WESTERN AUSTRALIA

MINISTER FOR MINES
AND PETROLEUM;
FISHERIES;
ELECTORAL AFFAIRS;
LEADER OF THE
GOVERNMENT IN THE
LEGISLATIVE COUNCIL

Our Ref: **26-06688**

Mr Donald Allison
Clerk Assistant (Committees)
Parliament House
PERTH WA 6000

Dear Mr Allison

STANDING COMMITTEE REPORT: GOVERNMENT RESPONSE

Thank you for your letter dated 13 May 2010.

I advise that the Government has responded to the Report of the Standing Committee on Uniform Legislation and Statutes Review in relation to the *Petroleum and Energy Legislation Amendment Bill 2009*.

The Government's response occurred during the Bill's Second Reading stage in the Legislative Council on 26 May 2010 and during the Committee of the Whole House stage on 15 June 2010. Please see the attached copies of Hansard for these two dates.

Yours sincerely

NORMAN MOORE MLC
MINISTER FOR MINES AND PETROLEUM

Att.

25 AUG 2010

4th Floor, 216 St Georges Terrace, Perth Western Australia 6000
Telephone: +61 8 9422 3000 Facsimile: +61 8 9422 3001 Email: Minister.Moore@dpc.wa.gov.au

PETROLEUM AND ENERGY LEGISLATION AMENDMENT BILL 2009

Second Reading

Resumed from 26 November 2009.

HON JON FORD (Mining and Pastoral) [8.50 pm]: The Petroleum and Energy Legislation Amendment Bill 2009 seeks to amend the Petroleum and Geothermal Energy Resources Act 1967, the Petroleum (Submerged Lands) Act 1982 and the Petroleum Pipelines Act 1969. I will commence by quoting from the minister's second reading speech, which I will not go into in any great detail, but the following is important —

> Under the terms of the 1979 Offshore Constitutional Settlement, the states and the Northern Territory agreed to maintain, as far as practicable, common principles, rules and practices in the regulation of petroleum exploration and production in state waters with those of the commonwealth. This is often referred to as the common mining code.

In essence, that outlines the major reason behind this bill. There are other issues that I understand the government will not deal with in this bill. This bill seeks to implement uniformity across jurisdictions for the mining code and the opposition supports that.

This bill was also to deal with carbon dioxide storage, transport of gas by pipelines and re-injection sequestration, but I understand that they will now be dealt with in other legislation as a result of the Standing Committee on Uniform Legislation and Statutes Reform's report 47 on this bill.

This bill also deals, importantly, with tight gas to allow for the application of a minimum five per cent royalty. That is important because it designed to encourage the development of this part of the sector, which is emerging in Western Australia and, indeed, in Australia. It is well established in other jurisdictions around the world, particularly the United States, but it still needs to be developed in this state. The royalty is marginal to encourage people who might want to develop gas reserves in Western Australia. By imposing a minimum royalty right they will be given some relief in the form of a discount by imposing a minimum royalty rate.

This bill was referred to the Standing Committee on Uniform Legislation and Statutes Review. Its report 47 includes a number of recommendations that I will refer to.

I thank the minister for the briefing provided by his department. I note that his agency recognises the good work that the committee did on what is regarded a complex bill. I understand that the government has agreed to most of the committee's recommendations, if not in a practical form certainly in principle, and the opposition supports that.

The standing committee's recommendations 1 and 2 deal with significant occupation, health and safety provisions in the other statutes, such as the Petroleum Legislation and Repeal Act 2005 and the Petroleum Amendment Act 2007. Recommendations 1 and 2 seek to have relevant parts of those acts proclaimed prior to the relevant clauses in this bill being proclaimed. However, I am advised that the relevant parts of those acts have been proclaimed and, as a consequence, they have now become regulations which were written on 14 May this year. In other words, that means that those two recommendations drop away.

The committee's recommendation 3 states —

> The Committee recommends that when a bill proposes amendments to a principal Act as if provisions of an earlier amending Act which have not come into operation had come into operation, the Bill and Second Reading Speech should clearly identify that circumstance for the information of the Parliament.

The agency advised me that it has noted and agrees with that recommendation and will do everything within its power to ensure that this occurs in the future.

