

BARROW ISLAND BILL 2003

The Bill is presented in 5 Parts:

- **Part 1 – Preliminary**
- **Part 2 - Ratification and agreement**
- **Part 3 - Use of reserve under the land administration act 1997**
- **Part 4 – Conveyance and underground disposal of carbon dioxide**
- **Part 5 – Miscellaneous**

The Gorgon Gas Processing and Infrastructure Project Agreement is Schedule 1 of the Bill.

Part 1 - Preliminary

Section 1

Establishes the title of the Act.

Section 2 - Commencement

Subsection (1)

Deems the Commencement Date.

Subsection (2) (a)

Provides that, if the Petroleum Safety Act 1999 comes into operation before Royal Assent of this Act, section 12 will come into operation upon from the date of Royal Assent.

Subsection (2) (b)

Provides if the Petroleum Safety Act 1999 comes into operation after Royal Assent of this Act, section 12 will come into operation from the date the Petroleum Safety Act 1999 comes into operation.

Section 3 - Definitions

Defines the terms contained in the Bill.

Section 4 – Notes not part of law

Provides that notes in the Act are to assist with understanding and do not form part of the Act.

Part 2 - Ratification of Agreement

Section 5 – Agreement ratified and implementation authorised

Subsection (1)

Ratifies the Agreement.

Subsection (2)

Authorises the implementation of the Agreement.

Subsection (3)

Provides for the Agreement to operate and take effect despite any other Act or law, without limiting or otherwise affecting the application of the Government Agreements Act 1979.

Part 3 – Use of the reserve under the Land Administration Act 1997**Section 6 – Leasing parts of the reserve****Subsection (1)**

Provides that the Minister for Lands may, under section 79 of the Land Administration Act, grant, subject to section 9 of the Bill, a lease of land over part of the Class A nature reserve for a gas processing project purpose.

Subsection (2)

Provides that the Minister for Lands requires the prior consent of the Barrow Island Act Minister (BI Act Minister) prior to:

- (a) granting a lease;
- (b) fixing the duration of a lease;
- (c) determining an option for renewal;
- (d) extend a term or vary a provision;
- (e) give an approval in relation to a lease where the lease is granted to a person who is not a party to the Agreement;
- (f) accept a surrender;
- (g) order forfeiture;
- (h) remove fixtures from or cause improvements to a lease;
- (i) grant an option for a lease;
- (j) vary a condition of a sublease.

Subsection (3)

Requires the consent of the CALM Act Minister before the Minister for Lands can determine or vary a condition of a lease that relates to or affects the conservation of flora or fauna on the reserve.

Subsection (4)

Provides that no lease can be granted over the reserve that would coincide with or overlap the area of the Barrow Island lease unless:

- (a) the Barrow Island has been surrendered in respect of the area to which the lease relates; or
- (b) the Barrow Island lease is no longer in force.

Subsection (5)

Enables the Governor to consent a surrender any part of the Barrow Island lease including the surface and below to a depth specified in the instrument of surrender.

Subsection (6)

Provides that certain sections of the Land Administration Act 1997 do not apply to a lease granted under this section.

Subsection (7)

Provides that section 18 of the Land Administration Act 1997 does not apply to a lease granted to a person who is not a party to the Agreement.

Section 7 – Licences affecting the reserve**Subsection (1)**

Provides that the Minister for Lands may, under section 91 of the Land Administration Act, grant, subject to section 9 of the Bill, a licence of land over part of the reserve for a gas processing project purpose.

Subsection (2)

Provides that the Minister for Lands requires the prior consent of the Barrow Island Act Minister (BI Act Minister) and the consent of the Barrow Island lessee, if required, prior to:

- (a) granting a licence;
- (b) fixing or extending the duration of a licence;
- (c) amend a provision of the licence.

Subsection (3)

Provides that the consent of the CALM Act Minister is required for the Minister for Lands to determine or vary a condition of a licence that relates to or affects the conservation of flora or fauna on the reserve.

Subsection (4)

Provides that no licence can be:

- (a) granted to a person who is not a party to the Agreement;
- (b) terminated

without the consent of the BI Act Minister.

Subsection (5)

Provides that nothing in the Bill prevents the existence on the same area or the reserve of a:

- (a) licence; and
- (b) a mining or petroleum right, including the Barrow Island lease.

