

LAND ACCESS REGIME

Motion

HON JACQUI BOYDELL (Mining and Pastoral) [12.26 pm] — without notice: I move —

That this house debate the need for Western Australia to establish an improved land access regime, including a code to govern compliance of unconventional gas activities—exploration and production—and what this regime may entail.

I apologise for my voice, I have been struggling with the flu.

Hon Sally Talbot interjected.

Hon JACQUI BOYDELL: Yes, I know a lot of members have; I thank the member.

I rise today to discuss what I regard as an incredibly important issue for this state and one that continues to be raised with my National Party colleagues and me, and I am sure with other members of the chamber, about the way that the recent iron ore commodity fluctuations have affected our state's finances, and that may become more relevant today as the budget is announced.

Now more than ever we have to grow other industries with considerable commercial value and potential. I definitely agree with that. Unlike the iron ore or offshore gas industry, however, the onshore petroleum industry appears to be in a crisis of public confidence at the moment, and that is not unique to WA, but a phenomenon that exists across Australia and indeed globally. No matter what the Minister for Mines and Petroleum and the Australian Petroleum Production and Exploration Association say about the safety profile of onshore petroleum and gas extraction, there is an urgent need to bolster public confidence in those onshore gas operations. It seems to me that promises to industry and landholders are not enough and we need to develop an improved land access regime that clearly stipulates best practice guidelines and practices for land access. This may be in the form of legislative change or the enactment of a mandatory land access code. Further, the establishment of representative bodies is also required to assist in supporting negotiations and resolving land use conflicts. I believe these steps are necessary here in WA to help build confidence in that industry, which will be a growing industry in the future. Although we recognise now that there are some concerns in the level of confidence in the process around that industry, we should act as a government to help alleviate the issues we see looming and learn from other states on their management of this issue, particularly New South Wales and Queensland.

The onshore gas industry differs from the iron ore or offshore petroleum industry in that many of its resources are located in populated areas. In fact, many are co-located with productive agricultural land, which is the case with the Perth Basin that lies below many active farms in the midwest region. These petroleum resources are considered the property of the Crown, not the landholder, giving the state the authority to grant proponents with tenements to access land for exploration and extraction purposes.

In Western Australia, as is the case in other states in Australia, broadly speaking, no-one has a right to veto petroleum projects; that is, no landholder or traditional owner has the right to say no to the exploration or production of petroleum on their land. In Queensland, we have seen the formation of the Lock the Gates Alliance, which appears to be taking hold here in WA. This alliance reflects a group of landholders opposed to the exploration and production of resources on their land. For interests known only to themselves, their campaign is based on the right to veto—the right to say no to resource companies and the state. I will not weigh into that debate today about whether WA should have a right to veto as, no doubt, that sentiment exists, and we have seen it played out in some sections of the community. Nevertheless, my intention today is to say that given that the right to veto does not exist in WA, my colleagues and I have long believed that the rights of landholders are not clearly defined in WA, and that we need to provide greater support and protections for the landholder where resource companies have been granted the right to explore or produce on their land. I believe there is enough public distrust about the onshore gas industry to warrant the Western Australian government going to considerable lengths to stipulate what we consider as minimal standards for such things as engagement, communication, rights about compensation, and the recouping of reasonable professional costs. Although I do not believe a land access code with mandatory provisions will appease all those who believe in having the right to veto, it will make processes fairer for the landholder and set out clear expectations on how companies should behave. At present this is not clearly defined, with companies having different approaches to these issues. My colleagues and I strongly believe an improved land access regime is necessary in WA and we have been engaging with the Minister for Mines and Petroleum on this matter for some time. Raising the issue in the house today is certainly not news to him. These discussions with the Minister for Mines and Petroleum came about following the introduction of Petroleum and Geothermal Energy Legislation Amendment Bill 2013, which set out to update the Petroleum and Geothermal Energy Resources Act 1967 to include geological storage of

greenhouse gas substances. The parliamentary National Party, spearheaded by Shane Love, member for Moore, in the other house, felt at that time that it was an opportunity to enshrine clear and fair landholder rights within that act. After a series of meetings with the Minister for Mines and Petroleum, we were advised that there was some appetite in WA for a land access code as a working group has been formed involving the Pastoralists and Graziers Association, the Western Australian Farmers Federation, vegetablesWA and the industry body Australian Petroleum Production and Exploration Association to discuss, amongst other things, developing a land access code or agreement. We have been advised that any land access code or agreement developed by this working group would be voluntary only. We have also been advised that APPEA is drafting a set of national good oilfield practices and principles, which will provide a framework for specific codes of practice relating to common operational issues. They are all good things but whether it should be mandatory or voluntary is where we might differ. Although the development of those land access codes and practices is a step in the right direction, regardless of whether they are voluntary or not, the fact that the working group suggests that they are voluntary, which is currently endorsed by the Minister for Mines and Petroleum, suggests that we are not taking this issue seriously enough.