The standing committee's recommendation 4 deals with what is perceived as retrospective provisions regarding renaming conventions for zones for petroleum production. Again, I understand that the agency does not support this recommendation. The opposition has a propensity to support the government's position, but I would like the minister to give the house an explanation in support of the government's position in his response to the second reading debate.

Recommendation five of the standing committee's report states —

> The Committee recommends that when introducing a bill to the Legislative Council that proposes amendments with retrospective effect, the Executive provide an explanation for the proposal that those amendments have retrospective effect and advice as to whether the those amendments will adversely affect rights and liberties, or impose obligations, retrospectively.

I am advised that the government supports this recommendation. The opposition also supports it.

The committee's recommendations 6 to 11 deal with the issue of carbon dioxide sequestration stations, allowing for the transportation of gas by underground pipelines. However, the committee's report identified some unintended consequences. I do not intend to go into the detail of that. It is a complex bill and if members read the report they will find that the bill is technically complex. I am advised by the government's agency that the government agrees with recommendations 6 to 11 and has decided to develop discrete policy and amendments to deal with carbon dioxide storage and shipment. Perhaps the minister might like to outline that in more detail in his response.

The standing committee's recommendation 12 deals with the possible conflict of an infrastructure licence being granted over another company's exploration production block. The government recognises that conflict, but believes that the current legislation deals with that in a practical manner. For members who are not familiar with the industry, an exploration box, or a production block, is a tenement. Because of geological consideration, such as depth of water, someone might seek to put a production platform on that lease. It is really a neighbour's block, so to speak. Currently, that is done through negotiation between the two parties and there are practical examples of where that has occurred. I have had that explained to me and I have had personal experience of it. I agree that it is currently working. I have not had complaints from anybody within the industry. If there is another reason that the government feels that it is quite happy with the current arrangements, perhaps the minister could enlighten the house in his response. As I said, for me it is not a showstopper because I currently think that it works well.

Recommendation 13 reads —

> **Recommendation 13: The Committee recommends that the Minister for Mines and Petroleum advise the Legislative Council whether the Executive proposes to delete clauses 30 and 97 from the Bill. If so, this can be effected in the following manner.**
>
> **Page 26, lines 3-6 - To delete the lines**
>
> **Page 77, lines 1-4 - To delete the lines**

If I can find the position in the report —

Hon Norman Moore: Is it to do with retention releases?

Hon JON FORD: Yes. Paragraph 11.12 of the report reads —

> The practical effect of clauses 30 and 97 is that there is less opportunity for the Minister to re-evaluate the commercial viability of a resource and cancel the retention lease in the event an unsatisfactory response is received to the view that recovery of the petroleum is commercially viable.

I could be wrong, but my understanding from the briefing is that the government agrees with that. I was not sure whether the government agreed to deleting those particular provisions.

Hon Norman Moore: At the moment there are two assessments provided for a retention lease period. This was going to make it one but we are happy to go back to two.

Hon JON FORD: That is a reasonable response. The final recommendation is recommendation 14 —

> **The Committee recommends that the Minister for Mines and Petroleum explain the necessity for the "*key principles*" in respect of furnishing information in relation to a petroleum or geothermal energy resource discovery, and provision of that information to others, to be in subsidiary not primary legislation.**

In the second reading response I would just like to hear the minister's response to that, but I am quite satisfied with the government's position. I should mention to members that this bill has been around for quite a long time. I think it was introduced in 2005, or some time ago, by Labor when in government, and the minister is carrying it through. I understand that we are not going into committee tonight, but it would be useful for the minister to hear the views of the house on that when dealing with those amendments. I would therefore like to say to the house that the opposition supports the legislation and the position that the government has taken on the recommendations of this report, subject to satisfactory responses from the minister to concerns raised by the committee. As I explained to the house in my summary of the recommendations, the opposition sought the government's position on these recommendations from its agencies. It was generally quite satisfied with the response. With those comments, we support the bill and look forward to the second reading response from the minister.

HON ROBIN CHAPPLE (Mining and Pastoral) [9.03 pm]: I received a briefing on this bill today. I raised a number of issues and concerns in that briefing. I am not fully prepared at this time and ready for this legislation, but I will attempt, without any of my notes or any of my briefings, which are in my office, to deal with some of the substantive issues.

