

PETROLEUM TITLES (BROWSE BASIN) BILL 2014

Second Reading

Resumed from 23 October.

HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition) [3.44 pm]: On behalf of the opposition, I am very pleased to support the Petroleum Titles (Browse Basin) Bill 2014. The reason we are dealing with this bill is all about rocks and cyclones. Back in 2004 Cyclone Fay came across the north west of our state—a category 5 cyclone—and as a result, as nature is sometimes wont to do, it threw up some unusual circumstances and some quite substantial rocks. We should regard them as a bonus to the state because we now have this legislation that will assist the state, on a rare occasion, to claw something back from the Feds. I see Hon Col Holt raising his hand in support! This is a bit of a bonus bill. I was advised that our retention leases and our royalties will increase from about 20 per cent to about 70 per cent as a result of this bill going through. I can see that the minister is very happy about that. Nature has its own way of getting its own back from the commonwealth sometimes. The affected area is about 350 kilometres north of Broome and contains the Scott and Seringapatam Reef areas. There are two parts and if members want, I am sure that the minister will be happy to provide copies of the map of the affected areas. What has happened is that the rocks have come up and changed the high-water mark area, enabling the state to grab the rocks and whatever is around them. That means that the leasing arrangements for the areas around the rocks need to be amended so the state's leases fall into place. I understand that there is one leasing arrangement for the commonwealth and two for the state. I think another party, ConocoPhillips, also has a lease in that space.

Even though the initial eruption of rocks, if you like, occurred in 2004, obviously, things move very slowly in the geoscience space, and the government was advised only in 2014 of the boundary changes that will occur to better manage the leasing arrangements and what will be the state area and commonwealth area. On 14 May this year, the state was written to by the executive director of Geoscience Australia, who provided advice about what changes had occurred and a review that has been conducted about the limits of maritime jurisdiction. In this letter it was noted that the review had identified several new high-water features on the north Scott and Seringapatam Reefs, which triggered a change in the delineation of Western Australia's coastal waters. That comes back to my opening comments about these changes being of significant benefit to our state. This bill seeks to ensure that boundaries are changed and there are no gaps in any leasing arrangements. I understand that the current leases expire on 23 December, so I note that there is some degree of urgency in getting this legislation through. It has already been through the other house and has come to us. This bill will ensure that there are no gaps and it creates a like-for-like title. It also ensures that there is security of tenure. As I have also said, the advantage for the state is that the state retention leases will increase from 20 per cent to 70 per cent, and royalties and the area of the gas field will also increase.

It might be said that it is a short, sharp bill of only a few clauses, but it certainly has very positive outcomes for our state. Some transitional arrangements about some specified leases in the Scott Reef area are also listed. There is probably not much more to say about this bill. It tightens up a set of circumstances that no-one would have thought would have happened. It brings significant benefit to the state and the changes we are dealing with have to occur to ensure that the leases continue and there is no difficulty with them. There is a bit of urgency with getting this legislation through before the commonwealth deals with its own legislation in due course. With those few words, we support this bill because we understand it has benefits for the state and we know there is a keenness to get it through. That is all I will say and I look forward to the bill having a swift passage through this house.

HON ROBIN CHAPPLE (Mining and Pastoral) [3.49 pm]: The Greens (WA) also will support the Petroleum Titles (Browse Basin) Bill 2014. It is interesting legislation. As the honourable member said, an island has been created due to a cyclone. On 22 May 2014, Geoscience Australia wrote to the Department of Mines and Petroleum advising of the changes to the state–commonwealth maritime boundaries around Scott and Seringapatam Reefs. On 20 May 2014, boundary changes had already come into effect. The reef lies approximately 450 to 460 kilometres north of Broome, in the Browse Basin, located on the Torosa gas field area. In 1967, the initial commonwealth and state offshore petroleum legislation both had titles over Scott Reef. The idea is that given there is now a further land mass there, we are extending the boundaries of the Western Australian jurisdiction. However, if we are not careful, when the leases become available, areas of lease will become vacant on renewal. The aim of this legislation is to stop that from occurring. A couple of small areas that are not contentious will be fixed up by some minor adjustments.

Part 1 of the bill provides the commencement provisions and the terms; part 2 deals with the petroleum titles on the Scott Reef areas; and part 3 deals with the petroleum titles in the Seringapatam Reef area where the state currently holds no title because it is held by the commonwealth. The final part of the bill deals with the transitional provisions.

The purpose of the bill is to provide security of tenure by overcoming the risk of creating vacant areas and uncertainty in the Scott Reef or Seringapatam Reef areas. It provides for the creation of like-for-like titles. In the north Scott Reef area, the increase in the state area also requires the creation of a new small exploration permit under the Petroleum (Submerged Lands) Act 1982 to cover part of commonwealth exploration permit WA315P, currently held by the ConocoPhillips Australia joint venture. This action will occur at the time of the renewal of WA315P in October 2015. To the north, the Seringapatam Reef area is covered by two commonwealth exploration permits, WA315P and WA398P. Although there are currently no state permits in this area, the bill provides for the grant of two state exploration permits when the existing commonwealth titles are renewed in 2015 and 2016 respectively. The new title at the extreme tip of the north Scott Reef area will occur in a like-with-like manner. Obviously, this is a very important area for Western Australia and the nation. It sits on approximately 15 trillion cubic feet of gas. It comprises about 40 by 15 square kilometres and is large by Australian standards, but I make the point that in a global context, it is very small.

We were given a really good briefing, and I thank the minister for providing two very eminent gentlemen from the DMP to come and brief us. The question we always had, which I need to put on the record so that we get a response from the minister at some stage to formalise that response, was: whereas the extension of the island was created by cyclonic activity—it could have been created by a tsunami or a range of other events—there is now rock on top of the reef, which has resulted in an island. What would happen if the rock was washed away?

