

ECONOMICS AND INDUSTRY STANDING COMMITTEE

*Seventh Report — Domestic gas security in a changing world:
Inquiry into the WA domestic gas policy: Interim report — Tabling*

MR P.C. TINLEY (Willagee) [10.11 am]: I rise today to present for tabling the *Domestic gas security in a changing world: Inquiry into the WA domestic gas policy: Interim report*.

[See paper [2657](#).]

Mr P.C. TINLEY: When we were directed by the house in June 2023 to undertake this inquiry, we anticipated that we would deliver the final report by the last sitting week in November. As we dug into the inquiry, it became clear that this is a complex area. Gas supply in Western Australia, and indeed nationally and in all developed economies, is an ongoing challenge as the world moves towards a decarbonised future and net zero. We have a net zero target by 2050 under the Paris Agreement; therefore, many industries are starting to move and move quickly into an area in which they will need more gas to transition to zero carbon. As a result, we advised the house that we would extend our inquiry to deliver a final report in May this year.

The committee felt that it would be good to update the house via an interim report. This would lead to an understanding in the industry, both from the consumer side and the producer side, of this complex issue. The interim report does not make recommendations; it simply aggregates the information and evidence as we gleaned the key points. The main report will be a lot denser, if you like, to cover all the data that we have collected. We thought that these chapters would strike right at the core of the challenges that we have in Western Australia. The findings highlight the data and evidence presented to us by all sides of this conversation.

Gas in Western Australia has been a fantastic resource, and the committee never lost sight of the economic and employment benefits for Western Australians that come from this resource. However, another basis of our philosophy is that the gas belongs to the people of Western Australia, and it is the responsibility of the government to ensure that we get the highest and best value from that natural endowment of the state on behalf of Western Australians. As we went through, we found that it was not exactly an even playing field.

One of the first things to say about the domestic gas policy in Western Australia is that in 2006, I think, it was very prescient of the Carpenter Labor government to decide that it would reserve some 15 per cent of the LNG extracted in Western Australia for exclusive use. Research shows that there was a significant amount of opposition from the industry, as there often is to regulatory changes. The sky was going to fall in. If we look at the front page of *The West Australian* at the time, we see that it was an Armageddon event for industry. I am happy to report that every producer who presented themselves in front of the committee endorsed the policy as being groundbreaking, insightful, even visionary, and told us not to tamper with it. I think that is where their bias lay. They were very happy that there was a clear policy, but the policy is not clear, and one ambition of the committee was to understand: is it fit for purpose? It was in 2006, but now, in a changing world, with decarbonisation being a key theme for many if not all industries, it is clear that the domestic gas policy, with the obligations it presents to producers, has outlived its usefulness. It is quite clear that it needs to be updated.

Not only does the policy need to take account of the changing nature of how we decarbonise, but also, here in Western Australia, as we have all said at different times on our feet in this place and out in our electorates, there is a grand opportunity to diversify the economy. Particularly with the advent of critical minerals and downstream processing, we can see a circumstance in Western Australia whereby we transition from being an extraction jurisdiction—simply removing the minerals and resources from the state and exporting them—to a manufacturing state, increasing the manufacturing ability of Western Australia to value-add as we move down the stream. Things like AUKUS and the advent of submarines here in Western Australia indicate the nature of what that diversification will look like. There will be highly paid, highly technical jobs, and skills development will be essential. All the industries that provide support to the defence industry sector, particularly the primes, as they are called, are going to increase their presence here. They will need extra skills and extra energy.

Another issue of a diversified economy is the simple fact that 85 per cent of the gas consumed in Western Australia is consumed by industry, not by energy. I want to make that really clear. Although we have concerns and have made some findings about the fitness of the domestic gas policy now and into the future, it is not a commentary about whether we can keep the lights on. That is not what is in play here. We have seen significant evidence that says that energy supply in Western Australia for the purposes of domestic use is not a problem. The challenge is to make sure that we have enough feedstock for the other industries—for example, fertiliser production, which will need additional support in this growing world. As land is further taxed all around the world, fertiliser will become as important as iron ore.

