

BROWSE LNG GAS PROJECT

Motion

HON JON FORD (Mining and Pastoral) [10.22 am]: — without notice: I move —

That this Council condemns the Barnett government for its failure to ensure that environmental, Indigenous and cultural interests are protected and proper processes are followed in the development and construction of the Kimberley gas hub.

Nearly four years ago the Barnett government came to power with huge promises of action in state development. We were to have the Oakajee port and the Kimberley gas hub; although at that stage we were not quite sure where the gas hub would be. We were to have a new port in the Pilbara. We were to have expansive project developments. Four years later, we see a very, very different picture.

We will talk about the Kimberley gas hub. I have spoken at some length—I gave a speech that went for nearly four hours under the old rules—about the litany of statements that the Premier made on where this gas hub would be. One after another those places were knocked off the list. Eventually, the Premier picked James Price Point and entered into negotiations with the traditional owners and other people, such as project proponents, to get the project underway. For whatever reason the Premier saw fit, he decided he would do that under the threat of compulsory acquisition. He was not going to do it; and then he was going to do an Indigenous land-use agreement; and then he was going to it again. The restrictions did not affect only the traditional owners; they were also aimed at the proponents at Woodside. Along with Minister Ferguson, the government decided that it would point the finger at those companies and say, “You will build it here no matter what.” True to his flip-flopping nature, just recently the Premier responded to the Leader of the Opposition, Hon Mark McGowan, and said, “I am not saying that I will force them to do it if they come to a decision that means they have to develop it somewhere else.” This is a hallmark of this government and particularly of the Premier. He uses bullying, intimidation and threats.

The Labor government was accused of taking too long and spending too much money. We were particularly accused of getting it wrong by giving the traditional owners a policy right of informed consent, which in fact was a right of veto. However, up to the point of the election we delivered a community, all in the cart, discussing the possible ramifications and what it wanted out of the project. After all, a single gas hub was designed specifically to make sure that a plethora of gas plants did not open all over the Kimberley. In fact, the deal that the traditional owners, through their representative the Kimberley Land Council, struck with the government refers to restricting it to one gas hub. The Kimberley Land Council is very important, because it represents the traditional owners. I will not get into any of the debates about who is a traditional owner and who is not. The fact is that the Kimberley Land Council represents the traditional owners. An extensive agreement was reached with the government. Here it is. It has lots of signatures all over it and lots of dos and don'ts. Given the KLC's defence of the decision and the benefits it would bring to the Aboriginal people, we would think that the council was absolutely onside with the project. But we now see that along with, I think, 244 appeals to the Office of the Appeals Convenor on the EPA's recent decision, the KLC has put in an appeal against the EPA process. The council advised me that it raised 11 grounds of appeal. I will touch on three of them and talk to those in detail.

I am advised that the council is appealing the Environmental Protection Authority's recommendations of assessments in that it failed to address the key environmental factor in regard to social impacts required by the EP act. The matters directly affected by physical or biologically caused by the liquefied natural gas precinct, including aesthetic, cultural, economic and social surroundings. One thing I have heard consistently from my contacts in the Kimberley community is the concern about the social impacts. We had a debate here yesterday about Pilbara Cities. In the Pilbara nobody can afford to buy houses unless they are investors. Kids such as my children have no hope in the world of ever going up there and buying a property in the area and settling down. There are no prospects for people outside a small discrete service industry unless they are employed in the mining industry or associated service requirements. Aboriginal people are regarded in that neck of the woods in the Pilbara as a problem that needs to be fixed.

So we find little places to put them in. We build more houses for them in Roebourne, isolating them from the bigger areas. We let the remote communities limp on without sufficient services. The government's arguments for the Kimberley LNG precinct are that they are going to get heaps of money and that will fix all their problems, but this is going to be spread out amongst an area twice the size of Victoria—the whole of the Kimberley. Part of this agreement says that the project can go ahead as long as those issues are dealt with, and nobody has seen it. All we hear from the government is, “It will be fixed. We'll have a plan”. I can tell members, based on the experience in the Pilbara, that I would not have much confidence that once the projects go up—if it gets up and going—housing projects are not going to cost \$1 million. I would be worried. I know from people in

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that neck of the woods that not many of them want to be involved in the mining industry or the petroleum industry. They would like to do other things such as arts, or work in health or teaching. Some would just like to be motor mechanics or do other trades but not in the mining industry. They enjoy their lifestyle, sitting up there on the peninsula and out bush, doing a bit of hunting and fishing—everybody does, whitefellas and blackfellas, in the Kimberley.

The other thing that they are worried about, and one of the grounds for their appeal to the EPA, is that the EPA fails to address the heritage impacts of the proposal and in particular the impact of the northern pipeline corridor. This is significant, because they were not actually involved in deciding where that pipeline precinct would go. They tell me that at the time, the state's instigation of compulsory acquisition and notices of intention to take knocked them out of any chance of being involved in that. So it was intimidation that took them out of the process.

The last issue I want to talk about is the EPA again failing to address the impacts of the proposal on Indigenous people, and cultural and social impacts. These are the project's proponents—I am not talking about the Woodside project proponents—and they are telling me that on the concept of a LNG hub they are feeling intimidated, bullied and harassed. What else has the government done? The government has subverted the faith of the people—everybody except for the government—in regards to the EPA. Other speakers will talk about that in depth, but no-one can say there was ever a contemplation that the EPA assessment on perhaps the state's biggest and most controversial project to date was to be adjudicated on by one person. Never; nobody could put up that argument and believe that that would be the case.

Let us see what the Premier has to say about this project amongst the background of what I have just said are appeals from people who support the project. People who support the project proponents who represent traditional owners have now put in 11 different grounds of appeal against the EPA process. Their message is very clear: "We have a deal, and unless the deal is met to the letter and to the intent, then the project should not go ahead." So the bullying and intimidation by the Premier has now turned the people who were once supportive into people who are very doubtful.

