

Hon Tjorn Sibma; Hon Laurie Graham; Hon Michael Mischin; Hon Pierre Yang; Hon Dr Steve Thomas; Hon Jacqui Boydell; Hon Robin Chapple; Hon Alannah MacTiernan

PETROLEUM LEGISLATION AMENDMENT BILL 2017

Second Reading

Resumed from 14 June.

HON TJORN SIBMA (North Metropolitan) [12.31 pm]: The Petroleum Legislation Amendment Bill 2017 deals with matters of significant geotechnical, constitutional and commercial complexity. Although somewhat surprised that I have the opportunity to speak to this bill this week, I nevertheless relish the opportunity and appreciate the quality of the briefing provided by departmental employees, which was arranged at some short notice. As confirmed by those advisers, I note that this bill is essentially the same bill introduced by the previous Liberal–National government in 2016, but it was obviously not dealt with. I also note the report tabled on Tuesday by the Standing Committee on Uniform Legislation and Statutes Review. I commend the report and note its five findings. I want to reflect on the report’s conclusion, from which I quote —

... some issues have been identified that may affect parliamentary sovereignty and Parliament’s law-making powers as identified ...

Nevertheless —

the Committee is of the opinion that they have been adequately explained and justified.

On that basis, and consistent with the opposition’s support for the upstream petroleum industry, and our continuing commitment to ensuring investor confidence in Western Australia, underpinned by a transparent, knowable and consistent regulatory regime, I am pleased to confirm that the opposition will support this bill in its entirety without amendment. We are cognisant also of the purpose and terms of the Torosa apportionment deed of agreement, executed by the state and commonwealth, and the Browse joint venture partners on 22 July 2015. I take particular notice of clause 3.2(d) of that agreement, which essentially established a cut-off date of 30 June 2017 as a condition precedent for the agreement to take effect. I am well aware that we have gone beyond the foreseen and preferred date by which this bill would be dealt with.

I could, at this moment, take my seat but, on indulgence, I will speak to some of the substance of the bill.

Hon Nick Goiran: You’ve got unlimited time; go for it.

Hon Simon O’Brien: Just don’t take all of it; that’s all!

Hon TJORN SIBMA: I most likely will not.

The substance of this bill amends the Petroleum and Geothermal Energy Resources Act 1967 and the Petroleum (Submerged Lands) Act 1982. The bill’s two main purposes, as per the second reading speech, are, firstly, to deal with the issues of apportionment provisions, particularly where a petroleum pool extends into two licence areas; and, secondly, amendments to allow for future maritime boundary changes. Apportionment is a materially significant issue. When the 1967 act was drafted, only single petroleum pools were contemplated. As our geotechnical knowledge has improved, multiple petroleum pools have been identified that straddle title areas both vertically and arterially. This geophysical reality introduces significant complexity in multiple domains. This legislation seeks to cut through this complexity and provide a practical and predictable regulatory, operational and investment environment to support a vital industry.

I want to reflect on the Torosa field. On the basis of a 2014 survey conducted by Geoscience Australia, which redefined maritime boundaries, we discovered that Western Australia was essentially a windfall beneficiary of the redefined maritime boundaries. Members might recall the so-called “golden rocks”. The result of that redefinition was to apportion 65 per cent of future revenue to the Western Australian government and 35 per cent to the commonwealth government. This was a marked change with an economic impact of probably \$1 billion to \$1.5 billion. Nevertheless, such changes in title present some risk and uncertainty to industry. This legislation deals in a very sensible and pragmatic way to overcome gaps in title and provide a future mechanism by which such issues may be resolved. I note the future benefits that will accrue to Western Australia, not only as a part of this legislation, but also by virtue of some of the provisions that flow from the original Torosa agreement, which I will identify now. On this basis, we are more than happy to support the bill.

As a consequence of the Torosa agreement, the state government and the Browse joint venture partners executed a means by which we could establish, in Western Australia, a domestic gas and supply chain key principles agreement. That agreement obliges the joint venture to reserve gas equivalent to 15 per cent of liquefied natural gas production for the state’s share of the Torosa agreement. It will provide or obtain access to domestic infrastructure and develop a WA-anchored supply chain that builds on existing port, marine, aviation, storage and

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road infrastructure and service providers. It will support the Browse development for up to 50 years, which we shall agree is a very commendable agreement.

I see absolutely no purpose in further elaborating on this legislation. I am pleased to commend it to the house.

HON LAURIE GRAHAM (Agricultural) [12.38 pm]: As a member of the Standing Committee on Uniform Legislation and Statutes Review that considers the uniform legislation provisions of the bill, I will take the opportunity to make some brief comments on the committee's report and the Petroleum Legislation Amendment Bill 2017. During the committee's hearings, a number of technical points arose. The committee members agreed that they were minor and found no reason for accepting that the bill was not appropriate to be considered in its current form. This was despite the fact that time had elapsed on related legislation. It expired on 30 June 2017 and was signed by the commonwealth and parties to the Torosa agreement, but the state was not in a position to sign until this legislation was passed.

