PETROLEUM LEGISLATION AMENDMENT BILL 2023

Consideration in Detail

Clause 1: Short title —

Ms M.J. DAVIES: Just briefly—I am not sure there is anywhere else I can put this—the minister spoke about the amendments in his reply to our contributions to the second reading debate. This is just to clarify that the amendments did not come from industry or any business feedback. Were the amendments shared prior to them being circulated to us? Has industry seen them? When was industry made aware of them?

Mr D.R. MICHAEL: The amendments were requested by the Parliamentary Counsel's Office. I am told that they have not been shared, other than on the notice paper, mainly because they are very minor and of a technical nature.

Dr D.J. HONEY: Again, I do not know where this question fits so I will ask it here and seek the minister's indulgence. The Petroleum Legislation Amendment Bill 2023 obviously deals with geosequestration and geothermal resources. A proponent for geothermal has suggested that a single well that is used for geothermal could also be used for geosequestration at the same time. I wonder whether this legislation anticipates the concurrent use of a well for both geothermal resources and geosequestration of carbon dioxide?

Mr D.R. MICHAEL: No, it does not contemplate that at this stage.

Dr D.J. HONEY: If a proponent has to do that, although it might be the same well, they would have to make a separate application: one for a geothermal permit and a second for a geosequestration permit. I do not want to draw this out, so perhaps to save time, could a geothermal lease and a geosequestration lease be concurrent, because that would be required?

Mr D.R. MICHAEL: They would have to have two titles, but they could overlap.

Ms M.J. DAVIES: Again, I ask for a bit of indulgence; I suspect I know the answer. Will the introduction of this legislation result in any impact on the interplay between Chevron, what is happening under the state agreement and this new regulatory framework, or will they carry on business as usual?

Mr D.R. MICHAEL: They will continue as they do now, under the state agreement.

Clause put and passed.

Clause 2: Commencement —

Ms M.J. DAVIES: The minister touched on this in his response to the second reading debate when he reflected on the development of the regulations. He said that the industry has indicated a desire to have a working group for the regulations. Is there any indication of timing in terms of when we might see that commencing?

It is a bit of a how-long-is-a-piece-of-string question, but what time frames will be set so that we can continue to progress this, given that there has been some urgency? Albeit that the minister said most people thought it had already been introduced, which I find remarkable, 10 years down the track!

Mr D.R. MICHAEL: The department has talked with and will continue to talk with industry while the bill goes through both houses of Parliament. It is intended, as soon as we have assent for the legislation, that the co-design group will come together and the department will get going on it. Hopefully that will be within a month or two, depending on the other place.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Section 5 amended —

Dr D.J. HONEY: This is perhaps a straightforward one for the minister. I refer to proposed section 5(1)(g), near the top of page 8, which makes provision for the rehabilitation of land or waters affected by an operation. I am wondering what the term "rehabilitation" means. I do not need an exhaustive definition; just what is contemplated in terms of rehabilitation.

Mr D.R. MICHAEL: I am told that it generally means the return of the land to a safe, stable and non-polluting condition.

Clause put and passed.

Clauses 5 to 12 put and passed.

Clause 13: Section 38 replaced —

Dr D.J. HONEY: I refer to proposed section 38(4), which makes reference to a geothermal exploration permit. Does the geothermal exploration permit include the right to drill, or is a separate permit required to initiate drilling for a geothermal resource?

Mr D.R. MICHAEL: It does. I think the clause the member referred to just refers to not being able to do that outside of the permit area.

Clause put and passed.

Clauses 14 and 15 put and passed.

Clause 16: Section 43D amended —

Dr D.J. HONEY: I did not recognise it, but I am sure it is elsewhere in the bill. On page 17 of the bill there is a note in small type for proposed section 43D(3), which states, "The holder of the geothermal drilling reservation" and so on. It refers to a geothermal access authority. I just wonder what a geothermal access authority is in the bill.

Mr D.R. MICHAEL: It will replicate what happens in petroleum. It will allow some activities outside the permit area to help with activities inside the area. I am told that it is like a seismic line.

Dr D.J. HONEY: I do not want to be repetitive, but the bill refers later to a petroleum access authority. What will be the form of that authority? I am not saying it is not in the bill; it is just that I have not seen it. I think I have a reasonable understanding of how the whole lease system works. The bill goes through all the steps. I was just intrigued. Clause 24 has a similar caveat, or at least a similar explanation, in which a petroleum access authority is mentioned. I do not want to be repetitive. I am sure it is in the bill, but I just want to understand what the nature of that authority will be and how it will be granted.

Mr D.R. MICHAEL: It is in section 106 of the Petroleum and Geothermal Energy Resources Act 1967. It already exists and operates at the moment.

Dr D.J. Honey: Is it an existing thing?

Mr D.R. MICHAEL: It is.

Clause put and passed.

Clauses 17 to 30 put and passed.

Clause 31: Section 61 amended —

Dr D.J. HONEY: I am interested in the reference to an original licence. As I understand it, because of the amendments, it must include "an approval corresponding as nearly as may be to the previously granted approval". I just wonder about the sorts of conditions that would be included in that approval or an example of the transition of conditions.

Mr D.R. MICHAEL: This provides that a petroleum production licence covering two or more blocks may be divided into two or more licences. Proposed section 61(5)(c) provides that if the original licence included an approval for additional rights for a regulated substance, any new licence granted via this provision must also include that approval. This provision ensures a continuation of rights obtained for a regulated substance and avoids the need to reobtain approval.

Clause put and passed.

Clause 32 put and passed.

Clause 33: Section 67 amended —

Dr D.J. HONEY: We have to do it properly, so I appreciate the minister's rigour.

Proposed section 67(2) states —

> The regulations may provide for the grant to a petroleum title holder of an authorisation to inject petroleum into a natural underground reservoir.

I think I understand why, but under what circumstances would that occur? Perhaps I am taking a liberty here. Proposed section 67(4) states —

> A person must not inject a regulated substance into a natural underground reservoir.

As I pointed out before, if we were to use hydrogen as the fuel to underpin energy security in the electricity network and not natural gas as we do now, we would need to store vast quantities of hydrogen. I wonder whether proposed section 67(4) precludes storage of hydrogen in underground reservoirs for the purpose of subsequently generating energy from that hydrogen.

Mr D.R. MICHAEL: This bill only deals with naturally occurring hydrogen. It is too early to determine what the appropriate framework might be for other options for the future. It is something that we will have to consider in the future.

Dr D.J. HONEY: Just to be clear, if I am making hydrogen in off-peak times and want to store it somewhere, and I have a depleted gas well in the Perth basin that is ideal for storing hydrogen, will proposed subsection (4) mean that I will not be able to store hydrogen in an underground reservoir? Will that provision prevent me from doing that, recognising that hydrogen, as I understand it, is a regulated substance?

Mr D.R. MICHAEL: That is correct. The storage of hydrogen made from the plant cannot be stored under this legislation. It is something to be considered at a future time. We need to have a look at the regulatory way we would do that.

Dr D.J. HONEY: The minister can guess my theme here because I was explicit in my contribution to the second reading debate. I appreciate that this bill was generated some time ago and that things have moved on but I would strongly encourage the member, as a new minister in this area, to consider it. There are people who are vastly more learned than me in this. I am only an amateur but my understanding is that people are seriously contemplating using underground storage for hydrogen. There are limits to above-ground storage vessels. It is potentially a low-cost option, which would be a real facilitator. I appreciate where the minister is. I am not trying to criticise him or the government for that but I think it is a matter of some importance that the government should perhaps consider looking at that as a facilitator. As I said, I am an amateur. I am sure there are industry people who could inform the minister whether they think that is important or a flight of fancy on my part.

Mr D.R. MICHAEL: Thank you, member. That is a fair point, I suppose. There is some interplay with the Dangerous Goods Safety Act, which I am sure the member knows. Once we have done the regulations for this and should I be in this job into the future, it might be something we look at down the track.

Clause put and passed.

Clause 34: Section 70 amended —

Mr D.R. MICHAEL: I move —

Page 28, after line 10 — To insert —

(2) Delete section 70(3)(c) and insert:

(c) an authorisation referred to in section 67(2); and

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 35 to 38 put and passed.

