financial Review* titled "How Premier lost 'gamble'".

Sitting suspended from 6.00 to 7.00 pm

Dr A.D. BUTI: I want to refer to a couple more newspaper articles regarding the Court government legislation back in the early 1990s that sought to override the Mabo judgement, which, for the first time, recognised native title. This is another *Australian Financial Review* article, which is headed "How Premier lost 'gamble'" and reads —

> RICHARD Court gambled and lost to the tune of more than $4 million of Western Australian taxpayers' money. That's the estimated cost of the legal challenge to the Commonwealth Native Act and the surrounding publicity to justify the Western Australian Government's position.
>
> The gamble was that the High Court would agree its decision in favour of Eddy Mabo and the Murray Islanders did not apply in mainland Australia. Behind Mr Court's high profile campaign is a political agenda based on destroying the increasing centralist nature of the Australian Federation.

It goes on to say that Richard Court's tactics were —

> … —based on the perception that Western Australians are the most racist people in the country—

And that this —

> is a cynical assessment that Mr Court was pandering to the anti-Aboriginal vote in the west.

One final newspaper article that I will refer to is from *The Australian* of 17 March 1995; it states —

> Mr Court's defeat on this matter has been total. But it was not surprising. As this newspaper and many other critics have argued, WA's opposition to Mabo was always based on a shaky legal foundation. It was also self-serving and against the national interest in its politics. The State has won nothing and lost everything by its forlorn legal challenge.

The High Court not only dismissed the challenge, but also rejected the contention that the federal law did not apply to the west because of Western Australia's unique history of settlement; therefore, Mr Court could no longer pursue that argument. It just shows that, particularly in the native title area, if a state tries to introduce legislation that contravenes the commonwealth Native Title Act, it can be very costly and there can be ramifications for the relationship between Indigenous Australians and others, which can be damaged for an extended period. I started my contribution by discussing, as the member for Cannington mentioned earlier, the difference between how the Premier has conducted himself in this matter and the James Price Point issue. As we know, the Premier spoke many times in this house last year about how the James Price Point agreement was a great example of self-determination for the local Indigenous people. I do not want to discuss the merits of the agreement; there is no doubt many Indigenous people were in favour of the state agreement, but that is not what I am seeking to discuss. I have always been critical of the Premier's claim that it was a great act of self-determination. I actually know Wayne Bergmann; I taught him at Murdoch University. It was not an act of self-determination. How can it be an act of self-determination when the Premier threatened compulsory acquisition if they did not agree to something? That is not self-determination, surely. You do not threaten someone.

Mr C.J. Barnett: No-one was threatened.

Dr A.D. BUTI: The Premier threatened the traditional owners that if they did not agree, he would compulsorily acquire the land.

Mr C.J. Barnett: No-one was threatened. You weren't there; I was. There was an agreement that that was the way to transfer the land.

Dr A.D. BUTI: This is the Premier's action—always rewriting history. He cannot rewrite 1993, 1994, 1995 or 1996 when he was part of a government that took part in a toxic debate in Western Australia. I did not come here to lecture the Premier on this; this is fact. The Premier is hypocritical to accuse me of lecturing when he spends nearly every day lecturing us. It was not self-determination. Do not be so silly to say that it was self-determination.

Mr C.J. Barnett: You weren't there.

Dr A.D. BUTI: Wayne Bergmann was, and Wayne Bergmann has told me that it was not self-determination. The member for Kimberley knows that it was not self-determination. How could it be self-determination when the Premier talks about compulsorily acquiring the land? How silly can he be? Any definition of "self-determination" in international law or in general usage would of course tell us that we cannot threaten people.

Mr C.J. Barnett: No-one was threatened.

Dr A.D. BUTI: So the Premier never said that he would compulsorily acquire the land.

Mr C.J. Barnett: No-one was threatened.

Dr A.D. BUTI: Did the Premier say that he would compulsorily acquire the land?

Mr C.J. Barnett: We discussed it and it was agreed that that was the way the land would transfer.

Dr A.D. BUTI: So the Premier never told the traditional owners that if they did not agree to the package, he would compulsorily acquire the land.

Mr C.J. Barnett: I said very clearly that we would act under the Native Title Act in accordance with the Federal Court.

Dr A.D. BUTI: That he would compulsorily acquire the land.

Mr C.J. Barnett: And that was agreed.

Dr A.D. BUTI: That he would compulsorily acquire the land.

Mr C.J. Barnett: I just said yes; that was the process.

Dr A.D. BUTI: So compulsorily acquiring the land —

Mr C.J. Barnett: Was the only way it could be done.

Dr A.D. BUTI: Then do not say that it was self-determination; that is the point.

Mr C.J. Barnett: I think it was.

Dr A.D. BUTI: How can it be self-determination when the Premier says that if they do not agree with something, he will act under the Native Title Act and compulsorily acquire?

Mr C.J. Barnett: Your problem is that you cannot accept that Aboriginal people can make decisions for themselves. You cannot accept it, can you? You cannot accept that fact. You want to be patronising and make decisions for them.

Dr A.D. BUTI: Don't you dare tell me that I cannot accept that, because I have worked with Aboriginal people for longer than you have! I will tell you that I could line up a number of Indigenous people who would say that I have been able to work with them and I have never threatened them with doing something if they did not agree.

Mr C.J. Barnett: They did; they voted for it under the Federal Court.

Dr A.D. BUTI: They voted for it? Fine.

Mr C.J. Barnett: They voted for it according to the Native Title Act.

Dr A.D. BUTI: But do not say that it was self-determination because it was not self-determination.

The DEPUTY SPEAKER: Order, members! Can we return to debating the bill.

Mr C.J. Barnett: The point is that you weren't there, you had no role in it and you know little about it.

Dr A.D. BUTI: Wayne Bergmann was there. Go and ask Wayne Bergmann whether he thinks it was self-determination.

Mr C.J. Barnett: I will. I know Wayne well. I saw him the other day.

Dr A.D. BUTI: Ask him whether he thinks it was self-determination. Has the Premier got that from him?

The DEPUTY SPEAKER: Order, members! Can the member please return to debating the bill.

Mr C.J. Barnett: We would have spent dozens of hours in negotiation with Wayne one on one and with the Aboriginal people and the elders. When the greenies turned up on the beach, an elderly Aboriginal lady walked across and said, "Don't you come onto our land and tell us what we can or cannot do." I think that is an example of self-determination by a very brave elderly Aboriginal woman.

Mr D.J. Kelly: That's a very long interjection!

Dr A.D. BUTI: The Premier has used the term "self-determination" as the great saviour of Aboriginal rights in Western Australia.

Mr C.J. Barnett: No, I haven't.

Dr A.D. BUTI: Why is the Premier not negotiating with the traditional owners on this agreement?

The DEPUTY SPEAKER: Order! If members do not want long interjections, do not ask questions of those opposite.

Dr A.D. BUTI: I have not protested about interjections.

The DEPUTY SPEAKER: No, but I would like you to return to debating the bill.

Dr A.D. BUTI: It is interesting that the Premier has lauded his great self-determination experience of last year, but with this bill, he did not mention the traditional owners, even in the second reading speech. Why was it such an important issue for James Price Point, but it is not an important issue for this agreement, under which the rights and interests of Indigenous people will be affected? The hypocrisy of the Premier knows no bounds!

Withdrawal of Remark

Mr J.M. FRANCIS: Madam Deputy Speaker, the member for Armadale has been here long enough to know that, under standing order 92, it is unparliamentary to use the word "hypocritical" or "hypocrisy" when referring to another member of this place. I would ask you to direct him to withdraw that comment.

The DEPUTY SPEAKER: I thank the member for his point of order. I ask the member for Armadale to withdraw that imputation regarding the Premier and the mention of the word "hypocrisy".

Dr A.D. BUTI: I withdraw. I have finished, Madam Deputy Speaker.

Debate Resumed

MR B.S. WYATT (Victoria Park) [7.10 pm]: I was not expecting that conclusion. I thought the member for Armadale still had plenty left in him. I, too, rise to speak to this Natural Gas (Canning Basin Joint Venture) Agreement Bill 2013 to endorse some of the comments that have been made by the member for Cannington, the opposition spokesperson, and the member for Gosnells. Both spent some time going through the legislation in detail, and the member for Gosnells spent some time on the issue of, and the opposition position on, fracking. I always appreciate hearing from the member for Armadale, a man who has spent a lot of time in the area of native title, and about his trip down memory lane at a time in politics in Western Australia that was not very forgiving for Aboriginal relations. The member for Armadale is correct in that the notion of compulsory acquisition of James Price Point was indeed seen as a threat. It certainly discoloured the entire relationship that had developed between government and those negotiating to try to find a location. While that debate was going on between the member for Armadale and the Premier, I thought I would quickly jump onto Google, as I do, and look at some of the discussion and debate around that time when the notion of compulsory acquisition was suddenly thrown out into the community. An article in *The Sunday Times* PerthNow site interestingly starts off with —

> After weeks of threatening compulsory acquisition for the $30 billion Woodside Petroleum–led project, Mr Barnett today officially announced the government's intention to proceed.

The member for Armadale is therefore right: whether or not the Premier likes it, it was perceived as a threat. Indeed it was a threat, and that is why such discord took place afterwards within the Aboriginal community. I accept that a vote was taken. I have spoken on this and on the recent decision of Woodside not to proceed with an onshore facility for liquefied natural gas. However, the Premier cannot walk away from the fact that there was a threat of compulsory acquisition that ultimately was becoming a reality in that location.

I want to make some comments to reinforce the comments made by the members for Cannington and Kimberley. The member for Cannington went through the legislation in great detail in the way only the member for Cannington can. He raised some points, and I do not intend to go over in detail each particular point in the state

agreement, but there is an issue arising out of the following comment made in the second reading speech by the Premier —

> The Petroleum and Geothermal Energy Resources Act 1967 was not drafted with the recently emerging unconventional gas sector in mind.

The member for Cannington made a very good point about the potential problem with that legislation in respect of unconventional gas. The Premier also pointed out in his second reading speech —

> The onshore Canning Basin and the associated gas and liquids have the potential to make a significant long-term contribution to Western Australia's economy and stimulate economic growth.

Ultimately, he is right. However, if there is some form of systemic problem with the Petroleum and Geothermal Energy Resources Act 1967, let us deal with that, because we cannot have companies, leases and projects, particularly those at the exploration stage, being dealt with at the whim of the government of the day or the Premier of the day. There needs to be a process that is clear. I draw a comparison between the royalties incentive for magnetite purchasers that was announced by the Premier back in April this year. We have a problem with that, whether members agree or disagree with providing reimbursement of royalty payments. The Premier's media statement at the time states —

> A magnetite royalty rebate, to be considered on a project-by-project basis, will provide a major boost for a developing Western Australian iron ore industry sector, Premier Colin Barnett announced today.