On Tuesday, the Chair of the Standing Committee on Uniform Legislation and Statutes Review, Hon Michael Mischin, reported on the changed format of the report's recommendations, which now simply address the technical points of the bill; the content of the bill was not addressed. All members were in full agreement that this reporting change was appropriate for this and future bills. I would like to acknowledge the assistance given by the Minister for Mines and Petroleum in providing timely advice on the issues raised by the committee, which enabled the bill to be reported on within the set time frame. I also take this opportunity to thank the committee staff involved in the hearings and with the preparation and drafting of the report, and the steps they took to make sure that all members were always kept informed. The advice they gave on matters fully addressed all issues raised by members. I commend the committee report findings to the house.

I turn now to the provisions of the bill. The minister raised a number of issues in the second reading speech. The bill addresses two main issues, one of which is the petroleum pool, which is an ongoing problem in which the oil base could fall within either state or federal waters. As the current provisions stand, there was always going to be debate over where the oil came from. This apportionment legislation overcomes that issue and allows both the state and the commonwealth to be sure of their future royalty incomes. It also allows the partners to be sure of distribution of taxation from the commonwealth government and what the amounts to be paid to the state in royalties will be.

The issue is quite complex in that modern technology has, in recent times, seen the introduction of drones and mapping of the reef areas within the Australian outer seas area. In doing so, we have identified a number of new islands that have now popped up. This is in the state's interest. A section in the report makes reference to \$5 billion. I was never able to track down whether the \$5 billion was additional revenue or new revenue, but I assume we are talking about the total revenue, and that was the best estimate we could get at the time. However, as the technology continues to be used for this purpose, the boundaries in the state waters will be expanded and we will see more and more island masses appearing. Hopefully, that will see us getting a bigger percentage of the royalties as a result of the increased land area associated with that three-mile limitation on the royalties.

Unfortunately, we could not go into some of those technical issues in the report, and that perhaps was a good thing; we may have still been there in three months' time, trying to work through some of the technical matters that were raised about how it will be apportioned in the future. Our obligation was simply to find out whether the bill was appropriate for consideration by the house, and I am very pleased to say that that is the case.

There are benefits for the parties to this agreement. They get a lot more surety in that there will be no dispute in the future, and the upside for the state and commonwealth governments is that in the future, although this bill applies only to the Torosa agreement, it has the capacity to be expanded to other areas of the state that will be subject to the same sorts of problems with drilling, particularly in areas where the oil pool has not been defined. Even in this case, no-one is sure whether the oil pool is in one area, as is suggested in the report.

In May 2014 the federal government announced that the maritime boundaries around the Scott and Seringapatam reefs, offshore Western Australia, had changed to reflect the outcomes of the Geoscience Australia review. This will obviously continue to occur in the future, which will be a great outcome. I commend the bill to the house.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [12.45 pm]: I will not take up much of the house's time. I rise mainly in my capacity as the Chair of the Standing Committee on Uniform Legislation and Statutes Review, which was required by this house to produce a report on the Petroleum Legislation Amendment Bill 2017. Hon Laurie Graham, one of my co-members on the committee, has already outlined some of the work that has been done. I would like at the outset to thank the various members for their cooperation in making themselves available to deal with this bill within the time frame that the Parliament desired. We understood that the government was keen to expedite its consideration of this legislation, for a variety of reasons that were expressed in the honourable minister's second reading speech and also in the report itself.

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I would like also to thank the committee staff at the time of the inquiry—Ms Felicity Mackie, the advisory officer, legal, and Mr Mark Warner, the committee clerk—for their work on this.

The circumstances that give rise to this bill are set out in the report, and the honourable minister has already explained the basis for it and what informs the necessity for it. It will apply, hopefully, beyond the immediate issue of what happens with the Torosa field in the agreement, to other similar circumstances. The committee made five findings and one recommendation, none of which were particularly controversial. One was an observation regarding the time frame available for consideration of the bill. This bill was developed by the previous government and introduced in the Legislative Assembly towards the end of last year. For a variety of reasons, it was not debated and resolved at that time, and it has been introduced in a timely fashion by the current government.

Hon Alannah MacTiernan: What were the reasons?

Hon MICHAEL MISCHIN: I am not privy to all the reasons, but I note that Parliament rose at the end of last year and did not reconvene until May this year, and there was an election in the meantime. The Parliament was prorogued at the start of this year, after it had risen in anticipation of the election, so it could not be or was not dealt with. It has been introduced by the current government and I understand it reflects the terms of the bill that was introduced last year.