Clause 39: Part III Division 4A inserted —

Mr D.R. MICHAEL: I move —

Page 33, after line 8 — To insert —

86AA. Term used: registered holder

In this Division —

registered holder, in relation to a title referred to in section 86A(2)(g), (n) or (o), means the person who holds the title.

Note for this definition:

In relation to the other titles referred to in section 86A(2), see the definition of ***registered holder*** in section 5(1).

Ms M.J. DAVIES: I have some questions about the clause so perhaps the minister could explain what the amendment seeks to achieve.

Mr D.R. MICHAEL: This amendment revises proposed sections 86A(3) and (4) and 86B(1) and (2) so that they refer to the holders of all the various types of titles, authorities, permits et cetera listed in 86A(2). A clause-specific definition of the term "registered holder" that has been included at division 4A as the definition of "registered holder" in current section 5(1) does not cover the titles referred to in proposed section 86A(2)(g), (n) and (o). This amendment ensures that administratively, the proposed polluter-pays principle applies to all current title holders.

Amendment put and passed.

Ms M.J. DAVIES: This was the first time I saw the polluter-pays principle in the bill so I want to spend a little bit of time on this. I understand it has been adapted from the Offshore Petroleum and Greenhouse Gas Storage Act, which is the commonwealth legislation, so it is something that industry would be familiar with. Essentially, it requires that in the event that there is an escape, the registered holders are responsible for eliminating, controlling and cleaning up any of that escaped substance, as well as remediating and monitoring the environment. The explanatory memorandum states that it will mitigate the state's exposure to environmental liability. How does the state ensure that the registered holder for the title has the financial means to cover that escape and impact? The concept of an impact and the cost of an impact are a bit like "How long is a piece of string?" when it comes to remediation of these types of events. How does the government ensure that the state and the taxpayer are not exposed? If, essentially, the company ceases to exist or is no longer around because of the financial responsibilities, ultimately, I would imagine that the taxpayer does become responsible. I am trying to understand what protections are in place.

Mr D.R. MICHAEL: This amendment will provide an ability for the state to undertake actions if the minister considers, on reasonable grounds, that the registered holder has failed to meet its duties in relation to the escape of petroleum. Importantly, the amendment specifies that any costs incurred by the state in addressing an escape of petroleum or a regulated substance are costs that are due to the Crown by the registered holder. The amendment will ensure that the state does not take on the financial burden caused by or originating from a registered holder and will ensure that registered holders are financially responsible for making good any escape of petroleum. We will work alongside existing financial assurance provisions contained within the existing petroleum framework. I am told they are things like insurance they are required to have and, from the department's point of view, continued diligent regulations so that monitoring and enforcement is timely and those kinds of things.

Clause, as amended, put and passed.

Clauses 40 to 43 put and passed.

Clause 44: Section 91C inserted —

Mr D.R. MICHAEL — by leave: I move —

Page 37, after line 19 — To insert —

renewed, in the case of a petroleum drilling reservation, means extended.

Page 37, line 20 to page 38, line 5 — To delete the lines and substitute —

(2) Subsections (3) and (3A) apply if, on its grant, a petroleum title includes an approval for the purposes of section 38(3)(a), 43D(1B)(a), 48C(1B)(a), 62(3)(a), 105(4AA)(a) or 106(5AA)(a).

(3) If the petroleum title is renewed, the approval must be included in the petroleum title as renewed.

(3A) The conditions which the Minister may impose on the petroleum title on its grant or renewal include conditions for purposes related to the approval or to anything that is authorised by virtue of the approval.

Page 38, lines 16 to 20 — To delete the lines and substitute —

(6) If the petroleum title is renewed —

(a) the approval applies in relation to the petroleum title as renewed; and

(b) the conditions which the Minister may impose on the petroleum title on its renewal include conditions for purposes related to the approval or to anything that is authorised by virtue of the approval.

(6A) The approval applies in relation to the petroleum title, or to the petroleum title as renewed, despite any change in the registered holder.

Ms M.J. DAVIES: Perhaps the minister could explain the amendments.

Mr D.R. MICHAEL: The first amendment clarifies the intent that if a drilling reservation includes an approval for regulated substances, the approval would automatically be included in the renewal of the drilling reservation. The second amendment clarifies the intent that if a title includes an approval for regulated substances, the approval would automatically be included in the renewal of the title. The third amendment clarifies the intent that if a title has a separate approval for regulated substances, the approval would automatically apply to the renewed title.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 45 and 46 put and passed.

Clause 47: Section 105 amended —

Dr D.J. HONEY: I think this is just a simple one. On page 39, at proposed section 105(2)(ca), I assume that the petroleum special prospecting authority falls into the category of "others"; I just was not sure what that was.

Mr D.R. MICHAEL: This clause will amend section 105 to establish that an application for a special prospecting authority may also include an application for additional rights for a regulated substance that the minister is able to grant. This will provide that a special prospecting authority will be permitted to be used for a regulated substance in situations in which the holder has applied for additional rights for a regulated substance and the minister has granted the additional rights by instrument in writing.

Dr D.J. HONEY: Where does that "petroleum special prospecting authority" derive from? I assume that is in the existing legislation?

Mr D.R. MICHAEL: That is correct; it is in section 105 of the existing legislation.

Clause put and passed.

Clauses 48 to 59 put and passed.

Clause 60: Section 147 replaced —

Ms M.J. DAVIES: Perhaps the minister can explain why this amendment is necessary and how it is to be implemented? I assume it is already standard practice for industry to allow third party processing for royalty calculation, but this clause will replace an existing section, and I just wonder what the expansion or update will actually bring into effect.

Mr D.R. MICHAEL: There is a bit of an answer for this one.

Ms M.J. Davies: I look forward to it!

Mr D.R. MICHAEL: Section 147 is being revised to account for regulated substances and to enable the tolling of petroleum. For the most part, the existing purpose and intent of section 147 will be retained. However, the provision will be expanded to allow approved measuring devices or meters to be installed in accordance with a condition imposed pursuant to the Petroleum Pipelines Act 1969 to ascertain the quantity of petroleum or regulated substances under this act. This amendment will enable a third-party processing of petroleum, otherwise known as tolling. The current act is constructed on the basis that a registered holder who finds petroleum will process their own petroleum using their own infrastructure and titles. Therefore, the existing method of ascertaining the quantity of petroleum to calculate royalties is through the use of a measuring device on the registered holder's title and does not contemplate the use of a measuring device on a third party's title. This act did not contemplate a registered holder utilising third-party infrastructure to process petroleum. However, there is a shifting trend emerging in industry whereby existing infrastructure with capacity is viewed as an option to process petroleum owned by another registered holder. In practice, for the tolling of petroleum to occur, measuring devices are placed along a third-party pipeline to ascertain the quantity of petroleum. To accommodate the shift to third-party tolling of petroleum, this amendment provides that the ascertainment of petroleum may occur through the use of measuring devices occurring on a third party's infrastructure, or a pipeline, as imposed under a condition pursuant to the Petroleum Pipelines Act 1969. This new approach will result in a greater, more efficient use of existing infrastructure, and mitigate the need to construct new purpose-built infrastructure.

Ms M.J. DAVIES: Who will be responsible for the tolling—I am going to get the language wrong—measuring device? Who will be responsible for that? Will industry pay for that installation or will that be the department, given that it will be for the collection of royalties, or will we act on good faith and allow them to self-report?

Mr D.R. MICHAEL: I am told that the industry will pay and report, but the department will have the power to go in and check those things on a regular basis.

Clause put and passed.

Clauses 61 to 63 put and passed.

Clause 64: Section 152A inserted —

Ms M.J. DAVIES: This proposed section refers to approved forms, of which there will be many in the department, for various purposes. Can the minister advise whether the forms exist and will just be amended? Will this flow beyond the regulations being created? I guess my question is only administrative, but —

The ACTING SPEAKER (Ms A.E. Kent): Minister.

Ms M.J. Davies: It is very Australian to finish a sentence with the word "but" at the end of it, sorry!

Mr D.R. MICHAEL: That is all right. I just used the word "ascertainment", which I do not think I have used in my life before!

This amendment provides the ability to establish standardised form and contact requirements in the form of approved standard forms as approved by the minister for applications notices and other documents. This will assist in creating greater efficiency in the application assessment process, as well as provide greater clarity and communication for notices.

Ms M.J. DAVIES: My question is: do they exist now, or is this something that the department will be required to do?

