NATURAL GAS (CANNING BASIN JOINT VENTURE) AGREEMENT AMENDMENT BILL 2015

Second Reading

Resumed from an earlier stage of the sitting.

MR W.J. JOHNSTON (Cannington) [2.44 pm]: As I was saying before I was so rudely interrupted, I just want to clarify the name of the town in Japan that I referred to in respect of the mercury poisoning; it was called Minamata. The disease was called Minamata disease but it was actually mercury poisoning. Again, I put that into context. I am not suggesting that companies in Western Australia are acting in the gross way that happened at Minamata, but the point is that one of the reasons that we have gone from where we were at the time of the Minamata disaster to where we are now is increased regulation. The Minamata situation led to increased regulations all around the world. The point is that companies cannot simply say that we can trust them on these things. That goes to the question of fracking fluids. I note the recommendations of that upper house inquiry on the question of fracking fluids and the need for complete and total disclosure of what is going into frack fluids. The company cannot just ask us to trust them to look after the environment and the community. I have read plenty of stuff about frack fluids. My good friend Tom Koutsantonis, the Minister for Mineral Resources and Energy in South Australia, has actually drunk fracking fluid.

Mr C.J. Barnett: Is that what happened to you?

Mr W.J. JOHNSTON: Somebody recently asked me whether I would do that when I was talking to some of the companies in the sector. I said make me minister and I will tell them. We will not know unless I become minister. The regime in Western Australia allows for complete disclosure. The upper house committee found that we still need to change the regulatory framework because although it allows for disclosure, it does not require disclosure, and we need to close that gap. I quote from an article in *The New York Times* of 16 January 1991 about the Minamata disaster —

> Though fish that swam close to the plant were seen for years floating belly up, Chisso—

That was the company involved —

> was not formally identified as the source of the poisonings until 1959, in part because the company, citing trade secrets, refused to cooperate with health investigators.

I am not suggesting that the companies operating in the unconventional gas market in Western Australia are attempting to poison the community, but I make the point that that trade secret excuse was used by Chisso in Minamata to avoid for nearly 30 years disclosing the fact that it was tipping a terrible poison into the environment. Nobody is using mercury anymore—thank God—in production processes, but once upon a time at fairs and carnivals in England people would be invited to sit on chairs and float in a tank of mercury. That was the way 150 years ago when people had no concept of the danger of the material. We are now much more advanced. We have knowledge of dangerous chemicals and that is why the committee asked for some of the chemicals—BTEX, I think it is, with benzene, ethanol and something else—to be banned in frack fluids. As I understand it, if we go back in time, diesel and methane and benzene were quite common in frack fluids in the 1950s but now the understanding of how to frack things has changed and those sorts of chemicals are no longer regularly used. Diesel is no longer used as a fracking agent, but from the literature I read I understand diesel was commonly used when Halliburton was inventing this process in the 1940s and 1950s. We have since advanced. One way we can keep an eye on those things is to make sure there is full disclosure.

In my discussions with the Association of Professional Engineers Australia and industry players, the gas industry certainly supports the disclosure of fracking chemicals, but there is some temperance on the side of the technology companies like Halliburton and Schlumberger and other competitors to those large companies because they see some trade advantage. That trade advantage is not enough for us not to have full disclosure. If the community is to support fracking—I am not saying that the community does support it—there has to be complete transparency. That is an interesting issue. The operations of the joint venture covered by this agreement have the support of the traditional owners of the Noonkanbah country, but it does not have the support of the traditional owners of particular areas of the West Kimberley. It is clear that Indigenous Australians have a right to have a say about the use of their land. The member for Kimberley is not in the chamber but I have spoken to her about this issue outside the chamber. We have had a discussion that traditional owners have a right to have a greater say about what happens on their lands than the leaseholders of a pastoral lease. I emphasise that a pastoral leaseholder has the right to only use the surface of the land for the purpose of the pastoral industry. They own the improvements to the pastoral lease but they do not own the land itself. They have never owned the land itself. In fact, before self-government in Western Australia, the colonial government in the United Kingdom set up the system of pastoral leases to prevent pastoral owners from owning the land. That is the purpose of the

pastoral lease. That is something that always needs to be understood and emphasised. Traditional owners have a superior lease right to the pastoral leaseholder.

It is not an issue in the joint venture area in the Canning Basin, but elsewhere in the state there is an issue of access to the land on farming properties. If one owns a farm, one owns the land in a freehold sense. Mining companies are restricted; they can mine on that land only with the consent of the owner, which is not the same as hydrocarbon extraction, when hydrocarbons can be extracted without the consent of the landowner. The issue is not extraction of the product, but access to the land. I know that the member for Murray–Wellington has a bill before the house to raise these issues about what rights a landowner has to restrict access to their land. Although they have a right to prevent access to mining, they do not have that right for hydrocarbons. That will inevitably lead to conflict because some people will not want that access. The conflict will potentially be increased for unconventional gas due to the need to have a larger number of well pads for a given volume of gas and the nature of the resource in the ground. This is an issue that needs to be dealt with before further thought is given to dealing with extracting unconventional gas in Western Australia. Again, the Queensland GasFields Commission's gas-style approach that is recommended by the upper house committee is part of that solution, so people will know that they have an independent person to assist them through that process. I note, too, the Australian Petroleum Production and Exploration Association's agreement with the Pastoralists and Graziers Association and the Western Australian Farmers Federation for a code around accessing agricultural land in the midwest for those unconventional players in that area.