In our latest meeting with the minister last month, we were subsequently advised to address all our concerns and proposed amendments to the land access code working group, which we have just done. The minister is aware of our suggestions that the land access code working group should take into consideration. I will go through some of those. We believe that WA's land access regime should have several key components. We need to establish a mechanism that outlines clearly the rights and obligations of the proponents in engaging with the landholder. We see this code as having a combination of guiding principles and practices as well as mandatory conditions. Mandatory conditions may address issues such as the use of access points, the treatment of livestock and property, and the prevention of the spread of declared pests. We strongly believe that compliance with a land access code must be made mandatory. We believe that the landholder and proponents should be on an equal platform when negotiations take place. The only way that this can occur is if landholders are resourced appropriately. We have proposed that landholders be compensated for professional costs including any reasonable accounting, legal and valuation costs. This may become a mandatory condition of a land access code or legislated within section 17 of the Petroleum and Geothermal Energy Resources Act 1967, as it currently stands. We believe that allowing the landholder to recover professional costs will help to amend the inequity that often prevails in these situations between highly resourced and often intimidating mining companies and their legal teams, and the landholder who often stands on their own on these issues. We also believe that it is essential that landholders are provided with information to help them better understand the land access agreement process. A part of this could deal with compensation. It would be helpful for landholders if they were provided with guides as to how much they can expect to receive for their respective losses. A system providing both floor and ceiling rates could be developed by the Economic Regulation Authority to provide insight into what is reasonable compensation.

I turn now to managing land access disputes. This is definitely something we need to get right while this legislation is presented to the house. Land access disputes are very sensitive, emotive and highly stressful for landholders in particular when they are often, as I said, standing on their own and trying to fight against major resource companies to protect their land rights. We have seen disputes occurring throughout Australia with the advent of unconventional gas. Western Australia must learn from what has happened in the other states. I suggest that we consider a forum of dispute resolution that first requires mediation before threatening to take a landholder to the Magistrates Court. This would allow negotiations to occur out of court, away from the formalities and the daunting nature of a legal environment. If the conflict progresses, we may find that a Magistrates Court may not be the most appropriate place for dealing with final arbitration. We suggest that a better option might involve replacing the Magistrates Court with a body such as the State Administrative Tribunal, which has expertise and background in the ruling of matters around property values and land use planning. Even so, mediation would ensure that referral to a final decision maker such as SAT or the Magistrates Court—whatever it is—would still be the very last resort after all avenues have been exhausted. These are the amendments currently before the land access code working group, as I intimated earlier, and we hope to see these elements come into fruition soon.

I also have another recommendation—I am going to run out of time to talk—that I would like to see serve strength to WA's land access regime. The one I will talk about the most is the development of an onshore gas commission. If we move beyond the exploration phase that currently exists in WA, to the full-scale production of unconventional gas, there is a need for an onshore unconventional gas commission, which would play a role in easing the transition from exploration to production. I do not believe the Department of Mines and Petroleum's dual focus of promoting and regulating the industry promotes public confidence. Such a commission could be established to provide better relationships and information sharing between key stakeholders. One of the elements that is continually raised with us is the concern of landholders around both the Department of

Hon Jacqui Boydell; Hon Martin Aldridge; Hon Kate Doust; Hon Darren West; Hon Ken Baston; Hon Paul Brown

Mines and Petroleum being both regulator and promoter. We need to give the community some confidence in government that we are managing that correctly.

I know that the petroleum industry is important to Western Australia—I absolutely agree with that. Some believe that a land access regime with mandatory provisions might be more burdensome than necessary and might threaten future development. It is pretty clear to me, however, that industry understands the need for an improved land access regime, given the role that the Australian Petroleum Production and Exploration Association is playing in the development of one in Western Australia, albeit a voluntary land access code. I believe that there is concern also within the petroleum industry that we need to get this right.

In my contribution today, I have presented several key elements of a land access system that we have presented to the Minister for Mines and Petroleum, and now the Land Access Working Group. We hope to see these come to fruition. We believe that these aspects will not place any further burden on industry, but instead will make roles clearly defined as a proactive approach to avoid costly conflict with communities; and government and industry do not want to see that occur, I am sure.