That may be the case, but for companies looking to invest and make decisions to move to production, there needs to be some certainty about what happens before they get that reimbursement, because, the way I understand it, once the royalties are paid, there is a 50 per cent rebate of those royalties. There has to be some certainty. Public moneys are not given out just on the whim of the Premier on a project-by-project basis. There are similar concerns with the magnetite incentive that the member for Cannington raised with respect to the Petroleum and Geothermal Energy Resources Act 1967. Unconventional gas will clearly be a big part of the next 50 or 100 years in the provision and export of energy in Western Australia. It is currently simply at the whim of the Premier and the government of the day. There needs to be a process and a sensible legislative framework around that.

The member for Cannington asked: what is the policy on unconventional gas? What is the policy on providing companies with what Buru Energy has been provided? We know what this piece of legislation does. We know what it will do. As the member for Cannington pointed out, in his discussions with other players in this area, they asked, "Why Buru? Why not us? Why not another company?" It is not a critique of Buru. Congratulations to Buru and its shareholders. It is first in. That seems to be the qualification to have received this state agreement act.

The member for Kimberley made the point, following on from the member for Cannington, that no consultation on this state agreement has taken place with the traditional owners. Comparisons have been drawn with James Price Point. The member for Armadale discussed James Price Point and the threats of compulsory acquisition. Why was a $1.5 billion benefits package negotiated by the government and Woodside with the traditional owners of James Price Point yet no consultation has taken place on this state agreement that the Premier himself says will make a significant contribution to WA's long-term economy and stimulate economic growth?

I want to refer to an article by Peter Kerr in *The Weekend West* of 18–19 May. Peter went out to Jigalong last week—I am delighted that he did—when the Martu celebrated the 10-year anniversary of the native title determination in the Western Desert. The Martu have had quite an active time in the past month. I will come back to that in a minute. Peter Kerr's article, which is significant, being almost a full page, made the point that Brian Samson—I know Brian, and anybody who has been out to Martu country will know Brian very well—and the Martu mob and Kimberley traditional owners are starting to really form, to quote Mr Kerr, "a pan-regional approach of traditional owners to spur sustainable development". I want to quote a short part of Mr Kerr's article from *The Weekend West*. It states —

> An adviser to the Martu is quick to point out that what is often missed in these situations is that land access deals are compensating traditional owners for loss—of sensitive sites—and as such they should be free to spend the money as they see fit. And the payments should not absolve governments of their responsibilities to provide services—for any citizen—even in remote areas.

That is exactly right. A native title package, a land use agreement, should not absolve governments of the day, federal or state, of their responsibilities to their citizens. The article goes on —

> The debate has the language of the fierce battle over Woodside Petroleum's abandoned $40 billion James Price Point development.

> All these tensions could be magnified by a tie-up earlier this year between the Martu and the Kimberley traditional owners behind that controversial site.
>
> Long connected by ancestry, the groups are banding together in a bid to present a unified negotiating front to petroleum giants like US-based Hess that are scouring the region for shale gas riches.
>
> Anthony Watson, a director of the Wayne Bergmann–helmed Kimberley Regional Economic Development Enterprises was at the Martu do and backed a pan-regional approach of traditional owners to spur sustainable development.

If that takes place in a coordinated and efficient manner, it will be unique to Western Australia—traditional owners forming, as the article says, a pan-regional approach in respect of sustainable development. I certainly hope it comes about.

Returning to the Natural Gas (Canning Basin Joint Venture) Agreement Bill 2013, the member for Cannington is quite correct: if James Price Point was the greatest act of self-determination in respect of the Browse Basin, why did a similar process not take place in respect of the Canning Basin? Having had a look through it, clause 6 of the agreement provides for a community development plan and refers to "community and social benefits", but there is nothing in the bill that specifically brings in traditional owner groups. That may be because we are talking about a significant area of land—much larger than James Price Point, as the member for Cannington pointed out; but certainly in my view and, I think, in the view of the member for Cannington, there is a legitimate question about why the traditional owners of the Kimberley were not, at the very least, consulted before this legislation came before the Parliament. The member for Kimberley has already pointed that out. Why has there been no consultation? I know Buru Energy is conducting its own negotiations in respect of access, and good for Buru; I know it will. It seems to have a very well-developed negotiation process, certainly with the Yawuru. I had the pleasure of catching up last year with Tom Streitberg from Buru to talk about this, simply because Tom and I were at law school together and he thought he would come along to brief me on what his father's company is up to in respect of the Kimberley. There is an obligation on the state government also to ensure that the traditional owner groups across some 17 000 square kilometres of land have the opportunity to negotiate a benefits package.

This project will present an opportunity for the Aboriginal people of the Kimberley—the member for Kimberley made the point that we are talking about at least half a dozen different language groups—to participate in what may very well be the most significant economic development to take place in the Kimberley, certainly in my lifetime, and possibly my children's lifetime. This may be the opportunity; however, the bill has come before the Parliament without consultation and without negotiating that outcome, and I know that the member for Cannington will be pursuing some of these matters during consideration in detail.

MR C.J. BARNETT (Cottesloe — Minister for State Development) [7.23 pm] — in reply: I thank members for their contributions. I take them to be support for the bill, although members have raised a number of issues, which is part of this process.

I again remind members that the bill before Parliament is a ratification bill, to ratify an agreement that has been reached between the state government, Buru Energy, Mitsubishi and other joint venture partners, relating to onshore shale gas in the Canning Basin of, as everyone is now aware, at least 229 trillion cubic feet, which is at least twice the size of the offshore gas resources that have been developed since the early 1980s.

The agreement covers domestic gas and would supply, at a minimum, 15 per cent of current gas usage in Western Australia; it also foreshadows at a later stage a liquefied natural gas project. It covers five key petroleum exploration areas, and, as we just heard, it is a vast area of land—17 000 square kilometres of the Canning Basin. The agreement is primarily about promoting and hopefully successfully concluding exploration activity to prove up the resource; it therefore is different from the normal legislative framework. It allows a renewal of exploration permits without having to relinquish acreage, as is normally the case. That is simply to allow the reserves to be proved up in what is a very large and very complex exploration project, relating as it does primarily to shale or unconventional gas, rather than reservoir gas. The area also contains oil, but that is not part of the agreement. The agreement refers to the domestic gas reservation and the need for a treatment plant and pipeline for the domestic gas project, and the requirement for a community social benefits package and local industry participation for the second stage liquefied natural gas plant. The agreement is unusual. It is a different sort of agreement act, because it is a different type of project. This is a new field for the state of Western Australia.

The member for Cannington suggests that the bill does not need to be an urgent bill. It will not be the end of the world if the bill is not passed through this place today, but the agreement has already been signed. It has been in place for probably well over six months now, interrupted by the summer recess and the election campaign. It is

important for the confidence of the partners, particularly the Japanese partners, in funding this very large exploration project. The member for Cannington then talked about the history of some other projects in the nineties that was not relevant to this bill. He asked whether other companies will get the same deal—maybe, maybe not! It is a case-by-case situation, and agreement acts, by definition, are project specific. The member acknowledged that it takes time to prove up reserves and to develop infrastructure. He said that native title issues and the like had yet to be resolved. I acknowledge that we still have a lot of work to do on all aspects of this project, including native title and the benefits package that would go with the resolution of that.

The member for Kimberley referred to a lack of consultation and pointed out there were 10 tribes and 10 different language groups. The agreement is complex. The agreement is between the state and the companies. The residents, communities, native title holders or claimants are not part of the agreement itself; however, the agreement makes it clear that a social benefits package will be negotiated with them. Other members have asked why we are not involved in its negotiation. I assure those members that I will be involved, and so will the government, but we are not at that stage yet. We are in the very early stages of what, hopefully, will be a very successful project for the state.

The member for Gosnells expressed his concerns about fracking. Fracking has been in operation in Western Australia for over 50 years. This is not the same as the coal-seam methane projects that are on the east coast that are near-surface gas resources that are obviously embedded within coal seams, where interaction with the water table takes place. That creates environmental issues, and I am sure there are environmental issues here, but we are talking about shale gas and not coal-seam gas, and a tight gas resource two to four kilometres below the surface. I would think that any environmental issue will be clearly manageable; however, I am sure there will be a debate about that in the community.

The member for Cockburn also made the point that it is an unusual state agreement that is essentially about access for exploration purposes. That is true, but, as I said, this is a new industry; it is a potentially vast industry that will supply gas to this state for maybe 200 years. That could give this state an enormous competitive advantage into the long-term future.

We have placed obligations on the joint venture partners. I again mention the community development plan. I agree that local content is a key issue, and as an onshore project I expect it will do far, far better than some of the offshore projects. One of the rare things the member for Cockburn and I agree on is that it is a vastly different situation from the proposals for floating liquefied natural gas.

The member for Armadale made a short and bitter presentation, as usual. He talked about native title, the Mabo case and Richard Court in the early 1990s. That is history. A number of Aboriginal leaders in recent times have made the point that native title has not provided for them the benefits they thought it would bring, and many are now trying to negotiate commercial arrangements such as equity participation in projects. The member referred to the benefits package that was negotiated and agreed for the James Price Point project and indeed Ord stage 2. Companies are and have been negotiating with native title holders and claimants. The state government is supportive of that. The state government, through the management of this project, will ensure that Aboriginal people are treated properly—as it has done on all other projects.

The member for Victoria Park again lamented and carried on about James Price Point.

Mr B.S. Wyatt: Carried on? I barely started.

Mr C.J. BARNETT: The member did; he carried on for a while. He accused the government of acting on whims regarding magnetite royalties and James Price Point. This government makes decisions. We get projects done, whether they be in the regional areas or whether they be in the city, because we make decisions. We do not take a purist view of indecision. That is probably the sharp difference between the Liberal–National government and Labor governments of previous times—and we act in the public interest. But we can be flexible, we can be different and we can make decisions to suit individual projects. There we go.

Mr W.J. Johnston: I asked specifically about the question raised by the Labor Party that this will conflict with the Native Title Act in respect of the relinquishment provisions. Does the government have any comment to make?

Mr C.J. BARNETT: When we get to that in consideration in detail, the member can raise that issue; I will get some advice on it. Obviously, I presume that anything that has been drafted with crown laws involved will not conflict with that. I do not believe it does, but again, I will rely on expert advice.

