

**OIL REFINERY (KWINANA) AGREEMENT AMENDMENT BILL 2016**

*Second Reading*

Resumed from 10 November.

**HON ROBIN CHAPPLE (Mining and Pastoral)** [12.56 pm]: I want to turn to a certain part of the legislation immediately so that the minister can try to identify my concerns and then I will talk about the Oil Refinery (Kwinana) Agreement Amendment Bill 2016 at more length. The amendments to the act refer to parts of the original bill that are not included in the consolidated Oil Refinery (Kwinana) Agreement Act 1952. I turn specifically to the clauses to be inserted. Page 7 of the bill refers to the deletion of paragraph (i) of subclause (t). There is no paragraph (i) of subclause (t) in the consolidated act.

**Hon Peter Collier:** What was that one?

**Hon ROBIN CHAPPLE:** I am referring to paragraph (i) of subclause (t). Line 10 on page 7 of the bill states —

(e) deleting paragraph (i) of subclause (t) ...

I have in my hand what can be downloaded from a list of acts on the website. I think it refers to the original legislation, which did have a paragraph (i) of subclause (t). The bill also refers to a subclause (u). There is no subclause (u) in the original act. We have to remember that one of the problems we may be experiencing—I am only making a supposition—is that a number of attempts have been made over time to amend this piece of legislation. In 1953, 1954, 1959 and right up to 1975, non-ratified amendments were made. Amendments were made in 1985, which are current. Interestingly, the amendments contained in 1985 are not in the act that can be downloaded from the list of acts on the website. Noting the time, I ask the minister to come back and clarify where they are. This legislation has to be passed by a date in December for it to have legal effect and it is important that we know what we are dealing with. I spent quite a bit of time going through this with people who should have some legal knowledge of what is going on, and it is unclear where some of those later amendments appear.

*Sitting suspended from 1.00 to 2.00 pm*

**Hon ROBIN CHAPPLE:** I will come back to the matters I was dealing with earlier, but, firstly, I want to go through some of the more basic issues. State agreement acts are non-compulsory legal instruments that outline the respective entitlements and obligations of the state government and private developers for major resource projects. Western Australia has used state agreement acts to foster its resource development more than any other state or territory. State agreement acts are a means to attract or secure a particular type of investment that contains a range of financial and non-financial incentives to proponents as well as certain obligations. The Greens have long opposed state agreement acts and it does so because, firstly, as some of the longer serving members of this place will remember, we define it as being anti-competitive, in breach of the competition policy guidelines at the federal level, and, in many cases, particular provisions mean that state agreement acts can never be amended without the participation of both parties.

As far as I am aware, there are currently 95 agreement acts that cover a range of things from the Albany Freezing Works Agreement Act; the Browse (Land) Agreement Act, which is a current one; the Dardanup Pine Log Sawmill Agreement Act; and 18 of them that cover the iron ore industry. Obviously, the Iron Ore (Mount Newman) Agreement Act 1964 has been in the media recently. There also is the Paper Mill Agreement Act 1960 and the Wood Chipping Industry Agreement Act 1969. They cover a whole range of different things. The Department of Resource Development—now the Department of State Development—had in its promotional material some very pertinent points about the value of state agreement acts to the state. We do not necessarily agree that they are of particular value because they do, as I said, in many regards provide an anti-competitive status to other miners. I refer to an old document that was put out by the DRD. According to my notes, it states that most state agreement acts —

- bind both Government and developer to specific responsibilities.

I really, seriously hope that the Nationals are listening. It continues —

- provide an additional level of security over the life of a major project.
- are not compulsory.
- can only be changed by mutual agreement in writing between the parties concerned.
- are a key to the extraordinary development of the State's vast mineral and energy resources.

That is something I would disagree with —

- foster WA's resource development.
- ensure the efficient and effective development of WA's natural resources.

- maximise resource development opportunities.
- expeditiously coordinate the decision-making process for major projects.
- account for 73% of the value of mineral production and 60% of all direct employment in mining.

State agreement acts in Western Australia cover a wide range of commodities or issues but have mostly been associated with large-scale resource development. There were five state agreement acts that predated the act we are dealing with today, which is the Oil Refinery (Kwinana) Agreement Amendment Bill. They were: the Wood Distillation and Charcoal Iron and Steel Industry Amendment Act 1943, the Albany Freezing Works Agreement Act 1945, Broken Hill Proprietary Steel Industry Amendment Act 1952, and the two Fremantle electricity undertaking agreement acts of 1952. The first two acts were introduced by the Labor government and the last three that I mentioned were introduced by the Liberal government, so none of the political parties has a particular problem with them, other than the Labor Party that, before the last election, put out a statement that said it would not enter into any more state agreement acts—although that quite quickly fell by the wayside.

**Hon Kate Doust:** We lost the election so therefore we couldn't; I think that's why. It's not impossible, just hard.

**Hon ROBIN CHAPPLE:** Yes, sorry. I will go back. I mean the last election that the Labor Party got elected into government.