I suppose the first thing that we picked up on was part 5, "Other Acts amended". Clause 186 seeks to amend the Barrow Island Act 2003 by deleting section 11(1). Without that act to hand, I can advise that it actually reduces payments worth $40 million relating to geosequestration and removes them from that act. That is why I will move that amendment standing in my name.

Hon Norman Moore: If it is of any help to you, we will agree to that amendment.

Hon ROBIN CHAPPLE: I thank the minister. I understand that there are some other amendments to come in as well.

Hon Norman Moore: I can explain that when I get up respond. As I have said, we are not going to do the committee stage tonight, so if you want to raise other issues during committee, there is the opportunity.

Hon ROBIN CHAPPLE: If I may, I will deal with matters as we go through the bill in committee. I will not make any particular speeches about them, but there are certainly concerns with clauses that I would like to address. On the basis of that and because I am so ill-prepared, I sit down.

HON NORMAN MOORE (Mining and Pastoral — Minister for Mines and Petroleum) [9.06 pm] — in reply: May I thank the two members who have spoken for their general support of the bill. I acknowledge that Hon Robin Chapple was briefed on the committee's report only today, but my understanding is that when the bill in fact first turned up, which was quite a long time ago, briefings were available at that time. Because it is a uniform legislation bill, it went off to the Standing Committee on Uniform Legislation and Statutes Review, and it has been there for quite some time. Although I regret that Hon Robin Chapple's briefing on the committee's report was only today, I am happy to indicate that I will respond on behalf of the government to the comments made by Hon Jon Ford and Hon Robin Chapple, and also to the committee's report today. The reason I do not wish to proceed with the committee stage tonight is that the amendments are still being drafted and I have not had a chance to sign off on those today. However, I can indicate to the house what the government proposes to do about the committee's report.

This is a very complicated bill. As Hon Jon Ford said, it has been around for a long time and was probably started in about 2004 or 2005 by the previous government. Indeed, it had been pretty well completed by the time I became the minister, so I did not have a great deal of involvement in its drafting. The government agreed to continue with the legislation that was initiated by the previous government. As members may well be aware, we are dealing with a very complicated set of laws here. There are probably six pieces of state legislation and two or three pieces of federal legislation that all relate to what happens in the petroleum industry, but particularly in the offshore petroleum industry. I have to say that I find it fairly confusing at times when I need to deal with commonwealth legislation and commonwealth agencies and state legislation and state agencies over offshore waters. It has worked quite well, although the legislation is quite complicated, through the joint designated authority arrangements that exist between the state and the commonwealth. Members will be aware, as has been mentioned, that in the 1979 offshore constitutional settlement the states and the commonwealth came to some agreement about how we would manage offshore petroleum. As I just said, management of offshore petroleum in commonwealth waters has generally occurred through a cooperative arrangement between the state and the commonwealth. In state waters the state itself has jurisdiction. A number of projects in fact go from commonwealth jurisdiction to state jurisdiction, so there is some overlap in that respect. The constitutional settlement was made between the states and the commonwealth to recognise the involvement of the states in offshore petroleum activities at the time.

I guess it was also to recognise the fact that the states had experience and expertise in managing offshore petroleum, and the commonwealth fundamentally did not. So, this arrangement was reached. But, at the same time, it was agreed that we would seek to have a common mining code—"mining" being the word that describes petroleum exploration and production under this legislation—so that the laws of the commonwealth and the laws of the states and the territories would be fairly uniform.

This particular bill is the result of many years of work by the state agencies to bring our legislation in line with commonwealth amendments. The commonwealth legislation has been amended quite significantly in recent times. This legislation is a catch-up in respect of that. This legislation deals with a lot of issues that perhaps were not initiated by the state but were initiated by the commonwealth. To satisfy the requirements of the constitutional settlement, we are seeking to amend our legislation to fit in with the common mining code resulting from the commonwealth legislation.

The bill of course went to the uniform legislation committee, because it is uniform legislation. Can I say that the committee's report is quite outstanding. Indeed, the officers who have been dealing with this legislation for the past five or six years, and who know almost every word in the bill, and every word in the parent act, were very impressed with the way in which the committee went about its inquiry, and very impressed with the committee's understanding of the issues. Indeed, when members hear what I have to say in respect of the committee report,

the agency itself came to the conclusion that a number of amendments needed to be made to the legislation, because the committee drew to its attention some issues that needed to be addressed, and we are seeking to do that. So I am happy that the Legislative Council committee system is working very well, particularly in respect of this bill.