These are all very complicated issues, which is why, again, I am a strong supporter of the Labor Party's position on these issues. We still have a number of unanswered questions. The next, and clearly the last, one I am going to get to is the question of the more intense need for infrastructure for a shale gas project compared with a conventional gas project. In a conventional gas project, we might have 10 production wells for a large resource. A small resource might have one or two production wells. The nature of shale gas extraction needs multiple wells. A very good chapter in the upper house report explains why this is needed. There can be more than one well on a single well pad but, one way or another, a large number of wells is needed. Each well pad needs an access road and a flow line to take the gas away from the well.

I am not going to say that the areas that the companies are working in under this agreement are unspoilt wilderness, but they certainly have not had the same intense level of development as the south west of the state. There will be a lot of other environmental issues about getting access to the land. That will have to be managed very carefully. At the same time, there will also be many Aboriginal heritage questions. Of course, there will be more questions than in a conventional gas play because more infrastructure will be needed. That will have to be managed very carefully. The companies will have to speak for themselves about their relationship with Indigenous communities and the other residents in the Kimberley. The companies will not be able to go forward without social licence, regardless of any laws that are passed. We have moved a long way past the situation in which companies can just insist, based on legal rights, that because they have a legal right, they have a moral right. That is no longer acceptable in the Australian community. The sensitivities of development in the Kimberley was noted recently when the government brought in legislation to allow for the cancelling of the mining leases over the Mitchell Plateau. What might have been acceptable in the 1960s is no longer acceptable today, regardless of anybody's legal rights. They have to be carefully managed.

I forwarded an interesting article to the members for Victoria Park and Gosnells this morning about Indigenous protected areas and the conversation around comparing Indigenous protected areas to national parks. This article argued the superior rights for Indigenous people in an Indigenous protected area compared with a national park. The management of a national park is about managing not only the flora and fauna, but also the cultural issues. The cultural issues of land are recognised in the recent amendments to the Mining Act 1978 introduced by my good friend the member for Nedlands. There is a special provision at the end of the legislation that moved the land clearing and other issues out of the Environmental Protection Act 1986 into the Mining Act to allow the director general to make a decision to refuse approvals based on issues not covered by the environmental approval process. That is part of that recognition that these things are much more complicated in a contemporary society than they might have been in the distant past.

I have nine minutes to go. I want to turn to one final issue; that is, greenhouse gas emissions. The state government's approvals for the Wheatstone project in Western Australia were done on the basis that there was a national greenhouse gas scheme. Of course, that scheme was abolished by the incoming Liberal government. The state government has never returned to the issue of those approvals. I contrast that with the Gorgon project, which had an obligation for the CO_2 to be injected under Barrow Island. That caused disagreement and we dealt with that in this chamber in the past. Greenhouse gas emissions are a major issue confronting society. In fact, recently, when I met the with Chamber of Commerce and Industry of Western Australia's energy committee, or whatever it calls itself, everybody in the room agreed that carbon constraint and renewable energy was the number one issue confronting the energy sector in Western Australia. That is true as well for the joint venture

that is looking to exploit natural gas in the Canning region. There are two issues. The first issue is Australia's contribution to CO_2 emissions. In respect of the project in the Kimberley, there will be two sources of that: CO_2 emissions that are used in extracting any gas—if it ever gets extracted—and fugitive emissions. It is interesting that at a conference I attended in London last year it was pointed out that fugitive emissions from gas pipelines in Russia are not properly measured, and because of that, they do not go onto the world's carbon inventory and there is probably a large impact from that for political reasons. Fugitive emissions in Australia are measured, and I know the member for Collie–Preston will insist that carbon emissions from any potential onshore gas project in Australia are carefully measured because, of course, they are often compared with emissions from coal and if they are not being properly measured, that is unreasonable.

The second issue is the use of methane to produce energy. The probability is that if the gas resource is the scale that the joint venture partners hope, the only way this gas will ever be used is if it is exported. I made the point before the lunch suspension that just because a resource is found does not mean it will ever be used. I use the example of the Browse Basin. It has been 35 years between the resource being found and today and it is still not being used, and we have no idea whether it ever will be used. Just because there is gas in place does not mean it will be exploited, but if it is to be exploited, because it is potentially so large, it can be exported overseas. What happens when it is used overseas? Interestingly, 51 per cent of all the coal used in the world at the moment for energy—not counting metallurgical coal—is used in China, and over 90 per cent of the coal that is used in China is mined in China. Over 45 per cent of all the energy coal mined in the world is mined and burnt in China. That has an incredible impact on world greenhouse gas emissions.