Mr W.J. Johnston: Is there expert advice? That is the question.

Mr C.J. BARNETT: That is something we can discuss in consideration in detail if the member wants to. The member can ask the question and if I cannot answer it myself, I will seek to get an answer for it.

I hope members will support this bill. It is an important bill facilitating extensive exploration, and setting down the basis for a major domestic gas and domestically supplied liquefied natural gas project. Apart from the gas supply, this project also has immense implications for the finances of Western Australia in the future. I think it is some years away, but this may ultimately be an export LNG project from which all of the royalty income comes to the people of Western Australia, so it is very important to this state.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

The DEPUTY SPEAKER: We will suspend until the ringing of the bells.

Sitting suspended from 7.33 to 8.02 pm

Consideration in Detail

Clauses 1 to 3 put and passed.

Clause 4: Ratification and authorisation —

Mr W.J. JOHNSTON: As I indicated on behalf of the Labor Party during the second reading debate, we have some concerns about ratifying the agreement today. These are not concerns about the joint venture partners; these are concerns about the behaviour of government. In our view, that is an appropriate issue for us to raise. We are interested in why there has not been an attempt to commence discussions between the government and the traditional owners. I listened carefully to the Premier's comments in his reply to the second reading debate when he said that this project is at an early stage, but of course the agreement is complete. Although there may be opportunities for the government to give approvals et cetera at later stages as required by the agreement, we cannot see when there will be another opportunity for the government to settle any of the issues regarding native title. We can compare this with what has occurred with James Price Point; as I quoted the Premier in my second reading contribution, he sat on the beach and signed an agreement on James Price Point with the traditional owners before there was a project. There might have been a location on the earth for what was intended to be done with the Browse offshore project, and here, of course, we do not know where different facilities are going to be built, but we know the project exists and that is why we have this very detailed agreement. So we are not quite sure why there has not been any attempt by the government to come to some sort of agreement with the traditional owners, as well explained by the member for Kimberley, in respect of this 17 000 square kilometres of Canning Basin. Can the government perhaps give an indication of what is intended, and why we do not have before us some sort of deal with the traditional owners?

Mr C.J. BARNETT: There are some significant differences here. References to James Price Point or Browse are basically about what Aboriginal people are involved in the agreement negotiations. Yes, they were, but to the best of my memory there were three different agreements relating to Browse: there was the development agreement, and there was specifically a land agreement as part of that. The land agreement involved the traditional owners as a party to that agreement. The agreement between the state and the Browse joint venture did not specifically include Aboriginal people, other than to acknowledge the social benefits package. In this case, the state agreement is between the state and the companies. The traditional owners are not party to that agreement, and nothing in this agreement affects their rights under native title. So, all this does is say there will be a social benefits package; that is the responsibility of the company and the traditional owners to negotiate. To this point, the state has not been involved in that, but I imagine that at some stage, I, as state development minister, will become involved in that. So the reason is not, if the member likes, an inclusion of Aboriginal people here because this is not an agreement involving the Aboriginal people. Their rights are under the Native Title Act and will be respected.

Mr W.J. JOHNSTON: We are not going to labour any of these issues. We do consider this important. Yes, the Premier is right; there were a series of agreements on Browse. There was an agreement that the Parliament never saw, between the government and Woodside; and, as my memory serves me, there was the land agreement that we did see and voted on. That is the point: this is not about Buru Energy; what we are saying is that the state government has an obligation, separate from any issues of the company, to be in discussions before it brought this agreement to us, in the same way as there were discussions between the state government and traditional owners on the Browse project before this Parliament saw the Browse agreement. As I say, I am not going to labour it, but I move —

Page 2, line 18 — To insert after "authorised" —

, subject to the Premier immediately commencing negotiations with the Traditional Owners of the approximately 17,000 square kilometres covered by the Agreement to settle a native title

package of at least $1.5 billion for the indigenous people of the Kimberley to be paid during the life of the Agreement.

Mr C.J. BARNETT: The government is not going to accept that, and that is a stunt. I mean, how arrogant would it be for the Parliament to determine a settlement of native title? Just to pluck a number out of the air—$1.5 billion—and say we are going to determine the result of a negotiation between the proponent, being the company, and the native title owners and claimants, I think, is totally inappropriate. It is in the area of a stunt and the government will not agree to that.

Mr W.J. JOHNSTON: As I say, I am not going to labour this, but this is not a stunt. The $1.5 billion figure has not been plucked out of the air; it is of course the figure that the Premier talked about in respect of the arrangements for the Browse project. We do not say that that is what the outcome should be; we should say that it should be at least. As I say, we are not raising what should be agreed between Buru Energy, its joint venture partners and the traditional owners; we are raising what the outcome should be between the government and the people of the Kimberley. How the government funds that is up to the government, but we are saying that the outcome for the people of the Kimberley should be exactly the same as the outcome the Premier so proudly talked about for the offshore Browse project. I cannot understand the government's logic that argues it can negotiate a benefits package with the traditional owners in the Kimberley for the offshore Browse project before there even was a project but the government cannot negotiate a deal with the traditional owners in the Kimberley for an onshore project that has an agreement. Of course, the Labor Party acknowledges that it cannot point to where the gas processing plant will be, where the pipeline will run or even where the wells will be, but we did not bring this agreement to the chamber today; it has been brought to us by the government. This is our opportunity to make these very important points on behalf of the people of the Kimberley. There is no logical reason why the government would support a $1.5 billion benefits package for the people of the Kimberley for an offshore project but would not support a similar benefits package for the people of the Kimberley for an onshore project.

Mr B.S. WYATT: As the member for Cannington pointed out, the opposition will not labour this point. However, this amendment neither settles native title nor stipulates what the nature of the agreement will be. It simply applies the standard that was applied to James Price Point for the offshore gas to onshore gas and requires the Premier to immediately commence the negotiation process with the traditional owners. As the member for Kimberley pointed out, a number of language groups are contained in that 17 000 square kilometres covered by the agreement and, as the member for Cannington has pointed out, the amendment is fairly clear. It does not stipulate the nature of the agreement; it nominates $1.5 billion. Ultimately, the government, through the negotiation process, can enter into an agreement with the traditional owners about the specific terms.

Amendment put and negatived.

Clause put and passed.

Clause 5 put and passed.

Clause 6: Effect on other laws —

Mr W.J. JOHNSTON: I have a couple of questions on this clause. I need to clarify that the effect of clause 1 is that this agreement sets aside other enactments so that if clause 6 is not included in the agreement bill, would the agreement not work? Of course, the agreement specifies—we have talked about this a number of times—that provisions such as the relinquishment provisions are contrary to the ordinary law. The effect of clause 6(1) and (2) is to set aside those other provisions. It is confusing because the Premier told us the week before last that this agreement had already been signed by the executive and that it did not matter whether this bill passed through Parliament because the agreement would be implemented. However, it appears that this contradicts what the Premier just explained to us. It appears that the Premier is asking us to set aside laws and that the agreement can have effect only if the bill is passed. That is contrary to what the Premier said the week before last when he told us that it was the executive's decision. Can the Premier clarify whether he is saying that the law does need to be changed, or can the executive do what it likes and it does not matter what is in this provision?

Mr C.J. BARNETT: The member is right. Yes, we do need this. I take the point.

Mr F.M. LOGAN: This goes not specifically to the bill itself but to the Premier's response as minister responsible for the bill. I raised in my second reading response the issue of involving the member for Kimberley, in her role as the representative of the people of the Kimberley, in any issue that came out in the community development plans.

Mr C.J. BARNETT: The member for Kimberley is obviously a member of Parliament but not a member of executive government. However, having said that, if the member for Kimberley at any stage wants to raise any

issue with me, I would obviously be very pleased to hear that. If the member for Kimberley is in discussions with the traditional owners in the area—I do not know whether she is or is not—I think it is entirely appropriate for her, as the local member for the Kimberley, to do so. So, I would in good faith listen to her. But the member for Kimberley will not in any way, and nor will any other member of Parliament, be involved in the direct negotiation over the agreement.

Mr B.S. WYATT: Just to follow on from the comments made by the member for Cannington, does the Premier think there will be a requirement to make amendments to the Petroleum and Geothermal Energy Resources Act 1967 to deal with unconventional gas? The Premier made the point in his second reading speech that the act was not drafted to accommodate unconventional gas. So, at some point will the Parliament be doing this?

Mr C.J. Barnett: I think that will be the case, yes. I think that is inevitable. At the moment we have special legislation for this project. But I have no doubt that there will be some modernisation of that act to deal with unconventional gas.

Mr B.S. WYATT: Is that something that the Premier intends to do?

Mr C.J. BARNETT: That lies with the Minister for Mines and Petroleum.

Clause put and passed.

New clause 7 —

Mr W.J. JOHNSTON: I move —

> Page 3, after line 6 — To insert —
>
> **7. Documents to be tabled**
>
> Every report, plan or document provided to the Minister in accordance with Clause 7 of the Agreement, will be tabled in each House of Parliament within 6 sitting days of that House after receipt by the Minister.

It is well known that in the last Parliament, the Labor Party moved a bill regarding skilled local jobs. It is pleasing to see that in clause 27 of schedule 1 to this bill, there is a more modern provision than traditionally exists in these agreements, namely, that there be extensive local industry participation arrangements. We are pleased about that. But what is not picked up by this legislation, and what was included in the Skilled Local Jobs Bill, was a provision that there also be reporting to the Parliament about local industry participation. I have therefore moved, on behalf of the Labor Party, to insert this new clause 7.

Mr C.J. BARNETT: I can sympathise with what the member is trying to achieve. But we are not going to insert a new provision like this into the agreement. My record has always been to be very open about local content issues and to fight for local content. But we are not at this moment going to agree to insert a new clause into this bill.

Mr F.M. LOGAN: I can understand the reluctance of the Premier to insert a new clause into the bill related to the transparency for local content. But this is simply a request to one of the parties. It is binding on only one of the parties. It is not binding on the joint venture partners. It is only binding on the government and on the minister responsible. It is not as if Buru Energy would oppose this, as there is no obligation on Buru Energy and its joint venture partners to agree to it at all because it does not apply to them. It is about transparency. It also sends a clear message to the joint venture partners that there is more than just simply the minister examining the purchasing requirements by the joint venture partners—there are local content services and equipment, and the people of Western Australia, through the Parliament of Western Australia, observing their practices. It is a good thing to adopt and to include in this agreement.