I will quickly go through the government's response to the committee's recommendations and indicate in broad terms what we will do in the committee stage. As I said, the amendments have not yet been finally drafted, so I will have to give the response in fairly general terms at this point in time.

Recommendation 1 relates to some legislative amendments that were made in 2005 and 2007 to the petroleum legislation and have not been proclaimed, and that have had a consequential effect on this legislation. As Hon Jon Ford has said, the proclamation papers for parts 2 and 3 of the Petroleum Legislation and Repeal Act 2005, and part 2, division 2, of the Petroleum Amendment Act 2007, were signed by the Governor in Executive Council at the meeting of 4 May 2010 and were gazetted on 14 May 2010 to come into operation on the following day. So that addresses recommendation 1 and recommendation 2 of the committee.

Recommendation 3 is a nice reminder to any government. It states —

> **The Committee recommends that when a bill proposes amendments to a principal Act as if provisions of an earlier amending Act which have not come into operation had come into operation, the Bill and the Second Reading Speech should clear identify those circumstances for the information of the Parliament.**

I agree entirely with that recommendation. Clearly the second reading speech on this legislation did not contain that, and it should have; and we will do that in future to the extent that I am able to ensure that is the case.

Recommendation 4 deals with a number of retrospective issues that relate to commonwealth legislation that was passed some time ago. The intent of this bill is to apply those same rules that relate to the commonwealth legislation retrospectively to the dates on which they were enacted. The committee's view is that the subclauses that deal with those issues are retrospective and should not be agreed to. The initial response of the department was that it did not agree with the committee's findings. I have had a discussion with the department. I have a difficulty with the sort of retrospectivity that is contained in this bill on these particular matters. I cannot think of any circumstances that would be affected by our deleting those particular subclauses in accordance with the committee's recommendations. Therefore, because there are probably no consequences that would arise from our deleting those subclauses, my view is that we should probably consider that in the committee stage. I will take further advice between now and then, but my personal view is that maybe we can agree to the committee's recommendations in respect of that matter.

Recommendation 5 puts the view that when legislation is introduced to the house that proposes amendments that will have a retrospective effect, an explanation for that proposal should be made available to the house when that legislation is introduced. Again, I agree with that. We should do our best to make sure that we advise the house of all the consequences of any piece of legislation.

Recommendations 6 to 11 relate to issues dealing with carbon geosequestration. The committee has raised a number of concerns because of what it has determined may be unintended consequences. We could argue the point about these and nitpick about it. My view is that we should probably accept the committee's findings and delete those particular clauses—that is, 4(4)(d), 67(3)(c), 176(1)(d), 46 and 60(a). These clauses were put in as an interim measure in the event that someone might want to be involved in the activity of carbon geosequestration prior to the introduction of legislation that is currently being drafted to deal with that matter. It seems now that because the new bill to deal with carbon geosequestration is quite well advanced and will go to cabinet soon for drafting, we can dispense with these particular minimalist amendments to the current bill and await that new legislation. The view is that there probably will not be any circumstances that will arise in the immediate future that will necessitate legislation to deal with carbon geosequestration. So I think we can deal with that as the committee has recommended and not proceed with those particular clauses.

We will agree with the committee's findings on recommendations 7 to 11. Recommendation 12 states —

> **The Committee recommends that the Minister for Mines and Petroleum advise the Legislative Council:**
>
> - **whether there is a prospect of conflicting use arising by reason of an infrastructure licence and title being granted over the same area;**
> - **if not, how this is avoided; and**
> - **if so, of the legislative provision for resolution of any such conflict.**

By way of explanation, petroleum explorers are given tenements over the ocean. Sometimes it is necessary for a particular explorer to be given a tenement, which we are calling an infrastructure licence. Such a tenement might be quite small. It might allow for a floating liquefied natural gas plant—which I doubt will happen in the short term—but it might also apply to a rig or some other facility that the company wants to use and that is not located within the tenement that has been granted to the exploration company. This licence could be granted elsewhere so that the company can carry out the activity that it wants to carry out, even though that particular infrastructure licence is not located over the tenement that is held by the company.