I have not been to China, but I know a number of members around the chamber have been. Burning coal leads to serious health problems from photochemical smog and other emissions. China recognises that and is working to reduce that impact. One of the ways it is doing that is to build nuclear power stations. The problems with nuclear power stations are many, not the least of which is that they have serious potential environmental impacts. In fact, in the Chinese community there is now a large movement against and resistance to the construction of nuclear power stations. Even though there are a lot of maps with crosses on them showing where nuclear power stations are going to be built, many of those will never be built because of changing community expectations in China.

One thing that may happen, if the Chinese choose—it has nothing to do with Australia—is China will use gas instead of coal. China has an agreement with the Russians to build a very large pipeline from Siberia into China, which potentially will deliver enormous quantities of gas into China; and, of course, China has an existing pipeline and it continually increases the volume of gas through that pipeline from the Central Asia republics. China has a long-term vision for working with the Central Asia republics to develop a range of issues. China also has liquefied natural gas from all sorts of places around the world, including from the Americas. As the report in the upper house Standing Committee on Legislation makes clear, China potentially has the largest resource of gas in shales in the world. There are potentially many, many competitors to Australian LNG exports and it is not clear that there will ever be a market for the gas in the Kimberley. Equally, it is clear that whether the Kimberley gas is ever exploited will probably make no difference to the total amount of CO_2 emissions in the world, because if it is not Kimberley gas being burnt in China, it will be gas from somewhere else in the world. What happens in China will be a serious issue for all of us as citizens of the world, because of the significant impact that the amount of coal being burnt in China has. China does not want to reduce its coal production for a range of reasons, not the least being that about a quarter of a million people work in the industry and China does not want that unemployment. These are all very complex issues, and whether or not the gas in the Kimberley is ever exploited is not clear, because it will only ever be exploited if it is financially viable.

Shale gas is not as cheap as normal reservoir gas to exploit. The Kimberley will be a very expensive place to exploit it and it is starting from well behind. It may be that despite the best endeavours of the current government to support the exploration and exploitation of the gas in the Kimberley it may never happen. There is nothing that any of us in this chamber can do to change the fundamental economics of the project. Going back to the upper house committee's report, there is plenty of time to get our regulatory regime right on this because we want to make sure we do not get it wrong.

MR B.S. WYATT (Victoria Park) [3.07 pm]: I want to make a short contribution to debate on the Natural Gas (Canning Basin Joint Venture) Agreement Amendment Bill 2015 as I know the intent is to get it through the lower house by the end of the day. The member for Cannington outlined the Opposition's position on this bill, and I note the reasons for this bill from the Minister for State Development's second reading speech. I want to make some comments on my major concern about the Aboriginal support that is in place for working not only with Buru Energy Ltd, but also generally around Western Australia. There is a certain element of irony or happy coincidence that it is the Noonkanbah community that has been involved with Buru. The chairperson of the Yungngora community, which is Noonkanbah, put out a statement in which she made the point that Buru had engaged well with the Noonkanbah community. I refer to an article in *BusinessNews Western Australia*, which reads —

> Yungngora Community Association chairperson Caroline Mulligan said the support recognised the community's strong connections with the land and the process adopted by Buru Energy showed respect for the land, the people and their cultural values.
>
> "In providing this support, the Noonkanbah community has demanded that utmost care and respect be taken of our country," Ms Mulligan said.
>
> "We have been very thorough in our assessment of this project, we have appointed independent experts to provide us with technical advice, their advice is that the project will have very low risk to the country.

Then the article refers to a very famous man, Dickey Cox, who became famous during the original Noonkanbah dispute. The article goes on to refer to the decision on the relationship with Buru. It reads —

> Yungngora Aboriginal Corporation chair Dickey Cox said the decision demonstrated how community engagement could lead to successful outcomes for both native title holders and recource developers.

The quote continues —

> "Buru Energy has engaged with YAC—

Yungngora Aboriginal Corporation —

> since 2007, when their predecessor, Arc Energy, first entered into a heritage agreement with us," Mr Cox said.
>
> "Since then heritage surveys, monitoring, and now independent expert reports, have ensured that at every step of the way Noonkanbah has been kept informed of what is a significant program both for Buru Energy, as well as potentially for the Noonkanbah people."

I note the comments of the member for Cannington about the Yawuru people who do not support fracking but who have in any event been working with Buru. I want to draw the attention of members to the position taken by the Yawuru people in their 2014–15 annual report. I quote a short passage from their report that refers to the Ungani Indigenous land-use agreement —

> At a meeting held on 1 April 2015, the Yawuru community authorised the Yawuru PBC to enter an Indigenous Land Use Agreement … for the grant of the petroleum (oil and gas) production licence and other project titles for the Ungani project. The Ungani ILUA was registered with the Native Title Tribunal in June 2015. The main impact of the project on Yawuru land will be the transport of oil along a road or pipeline, as the Ungani oil facility is located on Nyikina Mangala land. In return for agreeing to the production licence and project titles, Yawuru received financial and other benefits. Yawuru did not consent to any fracking or extinguishment of native title. The Yawuru community has a direct say about how the ILUA money will be used.