Mr W.J. JOHNSTON: We do not want to labour the point, but this is an important issue for the Labor Party. As I have said on a couple of occasions, we made our position on this issue clear. I raised it with the proponent that we would be doing this. I understand what the Premier has said, but we think these things are better done in public rather than in private. The Labor Party thinks it would be a better outcome. I make the point that we are not seeking to amend the agreement. This is about a provision to impose an obligation on the government, not on the proponent.

New clause put and negatived.

Schedule 1 —

Mr W.J. JOHNSTON: I refer to the recitals on page 5 of the bill. Although I think I know what the answer is, I want to get it on record. At the end of the recitals for the joint venture partners, it states —

> … (hereinafter collectively called **the Joint Venturers** in which term shall be included their successors and permitted assigns) of the second part …

I am seeking clarification that the intention is to bind anybody who the joint venture partners might bring into the joint venture. For example, if somebody else farms into the project, they would also be covered by those words or if any of the parties to the joint venture sold their share on to somebody else, or indeed if any of the companies involved were purchased in whatever form by another company, they would continue to be bound by this agreement?

Mr C.J. BARNETT: That is correct. That makes sure that any future owner or partner in the project is bound by the agreement. I am advised that the joint venture partners can sell to each other—one can sell out to another. Under the agreement, that does not require approval of government, but if they sell all or in part to a third party that does require government approval or agreement.

Mr W.J. JOHNSTON: There are a number of clauses in the agreement that I would like clarified. As the Premier said in his second reading speech, this is a unique agreement and therefore there are many terms that have not appeared in other agreements and there are many issues that need to be canvassed. I will go firstly to clause 4 of the agreement, "Initial obligations of the State", on page 17. Could the Premier outline for us what the obligations at subclause (1)(a), (b) and (c) are and also the purpose of the words —

> … to allow the Joint Venturers to enter upon Crown land within the meaning of the Land Act … land the subject of a pastoral lease but excluding land within a Port or the DBNGP corridor) with plant and equipment to carry out all works …

What right are we giving to the company in that provision?

Mr C.J. BARNETT: Basically, I am advised it is the right to enter the land and carry out exploration activities and the like, and I guess the company might build tracks and the like for access. It is just confirming the company's right to go onto the land.

Mr W.J. JOHNSTON: The company may be building a track. Some of these lands that are subject to a pastoral lease are also subject to a native title claim, and this is the issue that we have been driving at from the start of our debate, which is a clarification of how this interacts with the federal Native Title Act and whether there is any right that they would not otherwise have. There may not be. I am a simple person and I do not have the training in and detailed knowledge of these things. I am just seeking clarification. Is this some right that it would not otherwise have, because, if that is the case, is that in some way giving it a right that it would not get through normal procedures? If it is not, it would have to get an agreement of the people who have an interest in the land. We just want to be reassured that there is no attempt here to set aside what would otherwise be a right for people with an interest in the land to have some discussions before the joint venture parties go in. I am not criticising Buru Energy because, as I understand, it was one of its contractors and not the company itself. But there was controversy, as the Premier is aware, late last year regarding some works done in respect of this project in the Kimberley. I am happy to be reassured; I am not looking for a problem. But if I could have that clarified, I would appreciate it.

Mr C.J. BARNETT: On page 16 of the bill, clause 2(2) makes it clear that nothing in this agreement exempts the state or the joint venture partners from compliance with the native title law, so it does not impact on that at all, although I make the observation also that a lot of this land is vacant crown land—that is the status—but nothing compromises native title.

Mr F.M. LOGAN: Again, I refer to clause 4 of schedule 1, "Initial obligations of the State", and specifically subclause (2), which states —

> For the purposes of paragraph (c) of subclause (1), section 182 of the Land Act shall apply as if the Domgas Project is a proposed public work for which the Land Act Minister is under that section authorised to take interests in land within the meaning of that section.

With respect to the domestic gas plant itself, should the proponents be successful and be able to extract sufficient gas to provide gas into a pipeline and to the plant itself for cleaning and drying of the gas, and should that need to be done before it is put into the pipe, does this agreement act cover the land that would be required for the plant itself; and, if so, where would that plant be constructed?

Mr C.J. BARNETT: I am advised that the conditioning plant to take the mud and whatever else out of the gas will have to be in one of the permit areas under this agreement. It is undetermined at this stage where that would be.

Mr F.M. Logan: Nevertheless, it would be covered by this legislation.

Mr C.J. BARNETT: Yes.

Mr W.J. JOHNSTON: If we are finished with clause 4, I would like to go on to clause 5, and specifically subclause (4). I received this advice during the process of the briefings that the department arranged for me, which were very good. I understand that the reason we need to amend the Aboriginal Heritage Act is that normally it would be only once the joint venturers had an interest in the land that they would be able to start action under the Aboriginal Heritage Act; what we are doing here is providing them a right as though they had an interest in the land. On first reading—because the Premier would not necessarily be familiar with all the provisions of the Aboriginal Heritage Act, and certainly I am not—it might be seen to be setting those aside, but in fact we are trying to extend them to this project, even though the joint venturers might not have an interest in the land. If I have the advice wrong, the minister should correct me, because I would like to have it clear and on the record that that is what we are doing. We are not amending the obligations under the act; we are simply amending the application of the act.

Mr C.J. BARNETT: This allows the proponents to begin a section 18 clearance. It will allow them to start that process; it will not change the process.

Mr W.J. JOHNSTON: I refer to clause 6(3) under "Community development plan". Clause 11 is the guts of the obligation about the domestic gas plant. Before the minister looks at a proposal under clause 11, is he expecting the joint venturers to come back with a development plan? Is this where he expects them to come forward with obligations to the traditional owners? Everyone on this side raised this issue with him tonight quite strongly. It would obviously give us some comfort if the minister is suggesting that the joint venture partners will have to have a community development plan that includes benefits to the traditional owners and the other Indigenous people and non-Indigenous people of the Kimberley detailed to him before he gives the clause 11 approvals.

Mr C.J. BARNETT: The agreement does not refer anywhere to traditional owners but, obviously, any agreement referring to social and community benefits will be about traditional owners, although there may be something outside the area. We never know; it is possible. This makes it clear that there must be a community development or social plan in place. In an ideal world we would hope the proponent and, if we like, the traditional owners or anyone else who is involved would agree on that. I imagine that, through that process, the state, through the Department of State Development, would play some sort of mediating role and have a viewpoint at some stage, similar to what is happening at Onslow and other places under other agreement acts. That is primarily between the company and the community, but, in practical terms, the state would play some sort of role in that, as will I as minister.

Mr W.J. JOHNSTON: Thank you very much. If there was a commitment in the *Hansard* that in the minister's duties under paragraph (b) there is some sort of commitment to the traditional owners, it would be very welcome.

Mr C.J. Barnett: The state would want to be satisfied that the benefits package is both genuine and fair.

Mr W.J. JOHNSTON: Given what the minister described as a stunt before, he is not interested in doing what we were suggesting —

Mr C.J. Barnett: I'm not plucking a number out of the air, no.

Mr W.J. JOHNSTON: The Labor Party sees this as a crucial issue and we want to show good faith to both the joint venture proponents and the traditional owners. We would be reassured if the minister could put on the record that he will expect some sort of deal with the traditional owners in the joint venturers' community development plan.

Clause 6(6) reads —

> During the currency of this Agreement, the Joint Venturers shall implement the plan approved or deemed to be approved by the Minister under this clause.

What will happen if there is a breach or other failure on behalf of the joint venture parties?

Mr C.J. BARNETT: There is no sanction as such, but if that did not happen, the joint venturers would be in breach of the agreement and the government of the day could take whatever action it deemed necessary at that stage. There is a lot of trust and goodwill in all these agreements going back to the 1960s. They are not mechanical or to a fine point because they have to be working documents. What is fairly unique about these agreements compared with what happens in other states is that they come before Parliament and get the sort of scrutiny they are getting now.

Mr W.J. JOHNSTON: Thank you for that, Premier. I will not go on much more on this issue, but we know from history, for example, that downstream processing obligations in state agreements never came to pass

because there was not really any way of getting them done. I just make the point that this is a very significant agreement.

I want to now turn to the local industry participation plan at clause 7. We are relatively satisfied with the wording here. I will later ask about the effect of clause 27, but I will not do that now. I just want to get on the record that these local industry participation plans are becoming more contemporary. One of the things the Labor Party knows from experience is that the wider the issues being canvassed in a local industry participation plan, the better; that the key to getting things made here is having them designed here; and that the skilled services are just as important to the opportunities for industry in the state. This is a much more contemporary approach than that taken in some of the older agreements. We think that is a good idea. If the Labor Party was negotiating the agreement, and I made this point to the executives of Buru Energy Limited when I was talking to them, we would say that these industry participation agreements are better when there is public reporting. The Premier made the point in debates a few years ago that, in his view, if these things are done in public, the companies will do as little as possible. I am not so certain. In the second reading debate I referred to the 10 commandments in Norway. Having a look at the industry participation requirements, the other issue is in those 10 commandments. The stronger they are the better they are, in our view. It is very complex when they are offshore because, of course, the gas itself does not actually belong to the state of Western Australia. The Premier made the point in his speech in April 2010 at the Baker Institute of Rice University that these resources actually belong to the state and not to the companies that are doing the project. We understand and do not object to what the government has achieved here, but in our view the industry participation plans are inadequate because they do not include public reporting.

I might just go on to clause 8, because I do not think the Premier is going to respond to me on clause 7.

Mr C.J. Barnett: I listened to what you were saying; you did not really ask me anything.

Mr W.J. JOHNSTON: I was just putting our position on the record.

I have some questions on clause 8. Subclause (1) is the general provision for the domestic gas obligation. It says that the amount is equivalent to at least 1 500 petajoules of natural gas. Subclause (3) then provides the procedure for the natural gas to flow to the domestic market, and the term used is "Relevant Percentage". "Relevant Percentage" is later defined as —

> … 15% or such greater or lesser percentage as may be specified in, or applying for the purposes of, the Domestic Gas Reservation Policy at the Relevant Time;

I just want to clarify that. Given that we have a 15 per cent reservation policy, why is there a question mark about how much the reservation is going to be? Surely it should be 15 per cent. I am not quite sure why we are allowing that potentially to go up or, equally, down.

Mr C.J. BARNETT: As I understand it, this is the reservation for domestic gas. The size of the reserve is unknown at this stage. That is an estimate. Coincidentally, it equates to 15 per cent of current gas usage in the state. In the latter stages, if an LNG project develops, the 15 per cent reservation will apply in the same way.