In response to the committee, the department advises that there is a prospect of a conflicting use arising by reason of an infrastructure licence, and title could be granted over the same area. As well as the consultation process prior to the grant of the infrastructure licence outlined in proposed section 60D, there is the capacity to impose conditions on licences governing future activities. Only one infrastructure licence —WA-11-L—has been granted in Australia since infrastructure licences were introduced into the commonwealth legislation. The conflicting use issue has been circumvented by way of a condition on this infrastructure licence, which says that the licensee at all times acts in a manner so as not to inhibit the holder of the underlying permit, licence or lease undertaking petroleum activities in accordance with the rights conferred by their title and that bona fide vessels undertaking these activities be regarded as specified vessels under section 119(1)(b) of the act. This latter provision allows for named vessels to transit through a declared safety zone protecting a facility.

In the state offshore area, the legislative provision to place conditions on an infrastructure licence is provided for by clause 115 of the bill by new section 60I, "Conditions of infrastructure licence". This would permit a similar condition to be placed on the state infrastructure licence, as has been used for WA-11-L. Basically, that means that if we decide to provide for an infrastructure licence in waters that we administer, we will use similar conditions to those that apply in commonwealth waters; that is, there has to be an agreement between the fundamental basic licence holder and the company seeking an infrastructure licence over that. It needs to be sorted out by agreement. It has been done with respect to licence WA-11-L, which has been provided under commonwealth legislation. Bringing in an infrastructure licence is bringing us in line with the commonwealth legislation. The management of conflicts will be as per the commonwealth's recommendations.

Recommendation 13 relates to retention issues, which are usually issued by the minister for a five-year term. A retention lease is a lease that allows a company to hold ground without actually going into production. Often there are conditions attached to a retention lease which may require certain expenditure to be undertaken. Fundamentally, the retention lease can remain in place until such time as the government decides or the company confirms that the tenement is a viable proposition. Members may be aware as a matter of interest that the commonwealth and the state ministers recently put some quite onerous conditions on some retention leases in the Browse Basin to "encourage" some of the major companies to move along a bit more quickly in developing some of those Browse gas resources. At the moment there is provision for the minister to require a review of this retention lease twice in the five-year period. The intention of the legislation is to go down the same path as the commonwealth and make it just once every five years. The committee has taken the view that there is no reason why we cannot make it twice, and I am inclined to agree, so we will agree to that recommendation of the committee.

Finally, recommendation 14 states —

> **The Committee recommends that the Minister for Mines and Petroleum explain the necessity for the "*key principles*" in respect of furnishing information in relation to a petroleum or geothermal energy resource discovery, and provision of that information to others, to be in subsidiary not primary legislation.**

Again, the department has advised me as follows. The department believes the key principles for the management of petroleum data continues to be in primary legislation. This recommendation deals with the committee's concerns over the transfer of the data management matters from the acts to regulations. The key principles for the management of data and the submission of information and samples remain in the act in clauses 55 and 59 of the bill for the Petroleum and Geothermal Energy Resources Act 1967 and clauses 155 and 166 of the bill for the Petroleum (Submerged Lands) Act 1982. In addition, when drafted, the petroleum data regulations will continue to follow longstanding practice and be drafted with the minister as the regulator for any actions occurring in subsidiary legislation. Ultimately, the need to maintain alignment with the national uniform legislation for industry operating in both state and commonwealth areas is important. In that regard, it is recommended that the bill proceed as drafted for the collection and release of data. That is the explanation that we provide for recommendation 14.

I thank members for their contribution to this bill. As I said, it is a complicated piece of legislation. It is intended to bring state legislation in line with commonwealth legislation as it affects offshore petroleum activities in

Western Australia. The government will accept most of the recommendations of the committee. I will have some amendments on the notice paper when we resume debate on this bill some time in the near future.

Question put and passed.

Bill read a second time.

PETROLEUM AND ENERGY LEGISLATION AMENDMENT BILL 2009

Committee

The Chairman of Committees (Hon Matt Benson-Lidholm) in the chair; Hon Norman Moore (Minister for Mines and Petroleum), in charge of the bill.