It then goes on to make the point that in respect of Buru Energy's oil project that, and again this is a quote —

> Buru Energy intends to carry out hydraulic fracturing or 'fracking' at its two Yulleroo wells under its current exploration permits. At a Yawuru PBC General Meeting on 18 July 2015, a clear majority of Yawuru members voted:

I will not read out the motion, but the report continues —

> Yawuru does not agree to the 2014/2015 fracking at Yulleroo, but if Buru Energy goes ahead with the fracking, Buru Energy must agree to meet environmental, cultural, social and economic conditions set by Yawuru.

It goes on to make the point that the Yawuru community does not support fracking but understands that ultimately with the rights that it has, it is likely to take place and so it will work with Buru to hopefully ensure that Buru Energy meets the environmental, cultural, social and economic conditions that are set by the Yawuru community. The Yawuru have been very effective in negotiating those outcomes.

In the member for Cannington's contribution to the second reading debate of the original bill in 2013 he referred to an article in *The West Australian* by Peter Kerr, dated 18 May 2013 and titled, "Martu say they are open for business". The Martu mob are very much a traditional mob. That article stated that they very were much focussed through the Western Desert Lands Aboriginal Corporation—WDLAC—on achieving economic outcomes for Aboriginal people. The one thing that genuinely keeps me awake at night is the thought that although we have gone through a great period of wealth creation—as we have done of late, specifically in respect of iron ore, but hopefully we will do so in respect of oil and gas—Aboriginal communities effectively remain the same, as though the great period of wealth creation came and went. WDLAC is an example of what can go wrong. WDLAC was, and can be again, a large organisation with significant revenues. Very recently

administrators were appointed by Office of the Registrar of Indigenous Corporations to take over the governance of WDLAC. The first newsletter by the administrators, Jack James and Paula Cowan, made this point about WDLAC: the reason that they have been appointed is to help the corporation resolve some governance issues. This situation arose because two senior executives of WDLAC—non-Aboriginal people, not Martu people—had been paying themselves about $400 000 a year. When huge amounts of money go to a small number of executives in such corporations, they very easily fall over when there is a turnaround in the revenue coming in because ultimately those people pay themselves salaries that are not paid to people who handle more significant balance sheets.

What worries me is that those same people move around Australia and take up different positions. They successfully manage to enjoy significant financial largesse and then when exposed, simply move on. That is what has appeared to have happened at WDLAC. Tony Wright was being paid $30 000 a month to be its chief financial officer and Noel Whitehead the former CEO was also earning a significant salary. Those people simply move on to other roles and leave WDLAC and the Aboriginal people still working within the organisation wondering what happened to the organisation. As I said, WDLAC was a significant organisation, and I think, after looking through the newsletters of the administrator, it can and hopefully will be again. That is the advantage of appointing administrators: hopefully that corporation can recalibrate those expenses.

I want to make a couple of points—Premier, I will not speak for long—about Gumala Aboriginal Corporation. I am sure that everyone in this place is familiar with Gumala; everyone who has been to the Pilbara knows Gumala. It recently put up on its website, to its credit, the forensic audits undertaken by Grant Thornton into the activities of Steve Mav, who was CEO until earlier this year. This has been reported in a number of articles in *The Australian*. To its credit *The Australian* covers Aboriginal issues and Aboriginal development very well and it is a consistent theme of *The Australian* despite what people may say about *The Australian* newspaper. Paul Cleary in particular has been very focused in this space. A recent article, dated 6 November, reflects on the Grant Thornton report and it states —

> When iron ore royalties surged in recent years, a handful of senior elders from the Gumala Aboriginal Corporation extracted $3.8 million in special benefits over a period of just two years, according to a forensic audit**.**

The article goes on to state —

> The report dwells on the benefits paid to former chief executive Steve Mav, who secured a raft of non-salary perks on top of a salary of up to $400,000. Mr Mav resigned in May after a boardroom coup led by new chair Lisa Coffin.

The final paragraph of the article states —

> The GTF report, —

That is Grant Thornton —

> obtained by *The Australian*, shows that last year alone, Mr Mav claimed about 214 days in accommodation and meal allowances. He had $216,000 in credit card expenses between January 2012 and May 2015, with no evidence to support $84,000 of transactions. His travel expenses in this period were $206,611.

One must reflect for a moment on ORIC. ORIC is a federal organisation and it is no doubt inundated with complaints about Aboriginal organisations all over Western Australia. However, it has emerged that there was a very friendly relationship between ORIC and Steve Mav and that, in my view, must have coloured the way ORIC treated the wave of complaints around the governance and the flow of moneys in respect of Gumala that had been coming into ORIC. When we look at WDLAC and Grant Thornton, there is a theme, a pattern, that shows a relationship of financial co-dependence between the CEO, the senior executives, the chair and a number of the traditional owners, or the Aboriginal people, on the board, whereby money flows for the convenience of all. Grant Thornton's report into Gumala has certainly revealed that. I intend to make more comments about Gumala because it is a sad example, but I will wait until the various investigations have taken place before I do. I just wanted to make that point.