In fact, since this Premier has been Premier of the state and has been getting involved in this project, four years down the track, the project has never, ever been in more doubt. Go and talk to the Woodside people up there. It depends on any day of the week whether they are feeling positive or negative about it. That has a massive effect on the rest of the industry, because there are other developments in the state that people would like to invest in. I know that they are sitting on the fence, waiting to see how this plays out in the Kimberley. I can tell the Premier and the government, which has sat on the other side for the last four years, criticising the previous Labor government and saying we do not deliver, that it is not a pretty picture now from a state development perspective.

On 2 September 2010 the Premier put out a media release entitled "Kimberley LNG precinct master plan released", which stated —

A Master Plan showing how the proposed Browse LNG precinct could be established, at a location 60km north of Broome, is now available to the public.

...

"The Master Plan clearly demonstrates that we can develop the Browse LNG precinct, within a relatively restricted land area and with all but two kilometres of the nearby coastline remaining open to public access." Mr Barnett said.

Then he said —

"While it provides a possible layout for the precinct, individual components will require specific environmental and Aboriginal heritage approvals before they can be built."

Yet here we are in 2012 with the Kimberley Land Council, which represents the traditional owners, complaining to the environmental appeals convener that they were knocked out of any decision-making process in regards to the northern pipeline corridor because of the threat of compulsory acquisition. It tells a very, very different story when the Premier is saying absolutely "individual components will require specific environmental and Aboriginal heritage approvals before they can be built." It is a joke—a sad joke.

The Premier issued another media release on Friday, 4 December 2009, entitled "Site agreed for Browse LNG processing precinct". One always has to read the subtitle to see which site was approved, because there were a number of them over a time and he kept changing his mind. It stated —

An area just south of James Price Point has been identified as the exact location for the proposed Browse LNG precinct.

Extract from Hansard

[COUNCIL — Thursday, 13 September 2012]

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Hon Jon Ford; Hon Norman Moore; Hon Dr Sally Talbot; Hon Robin Chapple; Hon Helen Morton; Hon Ken Travers; Deputy Chair; Hon Peter Collier

...

“The State Government, the Kimberley Land Council, representing Traditional Owners, and Woodside Energy Ltd have entered into a Heritage Protection Agreement for the precinct

“This establishes a process for identifying, protecting and managing Aboriginal sites within the precinct area.

Again, I use the example of the northern pipeline corridor, but I am told that there are other areas. We have not even started building the plant. The people who are actually supporting the traditional owners in this development are being told by the traditional owners that that is not the case.

Another press release was issued by the Premier on 30 June 2011, entitled “Historic land use agreement signed at State Parliament”—I remember it; I was here. It stated —

The State Government, the Goolarabooloo Jabirr Jabirr native title claimant group and Woodside Energy Ltd today finalised agreements to secure access to land at James Price Point, north of Broome, for the establishment of a Liquefied Natural Gas (LNG) precinct to process gas from the Browse Basin Gas reserves.

It talked about other stuff and then quoted the Premier —

“The precinct will not proceed without the necessary approvals, conditions and detailed management plans,” he said.

One of the grounds of appeal, I am advised by KLC, is that there has been no detailed management plan for the ongoing running of the plant and no discussions about that, yet we were told by the Premier in 2011 that nothing would happen without those things in place. Furthermore, the Premier said —

“The traditional owners will be involved in the management of the precinct. They will monitor the environmental performance of precinct operators and consulted over the environmental protection measures taken.”

The traditional owners do not believe that. They do not believe the Premier. They do not believe the government because they have not seen any evidence to that effect. What they have seen is intimidation, bullying and threats.

Again the Premier on Friday, 6 May 2011, in a media statement headed “Consent agreement reached for Kimberley LNG precinct”, stated —

An historic agreement has been reached between the State Government, Woodside Energy Ltd and the Goolarabooloo Jabirr Jabirr ... native title claim group that ensures Western Australia and the Kimberley benefit from the development of the natural gas resources in the Browse Basin.

The Premier said —

“The State Government’s preference has always been to reach an agreement. While we did start a formal process under the Native Title Act to acquire the land, we continued negotiating with the traditional owners to obtain their consent. These processes ran in parallel and I congratulate the Goolarabooloo Jabirr Jabirr native title claim group and the Kimberley Land Council on a lot of hard work and a strong commitment to the negotiations,” ...

What the Premier does not mention, of course, is that from their perspective they had the huge threat over their head: “You either agree with this or we’ll take the land off you and you will miss out on everything.” That is intimidation.

Then at the end of the same statement, the Premier said —

“The State Government will work with the native title group to start bringing forward some of the social programs that will make a difference to the lives of the indigenous people of the Kimberley and wider region,” ...

What a joke! It does not matter which of the traditional owners are involved in this debate—those who claim that they are the real traditional owners or other people who claim that they are the real traditional owners—I can tell members that this whole sorry saga has been a very, very unifying and ultimately healing experience for these people. Now, rather than fight each other, they are going to fight the state government. The biggest single project in recent times, which has huge potential and huge prospectivity for the state and was designed specifically to contain industrial development, has been put at risk because we have a Premier and a government that insist on threats and intimidation, and are stuffing up the processes and not delivering for Western Australians.

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HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [10.42 am]: I have to say that I am rather surprised that Hon Jon Ford should come into the house and move a motion of this sort, bearing in mind the comments he has made in the past about James Price Point and the very positive approach he has taken in his comments about some of the green groups that are desperately trying to prevent this project going ahead. I am therefore a little surprised, but I listened to his comments with some great interest.

Let me just get this whole matter into some proper context. When our predecessors were in government and they were approached to make some decisions on the development of the Browse Basin, which was in fact identified quite some long time ago as a good resource of gas for Western Australia, they were required to discuss the issue of an onshore site for the location of the liquefied natural gas plant. As we all know, the then Labor government just simply washed its hands of making the decision and in fact gave the power of veto on the location of the LNG plant to the local Aboriginal people. So the Labor government just washed its hands of making a decision because it thought it was just too hard. That is where we were at when the government changed.