As I understand it, there is a desire to expedite the passage of the bill. That is to hold faith with the other parties to the Torosa agreement. The time frame, however, has an effect on Parliament's ability to consider the bill, if there are concerns with it. I understand that there are none, and that the general consensus seems to be that the bill is a worthy one and requires no further examination, having spent a fair bit of time being developed in order to overcome the rather technical problems posed by this particular agreement and the discovery of these islands that affect the state's sovereignty and the apportionment between parties that are entitled to royalties and other benefits and obligations falling under that agreement. Although we found that the ability of Parliament to, say, consider at length and at leisure the detail of the legislation was constrained by the urgency of its passage, nevertheless the reasons for it have been explained and there seems to be no particular problem in this case.

The committee also found that although the state of Western Australia had not complied with the specific terms of the Torosa agreement because of the need to pass enabling legislation within certain time frames, nevertheless the minister responsible for the bill—I am not referring here to the Minister for Regional Development who was representing the relevant minister in the other place—has assured the committee that that will not jeopardise the agreement, although we did consider, of course, the prioritisation of the consideration of this bill and its passage, which shows good faith to the other parties that the state is intent on maintaining the agreement and ensuring that it is able to comply as soon as reasonably practicable. Of course, whether the house believes that is an agreement that should be maintained is not something the committee had considered or could consider. That is a matter of the policy of the bill and its detail. Our remit—our brief, as it were—in accordance with the standing orders was to look broadly at the questions of parliamentary sovereignty and Western Australia's lawmaking power. That brings me to the usual comment made by this committee and its previous iterations over the last Parliament about the commencement date of the legislation. I simply make the observation, of course, that in this particular case we were assured that the bill would be brought before Her Excellency the Governor for royal assent at the earliest practicable opportunity after its passage, and that it would take effect as soon as possible after that. We considered there were sound reasons for leaving the proclamation of the bill to be determined by the executive, and it will be sought at the earliest opportunity.

The other observation we made was regarding review clauses and their general desirability. Of course, review clauses may or may not be important or relevant in particular cases. Here we are looking at an amendment bill; whether a review clause was necessary for this particular bill is arguable. Steps are underway, we have been told by the minister, to have a general review of the relevant legislation. That is underway, and so that would accommodate any review of these provisions and allow for a more comprehensive understanding of how the legislation generally ought to be improved, rather than focusing on this one particular part. Since that review is one that might reasonably be expected to take place before any sensible period could be set for a review of the amending legislation, that would seem to be the sensible way of going about it.

In a sense we found that various elements of the bill impinged on parliamentary sovereignty; however, we received satisfactory responses to our inquiries and concerns in that regard, and for that we are grateful for the minister's cooperation and assistance; hence my comments when tabling the report that we did not feel comfortable to recommend to the house that it be passed because that might indicate a value judgement as to whether these particular issues were or were not of significance to other members. I did not want to give that endorsement. I simply draw the attention of the house to those points and members can make up their own minds as to whether

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they were of sufficient concern to them to oppose elements of the bill, or the bill itself, or were benign, satisfactorily explained and reasonable in the circumstances.

Apart from drawing the attention of the house to those points, that is the extent of the committee's report. From the point of view of the policy, I have nothing to say on the subject; it was simply to introduce and explain a little more what the report was about and our work in that regard. I thank again the members and those who assisted us in this task and for being able to complete it on time and within budget.

HON PIERRE YANG (South Metropolitan) [12.54 pm]: I rise to address the Petroleum Legislation Amendment Bill 2017. I was part of the Standing Committee on Uniform Legislation and Statutes Review. Hon Michael Mischin is the chair of that committee, and its members are me, Hon Robin Scott and Hon Laurie Graham. I thank them for their work, collaboration and cooperation that resulted in the ultimate arrival of the report. I also take this opportunity to thank Ms Felicity Mackie, the advisory officer, and Mr Mark Warner, the committee clerk, for their assistance in developing and, ultimately, delivering this report.

When I first joined the committee, Hon Michael Mischin told us that once we are working in the committee environment, it is more collegial, in the sense that we are working towards the same goal, rather than taking a stance whereby we are all adversaries. After attending meetings of the Standing Committee on Uniform Legislation and Statutes Review a number of times and delivering, to date, two reports, I have to say that he was right. As a new member of both this Parliament and that committee, I am very grateful for that advice.

As a fellow former legal practitioner, may I also say that I quite enjoyed Hon Michael Mischin's work procedure on putting together reports. We worked through it line by line and word by word to make sure that there were no typographical errors and that the selection of words was to the best of our ability. We worked and reworked on certain words, so hopefully we will not have to go through an omnibus bill one day down the track after finding we missed a word here or there in the bill before us. I believe the collaborative nature of the committee I was involved in produced a good outcome in the 106th report of the Standing Committee on Uniform Legislation and Statutes Review.

I will provide a bit of background to this bill. Some time ago we discovered some small rocks—I hope I used the correct word. As reported in *The West Australian* of 4 March 2015 —

Three tiny rocky outcrops discovered 300km off WA's north-west coast have become the world's most valuable real estate, worth at least \$5 billion to State coffers in gas royalties.