I come back to the comments of the Premier in the second reading speech and the comments of the Noonkanbah community and the Yawuru people in Broome. There has to be a way to ensure—admittedly ORIC is a federal organisation—that Aboriginal people get long-term outcomes from such relationships. I mean not simply engaged to do heritage surveys, but a much broader and deeper relationship that sees longer term outcomes. We can see, now that iron ore has come off, Aboriginal organisations that have been reliant on that collapsing under the weight of assumed revenue.

Mr W.J. Johnston: The other day there were two senior Indigenous people there who were both previously working with BHP Billiton and both were made redundant as business had come off, and so there they were. What was their next job?

Mr B.S. WYATT: That is right, and I think it was either Noel Pearson or Mick Dodson—I cannot remember which—who made that point, saying that when it comes off, the first people to go are the Aboriginal people. Whether that is a fair comment, I make no comment on it at this point. The point I make is that these relationships have a financial co-dependence with cunning, non-Aboriginal operators who know how to get themselves in positions of influence; and that financial co-dependence means that organisations such as the Office of the Register of Indigenous Corporations have a higher duty to ensure that those people are indeed uncovered and are watched by organisations. Certainly the email exchanges between ORIC and the chief executive officer of Gumala at the time, Steve Mav, indicate that the relationship was inappropriate. As the regulator of an organisation, that relationship was inappropriate. Given the friendly tick-tack emails between the registrar of ORIC and the CEO, about whom ORIC was receiving complaint after complaint, it is no wonder that it took so long before the trustee, Colleen Hayward, who had to effectively threaten Supreme Court action to get access to the financial documents that ultimately led to the departure of Steve Mav, finally started to see some light about what had been happening to some of these moneys. As I said, I will come back to this issue in the future, but ultimately there is an investigation taking place and I dare say, to be frank, probably some police charges to follow out of it. I will come back to that.

Either way, the point I make is that looking at the comments from the Noonkanbah community and the Yawuru people, it appears that the Yawuru people do not support fracking but they understand their responsibility to work with an organisation that is not doing anything illegal for the best outcome for Yawuru people. I guess there is a certain sense of historical irony that we are back at the Noonkanbah community. Dicky Cox in particular is still there and still prominent in working with Buru to ensure that the Aboriginal people are not only consulted, but also a valuable part of whatever it is that Buru is doing.

MR C.J. BARNETT (Cottesloe — Minister for State Development) [3.22 pm] — in reply: I thank members for their comments on the Natural Gas (Canning Basin Joint Venture) Agreement Amendment Bill 2015, and in particular for their support of this amendment to the agreement act for the Canning Basin. To get back to the main point of this bill, it is to simply extend by two years key reporting dates under the state agreement. That extension is necessary because the project is not going as quickly as the joint venturers had originally hoped, primarily due to, I guess, technical difficulties in being able to economically extract the gas, and I think it is also probably true that the price of gas has fallen and demand has eased off; so probably both of those factors have played their role. However, it did allow a fairly wideranging debate on the merits or otherwise of the Canning Basin project, the realities of the marketplace, a debate about fracking and indeed Indigenous issues in the area.

I will not refer to everyone's comments but I will pick up on a couple of points. The member for Cockburn argued that to some extent this agreement was perhaps a little premature. That is a fair point. It is always a matter of judgement as to when we bring an agreement into Parliament. I think in this case for the project to have a realistic opportunity, particularly with the Japanese, the state government needed to demonstrate that it was serious about the project. However, it will take a little longer. I remind members that there are two projects here—the domestic gas project that I am confident will proceed at some stage, and perhaps the liquefied natural gas project as well. I also make the point that there is a lot of gas in Western Australia. A lot of proved discoveries have been made in the Dongara area in recent times that quite recently show there is a fair bit of gas that will be a lot cheaper, obviously, to bring on than gas from the Canning Basin.

The member for Armadale talked a fair bit about native title, agreement acts and sovereign risks. They were fair points; he is more of an expert in that area than I am.

The member for Willagee, again, questioned the use of state agreements. I think as the infrastructure of the state develops, the case for the complexity of state agreements will diminish. This agreement is really a facilitating agreement, but it will give the proponents a long-term security to the resource. It will give confidence for attracting investment both in the project and in the pipeline. Here an agreement act is needed because the area has no infrastructure at all. As we get new projects—for example those taking place in the goldfields or in the Pilbara—the necessity for state agreements diminishes because the infrastructure is now largely developed.

The member for Gosnells is obviously not a supporter of fracking, and I guess that brought on a bit of a debate about the Labor Party policy that it has adopted. I am a bit concerned —

Mr C.J. Tallentire: I supported Labor policy; that is what I explained, which is about a moratorium until an inquiry is conducted.

Mr C.J. BARNETT: Yes, I know. I do not mind an inquiry but I think the industry will be concerned if the Labor Party talks about a moratorium on fracking, given that it has been in operation in this state for 50 years.

Mr C.J. Tallentire: It is until all the issues have been resolved—until the community concern has been allayed.

Mr C.J. BARNETT: I am not arguing with that. I am just telling the member how the industry will receive his comments.