**Hon Kate Doust:** In 2005.

**Hon ROBIN CHAPPLE:** Yes, that was the Labor Party's policy position in 2005. State agreement acts came from the desire, post the Second World War, to provide a diversification of a state's industrial base. We have to remember that, for many years, we would not allow iron ore mining in the state because it was seen to be potentially hazardous to our own security to export iron ore to other countries that could then use it in warfare against us. The Department of Industrial Development developed a policy aimed at attracting new mineral and energy projects into Western Australia. This policy resulted in the establishment of the Kwinana industrial estate in the early 1950s and the attraction of major secondary processing industries including an oil refinery and a steel mill.

Government assistance created technology parks in certain locations. Most state agreement acts have some form of locational assistance. The percentage of state agreement acts with rating discounts is 49.2 per cent; resumption powers, 43.1 per cent; land assistance, 32.3 per cent; crown land access arrangements, 24.6 per cent; terms and leases, 21.5 per cent; and rental assistance, 6.2 per cent. In some examples like Kwinana, Kemerton and Oakajee, extra incentives are provided to attract investors to particular locations.

The Oil Refinery (Kwinana) Agreement Act is one of the state agreements that cover freehold land. Most of the mining corporation agreements do not. There are six Kwinana-based state agreement acts. Across the state there are substantial amounts of annual subsidy involved in putting forward state agreement acts. This subsidy continues to be negotiated without the consent of those who are required to pay it—in other words, local governments and the ratepayers. It is worth noting that this legislation deals with part of that, but I will come to that a bit later.

If state agreement acts were required to pay appropriate compensation, which would then be a budget line item, it is unlikely that this practice would continue. There is also little doubt that many companies would pay rates on the same basis as other entities to local councils if they were not bound by state agreement acts. As a former Port Hedland town councillor, we argued long and hard in the 1980s to get more than the peppercorn rents that were granted to us in lieu of rates. That has now changed and certain components are rateable. I make the point that even in Port Hedland and other places, only certain aspects of the land is available for rating. Things such as crushers or, indeed, when dealing with this legislation, the principal plant, still are not rateable. These amendments and this legislation allows for the rating of certain components.

In September 1995, Dover Consultants published a paper entitled "A Background Paper for State Heavy Industry Policy: A Submission to Government". The consultancy worked with a steering committee with representatives from the Chamber of Commerce and Industry of Western Australia, the Chamber of Minerals and Energy, Alcoa, Devex Limited, ConZinc Riotinto of Australia, the former Department of Resources Development, the former Department of Planning and Urban Development and the Department of Commerce and Trade. The paper mapped out WA's economic future based on the establishment of five or six new heavy industry sites at strategic locations. Of existing proposals, the report recommended the expansion to the ocean of the Kwinana industrial area and Kemerton Industrial Park with a new port development, industrial zoning for Breton Bay in addition to the port development in the in the Geraldton area, and further development of the Dampier, Karratha and Port Hedland gateways for the Pilbara.

The report stated that worldwide heavy industry sites are associated with ocean access deep water ports. There is little doubt that amongst the influential government departments, both deep water ports and steel mills have long

been high on the agenda. The model is based on processing WA's resources aimed towards the export market. Nothing within the competition policy agenda is capable of assessing whether this model for development, which necessitates a government actively competing for major overseas investment projects, is in the overall public interest of Western Australia.

Although the Dover paper has not been accepted by government as government policy as a package, neither has there been public response rejecting all or part of this submission on behalf of the very bodies that are driving the state agreement process. It has been shown that direct assistance, when it is provided to some firms over others, is anti-competitive, according to the National Competition Council's own guidelines. But apart from that, investment incentives as promoted by the Dover report are challengeable under the World Trade Organization's Agreement on Subsidies and Countervailing Measures, especially when directed towards export industries.

There have been a number of variations to the Oil Refinery (Kwinana) Agreement Act. The principal act was enacted in 1952. There was a non-ratified, non-tabled agreement in 1953. There was a further non-ratified, non-tabled agreement in 1954. There was the Oil Refinery Industry (Anglo-Iranian Oil Company Limited) Act Amendment Act 1956, which is current. There were non-ratified, non-tabled agreements in 1959, 1962 and 1965. There was a further non-ratified agreement in 1975 and then an amendment was made in 1985, which amended the agreement and is current. There was also the Industrial Lands Agreement (Kwinana) Agreement Act, which had some relevance, in 1964.

The important part to remember with agreement acts—again, I hope the Nationals are seriously listening to this—is one of the reasons that we oppose them. Section 3, “Approval, ratification, and confirmation of Agreement”, of the Oil Refinery (Kwinana) Agreement Act 1952, states —

- (3) Without limiting the generality of the provisions of subsection (2), all other Acts, and also all present and future regulations, local laws, by-laws, rules, orders and proclamations made and notices given under other Acts are, by force of this subsection, waived, suspended or otherwise modified to the extent necessary to give effect to the Agreement —

Which means we cannot change them —

or to ensure that all rights, powers, authorities, discretions and exemptions thereunder may be fully exercised and enjoyed.