That gave rise to a situation whereby the maritime boundary for resource entitlements was redefined. That may not be the best word to describe that situation, but I will do my best. Essentially, according to the 1979 Offshore Constitutional Settlement agreement, the Commonwealth of Australia is entitled to and has sovereignty over a 12-nautical mile distance into the ocean from the mean low-water mark. Through that agreement, Western Australia is entitled to three nautical miles from our mean low-water mark.

Torosa gas field is part of the Browse project, which has about 15.9 trillion cubic feet of gas.

Sitting suspended from 1.00 to 2.00 pm

Hon PIERRE YANG: Thank you for allowing me to continue my remarks on the second reading debate of the Petroleum Legislation Amendment Bill 2017. Before the lunch break I had been discussing the Torosa gas field, which is part of the Browse Basin project. As I was saying, the Browse Basin project has an estimated 15.9 trillion cubic feet of gas deposit and is noted to be a very complex and expensive project to develop. May I make the point that on 1 July 2015 an article appeared on the WAtoday website, reporting that the world's biggest floating gas facility was on its way to Western Australia. Given that today is 17 August and I have not seen an update on that situation, I assume that it has arrived in the northern waters off Western Australia. That ship is called the *Prelude*. It is a 488-metre long, 600 000-tonne vessel, operated by one of the parties to the Torosa agreement. It is interesting that the article stated that this ship would be operating as an offshore floating gas facility 475 kilometres north of Broome and would be providing 450 jobs. It is of particular interest to learn that most of the jobs are to be filled by Western Australians. I certainly hope, given the climate we are living in, that report is true and that most of the 450 positions are filled by our fellow Western Australians.

The bill before us was referred by this house to the Standing Committee on Uniform Legislation and Statutes Review. Obviously, the committee could examine the bill only within its terms of reference, and that is what it did. Let me take one step back. The commonwealth, state and other industry parties signed the Torosa apportionment deed of agreement, which in the committee's report is referred to as the "Torosa agreement". One of the conditions precedent listed in the agreement is that relevant enactment must be done within a period of two years—or, rather, 24 months as it states in the agreement. The Torosa agreement was signed by the parties on 22 July 2015. Fast forward two years.

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Hon Alannah MacTiernan: Fast forward? Slowly, member.

Hon PIERRE YANG: Slowly, or otherwise, we move forward two years—but, thank you, minister.

When the committee examined the conditions precedent, it found that in 2017 the agreement could not stand anymore because the conditions precedent had not been met. A similar bill to this one had been introduced by the former government in 2016, and when the Parliament last sat in November 2016, the committee had not had the opportunity to fully debate and examine the bill. Therefore, when the Parliament prorogued for the state election in 2017, the bill had not been passed by the last Parliament. After the election the new government introduced a similar bill, based on the Torosa agreement, to this Parliament so that it could be referred to the Standing Committee on Uniform Legislation and Statutes Review.

As I mentioned earlier, when this bill was referred to the Standing Committee on Uniform Legislation and Statutes Review, it found that one of the conditions precedents could not be met. Therefore, the committee sought advice from the Minister for Mines and Petroleum in June. The committee was concerned that because this conditions precedent had not been met the agreement would not be able to proceed. I am just trying to find the correct wording here. The minister's advice was that the Torosa agreement would not fall over if the bill was not passed by 30 June. Before the winter recess, the Parliament last sat on 29 June 2017, and with that understanding from the minister's advice, the committee resolved to look at the Torosa agreement and the bill in detail during the winter recess.

The committee made two findings on the conditions precedent having not been met. I refer to findings 1 and 2 at page 6 of report 106 of the committee, which state —

Finding 1: The Committee finds that clauses in intergovernmental agreements may impose upon parliamentary sovereignty by requiring the State to take certain action within a timeframe set by the Executive. This may result in the Parliament being pressed to expedite consideration of legislation at the possible cost of adequate scrutiny.

However —

Finding 2: The Committee finds that notwithstanding that the State of Western Australia has not complied with the conditions precedent in the Torosa Agreement so far as they imposed obligations on the State, the Government has advised that the Torosa Agreement will not fail. However, it would be prudent for the Government to prioritise Parliamentary consideration of the Bill with a view to its passage, should the Parliament agree to it, as soon as practicable.

With that view and that finding, the committee correctly pointed out that Parliament should have the ultimate sovereignty for legislation and parliamentary scrutiny; that is paramount. However, given this situation, it is in the interests of the state that we look at this with a sense of urgency. The committee also remarked that—I apologise, Acting President; I am just trying to get to the correct wording in the committee report.

Thank you for your patience. My apologies. The committee is of the view —

Hon Alannah MacTiernan: It's a very good committee report. Very thorough.