The report is not too weighty or dense. It is, hopefully, quite accessible. It provides all the findings up-front for the modern customer and all to see. I think, if we dig in behind any of those findings, we will see that there is a good weight of evidence. Like any evidence, it needs to be balanced against who is giving it and their motivations,

and we attempted to make sure that we calibrated for that fact. But, as I said, the reality is that this domestic gas policy is now probably past its use-by date and needs a refresh in some form.

The first thing that the government could consider is: should it be a policy? As the industry will tell members, a policy can be applied much more flexibly, and that is the case here. In 2006, when the state agreement was created for Pluto LNG, the domestic gas policy had only just been formed. It came in the form of a series of exchanged letters. That of itself created all sorts of gaps and challenges, but cast that forward to the Scarborough project, which, as many told the committee, was probably the best example of how to balance out the domestic requirements, how to report any breaches or how to embed compliance arrangements in the arrangement. The policy itself sits around a contractual arrangement between a proponent and the Crown. That is the fundamental difference. The alternative to that is to have a legislated response. It is for the government to decide how and when it does that. I feel that this could evolve over time. When the hard rock mining agreements are amended, there is an automatic inclusion of clauses about mine rehabilitation. Every time they are amended, and they are from time to time—gas less so—those clauses are automatically not up for discussion; they will go into the contract between the state and the proponent. Those sorts of mechanisms are available.

The committee received evidence from legal academics who think that when a contract is silent, capacity exists for legislation. They believe that if the contract contains no compliance provisions, reporting provisions or transparency, it is within the scope of the government to legislate to clarify those matters. They are the remedies that can be applied, but there is a much easier way—either the government leads the legislative approach or the industry fixes the problem. The industry understands the nature of the problem and takes it seriously, and it takes seriously the social contract it has with Western Australia to live by the spirit of that policy—to deliver, in full voice, 15 per cent of liquefied natural gas exports into the domestic market.

In fairness to industry, there is a little complexity around this; it must market in good faith. If it cannot sell it, it cannot meet its obligations. There is a transparency issue: How hard did industry try? Who is checking on the methodology for its marketing? Who is holding the compliance stick, if you like, to ensure that it is doing it in good faith? The committee received significant evidence, which it will use in the main report, about potential buyers of gas who wanted to form a contract but could not get the terms; they could not reach the terms about time or the price was unreasonable. There needs to be a separate process by which that is tested and a way to find those who are not living by the spirit of the policy and are being a little too tricky.

It is a commercial world. One thing that is very clear in a commercial world is that if an organisation is set up for profit, it will pursue profit. That is the nature of capitalism. That is the nature of our economy. That is great because it is consistent. For everybody who came before the committee who was in the business of making a profit, that is where their bias lay. However, everybody who came to the committee from an agency or as a potential user of gas had a different requirement. The users of the gas are, of course, also motivated by profit. The government must give regard to that commercial tension. Governments can play too much in a market and distort the market to a point that it destroys the market itself or disrupts it in a way that is not helpful.

Domestic gas supply into the Western Australian economy is an essential component of our future as we diversify, decarbonise and look to be a leader in our region in how we use our natural endowment to get to a net zero position for carbon. One of the things on the horizon is the potential for this to accelerate if a price is put on carbon. If we start introducing that sort of market inflection, I can only imagine that gas demand will go higher and higher.