Mr W.J. JOHNSTON: That is right; nobody knows whether there is any gas. We are pretty confident, but somebody has to find the stuff and prove that they can extract it.

Mr C.J. Barnett: I think they have found it. I think it is more that they have to find a way of extracting it.

Mr W.J. JOHNSTON: Yes, and one way or another turn it from a resource into a reserve. I am just happy to have an explanation. The 1 500 petajoules of gas is a lot of gas. Of course, we do not know how much is there. In fact, that might be a lot less than 15 per cent of the gas that is produced at a future date. I can understand why the government might want to do it that way, but it seems a bit strange because it could end up with a North West Shelf problem; that is, once the gas from the initial obligation is sold, which might be as soon as next year for the North West Shelf, what does it do with the joint venture? Just because it has done the 1 500 petajoules does not necessarily mean that we do not want any more gas from it. Secondly, why is the 15 per cent subject to change? How can Parliament be reassured that at the relevant time, the 15 per cent will not become, for example, 10 per cent? Then 15 per cent of the export gas would not be used domestically; it would be a lower percentage. I sort of understand what the government is doing with clause 1. I do not know whether that is the best way to do it, but it is the government and I understand that it has made the decision. I do not have an argument, but I am not convinced about why there is this relevant percentage that can be lower than 15 per cent.

Mr C.J. BARNETT: If and when there is an LNG export project, by definition there is 100 per cent reservation for the domestic gas market. It is a bit problematic. I do not think we expect this project to get into the LNG phase for quite some time. It will essentially be a domestic gas project; indeed, it may always be a domestic gas project. It has been negotiated on a set volume.

Mr W.J. JOHNSTON: Is there a particular reason why the government wants to vary the 15 per cent? The reason I raise it is very important. Both sides of politics in Western Australia have settled on this 15 per cent. It has been controversial; indeed, I made the comment about what the Australian Petroleum Production and Exploration Association continues to say to both sides of politics about the gas reservation policy, and what *The Australian Financial Review* and the commonwealth government say about it. I am not quite sure why we have a provision that somehow undermines this agreement that we seem to have settled on that 15 per cent is appropriate. If the Premier can explain to me why 15 per cent is not appropriate, that would be great, but at the moment I am not convinced why 15 per cent is not appropriate.

Mr C.J. BARNETT: The point apparently is that at this stage we do not know what the gas reserve is, and there is some hesitancy amongst the joint venturers to commit to a domestic gas volume when they have not proven that amount of gas. So the 1 500 petajoules is basically an aspiration, and it is probably conservative in the total resource. If the project is proved to have more gas and, for example, goes into LNG export, the 15 per cent reservation will apply.

Mr C.J. TALLENTIRE: I would like to return to clause 4(1) of the schedule, which refers to section 91 of the Land Administration Act. I am concerned about how far reaching this power could be. The subclause states —

> … arrange for the issue of requisite authority under any one or more of …

And then it refers to section 91 of the land act. Section 91 of the land act refers to the power of the minister to grant a licence or profit à prendre over crown land for any purpose. What is the limit of that purpose? Does it mean that should Buru Energy Ltd wish to go onto an area that has sandalwood, Buru would be entitled to the profits that would be derived from taking the sandalwood from that particular area? It seems incredibly far reaching.

Mr C.J. BARNETT: That applies only for the purposes of this agreement act and for the subject matter, which is to develop shale gas. It does not empower the company for any other use of the land beyond what is in the agreement. The company cannot go out and start an agricultural project or something like that.

Mr C.J. TALLENTIRE: With respect, I do not think the legislation says that. Clause 4(1) of the schedule states —

> The State shall subject to the adequate protection of the environment (including flora and fauna) and the land affected (including improvements thereon) arrange for the issue of requisite authority under any one or more of (as determined by the State in its discretion):
>
> (a) section 91 of the Land Act …

That act has some incredibly far-reaching power. It states —

> The Minister may grant a licence or profit à prendre in respect of Crown land for any purpose.

I do not see a limiting provision, except, I might say, for the head powers of the act, but I do not think that is clear enough.

Mr C.J. BARNETT: If the member reads page 17, he will find that it is.

Mr C.J. Tallentire: Where on page 17?

Mr C.J. BARNETT: We have moved on beyond where the member came in late; well beyond that.

Mr C.J. Tallentire: No, I have not —

Mr C.J. BARNETT: No, we have gone through that part already. The others in the chamber sitting here have done that job.

Mr C.J. Tallentire: We have not passed that section.

Mr C.J. BARNETT: Yes, we have.

The ACTING SPEAKER (Ms L.L. Baker): Members!

Mr C.J. BARNETT: Yes, we are well past it.

Mr C.J. Tallentire: No, we haven't. We haven't moved it. Madam Acting Speaker, can you clarify that we are —

Mr C.J. BARNETT: Another 20 or so members are in the chamber working through the bill and we have passed through that point. Now the member has come in and wants to go backwards, so we are going backwards because that is allowed. But, Madam Acting Speaker, if the member had been in here for the debate when the issues were covered —

Mr W.J. Johnston: He was here in the chamber.

Mr C.J. BARNETT: No, he was not, and he should have been if he is interested in the bill.

Mr W.J. Johnston: He hasn't left the chamber.

Mr C.J. BARNETT: We have gone beyond that. Madam Acting Speaker, the member is misreading it.

Mr C.J. Tallentire: Premier, I did refer to another piece of legislation.

Mr C.J. BARNETT: The member is misreading it. It does not affect it. The only purposes in this agreement are for the purposes of the shale gas project.

Mr C.J. Tallentire: The Premier is saying that, but it does not.

Mr C.J. BARNETT: I am.

Mr C.J. TALLENTIRE: I would like your clarification, Madam Acting Speaker, that this schedule has not been put and therefore it is perfectly reasonable —

Mr C.J. Barnett: We know it.

Mr C.J. TALLENTIRE: — for me to return to this part of the legislation.

Mr C.J. Barnett: It is perfectly reasonable but it is not competent in the handling of the bill.

Several members interjected.

Mr C.J. TALLENTIRE: The Premier may not like it, but I think it is more important —

Mr C.J. Barnett: Not up to speed.

Several members interjected.

The ACTING SPEAKER: Members!

Mr C.J. TALLENTIRE: It is more important that we find some reasoning behind this issue and explain why the company would be constrained, because I think the Land Administration Act opens up all sorts of powers and gives the minister this power to grant a licence for all kinds of things. I have given the example of a sandalwood plantation perhaps.

Mr C.J. Barnett: Not under this agreement, no; you can't grow sandalwood under this agreement.

Mr C.J. TALLENTIRE: No. If the company needed access to property that had sandalwood on it, I do not see anything here that would constrain it from getting access to the taking of that sandalwood and the deriving of profit from it.

Mr C.J. Barnett: It doesn't have the powers to do that.

Mr C.J. TALLENTIRE: Yes, but section 91(1) of the Land Administration Act would give the company that power.

Mr C.J. Barnett: If you read the remainder of page 17 —

Mr C.J. TALLENTIRE: Can the Premier point me to where on page 17 it constrains the powers of section 91(1) of the Land Administration Act.

Mr C.J. Barnett: It is lines 20 to 23.

Mr C.J. TALLENTIRE: Lines 20 to 23. I will read out those lines —

> … with plant and equipment to carry out all works to the extent reasonably necessary for the purposes of undertaking its obligations under clause 5(1)(b)(ii).

How does that constrain things?

Mr C.J. Barnett: You cannot go out and collect sandalwood or grow sandalwood under this agreement.

Mr C.J. TALLENTIRE: I simply use that as an example.

Mr C.J. Barnett: I know, but you can't do it.

Mr C.J. TALLENTIRE: There are all sorts of licences. This is very clear.

Mr C.J. Barnett: You can't run cattle; you can't do anything.

Mr C.J. TALLENTIRE: Section 91(1) of the Land Administration Act states —

… grant a licence or profit à prendre in respect of Crown land for any purpose.

I would like clarification as well on the Land Administration Act, as it overrides much of a state agreement act.

Mr C.J. Barnett: I have answered you twice; it doesn't give any powers.

Mr C.J. TALLENTIRE: No, the Premier pointed me to lines 20 to 23.

Mr C.J. Barnett: It does not give any powers to do things beyond the agreement, and the agreement relates to the extraction of shale gas.

Mr C.J. TALLENTIRE: The Premier pointed me to lines 20 to 23 and said that they would show me how they constrain the provisions in section 91 of the Land Administration Act. I do not believe they do.

Mr W.J. JOHNSTON: I would like to turn to clause 10 of the schedule.

Mr B.S. Wyatt: I was going to talk to clause 7.

Mr W.J. JOHNSTON: We can go backwards and forwards.

The ACTING SPEAKER (Ms L.L. Baker): Would you like me to clarify that?

Mr W.J. JOHNSTON: Yes.

The ACTING SPEAKER: The schedule is moved as one motion. You are allowed to range fairly freely, forward and backward, through the schedule. You may not re-visit previous clauses; however, you can re-visit anything within schedule 1.

Mr W.J. JOHNSTON: It is a bit hard for the others because I have extensive notes and extensive interest but some only have interest in specific issues.

Mr C.J. Barnett: It is conventional in debating agreement acts to move sequentially through the schedule.

Mr W.J. JOHNSTON: Apparently, it is convention.

The ACTING SPEAKER: Members, have we clarified the position?

Mr W.J. JOHNSTON: Yes, we have. Thank you very much, Madam Acting Speaker. It is always so useful to have the guidance of the Chair.

I had a discussion with the Department of State Department and the Department of Mines and Petroleum on the Friday of the previous week, down at the DSD office, about when a pipeline is not a pipeline. The answer is when it is a flow line. I am trying to seek clarification because it is a very important issue; that is, when is a flow line a pipeline and when is a pipeline not a flow line? This is essential because a pipeline is declared infrastructure and a flow line is not. I would imagine that if I was the joint venture partner—I do not know as I have not talked to them about this issue—I would want to have as much of the infrastructure, a flow line, as possible because that way I do not have to share it, whereas we have to share the pipeline.