Clause 1: Short title —

Hon JON FORD: As I said before, the opposition supports the bill. The only comment I want to make concerns what the minister indicated in his second reading response, and as the department indicated to me; that is, the government has some amendments, and there is one to be moved by Hon Robin Chapple. I am happy for the minister to briefly outline the amendments recommended by the committee.

Hon NORMAN MOORE: As I indicated during my response to the second reading debate, the government has agreed to the amendments recommended by the Standing Committee on Uniform Legislation and Statutes Review, which are listed on the supplementary notice paper. I will explain the reasons behind them as we deal with each clause. However, I just say up-front that most of them relate to the decision to take out carbon geosequestration from this bill, because the government intends to bring in legislation separately to deal with that matter. Quite a number of the amendments relate to that matter.

Hon JON FORD: In regard to the foreshadowed legislation to deal with geosequestration, does the minister have a timetable for that or a target date?

Hon NORMAN MOORE: My advice is that a cabinet submission is in the process of being prepared. Of course, once that happens, I am required to take it to cabinet to get approval of the draft, and then we go through the process of approval to print and introduction. I hope that it is reasonably soon. The reason we had included some provisions relating to carbon geosequestration in this bill was as a result of the potentiality of needing to have some legislation to cover an eventuality that might occur. The view of the department at the moment is that there is nothing on the horizon that needs urgent attention, and, indeed, we can manage what we have at the moment. However, I would not be at all surprised if carbon geosequestration issues arise in the relatively near future, so I am keen to have in place legislation just as soon as we can bring it to Parliament. For example, the government is currently providing some funding for a group of companies in the south west to investigate the potentiality for carbon geosequestration in the south west, in the vicinity of Collie, so that in the event that we go down the path of carbon capture and storage, the carbon dioxide generated from coal-fired power stations in Collie could be captured and geosequestrated in the south west. To do that, of course, we have to identify the aquifers and the likely location for the gas to reside, and that is going to take a lot of time. However, as the member would also be aware, part of the Gorgon agreement is that carbon dioxide will be geosequestrated underneath Barrow Island, but that is being provided for under the Gorgon state agreement act, so that piece of that agreement and that state agreement act cover that circumstance, but it does not cover others. I would hope that certainly some time before the end of this year we will be in a position to at least have a bill drafted and ready to go in the event that we need to have some legislation that covers carbon geosequestration.

I notice that some members do not agree with geosequestration of carbon dioxide, but I should also say, on the other hand, that the federal Minister for Resources and Energy, Martin Ferguson, is a strong supporter of this as a potential source of dealing with carbon dioxide in the atmosphere. Indeed, the federal government is investing a lot of money in research into this issue. It is even talking of a system of pipes, particularly in the south eastern part of Australia, to shift carbon dioxide from those carbon dioxide-generating activities such as coal-fired power stations or other secondary industry, and transport it to a suitable underground aquifer to be geosequestrated. A lot of work is being done, and I think it is important that we are in a position to have legislation that covers that in Western Australia in the event that it is necessary here.

Hon JON FORD: I think I have an advantage, Mr Chairman, because I can block your view of my colleague sitting behind me.

The CHAIRMAN: I see nothing!

Hon JON FORD: I know that it is not directly involved with this legislation, but it has an indirect impact because it has been taken out. Is carbon geosequestration required to be in a separate bill because of a potential to reinject other gases besides carbon or to actually be able to reclaim gases, so it is a storage system rather than a waste system?

Hon NORMAN MOORE: The purpose of the legislation will relate to the permanent storage of gases that we do not want in the atmosphere, so it will relate to any greenhouse gas, but the majority will be CO_2. If the member was referring in his question to the temporary storage of gas from one part of the state to another in a

depleted gas reservoir, that is not what this legislation is about. But that is not a bad idea; someone should think about that.

Hon ROBIN CHAPPLE: In terms of this legislation and, indeed, any future legislation, one issue that is not really mentioned is geothermal energy. Does this legislation cover the full extent of geothermal pipelines, or will there be separate legislation to deal with that?