As an aside, I turn to what is contained within the iron ore acts that we have just talked about —

- (c) no future Act of the said State will operate to increase the Joint Venturers' liabilities or obligations hereunder with respect to rents or royalties;

We oppose that and the Nationals fail to realise that it is contained in the legal doctrine of the state agreement acts that they are trying to amend. Having said that, I will return to the intention of this legislation. We support a number of the components of the legislation. Section 5(n) of the original act states —

notwithstanding the provisions of any Act the valuation of the refinery site shall, for rating purposes, be on the unimproved value; but this subclause shall not apply to any part of the refinery site upon which a permanent residence is erected;

The amendment deals with that by deleting from clause 5(n) of schedule 1 “a permanent residence is erected” and inserting —

is situated the following improvements:

- (i) accommodation, recreation, administration facilities and associated buildings; or  
(ii) maintenance workshops existing within 100 metres of the facility type listed in subparagraph (i) above.

I am concerned that although that clause allows the local authority to start rating at least some parts of the area covered by the Oil Refinery (Kwinana) Agreement Act, it does not cover the principal industrial or factory areas. This is the point that was made in the Pilbara and places like that where major components of major industry are not rateable by the local authority. Local government has argued for a long time that, under state agreements, no component of industry should be exempt from rating. There is obviously the positive insertion of —

- (g) inserting after clause (x) the following new subclauses:

There will be a whole process of enabling positive discrimination in relation to employing local labour and professional services and material. That is a positive.

**Hon Peter Collier:** What was that?

**Hon ROBIN CHAPPLE:** That was in relation to what is to be inserted after clause (x).

**Hon Peter Collier:** I thought I heard you say that that was a positive.

**Hon ROBIN CHAPPLE:** It is a positive. Sometimes members on the other side like to think we have a negative approach to things, but when we have stood up in this place and supported the small and the mid-tier miners in a very positive way —

**Hon Peter Collier** interjected.

**Hon ROBIN CHAPPLE:** Yes, we have supported the prospectors. When we have stood and supported the mid-tier miners over the sale of Utah Point, somehow that support is never acknowledged.

**Hon Kate Doust:** You're are not a real green Green anymore; you're a sort of browny Green.

**Hon ROBIN CHAPPLE:** Okay. Let us go to the positives.

That led me to pull the Oil Refinery (Kwinana) Agreement Act 1952 from the government website containing acts. I spent some considerable time reading it to try to find clause (x). There is no clause (x) in what I could pull down from acts online. As the minister will be well aware, I raised that with the minister just before the lunch break. It appears that there is a consolidated act, which I have just been given, that brings together the original act and the act that appears online. But if a member of the public or a member of Parliament want to access the act online, they will get only the reprint from July 2001, the version that is available currently to members of Parliament and the general public. The consolidated act, which we are dealing with, is not available. I have to thank parliamentary staff for finding the original act and pulling together some amalgamations. As we troll through this during the Committee of the Whole stage, I will want to make sure that all the clauses we are dealing with are spelt out as they should be within the legislation—the amalgamated act.

There is also the issue concerning clause 2(3)(d), which will create some regulation-making powers and reads — inserting after “State” in subclause (r):

and for the avoidance of doubt reference to:

- (i) an Act includes the regulations for the time being in force thereunder; and
- (ii) an Act or regulations includes the amendments to that Act or regulations and also any Act or regulations passed in substitution therefor or in lieu thereof’;

I want to clarify the intent of that. I apologise to the minister and the advisory staff, who gave me a fairly detailed briefing, that we did not seek to clarify that during the briefing. It became a little more apparent to me afterwards.

People will want to know why we oppose this agreement act. As I say, it does a number of positive things. The one thing it does that is not positive in my view is extend the time of the state agreement act. The Greens would like to see all state agreement acts slowly phased out and operating in a market place today that is much more conducive to being competitive. These companies have been here for a long time and they are established. I do not believe they need many of the conditions under state agreement acts that give them an anti-competitive position and is disadvantageous to other industries that might wish to compete with them. Notwithstanding that, I have said to the Leader of the House, who is in charge of this Oil Refinery (Kwinana) Agreement Bill, that we support many components of it, but the fundamental principle of state agreement acts, in our view, has been to the detriment of this state. I give some notice that we will need to go into the Committee of the Whole House to resolve a number of these problems.

**HON RICK MAZZA (Agricultural)** [2.27 pm]: I rise to make a few brief remarks on this Oil Refinery (Kwinana) Agreement Bill 2006. They will be only brief remarks; Hon Robin Chapple covered a lot of what I was going to say today. I want to point out that the BP refinery has been in Kwinana for some 60 years and has been a major employer of people around the Kwinana area. It employs 450 staff and 350 contractors. Given the job figures for this state that came out today showing an unemployment rate of 6.5 per cent, now rated as the worst in the country, we cannot be flippant about these sorts of industrial facilities; we need them. This state agreement act amendment is to give BP some certainty of tenure so that it can undertake an \$80 million maintenance program that will employ another 1 800 people during its shutdown. It is a very important employer, particularly for the people in the Kwinana area. BP has a history of employing predominantly local people, which is what we are after. It is one of the few remaining refineries in Australia. It is the sole supplier of refinery fuel to Tasmania and the largest supplier to South Australia and covers about 80 per cent of our production. It is therefore a very important facility and employer in this state.