Also, there are some detailed provisions here with the obligations of the pipeline corridor. It would appear to me that the flow lines will be covered as part of the domgas project. If we look at the Varanus Island facility, there are pipelines on the island. They are not pipelines; they are part of the processing facility. Here we are going to have flow lines that stretch probably hundreds of kilometres but it appears to me from my reading that they will be part of the domgas project. Even though everyone looks at them and says, "That is the pipeline", they are not going to be a pipeline; they are going to be part of the domgas project. I think this was discussed when we were at the department. After a manifold, it will be a pipeline. Is it after the manifold or is it after the domgas processing plant? It is quite likely to be many domgas processing plants. There may be four or five or whatever. When I visited the fields in the US, some of those shale gas projects needed virtually no processing of the gas at all before it was put in the pipelines because it was such high quality gas when it came out of the shale. Has there been any consideration of that? When is a flow line a flow line? When is a flow line a pipeline? Will there be similar obligations for the process of choosing corridors for the pipeline? Will they be applied to flow lines? There will literally be hundreds of kilometres of lines running across the Kimberley. I would like a picture of how that will be regulated, which bits will be regulated under this provision and which bits of the provision will be regulated under clause 11.

Mr C.J. BARNETT: The flow lines basically gather the gas and bring it into the conditioning plant. That is not the domgas pipeline. The domgas pipeline will be the one that goes from the conditioning plant to a domestic gas plant, whether it is next door or 200 kilometres away. This is relating to the major pipeline, not the gathering pipelines.

Mr W.J. JOHNSTON: I thank the Premier. So if it is before a conditioning plant, it is a flow line, and if it is after a conditioning plant, it is pipeline?

Mr C.J. Barnett: Domgas pipeline, yes.

Mr W.J. JOHNSTON: The joint venture partners might have a stack of legal advice on this issue; I do not know. I am sure they are very prepared, but I think this is going to be a very critical issue because this is, as the Premier pointed out, a different way of doing gas fields. Field gas with five wells can be operated for years; look at the North West Shelf. Here we will have potentially hundreds of wells, with these lines running all over the place. Some of these lease holdings are a long way away from other companies' claims, and some of them are quite close to other companies. It is going to be critical that everyone has a clear understanding of which bits are going to be shared and which bits are not. I do not mind if my question is answered now or, if the Premier wants, I can put the same question on clause 11; but of these obligations around the location of the pipeline, what obligations will there be around the placement of the flow lines? The flow lines might end up being actually longer than the domgas pipeline because there will potentially be hundreds of kilometres of individual pipelines, and when they are all added up, even though they are on a smaller scale, they are still going to be there. The bill goes through quite some detail about the placement of the domgas corridor. What is the procedure for the placement of the flow line corridors?

Mr C.J. BARNETT: That would be under the normal laws of the land, so obviously environment and heritage issues and the like will play a role in how they are distributed. I imagine that there will be some in which wells feed into the plant, so there will be a bit of a web structure. I think that just depends on the geology of the field, ultimately. They are really specific to this project, whereas the domgas pipeline leaving the field could potentially have others sharing it, but it would be subject to environmental conditions, approvals and all the rest of it, and as I said, heritage would come into it.

Mr W.J. JOHNSTON: Perhaps I did not ask the question very well, and I apologise. Clause 10 covers in quite some detail how the joint venturers are obliged to deal with selecting the route. Maybe I am misreading this, but I cannot see a similar provision for how the joint venture partners choose the route for the flow lines. As I say, this is a critical issue. One of the strengths of the American experience is that there was so much infrastructure already in place. Here, we are going somewhere where there is no infrastructure; there is absolutely nothing. That is why we do not have any gas flowing out of there; it cannot be done. Will there be provisions similar to the obligations under clause 10 in respect of the process by which the route is chosen for the flow lines? I am not certain. If we look at the details under clause 10 about the ways in which the minister deals with the submission from the joint venture partners, the acknowledgements and all the other issues, they are very clearly set out. I understand that the Environmental Protection Authority Act still applies, but is the Premier saying that similar arrangements will be in place for flow lines? If they are, that is great, but I ask the Premier to help me by pointing out where those provisions are.

Mr C.J. BARNETT: They are not there, and they should not be there. The flow lines will be on the permit area, so there will not be other projects overlapping, whereas the domgas pipeline that exits the area may well go past or through other permit areas. Some wells will perform better than others, so the flow lines will probably be moving around all the time as they gather gas, but that will be dealt with under the normal provisions of the Petroleum Act and subject to the environmental, heritage and other approvals.

Mr B.S. WYATT: I want to quickly go back to finish one point about the domgas commitment in clause 8 on page 23. I note that the Premier has Mr Panetta there from the State Solicitor's Office, so he may be able to answer this question easily. I note that clause 8(1) refers to a "common aspiration"; I am curious as to whether that has any meaning at all. As I read that clause, we could remove "it is their common aspiration" and the clause will still make sense because it will still subject the agreement to the proving up of sufficient reserves of natural gas. It seems that "common aspiration" has no meaning at all and may in the end result in no domestic gas being provided 30, 40 or 50 years down the track when perhaps gas is flowing out of the title area. I am curious what "common aspiration" requires of Buru or whoever the joint venture partners may be.

Mr C.J. BARNETT: That point came up before. At this stage there are no proven reserves. The expectation is that those 1 500 petajoules will be available, but at this stage they are not. It is unconventional gas. If it were a conventional reservoir, onshore or offshore, the parties would have established the proven reserves and we could be more specific about the domestic gas obligation. Each party, government or JV, expects the reserves to be proved, but at this stage they are not, so it would be unreasonable for them to commit to an amount of gas they have technically not yet found.

Mr B.S. Wyatt: Is this term "common aspiration" common?

Mr C.J. BARNETT: No, it is not. As was pointed out earlier in the discussion, this is about facilitating and extending a very big and long-running exploration program. Normally agreement acts would be developed once an exploration project is developed and the gas reserves are proven. That would be normal for conventional resources; these are unconventional. We are bringing in an agreement act to give them certainty and to protect their tenure while they prove up the reserves. The domestic gas obligation is in that sense—not vague, but it is couched as an aspiration, and there is no reason to believe it will not be achieved.

Mr W.J. JOHNSTON: Clause 12(1) states "In respect of each proposal pursuant to clause 11(1)". Clause 11(1) appears to be the obligation for the domgas project. Does this say there is more than one domgas project? I thought the whole idea was that everything that related to domestic gas would be in the domgas project and everything related to export would be in the LNG project; or does this say there will be multiple opportunities for a domgas proposal? How does the reservation work?

Mr C.J. Barnett: The short answer is that the domgas proposal, in fact, is a series of proposals for treatment, the pipeline, the corridor and so on. It can be electricity, power and communications. There are a whole series of, if you like, individual or sub-proposals that make up the domgas proposal.

Mr W.J. JOHNSTON: The minister is saying that clause 11(1) appears to be for all the issues that relate to the domgas work. Why is clause 12 needed if clause 11 already covers everything that is needed for each of the projects—if the minister wanted to use a multiple term?

Mr C.J. BARNETT: I am advised that clause 11 deals with what the proponents need to bring forward as proposals and clause 12 relates to the minister's approval of those proposals.

Mr W.J. JOHNSTON: Then, we can go on to clause 13, which is the expansion of the domgas project. Again, why is it needed? If clause 11 relates to the individual components and clause 12 is the project, what does clause 13 relate to? I see one of your advisers stretching over.

Mr C.J. BARNETT: Hopefully, if lots of gas is found and the demand exists, we will get an expansion of the project; and, theoretically, we could even have a second domgas project. There might be a domgas project designed to service the Kimberley and one that goes to the Pilbara. If there is lots and lots of gas there, we may have more than one domgas treatment plant and more than one pipeline. It will depend on how big it gets.

Mr W.J. JOHNSTON: I am very happy with that. If I was the joint venture partners, that is what I would do. If I proved up a bit of gas, I would develop a little project; if I proved up a lot of gas, I would develop a big project. However, I thought that that is what was covered by the obligation, so it seems to me that it is actually all one project. That is the nature of this type of gas. It is not like field gas with all the infrastructure having to be paid for up-front or at least the timetable having to be known. Is that not the whole point?

Mr C.J. Barnett: An expansion project theoretically can involve something separate or new. It might not simply be an expansion of an existing plant; there might be different technologies, and there may well be a second pipeline or it may have a second route.

Mr W.J. JOHNSTON: That is why I am not certain of why this is being done in the way the government proposes. I am no lawyer; it might be the best way to do it.

Mr C.J. Barnett: It is setting up a procedure process.

Mr W.J. JOHNSTON: It is just that, as I understood it, even the "first project" might have three gas plants because that is financially better for the proponents.

Mr C.J. Barnett: It could do.

Mr W.J. JOHNSTON: I am not quite sure. Is the project not everything that happens on this 17 000 square kilometres of land, and some of the gas will be for domestic use and some exported?

Mr C.J. Barnett: You might get a second domgas plant developed for a different set of customers.

Mr W.J. JOHNSTON: But is it not still part of the one project?

Mr C.J. Barnett: You could argue that, but I think there has to be a process for expansion or duplication of plants—I think that is what it sets up.

Mr W.J. JOHNSTON: That is fair enough.

Mr C.J. Barnett: Having built the first one, the proponents cannot go off and just do what they want to; they still have to go through a process of assessment, approval and off you go.

Mr W.J. JOHNSTON: Fair enough, if that is the best way to put it. That is fine.

I stay on my feet and go to clause 14, which states —

> (1) For the purposes of this Agreement and without limiting the operation of other subclauses, the application of the Petroleum Act and the regulations made thereunder in relation to Petroleum Titles is, and the rights and obligations of the holders from time to time of Petroleum Titles are, specifically modified during the continuance of this Agreement as follows:

This is the guts of the agreement, as we have all agreed. This is about setting aside the normal procedure because of the different nature of the gas being chased in the Kimberley. Clause 14(1)(a) states —

> section 41 of the Petroleum Act shall not apply to an application made during the Suspension Period under section 40 of the Petroleum Act for the renewal of a petroleum exploration permit; …

Therefore, as I understand it, the provision states that 50 per cent of the lease does not have to be relinquished.

Mr C.J. Barnett: That is correct, yes.

Mr W.J. JOHNSTON: This is what was raised with us by preliminary legal advice; namely, that that provision, we are told, is the one that is not consistent with the Native Title Act because it removes the opportunity for traditional owners and native title claimants to have another round of negotiations. The preliminary advice given to us states that if there was a 50 per cent relinquishment, the half of the lease given up would potentially be subject to further claim—pegging by another explorer—and that would then give a new opportunity for negotiation under the federal act. This is the specific provision that has been raised with us. Does the Premier have advice that says because there is no relinquishment and therefore no opportunity for another claim by the same party or another party for that 50 per cent being relinquished? What does the Premier say about the view that that removes a right that the traditional owners and claimants currently have? As I said, that is the preliminary advice that we have received, but it is obviously quite critical.