Mr D.R. MICHAEL: Some of these forms exist, but the idea is not to have them in the regulations, so when they need to be changed or standardised, it can be done a lot more easily.

Clause put and passed.

Clauses 65 and 66 put and passed.

Clause 67: Schedule 2 Division 2 inserted —

Mr D.R. MICHAEL: I move —

Page 53, after line 3 — To insert —

(ca) section 70(3)(c);

Ms M.J. DAVIES: Can the minister please explain what this amendment is actually trying to achieve?

Mr D.R. MICHAEL: This amendment is made consequential to the amendment at clause 44 and refers to the new mode of approval for the underground storage of petroleum.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 68 put and passed.

Clause 69: Various references to "petroleum" amended —

Mr D.R. MICHAEL — by leave: I move —

Page 60, 1st column, 2nd row — To delete "s. 52(1), (3)(a) and (b)" and substitute —

s. 52(1) and (3)(b)

Page 61, 3rd column, 2nd row — To delete "that" and substitute —

for

Ms M.J. DAVIES: I think the minister knows what I am going to say. Could he perhaps enlighten the house about the amendments that the government seeks to move on its own legislation?

Mr D.R. MICHAEL: The first amendment will remove an incorrect reference to "regulated substance" at section 52(3)(a) of the Petroleum and Geothermal Energy Resources Act 1967, and the second amendment will correct a language error amending "that" at the beginning, replacing it with "for" to provide consistency with the existing provision.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 70 to 72 put and passed.

Clause 73: Section 5 amended —

Ms M.J. DAVIES: I am at clause 73. Sorry, I have a table here and I am not keeping up with the bill!

This provision will introduce the new term "closure assurance period". It is described in proposed section 69HW as meaning the period "beginning at the end of the cessation day". I think we talked a little bit about the 15-year minimum period in the second reading debate. My question was about how the minister arrived at 15 years. His response to me was that it was based on what the federal government determined as the minimum period before a site could be considered for handing over. What assurances did the minister get from the department that 15 years is the right period? It is just a number. I am asking what the science is behind it and why it was chosen, other than aligning with federal government responsibilities. We in Western Australia choose not to align with the federal government on occasion.

Mr D.R. MICHAEL: It was very much to align with the commonwealth. I think the member might have mentioned a few of the submissions made. I think some in the industry might have wanted five years, and some of the more environmental groups suggested a very long time—perhaps the number should be up to 100 years. The figure was chosen to provide some cross-jurisdictional alignment with the commonwealth and some certainty. I am told that the science behind it is that after a minimum of 15 years, which includes the five years at the end of the injection period for a total of 20 years, and the pressure and monitoring, there should be good evidence that the CO_2 is behaving itself, I suppose.

Ms M.J. DAVIES: From the last time they inject the carbon dioxide—I think other gasses can be considered—they have to wait 15 years before they can come to government to say that they would like to hand over the site. How long does the government have before it must respond? Does the minister want to deal with that down the track? Do not worry.

Mr D.R. Michael: We will get onto that shortly.

Ms M.J. DAVIES: It is just the definition. Okay.

Clause put and passed.

Clause 74: Sections 6B to 6E inserted —

Ms M.J. DAVIES: This clause relates to the potential greenhouse gas storage formation. It states —

> … a ***potential GHG storage formation*** is a part of a geological formation that is suitable for the permanent storage of a greenhouse gas substance injected into that part.

I have a query about the use of "permanent". I wonder about that language. Do we truly know that it will be permanent? How was that language chosen? Can the minister give some advice on how those geological formations will be considered suitable? We spoke about the South West Hub and the work that the government did on the potential of onshore carbon capture and storage. What test will be applied if an application is made to ensure it is suitable? Proposed section 6B(3) states —

> … regard may be had to reasonably foreseeable technological developments.

Maybe I have three questions in a row there for the minister. Can the minister advise how part of a geological formation can be eligible? Does the minister want me to do these one by one?

Mr D.R. Michael: No; I think we are okay.

Ms M.J. DAVIES: What does "regard may be had to reasonably foreseeable technological developments" refer to? Proposed section 6C contains a reference to "100 000 tonnes" as the amount chosen. What is the science behind that? Why has that been recommended? Is it in line with what already exists? Proposed section 6C(4) refers to fundamental suitability determinants. Can the minister clarify and advise on that and any other relevant matters? I see that fundamental suitability determinants are referenced at proposed section 6C(9). Perhaps the minister can give me an example of what an effective sealing feature or attribute might be when we get to that point. I can go back through it; that was a grab bag of questions!

Mr D.R. MICHAEL: First off, an example of an effective sealing feature, which is at proposed section 6C(9)(e), is a non-permeable layer like a shale that does not allow the carbon dioxide to pass through. A permanent storage feature is indefinite. I am told that that is checked by modelling to be up to 10 000 years.

Ms M.J. Davies: Is that just the agreed terminology in this industry?

Mr D.R. MICHAEL: Yes, apparently it is the agreed terminology in the industry. What makes a storage site suitable? The main geological conditions needed to securely store carbon dioxide are adequate capacity to store the injected carbon dioxide and a reservoir or rock that is both porous and permeable. The rock must have pore spaces in which the carbon dioxide can reside and have links between the pore spaces—the permeability—to allow the carbon dioxide to move through it. A trapping mechanism is also required to prevent the carbon dioxide migrating from the target geological structure. Four basic mechanisms keep the carbon dioxide in place: stratigraphic/structural; residual; dissolution and mineral trapping, which I think is calcium carbonate; and impermeable cap rock to prevent the carbon dioxide from migrating upwards. This bill aligns with the commonwealth greenhouse gas legislation by not specifying the type of geological formation. What did we miss?

Ms M.J. DAVIES: I have just a couple more questions. The bill refers to "part of a geological formation". How can it be part of a geological formation? We cannot have half a reservoir. Once gas is put into the space, it takes it all up. I do not fully understand the technology, but I question how part of a geological formation can be eligible.

Mr D.R. MICHAEL: Geological formations can be very large. I will use an example. I am probably thinking the same way as the member. There might be a large rock with multiple compartments, and it would be put in only one of the compartments.

Ms M.J. DAVIES: This is my final question on this clause. Presumably, industry will go to the government with what it thinks is a potential storage formation. Will a checklist get signed off on and will a risk-based analysis be done, or will it be scientifically known before the gas is put in that it is a suitable formation? My question is: until it is done, how can we be certain that it is appropriate?

I guess I am asking whether there is a list of things that are ticked off—I think the minister gave me some of those—that will meet the criteria for a potential site? When I think about the South West Hub, I know those investigations went on for a long time. I presume that industry will want to move faster than that and will go to government with potential sites. I question how that will work.

Mr D.R. MICHAEL: The bill will establish three categories of storage formation with increasing specific descriptors that correspond to the titleholder's improving level of knowledge about the formation. The three categories are: potential greenhouse gas storage formations, eligible greenhouse gas storage formations and identified greenhouse gas storage formations. When an application comes in, the department will move the application through those levels, depending on the information we have regarding the formation.

Clause put and passed.

Clauses 75 to 79 put and passed.

Clause 80: Section 16 amended —

Ms M.J. DAVIES: This clause relates to the consent of an owner or trustees required in certain cases for exploration. I think the minister spoke briefly about this in his second reading reply. This will allow for an extension of the current consent that is required when exploration is undertaken. Can the minister advise when consent will be required and on what type of property titles? How will it be gained? What proof will be required? If it is already underway and established in the industry under the current exploration requirements, I am happy to take that as the answer. What will happen if someone cannot get consent? Where will it end up?

Mr D.R. MICHAEL: This clause will make no change to the current system for petroleum; it just adds greenhouse gas operations. I am sure that the member would be well aware of the success of the land access working group. If that consent is not provided, there is the capacity to go to the Magistrates Court. We just discussed that around the table, and those times are very few and far between. It is not zero, but it is almost zero.

Clause put and passed.

Clause 81: Section 17 amended —

Ms M.J. DAVIES: I need some clarification. The explanatory memorandum states —

> This clause extends the existing provisions that provide that no compensation is to be paid to the owners and occupiers of private land for any gold, minerals, petroleum, geothermal energy resources or … now … GHG storage formations.