Subsection (6)

Provides that certain sections of the Land Administration Act 1997 do not apply to a licence granted under this section.

Subsection (7)

Provides that section 18 of the Land Administration Act 1997 does not apply to a lease granted to a person who is not a party to the Agreement.

Section 8 – Easements affecting the reserve**Subsection (1)**

Provides that the Minister for Lands may, under section 144 of the Land Administration Act, grant, subject to section 9 of the Bill, an easement of land over part of the Class A nature reserve for a gas processing project purpose.

Subsection (2) (a)

Provides that, while the Barrow Island lease is in force,

- (i) references in the Land Administration Act Part 8 to the management body shall be read as if they are references to the BI Act Minister;
- (ii) references in the Land Administration Act Part 8 to the lessee or any other person having an interest, right, title or power in respect of the relevant land are to be read as if they are references to –
 - (I) each person granted a title under sections 6, 7 or 8;
 - (II) the Barrow Island lessee, if consent is required the under the Barrow Island lease.

Subsection (2) (b)

Provides that if the Barrow Island lease is not in force, references in the Land Administration Act Part 8 to the management body shall be read as if they are references to the BI Act Minister.

Subsection (3)

Provides that the consent of the CALM Act Minister for the Minister for Lands to determine or vary a condition of an easement that relates to or affects the conservation of flora or fauna on the reserve.

Subsection (4)

Provides that no easement can be:

- (a) approved where the easement is to be granted to a person who is not a party to the Agreement;
- (b) cancelled;
- (c) forfeited

without the consent of the BI Act Minister.

Subsection (5)

Provides that certain sections of the Land Administration Act 1997 do not apply to an easement proposed to be granted or granted under this section.

Subsection (6)

Provides that section 18 of the Land Administration Act 1997 does not apply to a lease granted to a person who is not a party to the Agreement.

Section 9 – No more than 300 ha in total of uncleared land to be leased, or the subject of licences or easements**Subsection (1)**

Provides that no more than 300 hectares of uncleared land in total shall be leased or the subject of licences or easements, under the Land Administration Act for gas processing project purposes.

Subsection (2)

Defines “uncleared land” as land that is not cleared at the time of grant of Land Administration Act title under sections 6, 7 and 8 of by the Minister for Lands.

Section 10 – Status and purpose of reserve not affected**Subsection (1)**

Provides that despite any grant of title under sections 6, 7 and 8 the reserve will remain in place for the purpose of conservation of flora and fauna.

Subsection (2)

Provides that granted title will not reduce the area of the reserve.

Part 4 - Conveyance and underground disposal of carbon dioxide.**Section 11 – Petroleum Pipelines Act 1969 applies to pipelines on Barrow Island for conveyance of carbon dioxide****Subsection (1)**

Amends the Petroleum Pipelines Act 1969 to include carbon dioxide resulting from gas processing on Barrow Island in the definition of “petroleum” in section 4 (1).

Subsection (2) amends the Petroleum Pipelines Act 1969 so that, despite the definition of “pipeline” in section 4 of that Act, the definition shall include a pipeline for the conveyance of carbon dioxide to a place on Barrow Island for the purpose of disposing the carbon dioxide in an underground reservoir or other subsurface formation.

Section 12 – Petroleum Safety Act 1999 applies to operations on Barrow Island concerning carbon dioxide

Amends section 3 of the Petroleum Safety Act 1999, to include in the definition of “petroleum” reference to carbon dioxide recovered during gas processing on Barrow Island.

Section 13 – Disposal of carbon dioxide underground**Subsection (1)**

Provides that a person cannot inject carbon dioxide into an underground reservoir without the approval of the BI Act minister. A penalty of \$50,000 can be imposed for any breach of this requirement.

Subsection (2)

Provides that an application for the BI Act Minister under this section –

- (a) is to be made in a form and manner approved by the BI Act Minister;
- (b) is to be accompanied by information on:
 - (i) the position, size, capacity and geological structure of the underground reservoir;
 - (ii) the rate of proposed disposal, volume and composition of the carbon dioxide to be disposed and the expected duration of the disposal;

- (iii) injection and disposal methods;
 - (iv) capability of the reservoir to confine the carbon dioxide; and
 - (v) technical advice and data available in relation to the proposed disposal.
- (c) can prescribe a fee.