Mr C.J. BARNETT: The view within government is that it does not create a new opportunity and my understanding is that the native title rights are not affected in terms of the Native Title Act. Alternatively, a longer lease could be granted from day one —

Mr W.J. Johnston: But only if you changed the law.

Mr C.J. BARNETT: Or this legislation could be used to change the law to grant a longer lease. It could be done that way, but this provision simply means that proponents are not required to relinquish for that period. Therefore, in my view, it does not activate an opportunity for native title, but if, ultimately, they do relinquish earlier, it would potentially.

Mr W.J. JOHNSTON: Again, I will not labour the point, but we received that advice, so we would like to get a clear view on that. I am not quite convinced by what the Premier has just said. If there is currently a right and that right is being removed, it seems that there is a detriment to the claimants and traditional owners. If it is not the case, it is not the case; I am not a lawyer and, fundamentally, it will be decided by a court. I am not certain that the words the Premier has used satisfy the issue I am raising. I refer to clause 14(1)(d) of the schedule. I will not read it out because it is very long. The last part of that clause, which is on the bottom of page 37 and turns over the top of page 38, reads —

> In such case the Petroleum Act Minister is … empowered, if he or she … considers it appropriate in all the circumstances, to vary or suspend the commitments or exempt the permittee from the commitments with such variation, suspension or exemption having, to the extent the Petroleum Act Minister considers appropriate, retrospective operation in relation to the non-compliance or likely non-compliance;

This is no simple set of words. It goes on to clause 14(1)(e), which is about the work obligations. Again, this has also been raised with us. Normally, a permittee gets a lease for six years, plus five and five, potentially, for renewals subject to relinquishment, but they are also obliged to do an amount of work. As I understand this provision and the provision in clause 14(1)(e)(ii), the normal obligations for the joint venture parties to do exploration work on the ground are being set aside. Clause 14(1)(e) states —

> (ii) in determining compliance … may credit appraisal work carried out on any gas discovery in the petroleum permit area of that permit or in an adjacent petroleum permit area …

I am wondering what the purpose is here. Again, it has been raised with us that, in the view of some advice—I cannot speculate on whether the advice is right or not—this will remove the native title right of the traditional owners to negotiate. As I understand the advice I received, if two permits are sitting next to each other and a company were obliged by law to do work on both permits, it would then need to sit down with the native title parties with respect to both permits. This bill is stating that work on this permit can count as work on that permit, so the native title party has only one opportunity to negotiate. This piece of land may belong to a different

claimant group from another piece of land, so we are reducing the native claimant's opportunity to be involved in discussions with the companies. There are two separate issues. Firstly, why is the government doing it? I think I know why, but I think it is a good idea to get it on the record. Secondly, in respect of the advice we have been given, this legislation will reduce the right of the native title parties because, effectively, there will be less of an impact, which might sound strange. The native title party might not have an objection to the impact, but might be interested in the opportunity to negotiate that. I would appreciate comments on both those issues raised with what is a very complex provision, which I imagine is necessarily complex because of the issues involved.

Mr C.J. BARNETT: The agreement has obligations on the companies to undertake certain work and to do a program but this is a very remote location. A range of circumstances may mean that through no fault of the company it cannot do or complete work. A cyclone might come through or goodness knows what. This gives the minister the opportunity to relieve or relax those obligations in those circumstances. The member raised the opportunities for native title; there is a social benefits package as part of this, and part of the agreement is to give as much certainty for a very different type of project, and a long-term project, to develop in a sensible way and in an inclusive way to native title holders or claimants.

Mr W.J. JOHNSTON: These are complex issues. It is late at night and I do not want to labour them, but they are important. I am just going to ask the Premier another question, but I would also seek an assurance that the legal advice has considered the issue that has been raised with us. If it has, that is great; if it has not, perhaps it would be a good opportunity for the government to take that on board and have a look to see whether the issues raised with us are important. If they are, the Premier might talk about that on another day.

I will just go on to clause 14(2). Is the Premier saying that something that is not a petroleum title can be considered a petroleum title? If that is the case, how does that work if we are dealing with 17 000 square kilometres that are petroleum titles? If that could be explained to me, it would probably be helpful.

Mr C.J. BARNETT: The short answer is that that is apparently a mechanism to allow additional petroleum permits to be brought in to the agreement. So if they go outside the existing areas and find some oil or gas—gas in particular—then there is a mechanism to bring it into agreement.

Mr W.J. Johnston: So they have other acreage that is not covered by 17 000 square kilometres? Well, they do, they have all these other permits.

Mr C.J. BARNETT: Yes; and for the moment the agreement relates to these five permit areas. So if they hit paydirt, then they have an opportunity to bring in another area. It is a mechanism to bring it under the agreement, yes.

Mr W.J. Johnston: So even though the other permits are not currently part of the agreement, that provision will allow them to bring it into the agreement.

Mr C.J. BARNETT: It could do, if they wish to in the future, yes.

Mr W.J. JOHNSTON: I was not aware of that. I will just clarify the words: in respect to the project pipelines, is that the project flow lines or is that a pipeline?

Mr C.J. Barnett: That would be the pipeline, not the flow line.

Mr W.J. JOHNSTON: That is the pipeline, is it?

Mr C.J. Barnett: It is the real one, yes; the big one.

Mr W.J. JOHNSTON: Yes. Is that right?

Mr C.J. Barnett: The flow lines are not covered; flow lines are part of the extraction process, yes.

Mr W.J. JOHNSTON: That is cool. Fine, no worries; I can continue on.

Clause 16 is the same. That is fine; that is answered. Clause 17 relates to roads and states, in part —

> (1) The Joint Venturers shall:
>
> (a) be responsible for the cost of the construction and maintenance of all private roads which will be used in their activities hereunder;
>
> (b) at their own cost erect signposts and take other steps that may be reasonable in the circumstances to prevent any persons and vehicles other than those engaged upon the Joint Venturers' activities and their invitees and licensees from using those private roads; and

Correct me if I am wrong, but this agreement seems to be envisaging perhaps hundreds of kilometres of private roads being built in the Kimberley because for each of the flow lines there will probably be a road running alongside the flow line—because that is the practice in the industry—to each of the pads. Because there is the pad with the well and the flow line coming out back to wherever the domgas plant is, there has to be an access road to get to the pad. This is the Kimberley; it is not completely undeveloped, but it is relatively lightly developed. So are we proposing and is it the intention—it could be a good thing or a bad thing—that we are going to allow them to build, subject to approval but it is going to have to be approved otherwise there is no project, potentially hundreds of kilometres of private roads through the Kimberley?

Mr C.J. BARNETT: I understand that this provision relates to roads for the domgas pipeline and access to any facilities on the site. We are not talking about access to the flow lines. That would come under the Petroleum Pipelines Act. Roads of a reasonable quality will go along the domgas pipeline and for workers coming in and out of the cleaning plant and maybe to an airport or whatever else.

Mr W.J. Johnston: What about the pads?

Mr C.J. BARNETT: No, they are not covered by this. That would be done under the normal petroleum legislation. There will be access to pipelines but once the flow lines are built, not many vehicles will travel up and down there, although there will be some grid roads. The member is right: we are talking about a vast area of land and there will be some extensive roads, but there will not be bitumen all over the place. However, a road that is built to a higher standard will be built to the main treatment plants and probably along the domgas pipeline.

Mr W.J. JOHNSTON: Again, I do not want to labour the point and I will try to move along as quickly as I can. I want to clarify this because it was not clear when I read the bill. There is nothing in the bill that says this relates only to large facilities. When I read this, I assumed that we were talking about all the access roads that will be needed, and the project will need hundreds of them. Taking the experience in the United States, there is one well for every 100 square kilometres. Imagine if the joint venturers found gas under every single square centimetre of their claim, which they will not, but imagine if they did; that is 170 wells and 170 access roads. Does this provision relate to the access roads to the well pads?

Mr C.J. BARNETT: No, it relates only to the roads required for the domgas project, or ultimately the LNG project as a second pipeline. It does not relate to any access to the flow lines at all. That is not covered by the agreement.

Mr W.J. JOHNSTON: I am trying to skip over some of the questions that I think the Premier has answered on the way through. I would appreciate some commentary about the LNG pipeline because it was one of the issues that we canvassed at the briefing. It is probably worth putting on the record the reason that there is a separate line for the LNG project and the benefits to Western Australia of requiring a separate LNG line. That is clauses 20 and 21.

Mr C.J. BARNETT: The reason is that it will ensure there always will be some capacity for domestic gas. Also, it will mitigate the chance of an LNG market swamping the domestic gas market and all the capacity in the pipeline being taken up for gas destined for LNG. It is to preserve and protect the domestic gas obligation and the reality that the gas and LNG pipelines will come in two different stages. The LNG pipeline will be on an entirely different scale.

Mr W.J. JOHNSTON: I thank the Premier very much; I appreciate that. It is very important to have on the record that the domestic gas pipeline cannot be used for the LNG delivery because that is our assurance that the joint venturers—who I am sure are noble people—cannot preference export over the domestic gas project. If we look at what is happening in Queensland, we can see that field gas out of South Australia will be fed into the LNG export project in Queensland. We must do something to stop that kind of thing, and this is part of that process. It is a good provision.

Mr C.J. Barnett: But you could probably take some of the gas on the LNG pipeline to the domestic market.

Mr W.J. JOHNSTON: Sure, but it cannot be done the other way around. That is the important issue.

Mr C.J. Barnett: That is right.

Mr W.J. JOHNSTON: Whatever the capacity of the project is, that is the capacity and the joint venturers do not have an excuse for not selling to capacity, which is very important.

I turn to clause 24. This provision, as I understand, allows the processing of gas from third parties in facilities that are built as part of the joint venture. Is that the case?

Mr C.J. BARNETT: I am advised that it allows gas from outside the five permits to be brought into the domestic gas plant from this joint venture, another JV or another project. It allows that facility to take in gas, even though the gas —

Mr W.J. Johnston: That is a big benefit, and that is good.

Mr C.J. BARNETT: There will be sharing of infrastructure.

Mr W.J. Johnston: Absolutely. That is very important, and it is a good outcome. But I am just wondering whether some of the other proponents in the Kimberley would expect to be able to do the same thing with their projects.

Mr C.J. BARNETT: Yes, we would hope that. That would be the policy. This is an agreement act for this project, because it is the first one, and maybe its infrastructure will be shared through access provisions and the like. If we were to have another large project, we may well have another agreement for that. The history of sharing infrastructure is not great in this state.