I have also recommended other aspects. The development of an onshore gas commission to me is probably the key to how we help support the ongoing management of that industry and landholders. As government is a silent partner in this process, I believe that we can continue to be pro-development while also promoting industry development that occurs in a fair and balanced way. I know that these measures will not appease all those who want the right to veto. I understand that, but that is a debate for another day. I am looking forward to hearing the contributions from other members on this issue as we continue to see the rolling out of this industry in Western Australia.

HON MARTIN ALDRIDGE (Agricultural) [11.42 am]: I rise to speak on this motion today and I thank Hon Jacqui Boydell for bringing this issue before the house. It is an important issue for my electorate in the Agricultural Region. I think it is fair to say that the Agricultural Region does not have the majority of the onshore gas reserves in Western Australia. It probably has the majority of interaction between onshore gas reserves and private landholdings in the state, so I will come at the debate today from that angle.

It is important to put this potential industry into some context. According to the Department of Mines and Petroleum's estimate, there is some 280 trillion cubic feet of potential natural gas from shale and tight rocks in Western Australia. I compare that with the Gorgon gas project. We often talk about the size of the reserve in the Gorgon gas project and I understand that it is about 35 trillion cubic feet. If fully realised, therefore, onshore gas in Western Australia will be an enormous resource and an enormous industry, and even more the reason for us to get it right in these early stages. Part of that is obviously to have a robust regulatory process capable of scaling up and responding to that expansion. I have mentioned in this house on numerous occasions the need for a social licence for the industry to continue to operate. It may well have all of the science and the environmental regulation behind it. The Department of Mines and Petroleum often refers to world's best practice, and I eagerly await the report of the parliamentary committee that is well underway examining the opportunity and impact of this industry in Western Australia.

As I mentioned in my earlier remarks, the Perth onshore basin is completely contained within my electorate. It has close proximity to the Parmelia gas pipeline, and that is where a lot of the exploration, and in some cases production activity, is happening already. I do not want to go over all the things that Hon Jacqui Boydell said, but I do want to focus on the land access regime, as distinct from some of those environmental regulation compliance aspects that are often at the fore of public debates.

I firstly acknowledge the presence of the Land Access Working Group chaired by Hon Hendy Cowan and the work that that group is doing towards a voluntary land access code—or voluntary land access agreement is probably better terminology to use. We in the Parliamentary National Party have advocated for a long time that a mandatory code is needed. We are talking about needing a regulation that is significant enough and has enough strength in it to ensure that the small percentage of operators in any industry, particularly one as important as this one, do the right thing. Obviously, anyone out to do the wrong thing probably would not use voluntary codes but would be using their highly paid lawyers and advisers to make sure they get the best deal for their business. I acknowledge that the majority of people operating in this space are good corporate citizens, but unfortunately Parliaments and governments often have to regulate for the lowest common denominator and those who probably pose the greatest risk.

I am still hopeful that we can convince the Minister for Mines and Petroleum of the need for this code. I think that a mandatory land access code has proved successful in other states, and Hon Jacqui Boydell mentioned Queensland. It is often said that these sorts of measures are going to hold back industry, stop development and stop royalty flows to the state. I argue that a strong and robust arrangement like this would actually do the contrary. It would help win over some of the concerns in the community. It would certainly help improve the relationship with landowners and how very large gas and mining companies negotiate with small businesses in

Hon Jacqui Boydell; Hon Martin Aldridge; Hon Kate Doust; Hon Darren West; Hon Ken Baston; Hon Paul Brown

my electorate. I would therefore argue that those things will not happen in terms of the impact on the industry, that it is not anti-progress or anti-development and that Queensland is a good example of that.

Hon Jacqui Boydell talked about some of the elements that we have been pursuing, including that land access regime. Obviously, some of those things might include professional costs, as she mentioned. That is really important in my view to make sure that these small businesses, which have probably never engaged a lawyer, a valuer or environmental expertise, get good advice before they enter into what could be a long-term agreement to provide access to their property.

Access to information is something I might talk about a little later if I have enough time, but I am referring to access in the context of perhaps what is reasonable for these types of access arrangements. Sometimes there are commercial confidentialities around agreements. Most commercial contracts have confidentiality clauses, but there have been systems in other jurisdictions that provide some guidance to landowners on floor and ceiling prices around what is reasonable or what is in the scope of negotiating these types of agreements.