The extension of time to give BP some certainty of tenure to undertake an \$80 million maintenance program is perfectly reasonable. I do not blame BP for pursuing that. There has also been a clean-up of the agreement by deleting some obsolete bits and pieces such as the requirement for a wet mess. At one stage Kwinana was remote so they had a wet mess as part of the agreement to provide refreshments for workers.

I indicate that the Shooters, Fishers and Farmers Party supports this legislation. I think it is very sensible and important to the state.

**HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition)** [2.29 pm]: On behalf of the opposition, I indicate that we are very pleased to be able to support the Oil Refinery (Kwinana) Agreement Amendment Bill 2016. I listened to the comments made by Hon Robin Chapple and I look forward to seeing what sort of questions he poses during the committee stage today, but I find myself in agreement with Hon Rick Mazza. BP is a significant employer in the south metropolitan region, currently employing about 350 people. I know that over the next few months, when it goes into shutdown to do its refit, it is looking to have about 1 800 people on-site. It is a substantial refit. I know there has been quite significant stress amongst some of the workers about whether BP would continue in that location, so having this amendment bill pass through the Parliament will not only allay those concerns for the people working on-site, but also provide security of tenure for BP for the next 30-plus years. It will also ensure BP's security for its investment in this significant project, with \$80 million to be invested in the refit of that site, and provide security around fuel supply issues in Western Australia, given that BP has about 58 service stations throughout the state. Certainly the local site provides for a range of businesses in the Cockburn Sound area, such as Coogee Chemicals, Wesfarmers and a range of others in and around that space, and has done so for an extremely long time.

For anyone who grew up in the Rockingham–Kwinana area, BP was always seen as a very good employer that provided long tenure and security of employment for the people who worked there. Having grown up in that area, we knew many people who worked there. Some information was provided by BP about some of the innovative work that has been done on-site, such as inventing Opal fuel and its distribution. I like to think that important work was done by a couple of blokes I knew when I was growing up and who worked in the labs then and for pretty much all their working lives—people like Albie Schwaiger and Peter Moore from the local parish, who were chemists. I know that BP continues to be very active in that area, and not just in terms of developing jobs.

The member was absolutely on the money. Today it was announced that our unemployment rate is at 6.4 per cent. We know that for the last 19 or 20 months there has been an increasing trend in the loss of full-time employment and the increase in part-time employment. Neither of those things is positive, so we have to find ways to generate employment. I think that with the passage of this bill, certainly for the people in that area, albeit for a short period during the refit, there will be significant growth in the number of people who are able to work on that site. BP has already talked about putting in place some pretty rigorous shift arrangements to make sure that the work gets done. There have been ongoing discussions between the relevant unions and the company about how those processes would be managed to effect the changes down there. It is a relatively positive outcome.

Obviously, we on the Labor side do not hold the same concerns about the longevity or duration of state agreements—we think they fit the purpose that is required. I think the comment has already been made that we have seen a number of refineries shut down on the east coast, which has resulted in a loss of jobs and loss of access to those fuel arrangements. It is imperative that we are able to ensure that this particular site stays operating and stays where it is. It is very important for that part certainly of my electorate and of Hon Simon O'Brien's electorate that we look at how to create more employment opportunities and more permanent employment opportunities, with capacity for change in that area. My sister Stephanie actually works at BP Kwinana and has worked there for a number of years in the labs. She is now doing other work around the site. Given her work experience, BP has always been very proactive in giving people opportunities on-site, so that is quite positive.

BP has always been very active in the local community in terms of community outreach, and has participated in a range of locally based organisations and events to engage and support various community needs down there. I think BP has been a very positive corporate citizen. When it comes to dealing with the changes in this bill, it is only commonsense that BP would want to continue down there. Based on the briefing I had the other day, I know that an approach was made to the state government about two years ago to start the discussions around amending the current state agreement so that BP could push out its time frames for the agreement. That was done in light of the fact that BP had to make these significant changes on-site. As I said, by having the government agree to this, it has provided that certainty for the company to be able to continue there. If the government had not indicated support for these changes, BP would have been put in the very difficult position of having to determine its long-term plans about whether it would stay in that location. That would have been quite detrimental to a significant number of workers who live around that area, but there would also have been a flow-on impact to a range of other businesses that rely on BP for their products in that area.