Hon PIERRE YANG: It is a very good report, indeed; I thank the minister. Acting President, I do not seem to have found that correct wording. I will move on from that point.

Hon Peter Collier: A slight pause.

Hon PIERRE YANG: Thanks for members' indulgence and patience. After examining the Petroleum Legislation Amendment Bill 2017, the committee was of the view that the absence of a—I am just trying to find the correct terminology.

I refer to commencement. The bill has two parts. The first part of the bill will come into operation on the date of royal assent; the second part of the bill will come into operation by proclamation of the executive. Despite the fact that there is always a risk of the executive not proclaiming the bill and it would not come into operation, as we heard from Hon Adele Farina yesterday when she spoke about her experience as the Chair of the Standing Committee on Uniform Legislation and Statutes Review, that is not the case here. It is in the interests of the state and the people of Western Australia that we should enact and proclaim the second part of the bill as soon as practicable once it is passed by Parliament.

We also wish to draw Parliament's attention to the review clause. The committee's report remarked on the fact that it is always desirable to have review clauses. Finding 5 states —

The Committee finds that, notwithstanding an absence of review provisions in the Bill, effectiveness of the operation of the amendments made by the Bill will be assessed in the course of a more general and comprehensive review by the Government of State petroleum and geothermal legislation.

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With that, I concur with the chair of the uniform legislation committee's advice and present the report and its recommendations to this house.

HON Dr STEVE THOMAS (South West) [2.15 pm]: Thank you for the opportunity to make a few brief comments on the Petroleum Legislation Amendment Bill 2017 and the history of petroleum research and discovery in the north west. I like to think of this bill as a reflection of a temporary, at least, windfall for the state of Western Australia and a temporary, at least, reflection of goodwill on behalf of the commonwealth government. It was not that long ago when we looked at Browse Basin and noted that according to the maps everything was effectively in commonwealth waters apart from some very, very small bits around a couple of islands, and particularly Scott Reef where the state held some jurisdiction. Members would probably be aware that there has long been a historical and constitutional reflection that the land, unless otherwise denoted by legislation, is owned by the states, including the islands of the state off which they exist and up to the three nautical mile limit. After that, the waters are in effect commonwealth and that is a constitutional reflection of an agreement that was made a century or so ago.

Much of the resources off the coast of Western Australia obviously are a bit deeper and a bit further out than three nautical miles. For the most part, the Browse development was always going to be a bit problematic for the state of Western Australia, but it was going to get some benefit because any development offshore, for example, might be resource supported and maintained by activity based in Western Australia. It is not to say that development in commonwealth waters has no benefit to the state of Western Australia—it certainly does. This is why the previous government looked at and planned for the processing of Browse Basin onshore, on the coast of Western Australia. Without doubt the state getting that particular deal had a fairly massive financial benefit. I am sure that the state pushed very hard for that. We need to recognise the economic realities. The margins have dictated that for the most part those distant offshore and quite deep oil and gas resources that will be tapped in the near future are likely to be processed on floating platforms. We can see the activity in the Browse Basin where we know that the major proponents are looking at floating platforms for processing gas to put into a ship, to take to those very lucrative marketplaces—particularly in Asia, but that might spread around in years to come.

At the beginning of this process, before legislation was in place, the little bit of area around Scott Reef was obviously Western Australian territory and Western Australia could claim three nautical miles around that, which was not a big area and was only a small proportion of the gas fields until such time as by happenstance, Geoscience Australia discovered a rock—the golden rock, as we all refer to it now.

Hon Alannah MacTiernan: You don't think somebody got out there at night and laid a bit of —

Hon Dr STEVE THOMAS: I will come to that, minister, because I suspect that it would be to the state of Western Australia's benefit for Geoscience Australia to find more rocks there.

Hon Alannah MacTiernan: Maybe we could build a rock!

Hon Dr STEVE THOMAS: Yes. Perhaps part of the Department of Regional Development and Lands policy could be rock building! In Geographe Bay we are looking at artificial reefs. We could do artificial reefs in areas a bit further afield and not tell the commonwealth in the meantime. The golden rock is not very big. It does not require a huge amount of landmass to say that there is a bit of Western Australian landmass out there.

Hon Alannah MacTiernan: Maybe that is why the Feds are so opposed to action on climate change. They want the ocean to rise to get rid of our golden rocks!

Hon Dr STEVE THOMAS: I quite like that. Artificial reefs might be a good use for royalties for regions funding into the future.

Hon Robin Chapple interjected.