Subsection (3)

Provides that the BI Act Minister require the applicant to provide further information in connection with the application or to inform other persons of an application.

Subsection (4)

Provides that the BI Act Minister in considering an application may seek advice or information from any person or that he thinks is relevant to the application.

Subsection (5)

Requires the BI Act Minister to consult with –

- (a) the Land Administration Act Minister;
- (b) the CALM Act Minister; and
- (c) any other person who is required to be informed under subsection 13(3)(b) before he gives his approval to an application under this section.

Subsection (6)

Provides that the BI Act Minister may grant approval of an application subject to any condition or restriction including

- (a) the payment of money to the State;
- (b) indemnification of the State; or
- (c) the transferability or otherwise of the approval.

Part 5 Miscellaneous

Section 14 – Requirement to obtain authorisations under other laws not affected

Subsection (1)

Provides that the requirement to obtain all necessary authorisations, prior to the grant of any Land Administration Act title under the provisions of sections 6, 7 and 8 of the Bill or for activities under section 13, under any written law is not affected by the provisions of the Bill.

Subsection (2)

Provides that a requirement to obtain Land Administration Act authorisation is subject to modifications made under Part 3 of this Bill.

Subsection (3)

Provides that nothing in section 14 (1) affects the operation of the Bill.

Section 15 – Limits on gas processing projects on Barrow Island**Subsection (1)**

Requires that any future gas processing project on Barrow Island must be the subject of a Government Agreement.

Subsection (2)

Provides that section 15 (1) does not apply to any gas processing project under the Barrow Island lease.

Subsection (3)

Requires that after the Barrow Island Coordination Council is formed under clause 13 of the Agreement a person cannot operate a gas processing project on Barrow Island unless the person is a participant in the Council.

Section 16 – Land used for gas processing purpose is rateable land

Provides that land the subject of Land Administration Act title on Barrow Island shall be rateable land under the Local Government Act.

Section 17 - Regulations

Allows the Governor to make regulations for the purpose of the Act.

Section 18 – Review of Act on cessation of Agreement**Subsection (1)**

Provides, in the event that the Agreement ceases, that the Barrow Island Act Minister shall carry out a review soon after the Agreement ceases on –

- (a) the need for the continuation and operation of the Act; and
- (b) other matters relevant to the operation and effectiveness of the Act.

Subsection (2)

Requires the BI Act Minister to prepare a report on the outcome of his review and cause it to be tabled before each House of Parliament.

GORGON GAS PROCESSING AND INFRASTRUCTURE PROJECT AGREEMENT

Parties

The State of Western Australia (“the State”) and ChevronTexaco Australia PTY. LTD., Texaco Australia PTY. LTD., Mobil Australia Resources Company Pty Limited and Shell Development (Australia) Proprietary Limited (“the Joint Venturers”).

Recitals

- A. Advises that the Joint Venturers hold the “Title Areas” under the Commonwealth Petroleum (Submerged Lands) Act 1967 and propose to produce natural gas and other petroleum products from those areas and a gas processing and infrastructure project on Barrow Island.
- B. Advises that the State for the purpose of promoting industrial development in Western Australia, desires to facilitate the project subject to the terms of the Agreement.
- C. The parties recognise the need for employment and training opportunities for the Western Australian workforce and for participation in the project by suppliers, manufacturers, contractors and consultants resident in WA.
- D. The parties acknowledge the high biodiversity value on Barrow Island and the need for the Agreement to provide net environmental, social and economic benefits for current and future generations and the need to minimise environmental impact of the project on Barrow Island.

Clause 1 – Definitions

Defines the terms used in the Agreement.

Clause 2 - Interpretation

Subclause (1)

Provides legal interpretations of how the Agreement is to be generally read.

Subclauses (2) and (3)

Require the parties to comply with the laws relating to native title and the Environmental Protection Act 1986 or the Ratifying Act.

Clause 3 - Ratification and operation

Subclause (1)

Requires the State to introduce and sponsor a Bill into Parliament to ratify the Agreement prior to 31 December 2003 or such later date as the parties may agree.

Subclause (2)

States that the Agreement, other clauses 1, 2 and 3, will not come into operation until the Bill is passed and comes into operation as an Act.