Mr C.J. Tallentire: You just said that I was totally opposed to it.

Mr C.J. BARNETT: Yes, I know, and that will not go down well in the industry. I was just making the point.

Mr C.J. Tallentire: I just explained what my position was, which is not as you have tried to characterise it.

Mr C.J. BARNETT: Yes; all right. I do not know that the member's position is the universal Labor Party position from some of the comments made today.

Mr C.J. Tallentire: I quoted our platform position to you.

Mr C.J. BARNETT: That is right. I do not think all of the member's colleagues agree with him, but that is something for him to deal with, not me.

I found the member for Collie–Preston's anti-gas-fracking approach strange when for so many years in this place he has been an absolute proponent of coal. That seems again an inconsistency.

The member for Cannington, the lead speaker, talked about the state agreement. He showed his knowledge of the area and had some discussion about the platform and emissions and the like. I am probably a little more optimistic. I think the days of coal internationally are numbered. Countries will get out of coal as quick as they can, and the obvious bridging fuel will be gas. A combined-cycle gas plant produces about a third to a half of the emissions of a coal plant. I think the concept of clean coal has been shown to be basically a scientific fraud. There is really no such thing as clean coal. I think there are more efficient stations but not much else. There will be more requirement around the world for geosequestration of emissions, even from gas projects, as we have in the Gorgon project.

I would like to hear more from the member for Victoria Park. I think the abuse of income in Aboriginal groups and corporations is a serious issue. I believe that all companies involved have a responsibility to not simply write out a cheque, but to take some measures to ensure that the money is preserved and used for the general benefit of the community. In that sense, and although it is in another piece of legislation, I think the south west native title bill is as far as any government in Australia has gone in terms of preserving income and preserving long-term benefits. To a lesser extent in the Pilbara, the agreement for James Price Point and the Anketell project also has provisions to protect the payment of money in trust. However, it is pretty difficult for governments to impose the sort of standards on private settlements —

Mr B.S. Wyatt: It is really hard.

Mr C.J. BARNETT: It is difficult. The big companies are doing better now, but for a while they just handed over $2 million, said "That's the deal" and walked away. I think the big companies now understand that that is not acceptable. However, the whole fracking and natural gas energy mix is an interesting and important issue for Western Australia. I am sure we will have continuing debates on that, but I thank members for their support and I think relatively minor changes will be necessary after the projects proceed.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

The ACTING SPEAKER (Mr I.M. Britza): Just before I bring the first clause before the Parliament, I want to remind the opposition that during debate on the first clause, the short title of the bill, if I deem the question about the title is not relevant, I will say so, because I feel that there are plenty of clauses in the bill for all questions to be brought up. I am just forewarning you, in case there are questions on the short title of the bill, that I am listening!

Clauses 1 to 6 put and passed.

Clause 7: Schedule 2 inserted —

Mr W.J. JOHNSTON: Clause 7 is the guts of the bill, if you like. It reads —

> **Schedule 2 inserted**
>
> After Schedule 1 insert:
>
> **Schedule 2** …

Mr Acting Speaker, my memory of dealing with schedules is that we are able to range backwards and forwards through them. I firstly want to thank the departmental officers for giving me a briefing on these issues. I appreciate that the Department of State Development is always very professional in the way it provides information to me.

I want to go to clause 1(4) of the schedule, which is on page 6 and starts with the words —

> If by 31 March 2016 this Agreement has not been ratified by an Act of the Parliament of Western Australia then, unless the parties to this Agreement otherwise agree, this Agreement terminates on that day …

My understanding is that if the bill is not passed by 31 March next year, the passage of this bill after that date would effectively make it retrospective because, as I understand it, 31 March 2016 is the date that the companies have to say whether they want to go ahead. The reason I raise this is that when I originally sought a briefing, I was told that the bill would not be debated before Christmas. At the end of the briefing it came out that if the legislation was not effectively through our chamber this week or next week, it would be too late. I want to get clarification that that is the case and that we do need the bill passed before Christmas, because otherwise it would end up being retrospective.

Mr C.J. Barnett: It will need to go through both houses by 31 March, which, all going well, we are on track to do.

The ACTING SPEAKER: Was the Premier answering that question by interjection or did the member want an answer?

Mr W.J. Johnston: Perhaps the member for Gosnells could get up and say he wants to hear more from the member for Cannington.

Mr C.J. TALLENTIRE: I do want to hear further from the member.

Mr W.J. JOHNSTON: The Premier was very cleverly trying to stop me from speaking again!

Mr C.J. Barnett: At this time of the year I am not very clever!

Mr W.J. JOHNSTON: So the answer to my question was yes, we need to get the legislation through this year, rather than next year. Clause 2(1) of schedule 2, again on page 6, deletes the date 2020 and inserts 2022. As I understand it, this is the relief from the requirement to surrender parts of the tenement under the normal arrangements that apply. This is the issue I raised briefly in my contribution to the second reading debate today, but I also raised it in 2013. We support the amendment, but the problem is that it provides a benefit to one operator in the Canning Basin and not the others, so I just wonder where the government is at in providing an equivalent entitlement to the other operators in the Canning Basin.