Section 17(1) states —

> A permittee, holder of a drilling reservation, lessee or licensee may agree with the owner and occupier respectively of any private land comprised in the permit, drilling reservation, lease or licence as to the amount of compensation to be paid for the right to occupy …

The landowner is being paid for access, but, as part of that negotiation, if anything is found, they cannot get a cut of the outcome. Is that essentially what will be brought into effect?

Mr D.R. MICHAEL: Clause 81 will extend the regime to greenhouse gas, so the member is correct, I think. I am saying "I think" only because the member is looking confused now.

Ms M.J. DAVIES: I want to clarify things. It talks about no compensation being paid, but the explanatory—good lord; I have lost power of speech! That is an occupational hazard. The EM states —

> … no compensation is to be paid to the owners and occupiers of private land …

But section 17(1) states that the amount of compensation to be paid for the right to occupy can be negotiated. I am missing something. It will be me not understanding the regime, but it seems like it is at odds.

Mr D.R. MICHAEL: No compensation will be paid for the gold, minerals or greenhouse gas, but compensation will be payable to owners and occupiers of private land for the right to occupy the land; deprivation of possession of the surface land; any damage to the surface of the land; severance of the land; and for any rights of way. Again, the systems are in place, and this is just adding to it.

Clause put and passed.

Clause 82: Section 24 amended —

Ms M.J. DAVIES: This might again be an extension of what already exists, but, as I understand it, it provides that compensation is not required to be made to the lessee of the land leased by way of a pastoral lease. If somebody seeks to access the land of a pastoral lessee, am I right to assume that this provision does not allow the lessee to request compensation for access, and that includes not only a pastoral lease, but also a diversification lease? By the looks of things, it also covers leases for the use and benefit of Aboriginal habitants including —

(a) for deprivation of the possession of the surface of the land …

(b) for damage to the surface of the land; and

…

(d) for surface rights of way and easements.

I assume this is something to do with the fact that it is a lease and it is crown land, but in some cases this process will impact infrastructure or land owned by pastoralists or those managing it, and there will be no recourse for them to seek compensation, as I read it.

Mr D.R. MICHAEL: This already exists. We are just adding the new thing to it.

Ms M.J. Davies: I am happy to accept that.

Clause put and passed.

Clauses 83 to 86 put and passed.

Clause 87: Section 30 amended —

Ms M.J. DAVIES: Does this clause allow for the release of acreage or blocks for exploration? I want to make sure that I am in the right place.

Mr D.R. MICHAEL: Yes.

Ms M.J. DAVIES: Can the minister provide us with an update on the progress of the department's development of the new *WA carbon dioxide geological storage atlas*? I presume that that will be the repository of information as part of the release. What progress has been made on the development of acreage assessment and release so that the information can be released as soon as possible; and how will that work?

Mr D.R. MICHAEL: The greenhouse gas acreage release process will follow the same approach as taken for exploration for petroleum, but it will also include direct access provisions. The identification of prospective acreage release will be determined by the Department of Energy, Mines, Industry Regulation and Safety's knowledge of the state's geology and through nomination by industry of potential release areas. To assist both, DEMIRS, as the member mentioned, is developing a new *WA carbon dioxide geological storage atlas* that will provide government and industry with a clearer understanding of the potential for the permanent sequestration of CO_2 by providing new data on the reservoir seal and trap. The atlas will include new geographic areas like state waters and Officer Basin; stratigraphic intervals not included in the first atlas—for example, early Permian reservoirs in the northern Perth Basin—new, and where feasible, higher resolution depth maps, including major faults; reservoir and seal information from wireline logs; and new analysis in both the new regions as well as those originally investigated. I think that work is continuing, but I am told there has already been a data release through the Western Australian Petroleum and Geothermal Information Management System.

Ms M.J. DAVIES: Well! Hold the phone.

Mr D.R. Michael: I will get you the link.

Ms M.J. DAVIES: Yes, thanks. I have an additional question. Is there scope for industry to nominate areas to be included in acreage releases or in the atlas—or is it just one way?

Mr D.R. MICHAEL: The bill provides two avenues to allow for direct access through the Department of Energy, Mines, Industry Regulation and Safety identifying potential greenhouse gas storage formations. The second one is through the titleholder's geological knowledge of the formation. The explanation for that is that petroleum or geothermal lessees or licensees may, through petroleum or geothermal exploration operations, have knowledge of whether a part of a geological formation may be suitable for the permanent storage of a greenhouse gas.

Ms M.J. DAVIES: If through their own licence they have already found appropriate areas, will there be a requirement for that information to be included in the atlas? I guess I am asking whether it will be a complete record. Is there a responsibility for industry to feed that into the database held by DEMIRS?

Mr D.R. MICHAEL: There is no requirement for proponents to contribute to the atlas now, but as they are issued titles and get information, there will be a requirement to supply it to the department in the future.

Ms M.J. DAVIES: How often will the invitation for applications for the grant of a permit for greenhouse gas storage exploration be done? How often will the minister do that?

Mr D.R. MICHAEL: Obviously, this will form part of the regulations. At the moment, the intent is to do something similar to petroleum, which is about once a year.

Dr D.J. HONEY: I think we covered this before, but how will organisations be prevented from banking, if you like, these leases and preventing genuine proponents from accessing areas in the future? I refer to a Macquarie-type organisation just using this as another investment vehicle as opposed to a serious proponent that wants to sequester gas right now.

Mr D.R. MICHAEL: One criterion for assessment will be technical expertise. The minister will be able to require the proponent to identify the source of the proposed greenhouse gases and, importantly, its program of works year on year. That will include a requirement to expand the state's geological knowledge. If the proponent does not comply with those things, as the member knows, the title can be cancelled.

Clause put and passed.

Clauses 88 and 89 put and passed.

Clause 90: Section 32A amended —

Ms M.J. DAVIES: This clause relates to having more than one permit application for the same block or blocks. I understand it just extends what currently exists and there is a right for the minister to grant the permit to whichever applicant in the minister's opinion is most deserving of the grant. I understand that provision already exists, but I just seek some clarification. As noted in the consultation paper, it is theoretically possible for the holder of a petroleum title and a geothermal title to simultaneously apply for a greenhouse gas retention lease and/or a greenhouse gas injection licence on the same blocks. How will this occur with existing applications for exploration permits, and what criteria will the minister use to prioritise or determine who is most deserving of the grant?

Mr D.R. MICHAEL: This is probably a bit similar to my last answer in that the required technical knowledge and the program of works will be part of the assessment. Other than that, we expect that most ministers, or all ministers, would use the expertise of the department to work those things out.

Ms M.J. DAVIES: Is there a time line for when that happens? If it happens, industry wants these things resolved sooner rather than later. Will that be in the regulations or is it how long is a piece of string? Are there preconditions to how that is determined? I am looking for a bit of certainty.

Mr D.R. MICHAEL: There is no set time frame in regulations at the moment. Obviously, applicants would want this to happen as soon as possible, the department would want a good outcome for the state and we hope that the minister would want a good outcome for the state too. There might be some information gathering by the department from any applicant. There is no time frame, but it is in the best interests of the state to sort it out as quickly as practicable.

Ms M.J. DAVIES: This might not be relevant to this clause, but is an application for a particular purpose given precedence over another—so an application permit for minerals prospecting versus greenhouse gas? How would that be dealt with? It is not apples with apples, is it? Does one nullify the other?

Mr D.R. MICHAEL: Proposed section 32A follows on from the section pertaining to the release of acreage. When there is a release of acreage, it would be for one purpose or the other, not combined. There would be two applications for greenhouse gas, not one in competition with the other. That is the two applications.

Ms M.J. DAVIES: Now I am getting out of my depth. There would presumably be potential for there to be areas—although the member for Cottesloe said that it would have to be a very deep mine—where there might be mineral exploration and greenhouse gas storage prospectivity or other activities happening on those sites. How will it be decided how they will be released for a particular purpose?

Mr D.R. MICHAEL: It will be decided through feedback from industry and through the information the department is continuously collecting from industry and other sources. That is how it determines which areas will come up in an acreage release.

Clause put and passed.

Clauses 91 to 93 put and passed.

Clause 94: Section 38A inserted —

Ms M.J. DAVIES: This clause will insert proposed new section 38A, "Rights conferred by GHG exploration permit". It details the rights conferred by the exploration permit, including the ability to explore, inject and store. Can the minister advise what is considered an appraisal basis for the storage of air, water and greenhouse gas substances? How much can be stored, what are the risks and what do permittees have to provide to the department to progress with this? I seek clarity on the language.