Hon NORMAN MOORE: I am advised that this legislation does not relate to the transport of geothermal energy. It is understood that any likely use of geothermal energy in the near future would be at source, so that as the heat comes out from the ground and is turned into energy by whatever means is to be used, it would be generated at the source of the heat. Therefore, we do not see any need for the transfer of that energy. It could be transferred by overhead powerlines.

Hon ROBIN CHAPPLE: The only reason I raise that issue is that I note that internationally there are some occasions on which geothermal energy is moved, but, as the minister has identified, the calorific value diminishes the further it is transferred. But there are pipelines around the world that carry geothermal energy a matter of kilometres—it is not very far. I just wanted to know whether there was any proposal to deal with those pipelines in any way, shape or form in legislation.

Hon NORMAN MOORE: Not at this time.

Clause put and passed.

Clause 2: Commencement —

The CHAIRMAN: Members, I have amendments starting at clause 2. The committee recommendation is on page 2, lines 9 to 13, to delete the lines.

Hon NORMAN MOORE: There are two amendments on the notice paper. One is a committee recommendation, and the other amendment, which I have put on the notice paper, is the same. Fundamentally, this relates to the retrospectivity part of the legislation. The committee has found that it is retrospective. I have had the department have a good look at this, and it has not been able to identify any practical consequences of supporting the committee's recommendations. In view of that, I am quite comfortable to remove any retrospectivity, which I think we should do as a matter of course in the future. Therefore, I move —

> Page 2, lines 9 to 13 — To delete the lines.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 3 put and passed.

Clause 4: Section 5 amended —

Hon NORMAN MOORE: I move —

> Page 4, lines 10 to 21 — To delete the lines.

Again, this relates to the issue of carbon geosequestration and is no longer required in this particular bill.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 5 to 29 put and passed.

Clause 30: Section 48H amended —

Hon NORMAN MOORE: I move —

> Page 26, lines 3 to 7 — to oppose the clause.

This particular amendment relates to a proposal in the Petroleum and Energy Legislation Amendment Bill 2009 to require companies seeking a retention lease to provide advice to the department on only one occasion. It was felt that that would be an efficient way to do business; however, the committee is of the view that the requirement to provide advice should remain twice within the five-year period of the retention lease, and the government agrees.

Amendment put and passed; clause thus negatived.

Clauses 31 to 45 put and passed.

Clause 46: Section 67 amended —

Hon NORMAN MOORE: I move —

Page 34, lines 1 to 19 — To oppose the clause.

Clause 46 relates to the storage of CO_2 and other geosequestration issues. As I have mentioned already, that will no longer be part of the bill, and by defeating clause 46 we remove the section it relates to.

Amendment put and passed; clause thus negatived.

Clauses 47 to 59 put and passed.

Clause 60: Section 153 amended —

Hon NORMAN MOORE: I move —

Page 44, lines 3 to 9 — To delete the lines.

This, again, relates to carbon geosequestration, and we seek to remove it from the bill.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 61 to 66 put and passed.

Clause 67: Section 4 amended —

Hon NORMAN MOORE: I move —

Page 54, lines 32 to 36 — To delete the lines and insert —

(b) in paragraph (c) delete "hydrogen-sulphide," and insert:

hydrogen sulphide,

The proposed amendment to clause 67 does two things. Firstly, which is really important, it removes a hyphen from "hydrogen–sulphide". Secondly, it deletes the other gases—nitrogen, helium and carbon dioxide—because they relate to geosequestration issues.

Amendment put and passed.

Hon NORMAN MOORE: I move —

Page 55, lines 1 to 9 — To delete the lines.

This is for the same reason as I have outlined before—it relates to carbon geosequestration.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 68 to 71 put and passed.

Clause 72: Section 11 replaced —

Hon NORMAN MOORE: I move —

Page 60, line 23 — To insert after "*Gas*" —

Storage

Page 61, line 7 — To insert after "*Petroleum*" —

and Greenhouse Gas Storage

This is a very simple amendment to clause 72 in two parts to change the title of the commonwealth legislation to reflect its current name. Line 23 on page 60 should now read "the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*". Page 61, line 7, should now read that designated authorities have "the meaning given in the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*". The amendments are simply to bring up to date references to those two acts.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 73 to 96 put and passed.

Clause 97: Section 38H amended —

Hon NORMAN MOORE: I move —

Page 77, lines 1 to 5 — To oppose the clause.