But let me just say this: during the election campaign we were approached by Inpex, swearing us to secrecy during the campaign, to advise us that it had lost confidence in the government and that the government would not even talk to the company about a site—bearing in mind that the company wanted to develop the Inpex site, the Ichthys project, and it could not find a site in Western Australia in time to develop its project. Inpex told us that it intended to go to Darwin and use a 900-kilometre underwater pipeline to pipe gas from the Browse Basin to Darwin. Ironically, the Northern Territory government was very, very keen to have Inpex, and in fact went out of its way to attract the company to Darwin by providing a site. So we had a Labor government in the Northern Territory providing a site for a Browse Basin gas development and a state Labor government here that could not make up its mind where it should go. The company therefore basically walked away from Western Australia and there is now a major project in the Northern Territory that could have been in Western Australia. That is what we inherited.

We therefore decided that the rest of the Browse Basin development ought to be in Western Australia and that the LNG precinct should be on the Western Australian mainland. That is why we have gone through the processes, which have taken a very long time because they are very complicated, to arrive at the decision that the particular site should be James Price Point. That site was chosen after extensive consideration of all the various options, and in my own personal view it is the best site for this particular project to go ahead. But, as we know, there have been a range of issues surrounding the development of that site—Aboriginal issues, native title issues, green issues, anti-development issues. Everywhere we look, there are people who want nothing to happen in the Kimberley. Some people seem to think that the Kimberley should remain as some pristine environment where people just live off government handouts and that industry is somehow anathema to the Kimberley. Somebody the other day told me that to put the site at James Price Point into context, if we imagine the Kimberley is the Melbourne Cricket Ground, the site would take one seat out of the MCG in comparison with the size of the site and the size of the Kimberley. Yet this campaign has been run that somehow this is the industrialisation of the Kimberley, when in fact it is a project that will provide significant benefits to people in the Kimberley, particularly the Aboriginal people for which a \$1.5 billion compensation package has been negotiated.

However, I do not know now, having listened to Hon Jon Ford, where the Labor Party stands on this matter, because at the moment when we listen to its new leader, the Labor Party is a policy-free zone. Its members just get up and say, “We don’t like what the government’s doing”, but they do not tell us what they will do. Where does the Labor Party stand? Is it still of the view that we should go back to square one on the Browse Basin and say to the Aboriginal people, “You tell us where the site ought to be and we will wait until you get around to it”? That is what the Labor Party did in government and I presume that is what it is doing now. But I suspect that, because there is a bit of heat and a bit of political argy-bargy going on, if it had a choice it would probably send it off to the Burrup and have a pipeline go from the Browse to the Burrup. That is probably what the Labor Party wants to do, because that is one of the options on the table. However, bear this in mind: if that is what happens, the Browse Basin will not be developed for a very long time because there is no need for a whole heap of gas at the Burrup just yet—there will be in time; maybe 10 years or 15 years—so the Browse will sit there awaiting that circumstance to arise. Then there will not be the capacity at the Burrup to make sure that the whole of the Browse Basin is developed, so we will get the worst of all worlds. Secondly, if there is Browse gas coming onto the North West Shelf, the need to develop some of the offshore gas reserves in the North West Shelf will not then have room on the Burrup to be processed. So that is not a good option for Western Australia—not a good option at all.

There is another option that worries me very seriously—that is, a floating LNG proposal. As Shell is now part of the package for the development of the Browse, the company is building a floating LNG plant. For those who play golf, the size of this particular floating vessel is about a par 5 fairway—500 metres long. It is huge; indeed, it is the biggest floating vessel ever built. It would be able to process gas at the site of the gas resource, turn it

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into LNG and send it off to wherever it would need to go. Under that option, there would be nothing for Western Australia—no jobs, no investment, nothing. We would not get any domestic gas either because the gas would belong to the commonwealth and there would be no need for it to provide gas domestically; indeed, there would be no way of getting it ashore because there would not be a pipeline coming onshore. That is the second option, which I sincerely hope does not happen.

The third option is the one the government has chosen, which is to develop an LNG precinct on James Price Point. The companies involved would be required to use that particular site for their LNG plants and the economic benefits would flow to Western Australia, particularly the Kimberley. The issues that have arisen about this site are interesting. We must recognise that that land is vacant crown land. There is no native title determination on that land, yet here we are going through the process of providing significant compensation, on the assumption that native title is found. That reminds me that when Eric Ripper was the Minister for State Development, or whatever the portfolio was called in those days, he wanted to develop the Burrup Peninsula. He wanted to provide more land for industry on the Burrup, but three claimant groups had made native title claims over the land. The government did a deal with the claimant groups to the tune of \$15 million. About a week after the government had decided to provide that compensation, the Native Title Tribunal found that there was no native title on the Burrup; therefore there was no need to pay the compensation. However, the money was paid and it remained paid even though the determination was there was no native title. I am not suggesting in any way that native title will not be found on James Price Point, but the point needs to be made that that has not yet been determined. Nobody knows which of the two claimants has native title rights over that land. It is quite within the rights of the government to make decisions about vacant crown land. The government has decided to develop this land as an LNG precinct, and it is prepared to negotiate with potential native title holders to the tune of \$1.5 billion, which is not an inconsiderable sum of money; in fact, it is a very significant sum of money. But as Hon Jon Ford made out, it will be spread across the Kimberley. Why should not all Aboriginal people of the Kimberley benefit from this particular compensation package?

I found what Hon Jon Ford had to say about the Kimberley Land Council appeal against the Environmental Protection Authority decision quite interesting. I quickly tried to write down what he said on the basis of the appeal. I gather one point related to social impacts. I do not quite understand how social, heritage and cultural impacts relate to environmental decisions. The Environmental Protection Authority, in my humble judgement, makes decision about environmental issues. I do not think it exists to make decisions about Aboriginal heritage or social issues. I understand that a cultural issue might somehow relate to environmental matters. However, the Environmental Protection Authority has over time made decisions on the basis of these sorts of issues. It is my view that decisions about heritage should be made by the Minister for Indigenous Affairs and that decisions about social issues should be made by the government collectively, not the Environmental Protection Authority. It is interesting that the KLC's appeal—I have not seen it; I am just going on what Hon Jon Ford said today—does not refer to the environment when it refers to everything else. We find ourselves in an interesting situation.