Subclause (3)

Provides for the determination of the Agreement if the Bill has not commenced to operate as an Act by 31 December 2003 or later such later date is agreed.

Subclause (4)

Provides that the Act and all the provisions of the Agreement will operate and take effect notwithstanding the provisions of any other Act or law.

Clause 4 - Preparatory work**Subclause (1)**

Requires the Joint Venturers to continue their field and office geological, geotechnical, engineering, environmental, social impact, heritage, marketing and finance studies and investigations into other matters as they consider necessary to enable them to finalise and to submit proposals under the Agreement and to report in writing thereon to the State at quarterly intervals or such longer periods as may be approved by the Minister.

If the preparatory work leads the Joint Venturers to conclude at any time prior to submission of their proposals under clause 7(1), that the Project cannot successfully be established in accordance with this Agreement, the Joint Venturers will consult with the Minister and following consultation, if they are still of that mind, they may notify the Minister that they do not intend to submit proposals and, upon that notification, the Agreement will cease and determine.

Subclause (2)

Requires that each report submitted under subclause (1) shall also advise the State of the expected Western Australian and other Australian content of their proposed works and the matters referred to in clause 15(4).

Subclause (3)

Requires the Joint Venturers to co-operate and consult with the State on matters referred to in subclause (1) and any other relevant studies that the Minister may wish to undertake. The Joint Venturers will join with the State in any studies into infrastructure that they and the Minister agree should be undertaken.

Subclause (4)

Requires the State, if requested by the Joint Venturers will, at the cost of the Joint Venturers, exercise any powers available to it under the Barrow Island lease regarding access for the Joint Venturers to land within that lease for the purposes of the clause.

Subclause (5)

Provides that for the purpose land proposed for or the subject of approved proposals, the Joint Venturers shall be deemed to be within the expression "the owner of any land" for the purposes of section 18 of the Aboriginal Heritage Act 1972.

Clause 5 – Overall development – existing infrastructure**Subclause (1)**

Having regard to the Class A nature reserve on Barrow Island, the limit of 300 hectares of uncleared land available for their and other future gas processing developments and to avoid duplication of service, facilities and infrastructure on the Island, the Joint Venturers are required to provide wherever reasonably practicable to do to provide in detailed proposals for the sharing of such existing service, facilities and infrastructure.

Subclause (2)

Allows the Joint Venturers to enter into arrangements with other island occupants for the sharing of their service, facilities and infrastructure

Clause 6 – Reservation of areas**Subclause (1)**

Provides for use the 300 hectare Gas Processing Area to be limited to projects processing gas and other petroleum products from the Title Areas or the Greater Gorgon Area and associated activities. Gas from the Barrow Island lease and other areas approved by the Minister can only be processed ancillary to gas and other petroleum products from the Title Areas or the Greater Gorgon Area.

Subclause (2)

Reserves to the Joint Venturers until 31 December 2009, 150 hectares, within the 300 hectare Gas Processing Area, for their Project and associated activities.

Subclause (3)

Requires the State to reserve a further 50 hectares, within the 300 hectare Gas Processing Area, for the grant of easements to be used by the Joint Venturers and other occupants of the Gas Processing Area.

Subclause (4)

Requires the State to ensure that facilities, installed by a party in an easement granted under subclause (3), will be positioned with arrangements for risk management to allow the use of the easement by others.

Subclause (5)

Provides that the Joint Venturers will locate their construction and laydown areas within the 150 hectare reservation or within cleared land and they may seek the grant of short term leases in accordance with approved proposals.

Subclause (6)

Provides that the Joint Venturers may allow third parties to use land within its 150 hectares for temporary purposes and that the Joint Venturers will have similar rights should the State reserve or grant leases within the balance of the Gas Processing Area to others.

Subclause (7)

Requires, in relation to the area of the reservation not the subject of approved proposals as at 31 December 2009, that the State and the Joint Ventures consult on the continued requirement for the reservation. Any area not reasonably required will be released. Any area not released will continue to be reserved until 31 December 2014 or until the earlier determination of the Agreement.

Subclause (8)

Requires, in relation to the area continuing to be reserved under subclause (7) which is not the subject of approved proposals as at 31 December 2014, that the State and the Joint Ventures consult and after which the Minister may, at his discretion either cancel the reservation or extend the whole or any part of it for a period not exceeding 5 years.