Hon Dr STEVE THOMAS: Yes, that is right. Obviously, there was a benefit. No legislation was in place at that point for sharing a resource that sat underneath both commonwealth and state jurisdictions. This is good legislation that develops a platform for the commonwealth to be forced to the table to allow the state to reap some benefit from what was effectively a shared resource. We cannot necessarily tell where the gas comes from. If we tap a bore down into either an aquifer or an oil or gas resource, we can not necessarily tell exactly where that resource comes from—for example, if it comes from a Western Australian jurisdiction. Whenever we tap into commonwealth waters, the gas and oil just flows in that direction, which means that some sort of legal agreement is essential. I can tell members that there was great consternation in the commonwealth when Geoscience Australia announced the finding of a rock north of Scott Reef because it had a significant impact. There was a flurry of emails going back and forth and a great deal of consternation but, to the commonwealth's credit, it has acknowledged now that that piece of rock, which is not very big, has been recognised by Geoscience Australia as a piece of Western Australian land, which therefore allows us to claim three nautical miles in a circle around it as part of our jurisdiction, which is good. The legislation that results from that is also good. I am not sure that it will result in billions of dollars to

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the state because we do not know what the economic results of that will be for some time. Obviously, the oil and gas has to flow and the petroleum resource rent tax is measured on flow. Let us see what happens in time, but we can be absolutely guaranteed that in time it will result in an additional income stream for the state of Western Australia. It certainly means a temporary boom and it is a temporary act of goodwill on the commonwealth government's behalf.

As we know, when we look at the way in which the commonwealth government apportions money to Western Australia, as we have said in this place several times, it measures own revenue to work out how much in the way of grants and GST Western Australia is going to get. For how long we will get that significant bonus in revenues before some sort of correction occurs might be particularly interesting. Although the commonwealth has effectively given up on moving us from having 10 per cent to 65 per cent of the resources, we could argue that it has given up 55 per cent of the resources and 55 per cent of royalties. However, the correction over time might look a little different from that, so let us see how that goes. Obviously, the North West Shelf project was an exceptional circumstance in which the government of the day negotiated specific additional royalty payments for the state of Western Australia. I suspect that it would be very difficult to get the same sort of largesse out of any commonwealth government on either side of politics at the moment. We will need to watch this over the next decade or two to see what the financial impact will be on the state of Western Australia. There will certainly be an additional boost but how long that stays in place before a correction might depend upon the other revenues coming in from our other major resources, and probably, most importantly, the price of iron ore. If iron ore stays at just over \$73 a tonne and we get additional resources, it may impact our revenues more than we think. Having said that, if we go into this with our eyes wide open, we recognise that it is at least in the short time a guaranteed economic boom for Western Australia until some sort of correction is put in place. It is good that the government of Western Australia and the commonwealth government have been able to set in place legislation that settles this down basically forever. Disputes over oil and gas resources are not new. Everybody wants to own them. We only have to look at what is happening in the Timor Sea to realise that that is going on everywhere and is unlikely to change in the world any time soon. However, this is good legislation. It will allow some certainty at least between the jurisdictions in the commonwealth and Western Australia. The financial benefit we will have to look at and question over time. It will certainly be good in the short term; it might not be quite so good in the long term. One might argue that the commonwealth gives freely and briefly with one hand, knowing full well that in the fullness of time it will take with the other. However, that will be for others to negotiate at an appropriate moment—pardon my cynicism; call me doubting Thomas!

Hon Alannah MacTiernan: I bet you have used that many times. We are going to do a *Hansard* check for that phrase.

Hon Dr STEVE THOMAS: Yes. However, it is good legislation and at least in the short term it will provide a benefit to the state of Western Australia. On that basis, I support the bill.

HON JACQUI BOYDELL (Mining and Pastoral — Deputy Leader of the National Party) [2.24 pm]: I rise very briefly to state that the Nationals will be supporting the Petroleum Legislation Amendment Bill 2017. We heard that in 2015, the then Minister for Mines and Petroleum signed a deal with the commonwealth government and the proponents of the Browse Basin project. That deal requires legislative backing in order to provide some confidence to the project and the proponents from a longevity perspective. That is the right thing to do. It is a state building project and the state government should absolutely be invested in supporting the passage of this legislation. I want to put on record our thanks to the former government and the current government for bringing this legislation through to underpin such an important state development project. For that reason, the Nationals will be supporting the legislation.

HON ROBIN CHAPPLE (Mining and Pastoral) [2.25 pm]: Before I start, I would like to thank Denis Wills, Colin Harvey and Penny Bond from the Minister for Mines and Petroleum's department for giving me a briefing on the Petroleum Legislation Amendment Bill 2017. Like other members, I will start off by advising that the Greens will support this legislation. This legislation, as we have already heard, is about the golden rock. If we had not had this lump of rock wash up on the reef, we could have been significantly disadvantaged. One wonders how many more rocks might suddenly appear on reefs around the place and we then find an oil resource there.

Hon Dr Steve Thomas: We have just developed a plan for that with the government.

Hon Darren West: It is a rock-solid plan.

Hon ROBIN CHAPPLE: Keep them coming! I asked a question in the briefing about what would happen if this rock was washed away. Does the island disappear? I was advised that once an island is an island, it does matter if it goes underneath the ocean. It is no longer an island if we do not have anything on the surface. We might need to get a few dredges out there at some stage and batter it up a little bit to make sure it stays there.