Mr C.J. BARNETT: The Buru Energy project is far more advanced and it is exploring a very, very large area, with a significant number of exploration permits. Yes, the purpose is to extend the period for another two years before Buru is required to start to relinquish explored or unexplored areas. With respect to other companies, to my knowledge none of them has come forward seeking an agreement; they are not at that point, and indeed, if Buru goes ahead and builds the pipeline into the main grid, they would have third party access to that pipeline. This is the first project; therefore, it has to create the infrastructure and therefore it will have a state agreement. I would not anticipate that other projects in that Canning Basin would have an agreement act; I might be wrong, but I do not think that they would need to.

Mr W.J. JOHNSTON: I appreciate the government's position on this; I just think it has to be looked at, because these are issues that are broader.

I now go on to clause 2(2), which deletes the date 2016 and inserts the date 2018. This is in respect of marketing the gas. I wonder whether the joint venture partners have advised the government of how they are going with the marketing of the gas.

Mr C.J. BARNETT: I am not sure of the latest advice the joint venture partners have given. The first target is to develop a pipeline. These pipelines have been built all around the state, so that is probably not difficult to do. I imagine their first target for gas would be Pilbara mining companies, to get them off diesel and on to natural gas and hook into that system. That would have to fund the pipeline, and probably through the contracts the buyers of the gas would effectively fund that. That would be where they are at. I do not think they are seriously looking at the liquefied natural gas stage yet; I think that is still in the future. Bear in mind that one of the principal shareholders or partners is Mitsubishi, and Mitsubishi will not have difficulty disposing of whatever the volume of gas is—say, a two million or three million tonne project. It will be able to do that with ease.

Mr W.J. JOHNSTON: This is really what I was getting at: are the joint venture partners keeping the government in the loop about where they are with the marketing of the gas? I note that the Alcoa deal has now

been unwound. It obviously created great market excitement a couple of years ago when the joint venture did that sale agreement with Alcoa, but we know that that has now been unwound. I wonder whether the company is keeping the government informed about where it is at with the marketing of gas.

Mr C.J. BARNETT: Although Alcoa has stepped back because it has found some other gas supplies, I think I am right in saying that it is still committed to taking 100 petajoules, so Alcoa will be a customer. I would think that the remainder of the gas would be progressively sold to the utilities and power producers. While oil and therefore diesel prices are low, there is a really strong incentive now for mining companies to get on to securing long-term gas supply, because they know the cycle will probably take oil prices back up to $70 or $80 at some stage in the next two years. They will want to avoid that sort of volatility. As we see more supply of gas into the domestic market from the LNG projects and projects such as this, I think we might finally start to realise our competitive advantage in gas—security of supply and price. There are plenty of buyers out there.

Mr W.J. JOHNSTON: Yes, it is interesting we have been able to achieve a very low price of gas, having gone through that long period of very high prices. Of course, now all the gas companies are complaining to me that the price is so low that they cannot fund their investments, which is always the way! Anyway, for a range of reasons I prefer an oversupply of gas rather than an undersupply of gas.

In clause 2(3), the date of 2014 has not been achieved. I contextualise this by saying that I understand that the minister has a right to extend these time lines once in any case. Has the minister taken any action to extend any of the days at this stage?

Mr C.J. BARNETT: Not yet, because 2014 apparently is the commencement date when we start timing going forward. But with the exception of subclause (3), apparently, the Minister for Mines and Petroleum has the ability to extend.

Mr W.J. JOHNSTON: I think that might be the Minister for State Development rather than the Minister for Mines and Petroleum, but that is okay.

Mr C.J. Barnett: It's the Minister for State Development on advice of the Minister for Mines and Petroleum.

Mr W.J. JOHNSTON: Excellent; there you go. It is a while since I have read the whole agreement.

As I understand it, clause 7(5) provides for the date the agreement can be cancelled if there is no project. Again, I understand that is one of the dates that can be extended by the minister for 18 months. Clearly, in 2018 it will not be there. The year 2020 is not that far away for these grand projects. The question will always be: what if, in two years, the government asks for another two-year delay? Does the Premier see what I mean? In 2013 we were confident that by 2018 we would know whether the project was a goer. Now it is 2015, we think that in 2020 everything will be a goer. As I have discussed previously in the chamber, if we look at other state agreements, the reality is when we get to a position in which a company cannot do something, it does not do it and the agreement is adjusted in favour of the company. There might be a hundred good reasons for adjusting things in favour of the company, but at which point do we say that this will not work? How confident is the Premier that in late 2017, the state government, whatever persuasion it is, will not come back to the chamber and say the 2020 date needs to be 2022? Otherwise, what are the obligations on the proponent? If the written obligations are adjusted on a continuous basis, there is not an obligation.

Mr C.J. BARNETT: I would think, from my experiences, that by the time we get to 2020, it will be very clear whether the company can proceed with the domestic gas project. I would think that is plenty of time. Given the advancements in technology, the company will be extracting, or be confident of extracting, gas in sufficient volume, at least for the domestic market, and will not have a great deal of difficulty financing a pipeline connection. Even though it is 600 kilometres, I think there will be enough customers around to do that. Who knows?