Mr D.R. MICHAEL: The expectation is that most tests will occur in the order of days to weeks for an appraisal. Any amount injected for appraisal purposes will be required to demonstrate a negligible risk of leakage to surface and/or freshwater aquifers. It has to ensure permanent storage of CO_2. Regulation akin to regulation 58 would not apply, as regulation 58 relates to a petroleum licensee. An extended production test is dealt with under a policy. Injectivity tests are to determine the rate of storage rather than containment. Decommissioning and monitoring responsibilities will be in line with the same surrender cancellation guidelines as we have for petroleum.

Ms M.J. DAVIES: Will this essentially allow the permittee to test and provide feedback to the department on what they are trying to achieve? If petroleum or geothermal energy is recovered, who will it belong to? This clause says that they cannot keep it. Where does it go?

Mr D.R. MICHAEL: The answer to your first question about the appraisal is yes. If something is found, it would belong to the geothermal or petroleum titleholder, as there is no right to that product with a greenhouse gas title.

Clause put and passed.

Clauses 95 and 96 put and passed.

Clause 97: Section 42C inserted —

Dr D.J. HONEY: At the top of page 108 is proposed section 42C, "GHG exploration permits cannot be renewed more than once". I understand that petroleum leases are entitled to two renewals—if I am correct—and I wonder why the minister landed on only one renewal for the greenhouse gas exploration.

Mr D.R. MICHAEL: This returns to the member's question a couple of clauses ago. It provides for only one renewal of a greenhouse gas exploration permit to encourage exploration and progression of storage projects. It is intended to prevent warehousing and encourage title holders to progress their project to a retention lease or hand back the permit.

Clause put and passed.

Clauses 98 to 106 put and passed.

Clause 107: Sections 48BB to 48BD inserted —

Mr D.R. MICHAEL — by leave: I move —

Page 119, after line 5 — To insert —

(ia) a GHG drilling reservation;

Page 119, after line 18 — To insert —

(ia) a GHG drilling reservation;

Ms M.J. DAVIES: Would the minister like to explain the amendments he is making to his own legislation?

Mr D.R. MICHAEL: The next couple have very similar replies, so let us get it done now. This amendment corrects an oversight in which greenhouse gas drilling reservation was not included in the list of pre-existing titles in proposed section 48BB(1) and 48BB(2), along with the greenhouse gas exploration permit, a greenhouse gas retention lease and a greenhouse gas injection licence. That would preclude a petroleum or geothermal lessee from being able to apply for a greenhouse gas retention lease.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 108: Section 48CA amended —

Mr D.R. MICHAEL — by leave: I move —

Page 123, after line 21 — To insert —

(ia) a GHG drilling reservation;

Page 124, after line 4 — To insert —

(ia) a GHG drilling reservation;

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 109 and 110 put and passed.

Clause 111: Section 48CAA inserted —

Mr D.R. MICHAEL — by leave: I move —

Page 129, lines 14 and 15 — To delete "the identified GHG storage" and substitute —

a geological

Page 129, lines 18 and 19 — To delete "the identified GHG storage" and substitute —

a geological

Page 129, lines 22 and 23 — To delete "the identified GHG storage" and substitute —

a geological

Page 129, lines 32 and 130 — To delete "the identified GHG storage" and substitute —

a geological

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 112 to 116 put and passed.

Clause 117: Section 48J replaced —

Ms M.J. DAVIES: This clause requires the notification of a discovery of petroleum or geothermal energy and also that a regulated substance or potential GHG storage formation or injection site be provided to the minister in writing within three days of the discovery. Can the minister advise what will happen when that notification is made? Where will that information go? Will it go into the database? What will happen when the department receives it and what will the penalty be if it does not notify?

Mr D.R. MICHAEL: The penalty is listed at the end of the proposed section replacing section 48J. The fine will be $10 000. The notification will be in the regulations, but it is intended to be similar to the current provisions relating to petroleum and geothermal energy. The report will remain confidential indefinitely at the department, but results from the well will be released on the Western Australian Petroleum and Geothermal Information Management System after two years.

Ms M.J. DAVIES: In the consultation paper, GeoVolt submitted that the period should be changed from three days after the date of discovery to within 90 days of rig release. It is quite a technical response. I can read the paper but I am sure the department has it. It said that imposing a three-day limit during active drilling is impractical and it could lead to all intervals being declared a discovery to comply with the legislation. It is seeing red tape as opposed to "pull up your rigs, do your report and pass it in". Can the minister comment on why this was a requirement as opposed to what was suggested by GeoVolt?

Mr D.R. MICHAEL: If we look at petroleum, the department has a policy statement that allows some flexibility, which is that the three days kicks in after analysis in a lab, for instance. It is expected that there will also be a policy and guidelines for greenhouse gases.

In relation to the GeoVolt submission, it is important to note that the current notification provisions for petroleum geothermal discoveries in section 44 and proposed section 48J involve a three-step process: immediate verbal notification, written notification after three days and submission of a discovery assessment report after 90 days. The department has built in some flexibility to allow for some of those issues.

Dr D.J. HONEY: Some see this as a bit of a how-long-is-a-piece-of-string clause in a sense. We might find a gram of petroleum product or a vast reservoir, though we could not do that in a day. The same goes with geothermal energy. If we put a drill in the middle of this chamber and drill down five kilometres, it will be about 400 or 500 degrees. That is just physics. A potential greenhouse gas storage formation or potential greenhouse gas are all potential; they just might not be very good potentials. It seems to me that the way the bill is worded, it could have the unintended consequence of people being noncompliant when they do not know whether they are meaningful. How will this be quantified? Will there be some other guideline that says it has to be more than a certain amount or more than a certain magnitude before it is a potential or before it has actually been detected? Does the minister see what I mean? Again, there are hydrocarbons in all areas, some straight below this chamber.

Mr D.R. MICHAEL: Again, as exists now with petroleum, the definition of a discovery is within the policy and guidelines to ensure that no-one falls foul of this provision.

Clause put and passed.

Clauses 118 to 122 put and passed.

Clause 123: Section 50A amended —

Mr D.R. MICHAEL — by leave: I move —

Page 144, after line 6 — To insert —

(ia) a GHG drilling reservation;

Page 144, after line 17 — To insert —

(ia) a GHG drilling reservation;

Ms M.J. DAVIES: Can I just clarify whether these amendments are a continuation of the ones we were talking about before, or is this a new set? Perhaps the minister could explain what the amendments seek to achieve.

Mr D.R. MICHAEL: I might say that these are very similar to the amendments to clause 124 as well. These amendments will correct an oversight in which a greenhouse gas drilling reservation was not included in the list of pre-existing titles under proposed section 50A(1C) and (1D), along with a greenhouse gas exploration permit, a greenhouse gas retention lease and greenhouse gas injection licence, that will preclude a petroleum or geothermal lessee from being able to apply for a greenhouse gas injection licence, so it is very similar.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 124: Section 50B inserted —

Mr D.R. MICHAEL — by leave: I move —

Page 145, after line 30 — To insert —

(ia) a GHG drilling reservation;

Page 146, after line 10 — To insert —

(ia) a GHG drilling reservation;

Dr D.J. HONEY: I think this will probably be a quick answer, minister. My understanding of the legislation is that if someone has a petroleum or geothermal licence, they have primacy in any application for a subsequent greenhouse gas injection on that site. Is that correct or incorrect? I understood that that was the case.

Mr D.R. MICHAEL: Yes, an existing geothermal retention lease or petroleum production licence has the right for direct access to the subsurface area, provided that the eligible storage formation exists. That would have to be assessed and then declared by the department.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 125 to 130 put and passed.

Clause 131: Section 56 amended —

Mr D.R. MICHAEL: I move —

Page 152, after line 31 — To insert —

(aa) delete "50A" and insert:

50A(1)

Ms M.J. DAVIES: Can the minister explain what the amendment seeks to achieve?

Mr D.R. MICHAEL: This amendment will correct a cross-reference to section 50A to clarify that section 56 should be limited to applications under proposed section 50A(1).

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 132 to 140 put and passed.