A range of things is covered in this interim report. The committee is very happy to table this by way of a progress report and is looking forward to tabling the main report in May. Of course, none of this could have happened without the effort of the committee: my fellow committee members and the staff. Anyone who has been on a committee knows who really carries the committee. I thank my fellow committee members: member for North West Central, Merome Beard; member for Joondalup, Emily Hamilton; member for Cockburn, David Scaife; and member for Kalgoorlie, Ali Kent. Of course, all are supported by our principal research officer Vanessa Beckingham, who is here; Franchesca Walker; and Jamie Bourne—no relation. We are also very helpfully assisted and continue to be assisted by special counsel Mr Matthew Bowen. I thank the support staff very much for basically making sure we sound and look good.

The report is there. We are proud of what we have done so far. There is a lot more work to do to ensure that we are providing a suite of recommendations that the government can choose to adopt and to ensure that the domestic gas policy is fit for purpose for the next 20-odd years.

MR D.A.E. SCAIFE (Cockburn — Parliamentary Secretary) [10.25 am]: I rise today to speak on the tabling of this interim report. WA's domestic gas reservation policy was ahead of its time when it was formalised by the Carpenter Labor government in 2006. That policy is characterised by three pillars: a requirement to reserve 15 per cent of a project as domestic gas, marketing domestic gas in good faith to the domestic market, and building and maintaining the infrastructure to make sure that the proponent can comply with the potential to supply domestic gas to the market. That policy has ensured a cheap and stable supply of energy for WA households, underwritten

industry development and jobs, and enabled the early stages of the government's decarbonisation agenda. It has done all of that without extinguishing WA's export LNG industry. Indeed, WA's LNG exports have gone from strength to strength since 2006, proving that sensible domestic regulation of natural resources can sit alongside our export-oriented economy.

As the chair notes in his foreword to the interim report, the policy is "viewed with envy across the commonwealth". Although in recent years the eastern seaboard has experienced huge increases in the price of gas, necessitating the imposition of highly interventionist policies like the Australian domestic gas security measures, the price of gas in WA has remained relatively stable. Of course, the policy was not always lauded the way that it is today. Then federal resources minister Ian Macfarlane said in 2006 that the policy would create sovereign risk, generate real and tragic consequences, and scuttle multibillion-dollar projects. Those statements were known to be hyperbole then and they have been shown to be hyperbole now. However, no government policy can be treated as a set and forget. Circumstances change, community expectations change and governments change. In recent years, the enormous increase in global demand for WA's LNG, driven by the war in Ukraine and decarbonisation agendas across the globe, has propelled LNG prices to new heights. It is now more attractive than ever to export LNG than sell gas to the domestic market. Additionally, forecasts by credible agencies, like the Australian Energy Market Operator, predict that WA will face a shortfall of domestic gas over the next couple of years, followed by a larger shortfall from 2030. Those forecast shortfalls provided the genesis for this inquiry into the veracity and significance of those forecasts and into whether the domestic gas policy is still delivering on its promise.

The committee resolved to table this interim report in order to give government, industry and the public an early insight into our findings. We have done so because some of our findings are sobering, and the potential solutions are significant. I will not canvass all 13 findings in the interim report, but I would like to draw attention to those that I think are of greatest moment. Firstly, the committee found that AEMO's forecasts are credible. If the forecast shortfalls come to pass, WA will likely experience higher power bills, job losses and increased greenhouse gas emissions. Secondly, the committee found that some gas producers are not complying with the spirit of the policy and are failing to deliver sufficient reserved gas to the Western Australia market in a timely manner. Thirdly, and consequently, the committee found that there is a case for government intervention that may include a legislative response.

Over the course of the inquiry, I tried to play my role with diligence and scepticism. I interrogated the submissions and data, attempted to be forensic in my questioning and called out witnesses when I found their answers to be less than satisfactory—and there were many less than satisfactory answers. In endorsing the inquiry's findings, despite my sometimes pointed questioning during hearings, I want to be clear that I am a friend of industry. I want a strong and competitive industrial base here in Western Australia that provides secure, well-paid jobs and all the additional economic benefits that come with them. I want businesses to succeed in WA.