There is no doubt that intimidation has been used against those who want the project to go ahead. Indeed, Hon Jon Ford has come into this house on a number of occasions and told us about the intimidation of people who support the project by green groups and other activists. I do not know what some of these activists, some of whom spend half their lives on the top of a drilling rig, do for a living. Where does the money that pays their salary come from? How do they afford to fly backwards and forwards from the Antarctica to the Kimberley coast, seemingly at will, to try to stop whaling on the one hand and a gas precinct on the other? The same people do both. Who pays their salaries and who pays for their flights? I would love to know. Clearly some people with a lot of money have a vested interest in stopping development in Western Australia, which is a tragedy for the future of our state.

Other ministers who handle environment and Aboriginal issues will be able to speak if time permits. By way of conclusion, I no longer know where the Labor Party stands on this matter. I assumed from comments made in the past that it was supportive of James Price Point and supportive of that precinct being developed. If that is not the case, it should tell us. It is important in an issue like this that the government make a decision. Governments have to make decisions within the rules. Ultimately, they have to decide what it is they want. To do what the Labor Party did in government, which was to abrogate its decision-making capacity and give it to somebody else, is simply not good government. I hope desperately that we get this project up and running, because it will be very good for Western Australia, very good for Aboriginal people in the Kimberley and very good for the economy of the Kimberley, which is very two-dimensional—pastoral and tourism—and which has no real great potential for significant growth. We are all aware of the unemployment situation and of other problems in the Kimberley. This project will go some way towards overcoming those issues. I hope the Labor Party ultimately supports it. We all know where the Greens (WA) stand. We assume that they will vote against anything that means development in the state.

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HON SALLY TALBOT (South West) [10.56 am]: Once upon a time there was a state that became known as the bigger-picture state. It was called the bigger-picture state because the emperor had decreed that the state would focus only on big-picture issues, which meant that none of the smaller-picture issues would be taken into consideration. We can hear from the tone of Hon Norman Moore's speech that he wants to discount the social impacts of the James Price Point development. He is not interested in talking about heritage processes. Hon Norman Moore should read some of the small print in the Environmental Protection Act; perhaps then he will have a better idea about the context in which many of the hundreds of appeals against the Environmental Protection Authority decision were made.

In this bigger-picture state, the environment minister had not quite got the message about focusing on the big picture. He decided that everything he got his hands on would be turned into the smallest possible problem in the hope that he could manage it. He started off with the composition of the EPA. Members should look at some of the appointments that have been made under the Liberal-National government. Why would the government appoint a person who had been one of the government's lead negotiators on the Browse project to the EPA? If, as the government wants us to believe, it has its eye on the big picture, perhaps it thought that in the wash of the whole scenario of billions of dollars' worth of industrial expansion into the Kimberley and the excitement of getting caught up in the boom that this would all be washed away.

Unfortunately, that has not proved to be the case. The state of Western Australia, which the Liberals would like us to believe is the bigger-picture state, is looking like some wild west hick town. The Premier is on the radio every other day saying that Western Australia is a small place and that conflicts of interest are bound to arise in a small town. How can ministers go out onto the international stage as ministers of the Crown when their Premier says things such as this is a small town and that it is hard to get people who have the expertise and who are not financially conflicted by some of the big projects?

What an absolute nonsense. What a disgrace for a conservative government to be running that line. The second point on which the environment minister decided on this small picture—small target strategy was when it began to emerge not over a matter of days, weeks or months, but over a matter of years that three other members of the Environmental Protection Authority were seriously conflicted by their interests in the Browse LNG development by Woodside Energy Ltd. The government has gradually yielded some of the information about the process—the time sequence of this gradual unravelling of proper process—under the pressure of questioning in this place. If Hon Norman Moore really wants to know what the Labor Party is getting at by this motion, he should read the terms of the motion. The motion clearly says that our problem with what the government is doing is about proper processes; that is, what the minister is trashing. This government is compromising the reputation of this state to be a decent place in which to do business, and a place where we employ twenty-first century methods of environmental conservation. We are looking like the wild west, and that is why we are holding this government to account.

Over the years it became evident—indeed it is placed on the official record—that three of the remaining four members of the EPA were too financially conflicted to take part in the deliberations or decision making over the Browse project. Those members were not ruled out of deliberations at that stage—remember that one was already out from the beginning of the appointment because she was one of the government's lead negotiators on the project—but continued to attend those meetings until the beginning of this year. Where else would this happen? The Premier is saying, "It is a small town and these problems arise—ho, ho, ho. It is nothing serious; trust me, it is all squeaky clean." If the Premier really believes that this is squeaky clean, then the Premier is delusional, and so are all the other ministers who are sitting in this place who have the opportunity to take part in this debate and do not go into their cabinet room and say, "We have got a big problem here." Clearly, the Minister for Environment will not do that because he is a small-picture man; he wants to break things down into the size of issues that he thinks he can manage. Yesterday, Hon Norman Moore responded to my question and said he had absolute confidence in what the environment minister was doing. As Minister for Mines and Petroleum, he has never raised any matters of concern with the Minister for Environment.

Hon Norman Moore: I just want to see this project go ahead.