From the briefing, I thought that some very positive changes were being made to this agreement—some upgrades, if members like—especially given a lot of discussion over the last couple of years about local content and the fact that we have seen a decline in manufacturing in our state, which has led both to a loss of employment opportunities and, in some cases, a loss of manufacturing companies, with jobs and product development going either overseas or to the eastern states. I acknowledge that as part of this agreement, BP will now be required to provide local content reports to the state government. It will also be required to prepare a local participation plan. I thought that was quite a significant change, and that is hopefully because the

government has taken on board some of the criticism that has been made about the decline in local content throughout the state. I thought that was a very positive change. I remembered that only last week I asked a question of the Minister for Commerce about the local content unit housed in the Department of Commerce. The number of full-time employees in that unit has been culled, so my concern is that the unit will not be able to service the industries that it needs to. It is very important that these reports and plans will be put in place. They will constantly remind BP as a company that it needs to stretch out into the local business area to both small and large businesses to engage and develop those relationships and to support those local businesses. My only comment is that I hope, in due course, the local content unit of the Department of Commerce will be better resourced so that it can provide that support to companies such as BP. As we know from the answer to that question last week, there are only 2.8 full-time equivalents in the Department of Commerce who have responsibility for local content for the whole state, as diverse as that is across every sector of industry. The government is certainly getting good bang for its dollar in terms of the workload that those 2.8 full-timers would bear. I would hope that at some point the government gives consideration to boosting the staffing arrangements in that unit so that it can assist companies such as BP to better develop both the plans and the relationships with those other organisations.

The other benefit of this agreement amendment, which Hon Robin Chapple has referred to, is the ratings issue for the state agreement sites. My notes on this are fairly rough, so I cannot remember whether these things will be included or excluded for ratings. The offices, the recreation centre facilities, the canteen and the laboratories will be rated on the gross rental value.

**Hon Peter Collier:** Yes.

**Hon KATE DOUST:** That is correct. I said to the advisers the other day that I could not remember—Hon Simon O'Brien could remind me—whether BP's location comes under the bailiwick of the Rockingham council or the Kwinana council. It might just be on the border.

**Hon Peter Collier:** It would be close.

**Hon KATE DOUST:** I think it might be Rockingham.

**Hon Simon O'Brien:** I want to check the map. I've never contemplated that before.

**Hon KATE DOUST:** I think it is Rockingham. It is very close because it is tucked in.

**Hon Peter Collier:** It might straddle both.

**Hon KATE DOUST:** It will be an interesting argument between both those councils about who will reap the rates.

**Hon Simon O'Brien:** Hopefully, it'll force them to amalgamate those councils, but the question didn't arise.

**Hon KATE DOUST:** Quite frankly, Hon Simon O'Brien, it is an excellent idea. Hopefully, one day we can encourage and facilitate that change, given their common shared interests, but that is another debate. Who knows what is around the corner?

I jokingly asked the advisers what sort of rates figure the council would be looking at and I was told that they had not done any calculations. I said that they may not have done any calculations, but I am sure that the CEO of the relevant local government authority would have already broken out the calculator and done his numbers to work out what sort of cheque would be coming his way in due course.

Those are three quite significant and positive changes that arise from the amendments to this agreement. The Leader of the House can see how brief my briefing was. There are a couple of other minor technical changes to the original agreement. The original agreement specified that any decision-making would be done by the Treasurer. I understand that under the change in this amending bill, it will simply be the minister. I suppose that has been done in case of a change to portfolio responsibilities. It is a very sensible change. I understand also that an amendment in the bill will ensure that BP complies with the Environmental Protection Act. I understand that some quite specific words have been inserted into the agreement to ensure that that happens.

The one thing that piqued my interest was the pub.

**Hon Peter Collier:** You Kalgoorlie girl, you!

**Hon KATE DOUST:** Yes, Rockingham–Kalgoorlie.

At first at the briefing, I thought they said that BP was going to establish a pub. I thought: That is very novel; why would you do that on a worksite? It seems to go right against the trend. However, it was pointed out to me that that element will be deleted. I then thought about where that venue may have been at that time. It shows the transition of attitudes around alcohol and workers. I suppose back in the early 1950s when BP first opened, it would have been fairly common practice for people to down tools at the end of the work day and head to the pub for a cold beer before they went home, as a bit of a collegiate activity with their workmates. In these days of drug and alcohol testing, that cannot happen. I thought that the pub the advisers were referring to may have been

in Naval Base, which is a little further on, or it could very well have been in the original Medina area. It will be interesting to find out where it was historically. That is quite an interesting change. I could not think of any other workplaces down that way that would have that type of facility, other than Naval Base, which has its own mess. It is quite a novel set of arrangements.

This company has a very long and important history in the south metropolitan region. When one of my great-uncles, Oscar Gardangs, came to Western Australia postwar and after he did his bonded time in the south cutting timber, his first job was at the BP Kwinana refinery. He worked there at the very beginning when the company was setting up and then he eventually moved to the city. When the housing arrangements were formally opened up to service the workers in that area—Rockingham and Kwinana have long histories in our state—a lot of people gravitated there because of the employment opportunities and then moved on. As we have found over the years, BP, like Alcoa and a couple of other significant employers in the area, has stayed the distance and has continued to develop and grow its employment opportunities there. It is regarded in a good light by the local communities, and I think it is significant for those communities to have access to a solid employment base. That is a very positive thing to happen.

There probably is not much else to say. It is not an onerous set of amendments. There are only seven clauses in the bill, and I have outlined the key issues. We support this bill. We support the amendments to the state agreement and we do so primarily because it is important to make sure that BP can continue supporting local businesses, supporting the security of fuel supply and certainly supporting the ongoing employment of local people who predominantly live in and around the south metropolitan areas of Kwinana, Rockingham and Medina. With those few words, I put on the record that Labor supports this bill.