Mr W.J. JOHNSTON: No. That is the whole point, Premier. It is not good. It would be great if we could turn the clock back—if we had been able to get the iron ore people to share infrastructure, the Pilbara would look a lot different now. It is worth having as an objective the sharing of infrastructure. Again, when we did the gas inquiry, the fact was raised with us that the pipelines are open access, but not the processing facilities. Every gas major will tell us a thousand reasons why they cannot share facilities. We only need to look at Qatar and Norway to see that sometimes, the sharing of facilities works. But to the extent that the government is able to achieve sharing out of this project, that is good.

I now go to clause 27 of the schedule. We think this is a good provision. It would be interesting to know—the Premier does not have to jump up straightaway—how the Premier expects clause 27 to interact with clause 7. There is also a comment in the bill—I am not sure whether it is intended—that there will be some restriction on the use of foreign labour.

Mr C.J. Barnett: I think it is more of an incentive to employ locals.

Mr W.J. JOHNSTON: So that is its intended purpose?

Mr C.J. Barnett: It is a message. It is an intent, yes.

Mr W.J. JOHNSTON: Okay. It is good to have that on the record. To the extent that these things work, it is good to use Australians before we use migrants. I have no trouble with migration. My own community comprises 45 per cent migrants. They are a very rich and rewarding part of the community. There is a very big demand in Australia, as there is in other countries, to use the resources that we have available first. But I do not think that a project that is potentially of this size will rely only on domestic labour.

I now want to turn quickly to clause 28. As I understand it, petrochemical feedstocks are things other than methane, such as ethane and butane and all those things I do not understand. This is saying that those petrochemical feedstocks could be made available to a petrochemical project within the state. Let us assume that this project takes four years to get up. It is unlikely in the current economic environment that there will be a petrochemical proposal in the next four years. So the JV will probably sell for the highest commercial value these components, if they find any. Is this suggesting in any way that if they have already sold those petrochemical feedstocks to somebody else, that in 10 years' time they will need to make them available? What is being expected of the joint venturers in respect of this clause?

While I am on my feet, there are two other clauses that I want to talk to. The first is clause 30. What will be the impact of clause 30 with respect to native title arrangements? The second is clause 34, which is the provision that the JV can sell off the domgas pipeline. I would imagine that the history these days is that gas producers do not own the pipelines anymore. So we have an agreement with the joint venturers that requires them to have a pipeline, because without a pipeline they do not have a project. But we also have an expectation that the pipeline will be sold off. Is that what is being said by clause 34?

So, I ask three things: Is the requirement for petrochemical feedstocks a one-time thing; that is, is it an obligation for the JV at the start of the project or is it an obligation for them later on? How does clause 30 relate to the Native Title Act? Under clause 34, is the government expecting the pipeline to be sold by the joint venturers to another party?

Mr C.J. BARNETT: I will deal with the petrochemical feedstocks. I am testing out my distant high school chemistry. The major energy is methane, which is CH4, for any chemist in the room. But the higher, more complex molecules—the double carbon is ethane and the triple carbon is propane—are basically the components of LPG. Those components are not used in true economic value if they are simply burnt in power generation.

They are the feedstock for a petrochemical plant. We do not always have gas that is rich in those components, but a lot of the LNG that has and will be exported will also export those ethane, propane and butane components. They will often be extracted for higher value uses in importing countries. If we have gas that is richer in ethane and propane, there is at least an acknowledgement by the proponents that if there is a customer at a potential chemical plant, the components might be extracted and used for that purpose. I think it is a bit of a long shot; however, there have been serious proposals. Back in the mid-1990s the Dow Chemical Company looked at a petrochemical plant. The issue was accessing enough ethane and propane to do it. There might be more specialised plants. We are seeing if not the broad multifunctional petrochemical complex; we have seen urea and explosives and other things being developed, so there is opportunity there.

On the sale of the pipeline, I did not hear the member—I think it was the domgas pipeline. I do not think that is envisaged. It will be a fairly integral part of the project. In principle I do not think the government, or the government of the day, would have an objection to that if someone wanted to purchase that pipeline component of the project. But bear in mind if it is taking it from the initial cleaning plant to the domestic gas plant, I doubt they would want to split that, but I guess it is possible that a party might buy the pipeline and the treatment plant.

Mr W.J. Johnston: What about clause 30?

Mr C.J. BARNETT: What was your point there?

Mr W.J. Johnston: It is headed "Taking of land for the purposes of this Agreement". It sets out the provisions for how public land is taken. What is the interaction between that and native title arrangements? These are all very important provisions. I am sure Mr Acting Speaker will be very pleased to hear we are at the end of the agreement. I am sure that will please him greatly.

The ACTING SPEAKER (Mr I.C. Blayney): I thought I would be here until midnight!

Mr C.J. BARNETT: It is a fairly standard clause in state agreements. If the state, for whatever reason, wanted to acquire land—I cannot really think why—it would have to be in accordance with native title. I cannot see why the state would want to acquire land there.

Mr W.J. Johnston: So it is the state acquiring it in respect of the operation of the agreement, or the joint venture party acquiring land using the state's powers?

Mr C.J. BARNETT: The state may acquire the land and lease it to the proponent; that could be the case, yes. If there is a multiuser facility, that might be the case.

Mr C.J. TALLENTIRE: I move on to clause 43, "Consultation". Reference is made at clause 43 to —

> (1) The Joint Venturers must during the currency of this Agreement consult with and keep the State fully informed on a confidential basis concerning any action that the Joint Venturers propose to take with any third party …

Why must it be on a confidential basis? Does the Premier see any pitfalls in forcing people to keep things on a confidential basis?

Mr C.J. BARNETT: There is a lot of trust in state agreements; they are built around trust. The black and white text is here, but they operate somewhat differently from that. A joint venture partner, hypothetically, might be looking at bringing in another partner or they might look at selling the pipeline, as we were just talking about. Usually, from my experience, they will often discuss that with government informally and say, "We're thinking about this, do you have a view?" There is then a more formal process. That is just setting the basis for that.

There may also be issues for publicly listed companies about notifications to the stock exchange, and there may be commercial interests. For example, if the company was going to sell an asset, it may be dealing with several partners. If we do not have that protection of confidentiality, the companies will not be forthcoming, and I do not think there will be a good working relationship with government and the joint venture, whoever it might be, in managing the project over time. It can relate to all sorts of issues such as a breach of an act. From my experience, the state agreement acts that work well are the ones whereby there is that constant discussion with the minister and the department about issues on the project. That often needs to be confidential, and often it can be simply because of disclosures to the stock exchange. The government should not learn—I know that often there can be a conflict over this—about major changes through effects on the stock exchange. So, there has to be that sort of trust, and that happens quite frequently under state agreements.

Mr C.J. Tallentire: Is there a limit on the third party as well? Is it constrained to confidential communications with either the joint venture or the state?

Mr C.J. BARNETT: Not by the state. A due diligence process might be going on for a prospective sale or bringing in a new partner, so that would be an agreement between the joint venture and whoever that third party is—not one binding on the state.

Mr C.J. Tallentire: If the third party was a pastoral lease holder, what would be the situation?

Mr C.J. BARNETT: We cannot bind in any way the pastoral lease holder by this agreement; it binds just the joint venture. If it was doing something like that, it would probably come to the state; I would expect it to come to this state and say what it was doing, whatever that might be.

Schedule 1 put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

MR C.J. BARNETT (Cottesloe — Minister for State Development) [9.37 pm]: I move —

That the bill be now read a third time.

MR W.J. JOHNSTON (Cannington) [9.37 pm]: I want to speak briefly on the Natural Gas (Canning Basin Joint Venture) Agreement Bill 2013. We have had a lot of discussion. It has been a quite detailed assessment of the provisions of the agreement. We had a couple of amendments. The Premier called them a stunt, but we consider it important to get our position on the record.

This bill deserved detailed examination. This bill is unique. It is not often, as the Premier said on a number of occasions, that we do a deal with an explorer, effectively, rather than a developer. I wish this developer, this joint venture, the best. I hope it finds a bucketload of gas and some associated liquids as well, because that would be in the interests of the state of Western Australia. But we have to acknowledge two things. The first is that there is also an obligation from the state to the people who are the native title holders and the native title claimants in the Kimberley. In the view of the Labor Party, this agreement did not properly consider the interests of the Indigenous people in the Kimberley, and we wanted to get on the record, and I believe we have done so, our position regarding those issues. We think they are important. The second issue is that the Premier's second reading speech identified what appears to be a systemic issue with the Petroleum Act 1967 regarding shale gas plays. This all might be solved because there is sufficient infrastructure for the Kimberley to bring gas to market from that distant location. In 20 or 30 years this might not be a problem, but it is an issue today and I understand why if I were an investor in a joint venture I would want these additional benefits that are being granted by this agreement. Of course, that means people are also investing in the Kimberley today who do not have those benefits. People who invested in Buru and its joint venture partners invested on the basis that this was the law of the land and they will receive a benefit. I am about to vote in favour of that, but they will receive a big benefit. There has to be a good reason to give a benefit to a company as we are about to do. We therefore need to be assured by the government that these benefits are available to the people of Western Australia. Clearly, that is in clauses 7 and 27 of the schedule about local jobs. It will be very important that we see benefits for Western Australian industry beyond just the supply of gas into the market. The supply of gas is very important and we cannot get away from the fact that Western Australia is constrained due to the very high price of gas in Western Australia, which is bizarre given we are one of the major exporters of gas in the world, but that is the reality. If we can get more gas that will be fabulous but there needs to be proper outcomes from this agreement. We will watch the government's achievement in those areas into the future.

MR C.J. BARNETT (Cottesloe — Minister for State Development) [9.40 pm] — in reply: I thank opposition members for their support of the bill and for their individual comments. I think it was a good debate; it covered major issues, and I think it will be read with great interest. It is an unusual agreement act that deals with the exploration phase rather than the development phase of a project, but it is also the emergence of, essentially, a new industry in a very remote part of Western Australia. There are different views about the relevance of agreement acts, but this project would not progress under the normal laws of the land due to the very nature of the perhaps hundreds of production wells spread out over a large land mass. It is unique and therefore requires special provisions. I am very optimistic. I think this project will take several years to develop, but it has the potential to provide gas at, hopefully, affordable and competitive world prices to Western Australian consumers and industry for potentially 100 or 200 years, maybe longer. It is probably one of the most important developments since the initial iron ore projects, export LNG projects or offshore gas reserves. There is a fair way to go. This is an agreement act in the very early stages of the project, but, from all accounts, it is a project that is progressing well. I thank members for their support.

Question put and passed.

Bill read a third time and transmitted to the Council.