Hon SALLY TALBOT: That is fine, but the minister is on his own in this, and he might actually be technically right because the third thing the environment minister did in July last year was to sneak through a little piece in the *Government Gazette* that changed the delegation authority. Many members would know that section 12 of the Environmental Protection Act refers to the disclosure of conflicts of interest, and that if any member is ruled out under section 12 for any reason—illness, vacation, whatever—that whoever is left in the room is still able to make a determination, even if it is just one person. That was snuck through in the middle of last year, and it might be technically correct. It may be that under section 19 it is something that the Governor could sign off on, or that the State Solicitor reads the fine print and puts together the advice for the government that says, "It is

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okay. The government is on solid ground.” But members opposite should not tell me or the community of Western Australia that that power to delegate was supposed to be used on the biggest and most controversial industrial project ever to come into this state. If they believe that that is the case, then they should get up in this place and argue it. Go back to the environment minister and tell him to start arguing the point because he has been missing in action since this whole business started to disintegrate. When has the environment minister offered a defence for what he has done? He cannot do it because he has not got a leg to stand on; he knows that. He is hiding behind this smokescreen that he has to adjudicate on the appeals; that has absolutely nothing to do with the fact that the delegation under section 19 was slipped through with no reference to Browse last year. It has nothing to do with the fact that conflicted members of the EPA were still taking part in deliberations up until the beginning of this year. It has nothing to do with the fact that under this minister, the very reputation of the EPA has been called into question. I have said it a dozen times or more publicly that this is not about the capacity of any individual members of the EPA. The act specifies that each of those five members must have the professional credentials and expertise to be appointed to managing environmental affairs. The act also specifies that the quorum for the EPA is three members, so the worst-case scenario is that there are three experienced minds being applied to any one problem. Yes, there is a power to delegate under section 19, but if members opposite truly believe that that delegation was contrived to be used as a device in ruling on a project, I say come and argue the matter.

HON ROBIN CHAPPLE (Mining and Pastoral) [11.06 am]: I find this debate interesting but I want to refocus on just one area—that is, Indigenous heritage. Members may be aware that recently there were some articles in an eastern states newspaper about some of the processes that have gone on, which I now turn to.

Firstly, I want to go back to the document that started it all—the “Regional Minerals Program—Developing the West Kimberley’s Resources” report of August 2005—in which the area we are currently talking about for an LNG facility was identified. In that document, paragraph 4.1.5 deals with the issues of cultural heritage and identifies that traditional owner stakeholders need to be identified in this area because there are significant heritage issues. Paragraph 12.7.1 reads —

To ensure compliance under the *Aboriginal Heritage Act 1972*, proponents of future developments should endeavour to undertake heritage surveys before any ground disturbing activities proceed to ensure all Aboriginal heritage sites are identified and protected.

I read that in because it was documented in 2005, and we now move through to the processes of today. We know—and I will refer to them shortly—that there have been letters going backwards and forwards between Woodside and the department about this issue of sites, but I will refer to some of the processes.

In an estimates hearing on Thursday, 7 November 2011, the Department of State Development answered my question about when it became aware of the area being an Aboriginal site. It said that the Department of State Development first became aware of the existence of a 1991 Department of Aboriginal Sites report in August 2010. This was as a result of passing reference made to it by the Kimberley Land Council report to the Browse LNG precinct. DSD subsequently went on, in response to appendix 5 of the Environmental Protection Authority report, to assert that the 1991 report was based on anthropological consultation with the only Aboriginal elder available to speak for that area. I will come to that in a minute, because what is really interesting is that I believe that DSD misled Parliament, because —

Hon Norman Moore: DSD is not a member of Parliament.

Hon ROBIN CHAPPLE: No, but it misled a committee of Parliament in its answer. DSD was provided with information in a file note on James Price Point in 2009 that the area was indeed an Aboriginal site. The advice even identified the report the department needed to look at and the site was identified as 13076 Walmadan—James Price Point. The document also went on to actually identify the specific nature of the report and that was “A Report of the Ethnographic Survey of Exploration Licence Applications E04/645, E04/646 & E04/647 in the West Kimberley”. I point out that that advice was provided to DSD in 2009 and yet it advised the Standing Committee on Estimates and Financial Operations that it had no knowledge of that report until passing comment was made by the KLC in a submission. I am concerned that the estimates committee was provided with incorrect information by a department that quite clearly had knowledge of what had gone on before.

The development of this area has been contentious over a long time. If we even go back to the eighth working paper of original Kimberley regional planning study directed by Laurie O’Meara in 1987, it identifies that the area had significant cultural values. That was subsequently followed up by a number of other reports. A manuscript was also received by the Department of Indigenous Affairs in 1974 written by Kim Akerman, which dealt with the Aboriginal sites in that area. The site described lies along the coastal stretch some 10 miles in length and immediately north of James Price Point. Subsequently to that, other documents were produced. A confidential report done in 1991 by Nick Green, which I will not cite, identified the site as being of significant

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cultural heritage. Another report done by Elizabeth Bradshaw identified that the area had significant heritage values.

As we heard from Hon Sally Talbot, a lot of people tend to go around the traps. The other night the Minister for Indigenous Affairs answered a question from me about out who was employed in the Department of Indigenous Affairs. Interestingly enough, one person's name was missing from that list, which I assume was due to the minister's oversight, and that name was Duncan Ord. I think he is listed in an email to the federal government as being the deputy director of DIA. Duncan Ord was also the person employed by the Department of State Development to proceed or pursue negotiations for a committee that I sat on for the development of the Browse facility. There is also Aaron Rayner, who is now the chief heritage officer, and who was a former DSD member. We start to find introduction of people into DIA who had a significant role to play in the development of that proposal. Obviously, the emails that have been going backwards and forwards to the federal government and other agencies have tried to obfuscate the issues. Quite clearly there are letters to hand, from Woodside and DIA, in which DIA has been warning Woodside repeatedly, at least on three occasions in the letters I have before me, that they should not be operating the area because of heritage concerns. A letter received from Woodside by the department asked it to drop those recommendations because Woodside felt it could control the situation.

Unfortunately time is getting away from me, so I might have to conclude a lot of this speech in an adjournment, but I just want to touch on one other point. The person who holds the role of senior legal officer in the DIA is Mr Alex Rorrison. Mr Alex Rorrison, in an affidavit he submitted on behalf of the Department of State Development, identified that he had been the single officer dealing with all legal matters associated with the Browse Basin over that time, and now we find him cropping up in the DIA. It is interesting to note that in the affidavit—I have found it now—he states —

I have ... been responsible for ... Allens Arthur Robinson) to represent and advise the State ...

Tabling of Papers

Hon LYNN MacLAREN: Can I ask that the member table the documents he refers to in his speech.

The DEPUTY PRESIDENT (Hon Alyssa Hayden): Certainly, under standing order 58 the documents can be tabled.