Subclause (9)

Provides that an extension of the date referred to in clause 7(1) will similarly extend the dates referred to in subclauses (2), (7) and (8) of this clause.

Subclause (10)

Provides that the may request permission to bring forward proposals for the use of land beyond the 150 hectare reservation. The Minister has the discretion to allow this.

Subclause (11)

Requires the Minister to consult with the Joint Venturers if he intends reserving or granting tile over the balance of the 300 hectare reserve.

Clause 7 – Joint Venturers to submit proposals**Subclause (1)**

Requires the Joint Venturers to submit detailed proposals for the Project before 31 December 2008.

Subclause (2)

Enables the proposals to be submitted in any order, with the consent of the Minister.

Subclause (3)

Requires the Joint Venturers to submit to the Minister additional information on aspects of the project to be sourced from outside Australia, evidence of availability of finance and readiness of the Joint Venturers to carry out the Project.

Subclause (4)

Provides that the Minister may elect not to consider proposals if they do not include injection of carbon dioxide.

Subclause (5)

Clause 23 (Force Majeure) does not apply to obligations under this clause.

Clause 8 – Consideration of proposals

Subclause (1)

Details the procedure for consideration of proposals.

Subclause (2)

Requires the Minister to give notice of his decision to the Joint Venturers within 2 months of receiving the proposals, or 2 months of authority to proceed under the EP Act or native title process, whichever is later.

Subclause (3)

Requires the Minister to consult with the Joint Venturers if he requires changes to a proposal.

Subclause (4)

Makes certain decisions of the Minister under this clause subject to arbitration.

Subclause (5)

Details how an arbitration decision on a proposal is to be implemented.

Subclause (6)

Provides for determination of the Agreement if all proposals are not approved by 31 December 2009 or a later date as may be agreed.

Subclause (7)

Provides that the Minister may approve a variation to approved proposals during implementation.

Clause 9 – Implementation of approved proposals.

Requires the implementation of approved proposals.

Clause 10 – Additional proposals

Enables the Joint Venturers to submit additional proposals if they wish to significantly alter their activities under approved proposals.

Clause 11 – Net Conservation Benefits

Subclause (1)

Requires the Joint Venturers to pay \$40 million to the State, by instalments, from 1 January 2004 for ongoing programs that will provide Net Conservation Benefits.

Subclause (2)

The first instalment will be \$3 million payable within 1 month from the commencement of the Agreement and thereafter by further instalments totalling \$37 million within one month of approvals of complete detailed proposals under clause 7 and continuing in accordance with a schedule of payments to be agreed.

Subclause (3)

Establishes the formula for adjusting future payments.

Subclause (4)

Allows for adjustment of index formula.

Subclause (5)

Addresses the establishment of a special purpose trust account under the CALM Act and the arrangements for governance and reporting.

Subclause (6)

Restricts the expansion of the Projects beyond 10mtpa capacity and gas to mainland unless proportionate additional funding to the \$40 million has been agreed. Additional funding does not relate to expansion of gas delivered to the mainland.

Clause 12 – DCLM costs

Subclause (1)

Requires the Joint Venturers to pay full cost recovery to cover all DCLM management costs and provide facilities, to be agreed between DCLM and the Joint Venturers, required to allow DCLM to maintain a permanent management presence on Barrow Island for purposes of the Project.

Subclause (2)

Defines “permanent management presence”.

Subclause (3)

Requires DCLM to substantiate its costs claims.

Subclause (4)

Sets the maximum amounts payable by the Joint Venturers.

Subclause (5)

Sets maximum number of DCLM officers for which the Joint Venturers will cover costs.

Clause 13 – Barrow Island Coordination Council

Sets out detailed requires for the Joint Venturers to make arrangements, acceptable to Minister in consultation with the CALM Act Minister, with the Barrow Island Lessee to form and operate the Council.

Clause 14 – Protection and management of the environment

Provides that the Joint Venturers activities and operations must comply in all respects with the Environmental Protection Act 1986.

Clause 15 – Use of local professional services and materials**Subclause (1)**

Requires the Joint Venturers to give preference to local labour, professionals, suppliers and services where economically practical unless they can demonstrate that is impractical to achieve.