However, first and foremost, I am a servant of the Western Australian people. I do not want businesses to succeed at any cost, and I expect industry to honour the commitments that were made in exchange for its exploitation of resources that belong to the Western Australian and Australian people. It has become clear to me that not all gas producers are honouring those commitments. Some are not doing so by relying on the ambiguous language used to enshrine the policy in the various piecemeal agreements and by relying on the limited enforcement options available to the state, and some are doing so simply because the profits to be made from LNG exports justify the risk of suffering the costs of noncompliance. That is not an acceptable state of affairs. It should not be acceptable to the public, who owns the resources, and it should not be acceptable for the government, which acts as a trustee of those resources on behalf of the public.

There are many possible options to remedy this state of affairs. Some of those options raise issues of sovereign risk. In this respect, I emphasise paragraph 5.13 of the interim report. It states —

... almost every discussion about regulatory reforms which might impact a project prompts a warning about 'sovereign risk', but the label is not always justified. Making an investment in WA does not bestow a lifetime exemption from regulatory change. Circumstances change, and all businesses operating in WA—including those which started with foreign investment—should and do expect regulatory regimes to change with them.

I take sovereign risk seriously. I want WA to retain and strengthen its reputation as a stable and desirable place to make investments and do business. However, raising the spectre of sovereign risk cannot be used as a "get out of jail free" card to avoid appropriate regulatory change in response to changed circumstances. Furthermore, what counts as sovereign risk, and the severity of the sovereign risk, seems to me to be in the eye of the beholder. During hearings, some gas producers were very quick to trumpet the importance of stability and certainty in policy settings. However, they were equally quick to ask for those policy settings to be changed in ways that benefited their commercial interests. Similarly, although changing the domestic gas policy in certain ways may raise issues

of sovereign risk, it could equally be said that the failure to ensure an affordable and reliable supply of gas to WA industry is also a source of sovereign risk.

My message to gas producers is to take the full range of policy options outlined by the committee in this report very seriously. Improving the gas statement of opportunities is an obvious option; plainly, there are benefits to the Australian Energy Market Operator being provided with more information about gas production and storage. Yet, there is also an argument to be made for more significant intervention, such as legislating the policy to clarify its scope and to provide for stronger enforcement options. Every option is on the table.

However, the need for government intervention could fall away if industry takes the lead on a solution. That will require some gas producers to change their attitude and perhaps even make some investments in infrastructure that they had otherwise hoped to avoid. Alternatively, they could avoid those extra costs in some projects by using gas from other projects to offset their obligations. WA's gas industry has the smarts and guts to solve the problem without the need for government intervention. I therefore encourage industry to come up with the solution and to do so quickly. The clock is ticking, and I have every faith that the current government will act to secure WA's energy supply, if necessary.

I note in that respect that we have already seen the green shoots of industry being prepared to step up. One subplot of this inquiry was the issue of whether to allow onshore gas producers to export, and we have had a proposal from Mineral Resources Ltd about a potential callback option for the state. I am not endorsing that option; I am just making the point that it is good to see industry put options on the table, at least so far as that issue is concerned.

In closing, it has been a great privilege to serve on the committee and be part of this inquiry. I suspect that I will shortly be relieved of my duties on the committee, so I take this opportunity to thank my colleagues. The member for Willagee has been an exceptional chair, generous in sharing his wisdom but also wily enough to never set a pattern, while the members for North West Central, Joondalup and Kalgoorlie have shown great dedication to asking the tough questions on behalf of the Western Australian public.

However, I save my biggest thanks to the committee staff—Vanessa Beckingham, Franchesca Walker and, more recently, Jamie Bourne, as well as our consultant, Matthew Bowen. This group of talented individuals do the real work, from preparing briefing notes to herding witnesses and enduring the poor jokes of MPs. I am truly grateful to Vanessa in particular, who shows unreasonable dedication to her work. I hope there is an Ace of Pentacles in her near future. On that basis, I commend the interim report to the house.