[See paper 4927.]

HON HELEN MORTON (East Metropolitan — Minister for Mental Health) [11.17 am]: I want to respond to some of the comments raised about the environmental aspects of the Kimberley gas hub, and I will use some factual points provided to me by the Department of Environment and Conservation. I want to make use of this information fairly much as it is written because of the really political nature of the conversation I heard coming from Hon Sally Talbot, and I do not want to partake in that on this particular matter. In regards to the Environmental Protection Authority conflict of interest, the procedure for determining a conflict of interest is provided by the Environmental Protection Act 1986. This process was followed by the Environmental Protection Authority and potential conflicts of interest were identified by EPA members. In response to this potential conflicts being raised, the chairman of the EPA put measures in place to manage them. These measures were followed and resulted in four members being recused from making a final decision on whether the Browse LNG precinct should be able to proceed. The chairman of the EPA, Dr Paul Vogel, made the final decision. Dr Vogel had access to many scientific and technical experts across the range of state government agencies to inform his decision. In the 40-year history of the EPA, this is the first time this situation has arisen.

Tabling of Papers

Hon SALLY TALBOT: Can I ask the honourable member to identify and table the documents from which she is reading?

Hon HELEN MORTON: Absolutely, no problems at all.

The DEPUTY PRESIDENT: The minister does need to identify the documents, but the member can request that they be tabled only at the end of the minister's speech.

Debate Resumed

Hon HELEN MORTON: I believe the EPA has taken the appropriate course of action and I have confidence in the integrity of the EPA chairman, Dr Paul Vogel, to provide the minister with informed advice and recommendations on the project. Dr Vogel has more than two decades of environmental experience at senior level, including as head of the South Australian Environmental Protection Department and extensive involvement in the Western Australian context.

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Some of the key points regarding the Aboriginal heritage site—which I know the Minister for Indigenous Affairs is going to cover—are that the EPA considered matters of Indigenous heritage in section 3.7 of its assessment report. The state and federal governments are working through the cultural and social impacts of the project as part of the commonwealth's environmental approval process.

In terms of the background, in 2009, the Premier announced that the Browse liquefied natural gas processing precinct would be just to the south of James Price Point, 60 kilometres north of Broome on the Dampier Peninsula. The Department of State Development is advancing this proposal on behalf of the state. The proposed Browse LNG precinct is subject to parallel state and commonwealth assessment processes in accordance with a strategic assessment agreement between the state and federal governments.

The Environmental Protection Authority of WA was established over 40 years ago, in 1971, to provide the government with independent environmental advice, particularly on the environmental acceptability of proposed developments. In a state that boasts twin riches of extraordinary environmental assets and vast mineral, oil and gas reserves, the EPA's role has proven essential. WA has widespread and internationally recognised marine and terrestrial biodiversity and also sees 70 per cent of the nation's capital investment in advanced mineral and energy projects. Frequently, the areas of biodiversity coincide with areas of energy and mineral prospectivity, or where these resources are proposed to be exported. The EPA's assessment process is based on predicting impacts and risks of a proposal in its environmental setting using extensive information and experience, including from other similar projects. Although the EPA will never be in a position of knowing everything, it is important that the EPA can satisfy itself that it knows enough to provide informed advice and recommendations to the government. Importantly, the EPA is an independent statutory body.

The assessment of the Browse LNG precinct strategic proposal was unusual in many respects and presented a range of opportunities and challenges. This precinct proposal is unique for WA in that it requires all potential LNG producers to be co-located, thereby allowing the EPA to assess the potential cumulative impacts and risks at a single site and at the same time. This avoids the sequential assessment of a number of individual processing sites spread along the coast and in more sensitive parts of the Kimberley, and each with its own suite of issues and risks.

In February 2012, the EPA advised the Minister for Environment that it expected to release its assessment report and recommendations on the Browse LNG precinct in April. In April 2012, the EPA was advised by the proponent of changes to the dredging component of the proposal and consequent changes in the extent of potential impacts from dredging. The proponent asked the EPA to extend its reporting deadline to take the new information into account and to prepare additional reports and information describing the changes and their potential impacts. The EPA then advised the minister that it expected to report in June 2012. The EPA forwarded a copy of its draft report and recommendations to the Minister for Environment on 27 June 2012.

On 16 July 2012, the EPA released its report and recommendations on the proposed Browse LNG precinct at James Price Point, north of Broome. The report is the result of four years of thorough investigation due to the extremely diverse range of environmental factors. The impacts and risks of the future development of the precinct on each of these factors, which included marine fauna, seabed habitats, marine quality, Aboriginal heritage, monsoon vine thickets, the landscape, surface and groundwater, dinosaur footprints and air emissions, were carefully considered. The EPA's report recommended the proposal could proceed subject to a rigorous set of 29 conditions and offsets to ensure the EPA's environmental objectives are met.

The conditions include: losses of all types of monsoon vine thicket should be limited to 132 hectares due to direct and indirect impacts; all practical measures should be taken to limit impacts to specially protected species before clearing occurs and once infrastructure is located; additional measures should be taken to secure conservation areas for the monsoon vine thicket and greater bilby habitats; marine pile driving and blasting at night should be suspended during the peak southern migration of mother and calf humpback whale pods; more research should be done into the distribution and habitats of dugong, turtles, snubfin and Indo-Pacific humpback dolphins to assist in long-term management and conservation; there should be detection and control of marine pests; and, finally, the proponents of derived proposals should put forward offset measures, including contributing to conservation initiatives.

Point of Order

Hon KEN TRAVERS: Madam Chair, I am trying to work out whether the minister is reading her speech or whether this is an extremely long quotation. Obviously if it is a reading of the speech, that would be a breach of standing orders. But I do ask whether the minister is actually reading her speech.

The DEPUTY CHAIR (Hon Alyssa Hayden): I do recall the minister saying that she was referring to a document from the Minister for Environment and that she would be reading that in.

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Hon HELEN MORTON: Thank you very much, Madam Deputy Chair. I have indicated that I will be reading in the dot points that were provided to me, and I will conclude my speech after I have finished reading in these points.