This legislation was introduced in this place on 14 June by Hon Alannah MacTiernan, the minister representing the Minister for Mines and Petroleum. In essence, it deals with common mining code amendments to

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Western Australia's two principal petroleum acts: the Petroleum (Submerged Lands) Act 1982—PSLA82—and the Petroleum and Geothermal Energy Resources Act 1967—PGERA67. The bill addresses two main issues: the requirement for appropriate apportionment provisions when a petroleum pool extends into two licenced areas, and amendments to allow for future maritime boundary changes. This will resolve many problems that we have had historically between the federal government and the state government, and, in essence, it is a good thing. We need to talk a little bit about the notion of pools. The oil or gas resources that this legislation may cover appear at several different geological levels and can extend well beyond the boundaries of the area being explored. This legislation therefore enables agreement to be reached without necessarily the definition of those pools. That is really important because, as members would be aware, quite often in the goldmining industry a miner can go down and follow a vein of gold, only to find that it disappears out of their tenement boundary and actually belongs to somebody else.

Hon Dr Steve Thomas: You don't tell them that!

Hon ROBIN CHAPPLE: Yes!

This bill resolves many of those issues. Although the effects of this amendment bill are substantive and significant, they arise from agreement between the commonwealth and the state and the Browse joint venture participants. The relevant documents pertaining to this bill are the 106th report of the Standing Committee on Uniform Legislation and Statutes Review; the Petroleum Legislation Amendment Bill 2017; the original Torosa agreement and letter from the then Minister for Mines and Petroleum dated 19 June 2017, and a subsequent letter dated 26 June 2017; and the Offshore Constitutional Settlements Agreement 1979.

Many years ago, I spent a bit of time with Murray Meakin in the then Department of Mines and Petroleum dealing with some aspects of how income is derived from both federal and state agreements. That has changed over time. We have now reached the stage with this agreement at which we will have some surety into the future.

Finding 1 of the committee was as follows —

The Committee finds that clauses in intergovernmental agreements may impose upon parliamentary sovereignty by requiring the State to take certain action within a timeframe set by the Executive. This may result in the Parliament being pressed to expedite consideration of legislation at the possible cost of adequate scrutiny.

One would hope that is not the case and goodwill will prevail into the future.

Finding 2 of the committee was as follows —

The Committee finds that notwithstanding that the State of Western Australia has not complied with the conditions precedent in the Torosa Agreement so far as they imposed obligations on the State, the Government has advised that the Torosa Agreement will not fail. However, it would be prudent for the Government to prioritise Parliamentary consideration of the Bill with a view to its passage, should the Parliament agree to it, as soon as practicable.

The committee made two other findings—finding 3 and finding 4. The committee's recommended position was that the bill was not contentious.

I would again like to thank the advisory officers from the relevant ministers' offices for also providing me with copious maps of how this process will work into the future.

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development) [2.32 pm] — in reply: I very much appreciate that so many members have made a contribution to the debate on the Petroleum Legislation Amendment Bill 2017. It was an exciting moment for all Western Australians when we saw the "golden rocks" article on the front page of that fabulous newspaper, *The West Australian*.

Hon Robin Chapple: Where is your tongue at the moment?

Hon ALANNAH MacTIERNAN: I am very earnest and sincere in my praise. It is understandable that so many members want to contribute to a discussion on this legislation. Hon Tjorn Sibma, Hon Laurie Graham, Hon Michael Mischin, Hon Pierre Yang, Hon Dr Steve Thomas, Hon Jacqui Boydell and Hon Robin Chapple have made an important contribution to the debate on this bill. They have also reflected on the committee report. Therefore, I will not go over all the issues in great detail because they have been well canvassed by those members.

I want to echo the appreciation that has been paid to the officers of the now Department of Mines, Industry Regulation and Safety. They have been impeccable in the briefings they have provided to the committee and members of Parliament to ensure that we properly understand what is a rather complex piece of legislation. That has helped ensure that this legislation is being proceeded with, although belatedly, in a speedy way. I thank the Minister for Mines and Petroleum, Hon Bill Johnston, and his staff for ensuring that everyone has been given all the information that they need on this bill.

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A number of members have raised the issue that in some sense this agreement is out of time and a condition precedent has not been met. Hon Michael Mischin mentioned this in particular. It is incredibly important that we in this place understand the time lines and needs of industry. Of course we want to provide for proper parliamentary scrutiny. Hon Michael Mischin obviously has done a very good job in encouraging collaboration across parties in the work of this committee. However, he made a comment about how Parliament is able to review this legislation at leisure. I believe that is a bit out of keeping with the expectations of the community. As elected members of Parliament, the community expects us to work hard and be thorough. However, for projects such as this, with a potential investment of some \$20 billion, we need to understand the importance of moving forward expeditiously. We are not living in the nineteenth century; we are living in the twenty-first century. We need to take that into account in our deliberations.