Hon Simon O'Brien: We would go and put it back.

Hon ROBIN CHAPPLE: Yes; in a hurry, I think. Everyone would be out there shovelling like you know what! My understanding from the briefing is that once an island exists, if it sinks, it is still called an island. I think that is quite unusual.

Hon Simon O'Brien: You're trying to segue this into global warming, aren't you?

Hon ROBIN CHAPPLE: It could be that. If another big cyclone happens and washes away the rocks, there will no longer be an island. Apparently, the legal interpretation is that if an island existed, but it cannot be seen, it remains known as an island. I find that interesting, so I would love to get the minister's take on that.

Hon Mark Lewis: We could have a barge ready just in case!

Hon ROBIN CHAPPLE: Absolutely. It could be moored somewhere around Broome ready to race up there and dump the rock back, but we would not tell the commonwealth about it.

It is interesting that with the discovery of these rock outcrops, the dynamics of the economics for Western Australia, as opposed to the federal government, have changed.

An interesting point was raised at the briefing—this is mainly for the edification of members—that normally we establish the mean height through Australian Height Datum, or what we call AHD, which is the mean height between high and low tide. But for some unapparent reason, we can determine the mean height of islands by simply deciding that it is based on the low-water mark or the high-water mark. There is no legal definition of what is the boundary around an island, yet the boundary around Australia is always the AHD. We checked with Geoscience Australia and Geoscience confirmed that, in fact, we can make the high-water mark or the low-water mark the basis for deciding the size of the island if it is an island, whereas that cannot be done for the mainland. I found that rather interesting. The AHD, which came about in the mid-1970s exists today. It is interesting because the lowest astronomical tide data will be used to determine the islands. This measure is quite often used around bathymetric charts and references as local references of tide gauges established for that purpose. The Greens will certainly support the legislation.

I would like to hear the minister's clarification to the house of what would happen if the islands disappeared for a whole manner of reasons such as an earthquake or a tsunami or whatever. It would be interesting to know that we will not be in some legal stoush with the commonwealth after that event to reclaim our islands, unless Hon Mark Lewis has his barge ready at the time! That is my contribution.

HON KEN BASTON (Mining and Pastoral — Minister for Agriculture and Food) [3.59 pm] — in reply: First of all, in response to Hon Kate Doust's comment about rocks and cyclones, I was a little amused when I heard that a cyclone had exposed these rocks. It was not just one cyclone; cyclone Gregory in 2008 also might have put the icing on the cake, one could say. The Premier, of course, prefers to call these the golden rocks, so I think that is a good name for them. Interestingly, the Torosa field is some 40 kilometres long and about 15 kilometres wide at the widest part. I do not know whether members can see this map of the existing area, which shows the Torosa field and Seringapatam Reef. This map shows the areas around north Scott Reef and south Scott Reef. There is an interesting area in the middle, which is three nautical miles away, so it is in commonwealth waters. However, that could be discussed at a level higher than this Parliament, so obviously it would be up to the Prime Minister and the Premier to fill in the doughnut, one could say.

Hon Kate Doust: Minister, do you want to table those maps so that members can have a closer look at them perhaps?

Hon KEN BASTON: Yes, I am happy to do that. I will table the maps at the conclusion of my remarks.

The Seringapatam Reef is part of the Kronos–Poseidon field in the north, which is a ConocoPhillips Australia site. The Scott Reef is an area that is held by Woodside and is better known as the Browse Basin. The member is right; it is some 450 kilometres north of Broome.

Basically, this bill is very much about the transition of the tenure, bearing in mind that those changes mean that the rocks are in Western Australia.

Hon Robin Chapple raised a very interesting point. It also occurred to me that if another cyclone comes along, what will happen? One hopes that the rocks get higher! My advice is similar to that sought by the member, and it is from Geoscience Australia. The baseline will remain; even if it goes under water, that is how it will remain. It is an interesting scenario to think that the powers of the ocean could expose rocks of that size.

The commonwealth has one retention lease in this area and the state has two retention leases. An interesting point that the member mentioned is that this field has 15 trillion cubic feet of gas. Out of interest, Western Australia uses 0.5 trillion cubic feet of gas a year, and that includes commercial and domestic gas and industrial uses.

Hon Robin Chapple: Of course, I am saying that we do export a helluva lot more.

Hon KEN BASTON: Absolutely. I think the member said that it is a very small field.

Hon Robin Chapple: In the global context.

Hon KEN BASTON: In the global context; the member is right. However, it is a valuable asset to Western Australia.

Basically, members have pretty well covered the issues. Hon Kate Doust mentioned the urgency of the bill, as the Scott Reef retention lease will expire. A retention lease is a lease that is not at the stage of being commercially viable but could be commercially viable in the future, and those leases have a 15-year life span. One of these leases will expire on 23 December 2014; hence, the urgency of the bill. Under existing legislation, a gap of a vacant area would result between TR/5, which is the little area on the doughnut that I was talking about. The bill provides for the continuation of tenure of both the Scott Reef and Seringapatam Reef areas. The Department of Mines and Petroleum has engaged closely with the commonwealth, which has advised that it is comfortable with the Western Australian bill, and the commonwealth is progressing amendments for the whole of Australia. Wherever that is happening anywhere else in Australia, it is going down the same path.

It is a very simple bill. It is a technical bill. It is a valuable bill. The bill is basically broken up into four parts—the preliminary, the Scott Reef area, the Seringapatam Reef area and the transitional area. That is about it. I understand that members do not want to go into committee, so I commend the bill to the house.

[See paper 2307.]

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Hon Ken Baston (Minister for Agriculture and Food)**, and passed.