An appropriate forum for disputes is something that Hon Jacqui Boydell suggested at the end of her speech to the house. This is really important in my view. The Magistrates Court is not an appropriate forum for dealing with these disputes, in my view. I think Queensland has had a land board since the 1800s; it is now called the Land Court of Queensland. It deals specifically with land disputes, water licensing disputes and related matters. Although we might not get a land court in Western Australia, perhaps other more suitable bodies, such as the State Administrative Tribunal or other entities that are in place might be better for avoiding the courts and negotiating fair outcomes between two parties seeking land access.

Baseline water monitoring is one of those things that I believe is very important to feature in any sort of land access arrangement. I think some of my earlier speeches to the house over the past few months have really highlighted the lack of baseline water monitoring that occurs. Often people are very concerned about our water bodies and the only way in which we can respond effectively to some sort of potential or actual water contamination is to know what is there before that activity commences. That is not common practice in Western Australia at the moment. In the context of how costly these operations are, I am told that it sometimes costs \$10 million to \$20 million to drill one well. Having some expertise or requirement put in around baseline water monitoring is very important. It would certainly help government with its regulatory compliance aspects.

Some other aspects of a land access regime should include things like recognition of diminution in land value. Sometimes it will be hard to put a value on these sorts of things. Diminution in land value is a real factor that needs to be considered. I know from firsthand experience in the part of the electorate in which I live that a horticultural producer was looking to buy some land and expand their business with a water licence attached to a freehold property. Once it was known that a gas well was on the property from many years ago, that person's decision changed. That thinking and decision-making process may not be widespread, but it is a real consideration in the context of seeking an agreement with property owners.

Another aspect is obviously the remediation of that land. It is not just a matter of pulling down fences and taking temporary structures away. Some of these onshore operations are in intensive horticultural areas—so small acreages, high production and high efficiency. Although it is said that these onshore gas operations have small footprints, we need to ensure that some of the agronomics that goes into identifying soil types and conditions, which occurs prior to these activities, is well understood and known. That would form part of a regime to return that land to its previous use, which, in most cases, is some form of agriculture.

I am running short of time, as I thought I would. I could talk about many other aspects. It is really important for the confidence of the community and the confidence of the industry that we have some really strong regulatory arrangements.

HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition) [11.52 am]: Given the enthusiasm of the National Party in putting forward this motion during private members' time, I would have thought that more than two of its members would have risen to their feet. I am also surprised that the minister representing the minister responsible for that portfolio has not bothered to get to his feet to provide a response to Hon Jacqui Boydell's motion. A pattern of behaviour seems to be emerging in this chamber of the government neglecting to provide a response to backbenchers' business. I must say that some quite useful and insightful discussions around a broad range of topics have occurred over the last few weeks. I think I have mentioned before that it shows contempt for the hard work and consideration put in by those members who actually got to their feet to canvass these issues. I am not too sure what is happening here. That might inspire Hon Ken Baston, who is the minister responsible in this chamber, to speak after me to provide some sort of response to the matters that

Hon Jacqui Boydell; Hon Martin Aldridge; Hon Kate Doust; Hon Darren West; Hon Ken Baston; Hon Paul Brown

Hon Jacqui Boydell canvassed, which of course require significant answers. I say to Hon Jacqui Boydell on behalf of the Labor Party that we agree there should be a debate about these issues. It is an ever-changing situation —

Several members interjected.

The DEPUTY PRESIDENT: Order, members! When I asked members to indicate whether they wanted to speak, the only person who rose to their feet was Hon Kate Doust. She has the call. Perhaps other members could wait for her to sit down when she completes her contribution, and then seek the call.

Hon KATE DOUST: I was trying to be helpful because I was disappointed that debate on what is a very important issue would be shut down after 20 minutes.

Hon Helen Morton interjected.

Hon KATE DOUST: If the minister really wants to get up and speak on behalf of the government, she should do me the courtesy of letting me finish without mumbling away from her seat. It is a bit distracting. As I was trying to say, this is a significant issue. Views on these matters are ever evolving. The science needs to be taken into account. The Labor Party thinks there should be a debate on this.

It is interesting to hear that a committee has been set up, headed by a former Leader of the National Party, Hon Hendy Cowan. He is a decent and hardworking bloke, so I am sure he would handle this type of work in a responsible manner. What surprises me is that we are debating a matter that is currently the subject of legislation in this house, albeit it has been sitting on our books for more than two years. I am talking about the geothermal legislation. I cannot remember the name of the actual bill that the committee is dealing with. I will just find the committee report.