**HON SIMON O'BRIEN (South Metropolitan)** [2.46 pm]: I will rise for only a few minutes because I think it is extraordinarily important that the overwhelming view of this Parliament be in support of the Oil Refinery (Kwinana) Agreement Amendment Bill 2016 and specifically to endorse the variation agreement to ensure that the BP refinery in Kwinana is in a position in which it will be improved, expanded and refurbished, it will continue to provide employment, it will continue as, I think, the biggest refinery in Australia—let us face it; that is a shrinking group these days—it will continue as a place that manufactures a product, and it will continue to provide many different fuels that are necessary to power our state. It is important to every person in Western Australia. The government needs to be congratulated, as it has been by several speakers before me, for making sure that a variation to the agreement has been struck that BP is happy about and will act accordingly to preserve the future of the refinery. It is also in the interests of every Western Australian, without exception, including Western Australians who think it is a bad idea to support this bill.

I was not planning to speak on this bill, but I think it needs to be made crystal clear that even though some members in this place may choose to seek to frustrate this process, as is their right, the overwhelming view of parliamentarians on almost all sides of the house is that we certainly want the BP refinery to continue. Yes, there is a lot of history. Some of the old photos show that it had not only its wet mess, but also its own fire brigade unit. I have seen pictures of people doing their drill on a parade ground in the postwar days wearing either pith helmets or some other sort of helmet—I am not sure. They also had a nursing station there, but times have changed. I do not know how many smoking rooms they still have on-site in the refinery these days. Things have changed since I went there as a school student—whenever that was—and they attempted to teach me what a catalytic converter was and does.

**Hon Kate Doust:** How did that go for you?

**Hon SIMON O'BRIEN:** It was what the American military would call an incomplete success, member. It was not quite that bad, but I was not paying the closest of attention. Later I came to understand it when I was carrying out excise functions with the Australian Customs and Border Protection Service, for example. That is when one understands how important a producer of petroleum products is. That is what a refinery does. It takes the raw material and turns it into product that we use for all sorts of things such as premium motor spirit—as BP calls its petrol or gasoline—and also aviation turbine kerosene or jet A-1 as BP called it when I was involved in that industry. Yes, we have seen all sorts of changes down there. I can remember when they had manual valves and people would have to open different valves to move product by the millions of litres around the place and to blend it and so on. I was down there not so long ago to have a look at the control rooms, and now it is done with banks of computer screens and buttons that can tell them not only what valve is open and shut so that they know which way the product is going, but also how the blending is going and the specific gravity, temperature and all the other variables of all the elements. We need to allow the country's premier refinery to continue to exhibit those sorts of developments in technology, but, most importantly, to provide Western Australia with fuel and energy security. I find it incomprehensible that some Western Australians would have the view that it is quite okay to oppose that or put it in jeopardy. I am rising not to dispute any member's right to hold those views, but to make it absolutely clear that that is not the collective view, I would hope, of the Parliament of Western Australia and that the support for this refinery to continue is overwhelming and would survive any

**Extract from Hansard**

[COUNCIL — Thursday, 17 November 2016]

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Hon Robin Chapple; Hon Rick Mazza; Hon Kate Doust; Hon Simon O'Brien; Hon Peter Collier

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change of government that may occur at any stage between now and 2050. If we have a change of government in 2048 or around then, it is good to know that the incoming Labor administration also supports the Oil Refinery (Kwinana) Agreement Amendment Bill 2016—yes, I know, I am being optimistic.

I will conclude my remarks very soon, but I want to observe that the agreement will henceforth involve certain benefits to Western Australia that include the matter of gross rental value being redefined to include certain site improvements for rating purposes, as it should. I particularly note—a former Minister for Commerce had something to do with these things—the requirement to prepare and implement a local industry participation plan and all that goes with that, which is also a very practical improvement in the situation. I would think that just about everyone in this place knows of someone who has been or is employed at the refinery, whether it be a contractor, someone like me who might go on-site to board ships, dip tanks or prepare procedure statements, or someone who paints the pipes or mows the lawns or whatever other useful and beneficial occupation needs to be carried out there. The husband of my part-time research officer is employed in the control room on shift. I know that they are certainly sweating on making sure that we have a BP refinery and that that operation keeps going.

It appears that not all the members for South Metropolitan Region are prepared to back this bill, but I assure members and anybody else observing these matters that I am standing foursquare for this bill. I am sure that Hon Phil Edman and Hon Nick Goiran are. We know that Hon Kate Doust and Hon Sue Ellery are. If there is anyone else who wants to fail to support south metropolitan region or anyone else in Western Australia, they will have to go on the record now. I would urge them to think again before committing themselves in such a way. I support the second reading of the bill.