Subclause (2)

Requires the Joint Venturers to include the same local content obligations, as in subclause (1), in contracts with third parties.

Subclause (3)

Provides that the Joint Venturers submit a monthly report to the Minister concerning the implementation of the local content requirements.

Subclause (4)

Requires the Joint Venturers to keep the Minister informed on elements of the Project proposed to be sourced overseas and consult with the Minister.

Clause 16 – Leases, licences and easements**Subclause (1)**

Requires the State, in accordance with the Ratifying Act and approved proposals, to arrange for the grant of Land Administration Act title.

Subclause (2)

Provides that the First Long Term lease shall be for a term of 60 years from the date of completed detailed proposals submitted under clause 7, reasonable rentals and conditions and the process for reviewing use of the area after expiration of the lease.

Subclause (3)

Requires that all other long term leases will expire at the same time, or earlier if agreed between the Minister and the Joint Venturers, as the First Long Term Lease. Subject to the Ratifying Act, the Joint Venturers have the first right of refusal over the areas the subject of expired leases.

Subclause (4)

Provides that the initial rent or charges for the First Long Term Lease and other titles granted to the Joint Venturers will be set at levels commensurate to those payable on equivalent titles by other large gas processing projects in the Pilbara region, which are not subject to State Agreements.

Subclause (5)

Requires the State to exercise any powers available to it under the Barrow Island lease to enable the grant of title the subject of approved proposals and to arrange the grant of appropriate title to permit the Joint Venturers continuing use of facilities for gas processing purposes following the expiry or surrender of the Barrow Island lease.

Subclause (6)

Provides that the grant or offer of title can only be in accordance with the Ratifying Act.

Subclause (7)

Provides that, subject to compliance with regulatory requirements, the State will not revoke or restrict any authorisation to dispose of carbon dioxide underground.

Clause 17 – Gas to mainland

Subclause (1)

Required the Joint Venturers to reserve gas within the “Title Areas” sufficient for the delivery of 2000 petajoules to the mainland of Western Australia.

Subclause (2)

Requires the Joint Venturers to submit proposals to the Minister by 31 December 2010 for the establishment of a Domgas Project by 31 December 2012 to deliver at least 300 terajoules per day of natural gas to the mainland.

Subclause (3)

Provides that until at least 300 terajoules per day is delivered to the mainland the Joint Venturers are required to undertake ongoing marketing of natural gas, including investigation for using such gas as petrochemical feedstock and design and engineering activities in relation to the Domgas Project.

They are required to report to the Minister at least annually on the progress of those matters.

Subclause (4)

Provides that the Minister may, at the cost of the Joint Venturers, appoint a person to audit the Joint Venturers efforts on these matters.

Subclause (5)

Provides that the provisions of clause 23 (Force majeure) do not apply to the Domgas Project.

Subclause (6)

Requires the Joint Venturers to consult with the Minister on any proposed extension to the dates under subclause (2).

Subclause (7)

Provides that if the Joint Venturers seek to extend the dates under subclause (2) on the grounds that the Domgas Project is not commercially viable, they must provide detailed information including assumptions, methodology and conclusions reached.

Subclause (8)

Provides that if a request for extension of the dates is made under subclause (7) the Minister may, or if requested by the Joint Venturers, appoint an Independent Expert to prepare a report and make a recommendation on whether or not the Domgas

Project is Commercially Viable. The subclause establishes the arrangements to apply if an Independent Expert is appointed by the Minister.

Subclause (9)

Addresses the process and the basis for the Minister's decision.

Subclause (10)

Restricts expansion of the Project until Domgas Proposals are approved.

Subclause (11)

Provides that if the Minister consents to a proposal to expand the Project subclause (10) and this subclause shall similarly apply to the expanded project.

Subclause (12)

If a request is made under subclause (7) the Joint Venturers will not be default if the Minister has not made a decision by the deadline date.

Subclause (13)

Defines "Commercially Viable" and details matters to be considered in determining Commercial Viability of the Domgas Project.

Clause 18 – Processing and use of gas from other areas

Subclause (1)

Provides the Joint Venturers may process and use gas and other petroleum produced from the Greater Gorgon Area and the Barrow Island lease, provided they give prior notice to the minister.