Debate Resumed

Hon HELEN MORTON: To continue, pursuant to section 100(1)(d) of the Environmental Protection Act 1986, the EPA's report was subject to a 14-day appeal period. The appeal period closed on Monday, 30 July 2012, and 244 appeals were received.

The potential for EPA members to have conflicts of interests in relation to this project was first raised by the EPA chairman to the Minister for Environment in February 2012. The chairman also sought legal advice on this matter. Ms Elizabeth Carr was excluded from deliberations and decision making on this project from day one of her appointment to the EPA as a result of her previous employment with the Department of State Development, which is the proponent for the project. Chris Whitaker and Dennis Glennon first declared potential conflicts of interest in the Browse development in October 2009 and October 2011 respectively. Both own shares in Woodside through self-managed superannuation funds, as I would assume a number of Western Australians would do via superannuation schemes. Woodside is not the proponent for the strategic LNG precinct but is partner in the joint venture that could develop the site. However, due to a perception that these members could have a conflict of interest, they were excluded from any deliberations or decision making leading up to the finalisation of the EPA's report and recommendations. I cannot go through the rest of the document, obviously, because I will run out of time, but I will finish by saying that Rod Lukatelich is employed by BP, which is another of the joint venture partners in what could be the foundation project for the James Price Point site.

HON KEN TRAVERS (North Metropolitan) [11.27 am]: What we have seen this morning from the Leader of the House is one of his standard tactics. After Hon Jon Ford had raised what I think is a range of legitimate concerns about the processes and procedures that this government is adopting for James Price Point, the Leader of the House used one of his standard tactics, which is to say that because we are concerned about the process that the government is following, we must be opposed to the project.

Hon Norman Moore: No, no, no.

Hon KEN TRAVERS: The Leader of the House was clearly trying to put that point across. If the Labor Party was opposed to this project, we would have moved a motion that says, "The Council condemns the Barnett government for the Browse hub". I am sure the Greens would want to move a motion like that. But we did not move that motion. We moved a motion condemning the government for its failure to ensure environmental, Indigenous and cultural interests are protected and proper processes are followed in the development and construction of the Kimberley hub. That is the motion that we moved.

Hon Norman Moore: I know, but the public is entitled to know where you stand.

Hon KEN TRAVERS: We have been consistent in our support for the Browse hub. The minister is the only person who has ever suggested that we are opposed to it. The government says we should just look at the bigger picture. It says, "Look at us. We have this bigger picture about what can happen in 20 years' time." The government will not be around to build it or develop it, but it is asking us to look at the bigger picture. It is asking us to forget about the real picture that is happening on the ground today and just focus on the bigger picture, because if people look at the real picture, they will see just how incompetent the government is. That is why the government wants to distract people with the bigger picture. Labor supports a Browse hub and we have continually supported a Browse hub, but to get a Browse hub up, it must be done correctly and the government must take the people with it.

The week before last I managed to get three days off and went to Broome with my partner. I was just going there for a holiday; I did not want to talk about politics. I wanted to lounge by the beach and have a good time. It is interesting that when I go to Broome, I cannot do that anymore. Everywhere I went, the barbecue stopper, whether it was at the counter of a hotel, a bar or a restaurant, everyone I spoke to —

Hon Helen Morton: They wouldn't know you! You must have talked to them about it.

Hon KEN TRAVERS: The minister is as anonymous as I am. If she went to Broome, she would see that people talk about it in general conversation. If the minister went into a shop to buy a dress, she would see written material about the gas hub and the proprietors would raise it with her. This once again shows how out of touch the government is with the real picture that is happening on the ground in these communities today. That is the point I am making. The government has lost sight of the real picture.

Hon Simon O'Brien: Were you trying to avoid Julia as well by going up to Broome?

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Hon KEN TRAVERS: That is so pathetic. This is the classic response from the government. It wants to make fun of the issues by distracting people and moving away from the real picture.

There are probably three groups of people in Broome. The first group sit in the category of Norman Moore. They say that the Browse hub should be built and they do not care who gets trampled on or what the impact will be on the Broome community; they do not care about anything because they just want it built. The second group supports the Greens' approach, which is that they do not want the Browse hub to be built because they just do not want it and do not care. They would rather forget about the benefits it will provide to the Aboriginal people of Broome and the Kimberley. The third group sits in the middle and is, I think, probably the biggest group. The feeling I got from the people in that group up there is that they want the Browse hub but they want it done properly. They want it to follow the proper processes and they want to make sure that the social impacts on their community are managed. They want to know that is happening. It is interesting that all three of those groups would agree on one solution, which is to get rid of the Barnett government. The government does not meet any of the requirements of any group. The government is failing to get on with the job and build it, it is failing to deal with the social impacts and, of course, those who do not want it to be built are opposed to the government.

Let us look at one simple aspect in my portfolio that goes to the nub of one of the social impacts about this development. Mr Moore has been throwing interjections across the table. Where is the supply base for Browse going to be?

Hon Norman Moore: It will probably be in one of two places.

Hon KEN TRAVERS: Which are?

Hon Norman Moore: Probably Broome or Point Torment.

Hon KEN TRAVERS: More than a year ago we asked these same questions and the government said that it was working on it. The next question I will throw across the chamber is this: if it is to be at Point Torment, which the government is considering, when the government submitted its list of projects to the federal government for Nation Building Program Two funding last month, did it include Port Torment on that list?

Hon Norman Moore: I don't know.

Hon KEN TRAVERS: The minister does not even know the bigger picture, let alone the real picture! He cannot tell us what the bigger picture is. That is the real issue. Where is the supply base? Will Broome be destroyed by becoming the supply base, which is something that the government previously said would not happen, or will it build the supply base at Point Torment? They are the questions the people of Broome want answered. When I ask those questions across the chamber, Mr Moore goes to water and cannot even give us a simple answer about whether it is part of the state government's submission for Nation Building funding. I would have thought that on a matter like that, which is in the minister's electorate and is related to his minerals and petroleum portfolio, he would have known that. I would have thought he would have been advocating for the project to be on that list if that was his position, but he did not do it.