**HON PETER COLLIER (North Metropolitan — Leader of the House)** [2.56 pm] — in reply: I thank Hon Kate Doust, Hon Rick Mazza and Hon Simon O'Brien who gave us a very colourful yet enthusiastic indication of their support for the Oil Refinery (Kwinana) Agreement Amendment Bill 2016. I thank all three honourable members for their support of a very important bill. I would also like to thank Hon Robin Chapple for his contribution. Although I do not agree with his views on state agreements or on this bill in particular, I always appreciate his contribution. This is a very important bill that ratifies the agreement between the state and the BP refinery in Kwinana and will assist with, as several members have mentioned, not just energy security that is pivotal, and that must be remembered, but also the employment over the last 60 years of the duration of this state agreement of literally tens of thousands of Western Australians. The company's operations under the state agreement comprise: the operations of the oil refinery in the Kwinana industrial area; pipelines that transfer product to the Kewdale freight terminal; aviation fuel, which is piped from the refinery to Perth Airport; and three jetties and a tug haven that are used to receive crude oil and export the refined products interstate and to Fremantle port. As members can see, it is a very significant site for not just the Kwinana–Rockingham area, but also the state and the nation as a whole. This is why it is important to have that security of tenure. This bill extends the current state agreement from 2020 for another 30 years to 2050, which inevitably will provide that security of tenure.

Hon Robin Chapple had a couple of specific questions, first of all about the regulations under proposed section 3D. It is important to note that the provisions that rotate to update the act are not about providing regulation-making powers. If the member would like more clarification on that in the committee stage, I can do so. Hon Robin Chapple also had a question about the consolidation of state agreements as per the website that he identified. State agreement acts on the State Law Publisher website comprise the original agreement and all subsequent variations of that agreement ratified by Parliament through the amending acts. It does not include non-ratified variations. The Department of State Development maintains a database of consolidated state agreements, and that is why a disparity may exist. Hon Robin Chapple said he had some other questions that he would like to ask and specifically mentioned the components of the bill, so we can discuss that in committee. Having said that, I would like to thank all members for their contributions and particularly those who indicated their support of this significant bill that will give security of tenure to the state agreement between the BP oil refinery at Kwinana and the state. With that, I commend the bill to the house.

*Division*

Question put and a division taken, the Acting President (Hon Brian Ellis) casting his vote with the ayes, with the following result —



Ayes (29)

Hon Martin Aldridge	Hon Kate Doust	Hon Mark Lewis	Hon Samantha Rowe
Hon Ken Baston	Hon Sue Ellery	Hon Rick Mazza	Hon Amber-Jade Sanderson
Hon Liz Behjat	Hon Brian Ellis	Hon Laine McDonald	Hon Sally Talbot
Hon Jacqui Boydell	Hon Donna Faragher	Hon Robyn McSweeney	Hon Darren West
Hon Paul Brown	Hon Nick Goiran	Hon Michael Mischin	Hon Phil Edman ( <i>Teller</i> )
Hon Jim Chown	Hon Dave Grills	Hon Helen Morton	
Hon Peter Collier	Hon Nigel Hallett	Hon Simon O'Brien	
Hon Stephen Dawson	Hon Peter Katsambanis	Hon Martin Pritchard	

Noes (2)

Hon Lynn MacLaren	Hon Robin Chapple ( <i>Teller</i> )
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Pairs

Hon Col Holt	Hon Alanna Clohesy
Hon Alyssa Hayden	Hon Adele Farina

Question thus passed.

Bill read a second time.

*Committee*

The Deputy Chair of Committees (Hon Brian Ellis) in the chair; Hon Peter Collier, (Leader of the House) in charge of the bill.

**Clause 1: Short title —**

**Hon ROBIN CHAPPLE:** I want to go to something quite interesting and fundamental to start off with. In schedule 2 of the Oil Refinery (Kwinana) Agreement Act 1952 there are the words “after shares”. However, I am looking at the consolidated version of the act with amendments that was given to me and I am trying to find it. If the Leader of the House finds it, perhaps he can give me the number of the clause.

**Hon Peter Collier:** What are you looking for?

**Hon ROBIN CHAPPLE:** Where it states at clause 3(4)(b) “after shares” in subclause (k).

**Hon Peter Collier:** What page?

**Hon ROBIN CHAPPLE:** I am referring to the original 1985 act here.

**Hon Peter Collier:** You have just given us a word.

**Hon ROBIN CHAPPLE:** It is the variation to clause 5 of the agreement—schedule 1—listed at clause 3(4)(b) of schedule 2. It is schedule 2 of the act, which is the variation to the agreement.

**Hon Peter Collier:** Schedule 2?

**Hon ROBIN CHAPPLE:** That is what I started off as saying.

**Hon Peter Collier:** That is all right, mate; no, you did not say anything. You just gave us some words.

**The DEPUTY CHAIR:** Perhaps if the member asks the question, it might be easier to find the answer.

**Hon ROBIN CHAPPLE:** The issue is that in the variation to the agreement, it states —

- (4) Clause 5 —
  - (a) subclause (d) — by deleting “-1950,”;
  - (b) subclause (k) — by inserting “after shares” ...

In the variation on the agreement, the quotation marks have been put around both “after” and “shares”, as if it was a quotation of what was written in clause 5(k), which is actually incorrect. What should have been in quotations was in fact the word “shares”, not “after shares”.

Several members interjected.