Clause 141: Section 69A amended —

Ms M.J. DAVIES: As I understand it, this clause provides for a similar thing to what we were talking about before; maybe this is where I was trying to get to. It will allow for various types of permits to exist on the same block. If an application is made for that to occur, this provision will require the minister to go to the existing title holder within a month. This was not clear to me: If a registered holder submits any issues, will it have to be dealt with by the minister within one month or will it be longer? What happens if the title holder comes back and says, "No, here are things I want the minister to consider"? What is the time frame beyond one month? Could it, in fact, be much longer? What is the time line beyond the month within which the minister has to notify the existing title holder?

Mr D.R. MICHAEL: No time line is specified. This probably goes back to a question from a couple of hours ago, or whenever it was. The minister and the department, having released the acreage for the good of the state, would want to have a speedy resolution, one would expect.

Ms M.J. DAVIES: Just as an observation, I suspect that when the minister has been in this role for longer, he will find a couple of little mushrooms waiting to explode. There are occasions—I have certainly been dealing with one of them—when there are conflicting applications for land use and it is entirely up to the minister. Some of them have been going on for two years. Although I appreciate that the minister is saying that this is the intention, a whole lot of mitigating circumstances could come to the fore and the minister could be left in a pretty unsavoury position. Time frames would at least require some resolution. I get nervous when no time frame is specified in legislation, and I know industry does as well. To me, that is a little concerning because there is an initial time frame in which they must notify, but that is: how long is a piece of string? From an industry perspective, that would be very concerning if they were seeking a resolution, given that they would have investors and potential market responsibilities—that is, to not know and to not have any requirements for the minister to provide resolution.

Mr D.R. MICHAEL: I take the member's point, obviously. The department has been out for consultation on a guideline for the management of subsisting petroleum geothermal titles. That is still being progressed through the department. It probably does not resolve the point the member was trying to make but obviously we can try to resolve these things as quickly as possible.

Clause put and passed.

Clause 142: Part III Division 3B inserted —

Ms M.J. DAVIES: Clause 142 is quite significant! I thought I had stuffed up my own table, thinking I have 17 clauses under clause 142. I have a few questions, but I have broken them into the subdivisions. The first question I have relates to site closing certificates. Could the minister explain the process as described by the legislation? The questions I have around it are: What happens if a proponent enters bankruptcy or fails financially? Who becomes liable? How will the state pursue recovery of costs? Who is responsible for the monitoring and management of the closure of the site? What mechanisms have been built into the legislation to prevent companies from ceasing to exist and then phoenixing, given that Western Australia is going to assume the long-term liability if the greenhouse gas titleholder ceases to exist? Will that require a contingency liability built into the budget going forward or do we not anticipate that there will be any circumstances in which the state will become responsible for something that has not been managed appropriately?

Mr D.R. MICHAEL: There is a bit of an answer on this one, member.

Declaration of the closure assurance period is a major step in the Western Australian government assuming long-term liability for the stored greenhouse gas substance. It establishes the minimum 15-year period whereby the minister, through the Department of Energy, Mines, Industry Regulation and Safety and the licensee, monitors the site prior to allowing the proponent to formally confirm the storage site is secure and the long-term liability shifts to the WA government. In terms of a risk assessment for this proposed section, the minister needs to be satisfied that there is no significant risk to storage formation, the environment or to human health and safety. Under objective-based regulation, DEMIRS will undertake a risk assessment using international best practice, such as ISO standards, in the same manner as undertaking a risk assessment of well integrity through the well management plan, worker safety through the safety case and environment through an environment plan. Further information on the risk assessment for the declaration of closure assurance period will be contained in the proposed injection and storage regulations, modelled on the Offshore Petroleum and Greenhouse Gas Storage (Greenhouse Gas Injection and Storage) Regulations 2011 and associated guidelines.

The government has decided that the long-term liability provisions in this bill, which the member was talking about, will follow the equivalent sections 399, 400 and 401 of the commonwealth Offshore Petroleum and Greenhouse Gas Storage Act 2006. Western Australia will assume long-term liability for the stored greenhouse gas only when the minister is satisfied that the greenhouse gas injected is behaving as predicted and there is no significant risk that the greenhouse gas will have significant adverse impact on the geological integrity of the formation, the environment, or human health or safety. Long-term liability refers to risk beyond the operational phase of the project and the risk of harm to health, the environment or property due to the leakage or migration of injected CO_2. These risks can be minimised by ensuring rigorous and robust site selection processes and effective monitoring and verification. Long-term liability involves both statutory liability and liability under common law. The issue of liability is complicated by the fact that liabilities for greenhouse gas storage projects will run for centuries and extend far beyond the life of most companies and insurance contracts. In this instance, as with other industries, government would assume the liability by default. Western Australia will also assume long-term liability if the greenhouse gas titleholder has ceased to exist. DEMIRS acknowledges that there is a need for appropriate mechanisms to deal with long-term liability associated with petroleum, geothermal and greenhouse gas titles. It intends to propose a complete decommissioning package for the petroleum, geothermal and greenhouse gas titles

to deal with associated amendments, including those relating to liabilities. This bill also aligns with section 399 of the commonwealth Offshore Petroleum and Greenhouse Gas Storage Act 2006 in specifying a time frame of a minimum of 15 years after the issue of a site closing certificate before Western Australia accepts long-term liability for the stored greenhouse gas.

Ms M.J. DAVIES: I understand that there is a framework at the beginning to say they have selected a safe site, but, somewhere along the way, what happens if the company goes bust before that process of closing out, remediation, management and testing the ceiling, if the government does not have 15 years? What happens then? Does the state ultimately become responsible for it? Does it convert back to the state to manage?

Mr D.R. MICHAEL: It does.

Ms M.J. DAVIES: That will become a financial cost for the state. Does the government acknowledge a liability in the budget for that? Will that be done or will it sit as an assumption that may or may not be brought to book? It is a bit doomsday; we do not want to assume it is going to happen, but we have to plan for it. If it is going to be a long-term liability that the state becomes responsible for mid project or part way through, that would presumably just appear in the budget at the point in time when the government assumes liability.

Mr D.R. MICHAEL: Before it got to that point, the department tells me the aim would be to improve its monitoring of the financial state of those companies over that period, strengthening the work the department already does.

Ms M.J. DAVIES: Another proposed section in the same clause, "Refusal of pre-certificate notice", will allow for the minister to refuse to give a pre-certificate notice if —

> (a) the Minister is not satisfied that the greenhouse gas substance injected into the … storage formation is behaving as predicted … of an approved site plan for the formation …

Can the minister outline what kind of condition? The minister talked about monitoring. I do not want to labour the point. Without the notice of closure, what responsibilities will the applicant have? They will have to keep making active improvements or they will have to reapply. How will that work?

Mr D.R. MICHAEL: They would have to go away and do further work as directed by the minister and then reapply.

Ms M.J. DAVIES: I refer to proposed section 69HK, "Time for decision on application for site closing certificate". In the submissions that were made by industry, the Australian Petroleum Production and Exploration Association submitted that five years for a minister to make a decision on an application for a pre-certificate notice was excessive. Could the minister provide some comments on why the five years is necessary?

Mr D.R. MICHAEL: The WA bill aligns with section 388(8) of the commonwealth legislation, specifying a maximum time frame of five years after application for a site closing certificate. The requirement in section 388(8) was a late opposition Senate amendment to set a time frame for when a decision must be made. *Hansard* records that there was debate on the time required and it was recognised that sufficient time would be needed for the minister to review all the data and scientific information available, take the advice of his or her department and come to a conclusion on whether the site certificate may be granted. *Hansard* also reflected that the minister may grant an application in fewer than five years when a company believes that a site is safe and secure and is able to provide necessary data and supporting information that can be crosschecked by the department. It is to match commonwealth legislation.

Ms M.J. DAVIES: It is a long time to make a decision, minister.

Mr D.R. MICHAEL: It is a maximum.

Clause put and passed.

Clauses 143 to 148 put and passed.

Clause 149: Section 91 amended —

Mr D.R. MICHAEL — by leave: I move —

> Page 194, lines 5 to 10 — To delete the lines and substitute —
>
> (a) all petroleum operations;
>
> (b) all geothermal energy operations;
>
> Page 194, line 21 — To delete "(2) and (2a)" and substitute —
>
> (2), (2a) and (3)
>
> Page 198, lines 12 to 14 — To delete "petroleum exploration operations, geothermal exploration operations or GHG exploration operations, as the case requires," and substitute —
>
> operations authorised by the special prospecting authority or access authority
>
> Page 198, line 18 — To delete "exploration".