This is a joint agreement between the commonwealth and the state, because it is about shared resources that cross boundaries. It also involves the commercial joint venture partner. The agreement was signed more than two years ago, and a 24-month time frame was given for this legislation to be dealt with by this state Parliament. This legislation is quite complex. It took some 15 months—until October last year—for this bill to be introduced in Parliament. The bill was second read, but it was not dealt with further. When Parliament was prorogued at the beginning of this year, the legislation fell by the wayside. We have now brought this legislation forward. I note the concern expressed by the committee that intergovernmental agreements do not provide the Parliament with enough time to enable proper scrutiny. Of course that is an issue. However, we need to get on with the business of government and ensure that matters such as this are dealt with in a reasonable time frame. We have private sector parties engaged, and I would have thought that giving government and Parliament a two-year time frame to enact that legislation was not unreasonable. I note the concern in the committee report. As a house of review, we need the capacity to scrutinise, but I also urge members to think about the real world that has elected us and the sorts of time frames that so many taxpayers—including schoolteachers, nurses, businesspeople, people working in aged-care centres—have to act within, make themselves available and get things moving. We need to understand that culture and that we also have to act in an expeditious way to ensure we take these processes forward.

Hon Dr Steve Thomas also talked about the issue of the fair share and the fact that this provides an opportunity for Western Australia perhaps to get some more funds. Hon Pierre Yang mentioned that aspect of it as well and the fact that this was the cause of considerable excitement in WA. As has been commented, in one sense while we get something on one hand, we will lose it on the other with the GST distribution. I would like all parties in this house to really come on board to support the idea that Premier Mark McGowan has put forward that 25 per cent of our royalty stream be reserved and protected from distribution just as the \$6 billion of gambling tax revenue is protected for the eastern states. I think it would be a very fair mechanism. I do not believe it would undermine the principle of horizontal fiscal equalisation, because when there are resource projects, particularly in remote areas, it places a very big demand on the state and the provision of both hard and soft infrastructure—of roads, ports and the supporting community infrastructure of schools and hospitals.

Hon Dr Steve Thomas: Would you take an interjection?

Hon ALANNAH MacTIERNAN: Yes, of course I will—always from Hon Dr Steve Thomas.

Hon Dr Steve Thomas: You are too kind, thank you.

That certainly happened with the North West Shelf some time ago. Does the minister have any idea whether any kind of negotiation happened particularly in relation to the Browse Basin, given the opportunity of the golden rocks for a one-off result or outcome in relation to royalties and the GST negotiations?

Hon ALANNAH MacTIERNAN: The North West Shelf took place before; I think it was well before.

Hon Dr Steve Thomas: It was in the 1960s and 1970s.

Hon ALANNAH MacTIERNAN: Yes, that was signed well before the GST agreement, and I will not comment on who signed us up to the GST agreement without some predictions in it! I am not sure that has specifically been discussed in relation to this project. I remember that in 2010, Kevin Rudd, the then Prime Minister, made an undertaking that a certain amount of funds from the project would be quarantined to be made available to WA. Presumably, that probably would not have been as large a sum as I thought we needed, but this certainly was an offer on the table at that stage from federal Labor. What we can do at a state level, which hopefully one day might have some success, is embed this into the decision-making of the federal government. As I said, it is not a position that in my mind undermines the principle of horizontal fiscal equalisation, because it is quite clear that specific burdens to provide infrastructure fall upon a state where these remote resource projects are being developed and that is not properly reflected in the Commonwealth Grants Commission's formula. As I have said before in this place, I particularly regret that in the last two years we have made WA's share worse by undermining and compromising the remoteness provisions that were previously there. They were not particularly strong in my mind, but they have been made a lot worse now by new mechanisms that were unilaterally adopted by the federal Treasurer two years ago. I think it is a fruitful area for exploration—probably more fruitful than us going out there

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and creating artificial reefs. We could perhaps have a joint venture with the Chinese, who appear to have great capacity to expand their territorial claims on the basis of islands being built in the ocean.

Hon Pierre Yang: We just have to make sure that the workers are Australians.

Hon ALANNAH MacTIERNAN: We will. We will absolutely make sure that we are doing that, Hon Pierre Yang; that would be a top priority. We will cast our minds to how we could do that.

As we know, this project has had a number of complications. I am fairly confident that we will see Browse operating out of Karratha, which I think would be a great outcome for this state. It would allow us to use infrastructure already in place, to get a very solid return for this state and, obviously, not to compromise the coastline of the Kimberley. I think there is a lot for us to be positive about. I really appreciate the thoughtful work by the committee that has gone into this and the very thoughtful contributions to this debate that we have had today. With that, I commend the bill to the house.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Hon Alannah MacTiernan (Minister for Regional Development)**, and transmitted to the Assembly.