Hon Martin Aldridge: It is the Petroleum and Geothermal Energy Legislation Amendment Bill.

Hon KATE DOUST: Thank you very much. I know it is one that I have spoken on, albeit briefly. It is a substantial piece of legislation, covering an amazing array of matters. The Department of Mines and Petroleum worked on that piece of legislation for many, many years. Because that legislation is now parked on our books and not moving, it has held up a range of other potential opportunities for the state —

Hon Peter Collier: You spent two minutes on that bill!

Hon Sue Ellery: That is what she just said.

Hon KATE DOUST: Yes, I did say that. The Labor Party supported the bill at the time.

Hon Stephen Dawson: Which is longer than the government is spending on this motion!

Hon KATE DOUST: That is right. If the Leader of the House lets me continue, I am probably going to do him a favour.

As a result of the Petroleum and Geothermal Energy Legislation Amendment Bill coming into the house, albeit for a very short time, the National Party—I think it might have been Hon Colin Holt at the time—moved a referral motion to send that bill to the Standing Committee on Legislation to look at two particular areas, mainly around land access. From memory, it was clauses 10 and 11. It was one of those successful referrals to the Standing Committee on Legislation. It is one we should note because a few of those are on foot at the moment. That committee produced a very good report and recommendations. Sadly, to date we have not had the opportunity to really debate it because it has not been brought back on for debate. I would have thought that that would be a very good vehicle for members of the National Party to get up and spend more than 10 minutes debating. I do not think the issues can be resolved in a 10-minute debate. Going through a full and frank second reading debate and then scrutiny of the bill in committee would have given everyone who is interested in these types of matters the opportunity to canvass all of their interests and all of their communities' concerns. But that has not happened to date. I will be interested to hear from the minister representing whether that opportunity will be afforded to the house at some point. We would certainly be interested in fleshing out all the issues encased in that legislation.

Hon Jacqui Boydell made reference to the Lock the Gate Alliance people. I must admit that I picked up only on that bit. We have had some discussion around that. There is an opportunity to have a debate about their concerns about land access and fracking issues. That opportunity would come about if members of this chamber supported the referral of another piece of legislation to the Standing Committee on Legislation—that is, the Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015. If that bill was sent off to a committee, it would give those people who have engaged in concerns via lawful protest the opportunity to canvass the reasons they have participated in that sort of protest. It might enable them to articulate concerns about why they have got to that point and their concerns about the various types of fracking that might occur. I do not know where this is going in terms of the pros and cons around fracking. It is obviously an issue that causes division in the community, and certainly people need to remember that the issues debated on the eastern side of the country are significantly different from the type of debate we have around fracking in our state; those sorts of things should be looked at.

Hon Jacqui Boydell; Hon Martin Aldridge; Hon Kate Doust; Hon Darren West; Hon Ken Baston; Hon Paul Brown

But I honestly do not think it is going to be resolved in a 10-minute debate. I certainly would be interested in learning more about the working committee. It is disappointing that the opposition will not have a chance to participate in that because we have people who are energetically engaged in that particular area of the resources sector and have done a lot of good research and work with people involved in that space.

I think today is a good time to raise the fact that we need to have debate, and we certainly support that; I just think we need to find an appropriate vehicle for it. We have a couple of opportunities in this house, either through a piece of legislation currently on the books, or the other option—albeit it might be a little more complicated to manage—would be to support the referral motion for the peaceful protest bill. I just throw those out there to Hon Jacqui Boydell as matters to perhaps consider. I again say that although Hon Jacqui Boydell may have had discussions in private with the minister responsible, it is good and healthy that she has brought it into this place to share with us. Some of the information Hon Jacqui Boydell provided today is new to the opposition, and we will have a look at how some of those things are working; I am happy to have a discussion with the member outside the chamber. But I will say that it is very disappointing for Hon Jacqui Boydell that only two members of her side have spoken, and that if I had not got to my feet her debate would have fallen over because the Liberal government obviously does not want to engage in the debate or share with her where it is going on these issues or what its plans are for managing this issue for the state in looking at compliance matters for unconventional gas activities and what it is doing about setting up a regime. I know that we had these discussions during the gas specifications legislation, which was, again, quite an extensive piece of legislation, and some issues were recently canvassed during the Barrow Island bill. What I say is that when we have those types of legislation in the house, do not be shy; members should jump to their feet and seek the call. If members wanted a debate and to put their views on record during those times, they would have a much more extended period than 10 minutes. I would think that at that point members would have a better opportunity for at least a minister of the government to reply to their concerns. I support Hon Jacqui Boydell's call to have a proper debate to look at all those issues that have been canvassed today, and we look forward to either participating or getting some better engagement about what that working party is going to do.