Subclause (2)

Allows the Joint Venturers to process gas and other petroleum produced from other areas, with the consent of the Minister.

Clause 19 – No discriminatory charges

The clause ensures that any title, property or other assets, products, materials or services used or produced by the Joint Venturers through activities under the Agreement will not be subjected to discriminatory rates, taxes or charges.

Clause 20 – Zoning

Provides for any lands the subject of title granted under the provisions of the Agreement to continue to be zoned for the purpose for which it was granted.

Clause 21 – Assignment

Subclause (1)

Provides for the assignment by the Joint Venturers or any of them of rights under the Agreement, subject to the execution of a Deed of Covenant by the assignee.

Subclause (2)

Provides that the assignor will remain liable for the performance of obligations under the Agreement unless the Minister agrees to approve a release from such liability.

Clause 22 - Variation**Subclause (1)**

Enables the Agreement to be varied from time to time by agreement in writing.

Subclause (2)

Requires any variation to the Agreement to be tabled in both Houses of Parliament.

Subclause (3)

Details how the variation Agreement may come into operation.

Clause 23 – Force Majeure

Provides for the temporary suspension of the Agreement obligations, except for the payment of monies under clause 7(5) and clause 17(5), as a result of a range of circumstances beyond the control of the Joint Venturers or the State.

Clause 24 – Power to extend periods

Allows, at the request of the Joint Venturers, for the Minister to extend dates or periods referred to in the Agreement.

Clause 25 – Determination of Agreement**Subclause (1)**

Specifies the events that can result in determination of the Agreement.

Subclause (2)

Requires specified details to be given in a notice of determination.

Subclause (3)

Enables the Joint Venturers to contest a notice of default and allows the matter to be decided by arbitration. Where the arbitration decision is against the Joint Venturers and the arbitrator finds there was a genuine dispute, the time for complying with such a decision shall be not less than 90 days.

Subclause (4)

Enables the State to remedy a default and recover costs of so doing from the Joint Venturers.

Subclause (5)

Enables remediation of any default to go beyond 180 days if approved by the Minister.

Clause 26 – Effect of cessation or determination of Agreement

Details the effect of determination of the Agreement, requires payment of monies payable or accrued due and provides that, other than as provided in the Agreement, neither party has any claim against the other in respect of anything arising out of the Agreement.

Clause 27 - Indemnity**Subclause (1)**

Provides that unless the Minister otherwise agrees the Joint Venturers must indemnify to the State for activities undertaken by the Joint Venturers under the Agreement or by third parties on their behalf.

Subclause (2) and (3)

Requires the State to advise the Joint Venturers and work with them in relation to any claim or proceedings regarding a third party claim.

Subclause (4)

Provides that the arbitration clause will apply to any claim.

Subclause (5)

Defines terms "Proceedings", "State" and "Third Party Claim".

Clause 28 – Subcontracting

The State and the Joint Venturers may subcontract to third parties any activity it is obliged to carry out under the Agreement.

Clause 29 – No resumption

Provides that the State, its instrumentalities and local authority, will not resume or allow any property or equipment belonging to the Joint Venturers which is used for the purposes of the Agreement nor will they resume or create easements, which may prejudice the Joint Venturers operations, over any lands the subject of the Agreement.

Clause 30 – Arbitration**Subclause (1)**

Defines the arbitration process.

Subclause (2)

Arbitration will not apply where the State, the Minister or any other Minister has discretionary power.

Subclause (3)

Empowers the arbitrator to grant interim extensions to any date or period in the Agreement to preserve rights while a matter is before arbitration.

Clause 31 - Consultation

Requires the Joint Venturers to consult with and keep the State informed on any action that they propose to take with any third party, including the Commonwealth, which likely to significantly affect the overall interest of the State under the Agreement.

Clause 32 – Stamp duty

Subclause (1)

Exempts the Agreement from stamp duty.

Subclause (2)

Any lease granted pursuant to the Agreement will be subject to item 6(1) of the Third Schedule to the Stamp Act 1921.

Clause 33 – Notices

Specifies how notices are to be issued by the State.

Clause 34 – Term of Agreement

Subject to earlier determination, as provided under the Agreement, the Agreement will expire on the expiration of the First Long Term Lease.

Clause 35 – Applicable law

The Agreement is subject to the laws of Western Australia.