What is happening with the road to James Price Point, Mr Moore? Where is that up to—the \$120 million? The government will not fix the grain networks in the wheatbelt because it is rail used by private industry and the government believes that private industry should pay for it. Who will pay for the James Price Point road? It is not in the budget. Will the government build a road to James Price Point at a cost of \$120 million?

Hon Donna Faragher: Is this in the motion? It isn't related to the proper process.

Hon KEN TRAVERS: What does the parliamentary secretary think is meant by "the proper processes that are followed in the development and construction of the Kimberley gas hub"? She has not even read the motion.

The Chamber of Minerals and Energy was quoted in the Broome papers. I picked up a copy of the *Broome Advertiser* and read an article about a CME report that said the roads, ports, housing and water supply need to be in place before the resource development occurs. That is what the people of Broome want to hear from this government. What is the government doing about that? The people want to hear how the government will do it. They do not want to hear that the government is breaking the processes and manipulating the systems in the Environmental Protection Authority to get the government's logical outcome. If Mr Moore does not like the fact that the EPA can look at all these issues, he should change the EP act. He should not say that in his humble opinion it should not occur. It occurs because under the EP act the EPA has the power to do it. I am sure that the minister does not like that. I suspect that if he had his way he would say, "Get rid of the EPA. Just entrust me as the permanent guardian of the environment in Western Australia."

Hon Norman Moore: I think that is a very good suggestion, indeed. That is the best suggestion you've made all day.

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Hon KEN TRAVERS: I am sure Mr Moore would love that. Even his own back bench would start to worry if he was in charge of protecting the environment. I wonder, Mr Moore, whether we should take it to the next stage and remove the right of farmers to have a veto for the mining industry on their land.

Hon Norman Moore: Do you think so?

Hon KEN TRAVERS: The minister is the one saying that mining should go ahead at all costs; forget about anyone else's rights. Does the minister believe that should happen? Should we make him the sole arbiter? That is the sort of arrogance we get out of the government. It does not believe we need independent processes or that the environment needs to be protected. The government is saying, "We are so good that you can just trust us and get rid of the processes." That is the problem we have. We support a Kimberley hub.

Hon Norman Moore: Do you support James Price Point?

Hon KEN TRAVERS: We support James Price Point if it is done properly. That government must take the community with it. Mr Moore's problem is that he is not taking the community with him. He is trying to steamroll the process. He is doing it without the proper process and is not putting in place the proper infrastructure that the CME is calling for and nor is he dealing with how it will impact on the Broome community. That is why the government is losing the Broome community today. That is why the good people of Broome who actually want the development to go ahead for benefit of their community, and particularly the Indigenous community of the Kimberley, are walking away from this project. It is because of the way the government is managing it. The sooner the government realises that, the better it will be because that is the only way the development will get up.

HON PETER COLLIER (North Metropolitan — Minister for Indigenous Affairs) [11.37 am]: I will make my contribution relatively short. I want to respond to the comments made by Hon Robin Chapple about what I thought were intimations about the professional integrity of the Department of Indigenous Affairs. If that was the member's assertion, I very strongly object to it. DIA, particularly over the last couple of years, has become much more proactive in engaging with Aboriginal people right across the board and in ensuring that Aboriginal people are very much part of the decision-making process, particularly with regard to heritage matters. Just a few months ago I released and tabled in the chamber the DIA's strategic framework. That framework specifically looks at the four areas DIA is focusing on, which are Aboriginal heritage, Aboriginal land, accountable government and community development. DIA, under the dynamic leadership of Cliff Weeks, a young Aboriginal man, is eminently professional. I hope that Hon Robin Chapple was not intimating that there was a lack of professionalism in DIA. In particular, the member referred to Mr Duncan Ord. It would be very difficult to find anyone in Western Australia, particularly in the Aboriginal community, who does not have anything but absolute confidence and faith in the professional integrity of Mr Ord. I certainly do.

I turn to the Aboriginal heritage processes. We always have and will continue to recognise the significance of James Price Point as an area of heritage and cultural significance to the Aboriginal people and the community as a whole; that is a given. The claim that the government disregarded Aboriginal culture and heritage when making the decision on James Price Point is nonsense. We have always engaged with the traditional owners. I have met with the Jabirr Jabirr people on two occasions. They have been absolutely fantastic and very positive meetings. There is very strong support among the traditional owners. The meetings I had with the Jabirr Jabirr people were facilitated by the Kimberley Land Council. They were very excited about the economic and social benefits for their people in the region and what will emanate from the project.

I will go quickly through the processes that have taken place with regard to Aboriginal heritage to ensure that there is no clandestine methodology; it is a process that provides for a positive outcome. Following consultation with the traditional owners in the state, Woodside agreed to locate the proposed gas precinct away from the coast to avoid the most sensitive heritage places. This has involved a significant number of senior Aboriginal men and women with cultural connections to James Price Point. The preliminary technical studies that Woodside has completed to date have been conducted with the guidance and cultural direction of the traditional owners—following process. This is to ensure that no unauthorised damage is done to sites and that the precinct may be designed to ensure that any damage is minimised.

The state's Aboriginal heritage scheme is the most comprehensive in the country. Unlike other state laws, the Aboriginal Heritage Act 1972 explicitly applies to sacred, ritual and ceremonial, archaeological and historical sites. The AHA is intended to preserve places and objects of importance and significance to Aboriginal people. The protection afforded to sites is not without limitation; it applies only to those places that meet the requirements of section 5 of the act. All 42 sites associated with the Goolarabooloo Song Cycle have been recognised and registered on the Aboriginal sites register. Heritage places that are significant to the Jabirr Jabirr people and the Bardi people have also been identified. Again, process has been followed. Woodside has

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submitted a section 18 notice to the Aboriginal Cultural Material Committee for more detailed geotechnical works that will impact some sites on James Price Point.

I will continue my comments in a member's statement.

Motion lapsed, pursuant to standing orders.