On the member's point about when we make the decision, that is a very subjective point. Again, from my experience, the decision would basically be made to pull it if there is no confidence in the company's financial capacity to undertake the project. I am sure the technical issues will be pretty well understood. The pipeline could probably be funded and the markets could probably be found, but if the company did not have the financial resources to undertake it, we would pull it. I do not think that will be the case with Mitsubishi involved. There may be some changes in the joint venture structure—that could be possible—but from my history, such as it is, at times when projects have not proceeded, it has been very evident that the company involved did not have the capacity to do it or simply had an intent of trying to conclude the agreement and sell it on. There have been a couple of infamous cases of that. In my view, that also would be a reason for not proceeding.

Mr W.J. JOHNSTON: I appreciate what the minister said, but there is 35 years between discovery and exploitation of the Browse field, and potentially even longer. Just because the gas is in place does not mean we have a project.

Mr C.J. Barnett: I guess a domgas project is probably in the order of $1 billion or maybe more. It sounds like a lot of money, but in that industry it isn't a lot of money anymore.

Mr W.J. JOHNSTON: I would be happy to take 10 per cent, I can tell the Premier, no trouble at all.

Mr C.J. Barnett: I would almost pay you 10 per cent to go!

Mr W.J. JOHNSTON: All offers considered, Premier! It is a genuine issue. We look at these projects and think: how will we decide when it is not working? Buru Energy Ltd is a relatively small company. I think it has recently dropped out of the ASX 200. I think that is right; I may have the wrong figure and it may have dropped out of the ASX 100. Whatever it is, for two separate reasons—a drop in the oil price and all the oil and gas players have been hammered—the project has proved to be a bit more complex than perhaps people thought it would be. It was always going to be a complex project. Those two things make it hard for them. I keep in touch with them regularly and am briefed by them on an ongoing basis.

I recognise that none of those issues relates to Mitsubishi and it is a joint venture. But Buru is the operator and is the one that most people look at, so we want to make sure that we have some understanding. There must be an obligation on the company to do something. We recently passed the Mitchell Plateau bill. I read the debates from the 1970s, during the time of the Tonkin government, and the point was made that there needed to be some obligations on the companies to do stuff; otherwise, it would hang around and go nowhere. We do not want the press-release approach to state development whereby the signing of the agreement, rather than the project, is the outcome.

Clause 2(7)(a) and (b) of the variation agreement extends the dates from 2015 to 2017 and 2016 to 2018. Can the minister explain for my benefit what those two dates specifically relate to?

Mr C.J. BARNETT: I am advised that because of some native title negotiations to be concluded and some engineering and technical issues in extracting the gas, the company is not in a position now to say whether it will go ahead, but expects to be within a further two years, and we expect it to be too. I remind the member that Woodside was a pretty small company in the 70s too. Some little fry get there; others do not. Usually the ones that add superlatives to their claims are the ones that do not get there!

Mr W.J. JOHNSTON: I remember as a kid reading *The National Times* and at the back was a list of the share prices and the total value of the companies, and there would be Woodside Burma. I was only a little kid and had no idea what Woodside Burma was. It was always fourth or fifth on the list of the top 100 companies in the country. I remember when I was older reading an article written by an Englishman about Woodside, making the point that only in Australia could a company go for that long, worth that much, and produce nothing because it had been looking for stuff and found it, but it had not worked out how to get it out of the ground on an economic basis. It is a remarkable story.

The Premier and I were both at the dinner for Woodside's sixtieth anniversary when great speeches were made by the Leader of the Opposition, among other people. The video message from the then Prime Minister Tony Abbott was not that well received compared to the speeches by others in the room. In fact he gave a picture —

Mr C.J. Barnett: Golden rocks

Mr W.J. JOHNSTON: He gave a framed copy of the front page of *The West Australian* to the CEO of Woodside.

Mr R.H. Cook: A video from Tony Abbott would still be in someone's cupboard!

Mr W.J. JOHNSTON: Yes; if members can find it, they should watch it. It is very entertaining.

Mr M. McGowan: How do you relate stopping the boats to a sixtieth anniversary? I don't quite understand.

Mr C.J. Barnett: We all have our stump speeches; only the venue was wrong.

Mr W.J. JOHNSTON: Yes; one has to tailor their stump.

Mr M. McGowan: I have never heard such a grind!

Mr W.J. JOHNSTON: This is an interesting agreement. The Labor Party continues to make some critiques of the agreement. We are supporting it because we do not want to create sovereign risk. Unlike the National Party, we think that government should have the right to make decisions, even when we do not agree with it. We will argue against them and we will tell people why they should vote against them and that that is why they should change the government, but the government is still the government and it is entitled to make decisions. We look forward to this agreement proceeding through Parliament and will watch with interest the future development of the project.

Clause put and passed.

Title put and passed.

Third Reading

Bill read a third time, on motion by **Mr C.J. Barnett (Minister for State Development)**, and transmitted to the Council.