Basically this amendment deletes the clause. Fundamentally, it relates again to the notices in relation to retention leases for offshore petroleum activities. The committee has recommended the retention of the two potentialities for providing information to the government about the retention leases and their viability. The government does not want to proceed with the notion of having only one notice in a five-year period. It wants to retain two notices. I suggest to the chamber that it votes against this clause so that it is not part of the bill.

Amendment put and passed; clause thus negatived.

Clauses 98 to 114 put and passed.

Clause 115: Part III Division 4A inserted —

Hon JON FORD: I am seeking some information from the minister. Under this clause, if an applicant wants to place an oil rig, but not a well, on a tenement that is leased by somebody else, does the minister have the ability to grant approval for that?

Hon NORMAN MOORE: Infrastructure licences are provided under commonwealth legislation and, fundamentally, that is being replicated here. Basically clause 115 means that if a company requires the capacity for a platform that is not a production platform but a platform which might load onto a ship and which needs to be away from its primary tenements, it can be placed on another company's tenement provided that company agrees and it does not in any way interfere with the operations of that company. It might also provide for a floating liquefied natural gas plant that companies are talking about now. Basically it provides for a company, for reasons that will be very rare I suspect, that wishes to have something on the surface of the sea that is on another company's tenement but will probably assist them in their operations on an adjoining tenement. This clause provides them with the capacity to apply for an infrastructure licence. As I indicated, it can be provided only in the event that it does not in any way interfere with the operations of the primary tenement holder.

Hon JON FORD: The minister said in his response that it was subject to the approval of the primary tenement holder. Does the minister have the ability to issue an infrastructure licence irrespective of the leaseholder granting permission?

Hon NORMAN MOORE: I may have misled the member. The minister can in fact override the objection of the primary tenement holder. However, I cannot imagine that happening.

Hon Jon Ford: It could be in the best interests of the state.

Hon NORMAN MOORE: It might well be, but I doubt it would happen. The process would be that once the application is made for the infrastructure licence, the minister would sit down with the primary tenement holder and work out how it would work. If the minister took the view ultimately that the primary tenement holder was being unnecessarily obstructive and that what was being proposed would not have a detrimental effect, he may make the decision for that to happen. I would not expect that to be a regular habit. I should not say this, because I might not be right, but most oil companies generally get along with each other; on second thoughts they do not always do that. I suspect that when it comes to these sorts of issues, commonsense would prevail. To answer the member's question the minister could override the objection of the primary tenement holder.

Hon ROBIN CHAPPLE: The minister identified that this clause could relate to a floating facility and I understand that. Is there a requirement for the area in which a tenement facility might be based to ensure that the ocean floor is what we refer to as sterile in terms of a potential resource?

Hon NORMAN MOORE: I understand that the member is asking me whether the seabed beneath the infrastructure licence would need to be sterile. That would be the most sensible approach. The purpose of this is not in any way to interfere with the production capacity of the primary tenement holder. That is the reason it would need to be done by negotiation. The intention is to not allow the holder of the infrastructure licence to be involved in any way with producing gas or oil. It is about processing from its tenement. It may require pipes or whatever to go from the primary tenement holder's tenement some distance to the processing facility that is on an infrastructure licence.

Clause put and passed.

Clauses 116 to 175 put and passed.

Clause 176: Section 4 amended —

Hon NORMAN MOORE: I move —

Page 135, lines 14 to 25 — To delete the lines.

Again, this relates to carbon geosequestration and the amendment that was made to the Petroleum Pipelines Act. I ask members to not proceed with that aspect of the bill.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 177 to 185 put and passed.

Clause 186: *Barrow Island Act 2003* amended —

Hon ROBIN CHAPPLE: I understand that the minister has the same amendment on the notice paper. I am happy to go with the minister's amendment.

Hon NORMAN MOORE: I move —

Page 144, lines 2 to 4 — To oppose the clause

Again, this is a consequential amendment in relation to CO_2 and it relates to the Barrow Island Act. Therefore, there is no need for this clause.

Amendment put and passed; clause thus negatived.

Clauses 187 to 190 put and passed.

Title put and passed.

Bill reported, with amendments.

Sitting suspended from 6.01 to 7.30 pm