**The DEPUTY CHAIR:** Order, if the member sits down, we can wait for the answer.

**Hon PETER COLLIER:** Yes, it was inserted in 1985.

**Hon Robin Chapple:** I understand that.

**Hon PETER COLLIER:** I am not quite sure what the member is referring to.

**Hon Robin Chapple:** I am just pointing out that there was a mistake.

**Hon PETER COLLIER:** Okay.

**Hon ROBIN CHAPPLE:** I want to refer more generally to clause 1 of the bill. I refer to clauses 5(u) and (v) of the agreement, which is schedule 1 of the version of the principal act we are looking at, which is not the one available to the public online. We have been provided with a consolidated version of the act not available in the public domain. Can the Leader of the House advise us which variation agreement approved by the Parliament inserted clauses 5(u) and (v), or were they inserted by other provisions of the act? Depending on what the answer is, I might want to go bit further.

**Hon PETER COLLIER:** It was a non-ratified agreement in 1953.

**Hon ROBIN CHAPPLE:** Were those insertions not made by Parliament?

**Hon PETER COLLIER:** That is correct. It was a private variation.

**Hon ROBIN CHAPPLE:** Can I assume that they were inserted under the conditions described in clause 3 of the schedule?

**Hon PETER COLLIER:** No. They are inserted under clause 5(o) of schedule 1 in the original act.

**Hon ROBIN CHAPPLE:** On what date did the minister say they were inserted?

**Hon Peter Collier:** It was in 1953; a long time ago.

**Hon ROBIN CHAPPLE:** They were inserted in 1953. Does that refer to footnote 51 at the end of clause 5(u)(v)(i)?

**Hon Peter Collier:** Yes.

**Hon ROBIN CHAPPLE:** Can the minister point me to where clause 5(u) references 1953?

**Hon PETER COLLIER:** It is the footnote to clause 5(u)(vi).

**Hon ROBIN CHAPPLE:** The minister referred me back to 1953. I have picked that up, but it did not appear. I would have thought the reference would have been at the beginning, but I have it now; thank you. Were they both made by amendments in 1953?

**Hon Peter Collier:** Yes.

**Hon ROBIN CHAPPLE:** I am doing this, if I may, all during the consideration of the short title rather than roaming through it.

**Hon Peter Collier:** That's good.

**Hon ROBIN CHAPPLE:** Page 6 of the bill at line 23 deals with clause 3, which affects clause 5 of the principal bill. Paragraph (3)(c) refers to "a permanent residence is erected". Is there any particular reason that the government and the proponents have sought not to bring the principal factories into the rateable areas as opposed to just the maintenance and workshops that are accommodation, recreation or administration facilities? It would be interesting to know what components of those facilities comprise the overall size of the site and why the major infrastructure was not to be rated.

**Hon Peter Collier:** Are you talking about the whole refinery site?

**Hon ROBIN CHAPPLE:** Yes.

**Hon PETER COLLIER:** The government's gross rental valuation policy was developed and negotiated with the Western Australian Local Government Association, peak bodies and other stakeholders. These bodies support this policy. The areas of the BP site not rated on a GRV basis would still be rated on unimproved value. The Valuer-General and the City of Kwinana would apply this policy.

**Hon Kate Doust:** That answers the other question then, doesn't it; it is the City of Kwinana not Rockingham.

**Hon Peter Collier:** There you go.

**Hon ROBIN CHAPPLE:** We touched on the regulations in the minister's reply but can I get some further clarifications? Clause 2(3)(d) states —

inserting after "State" in subclause (r):

This is part of the issue that I mentioned earlier because in the amendments it was in brackets after "state". However, moving on from that, this is about the regulations. For the avoidance of doubt, are we saying that no

external regulation-making power can affect this act in any way, shape or form? Are we actually saying that those regulation-making powers may alter the basis of the act?

**Hon Peter Collier:** No. That is not correct.

**Hon ROBIN CHAPPLE:** Was the first one correct—that regulation-making powers cannot affect this act?

**Hon PETER COLLIER:** We are referring to paragraph (d) on page 7 of the bill regarding regulation-making powers. This is not a regulation-making power. The amendment clarifies only how references to the acts and regulations in the state agreement are to be interpreted—namely, on the basis that, first of all, a reference to an act indicates regulations made under it and amendments to that act over time; and, secondly, a reference to an act or regulations includes any future act or regulations passed in substitution.

**Hon ROBIN CHAPPLE:** I have already made comments regarding paragraph (g). It is a very positive step forward. I think that basically concludes my issues. This has to be ratified by Parliament by 31 December 2017, so one assumes that once it has passed through this place, it will then go for the Governor's assent. Will that occur whether or not Parliament has been prorogued and we are in caretaker mode?

**Hon Peter Collier:** The caretaker mode does not commence until early February.

**Hon ROBIN CHAPPLE:** Okay; thank you. That was a really good answer, too.

**Clause put and passed.**

**Clauses 2 to 7 put and passed.**

**Title put and passed.**

*Report*

Bill reported, without amendment, and the report adopted.

*Third Reading*

Bill read a third time, on motion by **Hon Peter Collier (Leader of the House)**, and passed.