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 150 to 152 put and passed.

Clause 153: Section 106 amended —

Mr D.R. MICHAEL — by leave: I move —

Page 201, after line 22 — To insert —

(1A) In section 106(1a):

(a) delete "petroleum title outside the State" and insert:
national petroleum title

(b) delete "that petroleum" and insert:
that national petroleum

(1B) In section 106(1c):

(a) delete "geothermal title outside the State" and insert:
national geothermal title

(b) delete "that geothermal" and insert:
that national geothermal

Page 201, line 33 — To insert after "operations" —

related to the GHG operations carried on

Page 202, line 3 — To delete "outside the State".

Page 202, line 6 — To insert after "operations" —

related to the operation carried on

Page 205, line 11 — To insert after "grant" —

or variation, as the case may be,

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 154 to 186 put and passed.

Clause 187: Part 4A inserted —

Dr D.J. HONEY: I refer to page 228. Under proposed section 56B, "Escape of petroleum: reimbursement of State", will any penalty apply or is that purely around cost recovery? Not that I am encouraging penalties, but penalties are typically a deterrent and I wondered whether any penalty will be associated with this on top of cost recovery.

Clauses 188 to 203 put and passed.

Clause 204: Section 21 amended —

Ms M.J. DAVIES: I am just seeking a bit of clarity around this clause. As I understand it, a person can apply to a minister for a direction if agreement has not been reached with a pipeline licensee for the conveyance of petroleum through the pipeline specified in the licensee's licence within a three-month period. I am just trying to understand what the government is trying to remedy. I am not quite sure. Who would the two proponents be, and what would likely be the cause of them not being able to reach an agreement? Would it be a project proponent with greenhouse gas or petroleum and the pipeline owner? Would it be the landowner and the pipeline owner? I do not quite understand.

Mr D.R. MICHAEL: Obviously, this provision will add all greenhouse gas substances to the existing provision. The existing provision is a very old provision. It actually dates to 1969. We are going to allow third-party access. The example is a pipeline licensee and, potentially, a petroleum producer.

Clause put and passed.

Clauses 205 to 235 put and passed.

Clause 236: Part 3 Division 4AA inserted —

Mr D.R. MICHAEL — by leave: I move —

Page 260, after line 10 — To insert —

74AAA. Term used: registered holder

In this Division —

registered holder, in relation to a title referred to in section 74A(2)(h), means the person who holds the title.

Note for this definition:

In relation to the other titles referred to in section 74A(2), see the definition of ***registered holder*** in section 4(1).

Page 260, line 17 — To delete the line and substitute —

operations that are equivalent to petroleum operations (whether carried out in an area that is equivalent to the adjacent area or otherwise);

Amendments put and passed.

Clause, as amended, put and passed.

Clause 237 to 241 put and passed.

Clause 242: Section 97B inserted —

Mr D.R. MICHAEL — by leave: I move —

Page 268, lines 1 to 11 — To delete the lines and substitute —

(2) Subsections (3) and (3A) apply if, on its grant, a title includes an approval for the purposes of section 28(2)(a), 38C(2)(a), 52(2)(a), 111(4A)(a) or 112(5AA)(a).

(3) If the title is renewed, the approval must be included in the title as renewed.

(3A) The conditions which the Minister may impose on the title on its grant or renewal include conditions for purposes related to the approval or to anything that is authorised by virtue of the approval.

Page 268, lines 22 to 25 — To delete the lines and substitute —

(5A) If the title is renewed —

(a) the approval applies in relation to the title as renewed; and

(b) the conditions which the Minister may impose on the title on its renewal include conditions for purposes related to the approval or to anything that is authorised by virtue of the approval.

(6) The approval applies in relation to the title, or to the title as renewed, despite any change in the registered holder.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 243 to 259 put and passed.

Clause 260: Various references to "petroleum" amended —

Mr D.R. MICHAEL: I move —

Page 284, 1st column, 3rd row — To delete "s. 126(1)(a)(i) and (ii)" and substitute —

s. 126(1)(a)(ii)

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 261 to 264 put and passed.

Clause 265: Section 4A to 4D inserted —

Dr D.J. HONEY: At the top of page 311, greenhouse gas substances, or greenhouse gas, relates to, as I understand it, captured material that will be reinjected. I do not need an exhaustive list, but what will the range of compounds be? For example, if someone is capturing gas, it may be that that they have nitrous oxides of various types, and

there could be a range of other organic combustion products that are captured as well. Is it contemplated that those other materials will be reinjected as being greenhouse gasses?

Mr D.R. MICHAEL: Hopefully, this kind of answers the question. This bill provides for transport and permanent geological storage of greenhouse gas substances and aligns with the commonwealth Offshore Petroleum and Greenhouse Gas Storage Act 2006 and the definitions of the terms "primary greenhouse gas substance", "greenhouse gas substance" and "incidental greenhouse gas-related substance".

For practical purposes, when the amendments made by this bill commence, "greenhouse gas substance" will mean carbon dioxide, together with any substances incidentally derived from the capture, transportation, injection or storage processes with the permitted or required addition of chemical detection agents to assist the tracing of the injected greenhouse gas substance. There is a power by regulation to extend the meaning of "greenhouse gas substance" to include other greenhouse gases. This regulation-making power is not expected to be used until such time as the protocol to the London dumping convention is amended to permit geological storage of those other greenhouse gases. In accordance with that protocol, it would be an offence to add a waste substance or other matter to a greenhouse gas substance for the purpose of disposal.

Clause put and passed.

Clauses 266 to 270 put and passed.

Clause 271: Section 19 amended —

Mr D.R. MICHAEL: I move —

Page 315, after line 17 — To insert —

(aa) in paragraph (b) delete "Part." and insert:

Act.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 272 to 291 put and passed.

Clause 292: Sections 38BB, 38BC and 38BD inserted —

Mr D.R. MICHAEL — by leave: I move —

Page 336, lines 11 to 16 — To delete the lines.

Page 337, line 20 — To delete "38BC(1), (2) or (3)" and substitute —

38BC(1) or (2)

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 293 to 295 put and passed.

Clause 296: Section 38C replaced —

Mr D.R. MICHAEL — by leave: I move —

Page 346, lines 18 and 19 — To delete "the identified GHG storage" and substitute —

a geological

Page 346, lines 22 and 23 — To delete "the identified GHG storage" and substitute —

a geological

Page 346, lines 26 and 27 — To delete "the identified GHG storage" and substitute —

a geological

Page 347, lines 4 and 5 — To delete "the identified GHG storage" and substitute —

a geological

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 297 to 303 put and passed.

Clause 304: Section 39 amended —

Mr D.R. MICHAEL: I move —

Page 355, line 24 — To delete the line and substitute —

In section 39:

(a) in paragraph (a) before "licence; or" insert:

petroleum production

(b) in paragraph (b) delete "Part." and insert:

Act.

(c) delete the Penalty and insert:

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 305 to 314 put and passed.

Clause 315: Section 46 amended —

Mr D.R. MICHAEL: I move —

Page 368, after line 5 — To insert —

(aa) delete "40A" and insert:

40A(1)

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 316 to 323 put and passed.

Clause 324: Section 54A amended —

Dr D.J. HONEY: Proposed section 54A(1A) provides that if a licensee does not do any work for five years, the licensee will potentially lose the site. What about the pairing of sites with a deposit? If someone has an existing long-term gas field, they will need a carbon sequestration site to pair with that site to deal with the excess CO_2 from the deposit sometime in the future. Will the minister be able to recognise that and say, "Yes, this is required to be concurrent with this operation in the future and therefore I will allow them to continue to hold that lease"?

Mr D.R. MICHAEL: After five years, the capacity exists to apply for a retention lease, which is what they will be able to do to hold that lease.

Dr D.J. HONEY: Is a retention lease for five years or 10 years? What is the duration that a retention lease can be held for?

Mr D.R. MICHAEL: It is for five years.

Clause put and passed.

Clauses 325 to 332 put and passed.

Clause 333: Sections 64 and 65 replaced —

Mr D.R. MICHAEL: I move —

Page 403, line 21 — To delete "GHG injection" and substitute —

petroleum production

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 334 to 337 put and passed.

Clause 338: Part 3 Divisions 4AAA and 4AAB inserted —

Dr D.J. HONEY: We are getting into exotic numbering. I refer to proposed section 74AZG, "State to assume long-term liability if licensee has ceased to exist", on page 436. What protection does the state have to ensure that

companies will not game this? Is there a potential for the government to require a bond or some other mechanism to ensure that a company does not, effectively, transfer all its assets somewhere else and, lo and behold, that company no longer exists or, as we have seen with some expired oil rigs, the company sells it to a third party that has no capacity whatsoever to manage the liabilities, and then it folds and the state picks up the liability for remediating an oil rig and drilling site?

Mr D.R. MICHAEL: Under the existing transfer system provisions of the Petroleum Act, there is a requirement for the company or proponent to demonstrate to the department its financial capacity to operate.

Dr D.J. HONEY: Thanks, minister. I appreciate that. It is more about the end of the operation if the company knows that it will wind up but does not want the liability for dealing with the site and is happy to transfer the liability to the state. Through various mechanisms, the company depletes the assets in the company that operates the facility or sells the company to a third party for a nominal amount when that third party has no capacity to pay for the remediation work.

Mr D.R. MICHAEL: Obviously, we had a discussion with the shadow minister earlier. The intention is that as these provisions go live, the department will beef up its financial monitoring of these companies. Obviously, it can watch for any red flags in a company's financial capacity as the project goes along and towards the end of the project, as the member talked about. The department will be able to issue directions and those kinds of things before we get to the point that the member talked about.

Dr D.J. HONEY: Has any thought been given to companies having to set aside a bond or allowance? I do not think this is an issue that is isolated to this area of Western Australia. I have a deep suspicion that the state will end up picking up all the liability for the remediation of that site in Collie. In my estimate, that will be billions, not hundreds of millions of dollars. I am sure other people can give the minister a precise estimate. I am concerned that for a lot of different mining operations, the state will have to pick up the liability, particularly when it is at the end of the mine's operations.

Mr D.R. MICHAEL: No bond is required under the petroleum legislation at the moment, as the member probably knows, but there is a requirement for insurance, and that will continue under the new system. Having said that, the point the member made is noted. Someone in the department will look at ways to protect the state's liability.

Clause put and passed.

Clauses 339 to 341 put and passed.

Clause 342: Section 97 amended —

Mr D.R. MICHAEL — by leave: I move —

Page 439, lines 17 and 18 — To delete the lines and substitute —

(a) all petroleum operations;

Page 440, line 15 — To insert after "petroleum," —

a regulated substance,

Page 441, line 7 — To delete "petroleum" and substitute —

petroleum, a regulated substance

Page 442, lines 8 and 9 — To delete "petroleum operations or GHG exploration operations, as the case requires," and substitute —

operations authorised by the special prospecting authority or access authority

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 343 to 346 put and passed.

Clause 347: Section 112 amended —

Mr D.R. MICHAEL — by leave: I move —

Page 446, line 31 and page 447, line 1 — To delete "the GHG operations" and substitute —

the operation

Page 449, line 31 — To insert after "grant" —

or variation, as the case may be,

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 348 to 354 put and passed.

Clause 355: Section 143 amended —

Mr D.R. MICHAEL: I move —

Page 453, line 29 — To delete "permit, petroleum lease or petroleum" and substitute —

exploration permit, petroleum retention lease or petroleum production

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 356 to 383 put and passed.

Clause 384: Act amended —

Dr D.J. HONEY: This is a question about capacity. I understand that the easement for the Dampier to Bunbury pipeline is a crowded easement, if you like, that is well utilised. I recall from a conversation with former Premier Hon Richard Court that a second easement, to guarantee competition for the sole operator of the Dampier to Bunbury pipeline, was established adjacent to the existing pipeline easement. That would ensure that at any time the government could allow another party to come in and compete with the operator if they became unreasonable about transport fees along that pipeline easement. The core of my question is: do we have adequate space within the easement or do we have adequate easements to allow other pipelines to utilise that corridor?

Mr D.R. MICHAEL: I am told that the corridor is wide in some areas and narrow in others, and that the state would have to make those narrow areas wider.

Dr D.J. HONEY: Is that an act of consideration? Again, I will refer to my previous employment, when Alcoa had a pipeline easement going from the Kwinana refinery all the way to the Pinjarra refinery. It was forward planning to allow for the closure of Kwinana all those years ago so it could pump the considerable volumes of liquid between those locations. That easement became degraded over time. I do not know what the status of it is now, but that potentially was not available. Is the government actively developing a plan to make sure we have an adequate easement along this line? It is logical that this sort of use will occur and, obviously, we would not want sudden barriers to come up when we are trying to establish a pipeline.

Mr D.R. MICHAEL: The importance of the pipeline to all Western Australians is well documented. It is something that governments should always be looking at. I am sure that once this legislation is passed, the operator of the pipeline will be looking at whatever commercial opportunities that affords them. As the member knows, the pipeline is jointly managed with the Minister for Lands. Given that this issue is a bit of an aside from what we are discussing tonight, the member could write to me and we could have a future discussion on that matter.

Dr D.J. HONEY: As I understood the set-up before, the government having control over part of that easement to maintain commercial pressure is a very valuable thing, but I am very happy to discuss that with the minister separately. Thank you.

Clause put and passed.

Clauses 385 to 389 put and passed.

New Part 5 Division 5A —

Mr D.R. MICHAEL: I move —

Page 476, after line 26 — To insert —

Division 5A — *Gas Supply (Gas Quality Specifications) Act 2009* amended

389A. Act amended

This Division amends the *Gas Supply (Gas Quality Specifications) Act 2009*.

389B. Section 3 amended

(1) In section 3(1) in the definition of ***gas producer*** paragraph (b) delete "production licence for petroleum" and insert:

licence, other than an infrastructure licence or pipeline licence,

(2) In section 3(1) in the definition of ***gas producer*** paragraph (b) delete "licence, other than an infrastructure licence or pipeline licence," and insert:

petroleum production licence

(3) In section 3(1) in the definition of ***pipeline*** delete "all of the definition from and including "but does not include"" and insert:

paragraph (b) of the definition

New part put and passed.

Clauses 390 to 396 put and passed.

Clause 397: Section 164 amended —

Dr D.J. HONEY: I was a little intrigued. If I understand this correctly, this clause will amend the section that requires the government to acquire land for the transport of material or other things. Why are all those other things such as minerals under the land included? Surely, if it is common law timing, so it is fee simple, all those mineral rights and other things would go with the land if it were to be acquired by the state. I do not understand why this provision details all those different things.

Mr D.R. MICHAEL: Section 164 of the Land Administration Act 1997 provides that mineral, petroleum and geothermal energy rights may be excluded from a taking order. Section 164 is to be expanded to state that unless otherwise stated, a taking order will also apply for the rights related to regulated substances, greenhouse gas substances, and petroleum and geothermal energy substances, as referred to in each of the various petroleum acts, with references to the respective revised titles. This amendment is a proportionate and suitable amendment in recognition of the introduction of rights for regulated substances as well as greenhouse gas storage and transport. It essentially maintains the status quo in coordination of the rights available within the three petroleum acts.

Clause put and passed.

Clauses 398 to 417 put and passed.

New Part 5 Division 10A —

Mr D.R. MICHAEL: I move —

Page 488, after line 8 — To insert —

Division 10A — *Petroleum Titles (Browse Basin) Act 2014* amended

417A. Act amended

This Division amends the *Petroleum Titles (Browse Basin) Act 2014*.

417B. Section 6 amended

(1) In section 6(3) delete "an exploration permit for petroleum" and insert:

a permit

(2) In section 6(3) before "permit" (2nd occurrence) insert:

petroleum exploration

417C. Section 8 amended

(1) In section 8(3) delete "an exploration permit for petroleum" and insert:

a permit

(2) In section 8(3) before "permit" (2nd occurrence) insert:

petroleum exploration

New part put and passed.

Clause 418 put and passed.

Clause 419: Section 3 amended —

Mr D.R. MICHAEL: I move —

Page 489, line 22 — To insert after "***geothermal***" —

energy

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 420 to 431 put and passed.

Title put and passed.