Visitors — Maylands Peninsula Primary School

The DEPUTY PRESIDENT: Members, I am going to take this opportunity to welcome Maylands Peninsula Primary School to the Parliament of Western Australia. I hope they find their visit here informative and they take the time to learn a bit more about the operations of the Parliament.

Debate Resumed

HON DARREN WEST (Agricultural) [12.02 pm]: I was not intending to make a contribution to this debate, but given that it is an issue —

Hon Michael Mischin: Go with your first thought!

Hon DARREN WEST: Attorney General —

The DEPUTY PRESIDENT: Order, members! Hon Darren West has sought the call and has been given the call.

Hon DARREN WEST: Attorney General, I did note the lack of interest from the government frontbench, so I thought perhaps it would be pertinent, given that it is such an important issue in my electorate, to perhaps be somewhat courteous and fill up the time allotted to the motion that the honourable member put forward. I think it is a worthwhile motion that should be discussed at some length in the house. I was disappointed, but I note that the minister responsible sought the call, which is good, and we look forward to the minister's contribution. But I do think it was quite noteworthy that only two members of the government backbench —

The DEPUTY PRESIDENT: Order, members. There is far too much audible private conversation happening in the chamber, making it very difficult for Hansard to record the proceedings of the Parliament. If these are urgent conversations, I suggest you take them outside the chamber.

Hon DARREN WEST: I did think it was somewhat disappointing, given that this motion had been circulated yesterday and everybody knows that it is private members' business on a Thursday morning, that there was only one other person than the mover of the motion who sought the call. I thought perhaps I will put some notes down and elaborate somewhat on the motion at hand.

Yes, of course, anyone who listened to my contribution to earlier debate would understand that I feel very strongly about the property rights of owners. I do take some heart from this motion. I note that two members from the WA National Party got up and spoke with a straight face about this, and it gave me some heart that they

Hon Jacqui Boydell; Hon Martin Aldridge; Hon Kate Doust; Hon Darren West; Hon Ken Baston; Hon Paul Brown

may be reviewing their position on the Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015, because clearly —

Hon Jacqui Boydell: That has nothing to do with it.

Hon DARREN WEST: It does have a lot to do with because Hon Jacqui Boydell's motion is 180 degrees opposite to what that bill proposes. The Criminal Code amendment bill, for instance, excludes landowners —

Point of Order

Hon PAUL BROWN: Madam Deputy President, I ask you to request that the member sticks to the motion we have at hand, not talk about why he got up to speak about it—because others may not have. We are not talking about other bills before Parliament; there is a motion at hand, and I ask that you ask him to stick to it.

Several members interjected.

The DEPUTY PRESIDENT: Order, members. I have a point of order before me. I am not sure that it is a point of order because we did not get an opportunity to hear where the honourable member was going with the comparison he was making. Will the member please sit down while I am addressing the chamber. It is not unusual for members of Parliament, in giving their contributions, to make comparisons, but I do take this opportunity to remind the member that the motion currently before the house is —

That this house debate the need for Western Australia to establish an improved land access regime, including a code to govern compliance of unconventional gas activities—exploration and production—and what this regime may entail.

Debate Resumed

Hon DARREN WEST: Thank you, Madam Deputy President. I will take your advice and I will stick to the motion at hand, but I will just make the observation that there was no point of order when previous speakers made references to the very same piece of legislation I was just referring to, and I sort of feel slightly singled out by that attempt at a point of order.

Several members interjected.

Hon DARREN WEST: However, there is an issue around land access and property rights that is going to come to a head in the regional areas. Clearly, there are around 70 groups that feel that people have a right to protest in whatever form against other organisations, for instance, coming onto their land, as this motion alludes to. I think that it is very important that political organisations and governments of the day have a consistent approach when talking about issues like this. It seems to me from over here that this motion that has been put forward and the contributions made by the honourable members are somewhat in polar opposition to that piece of legislation that I will not refer to again. Clearly, we in opposition expect the government to have a consistent position. When that is not the case, it is the role of opposition to hold the government to account so that the public and electors at large can be very clear. From this, it has become a little unclear as to whether the WA Nationals support the rights of property owners or not, and perhaps I may be cynical enough to suggest that there may have been a deliberate clouding of the waters as to what that position might be. We will find out when the piece of legislation referred to by Hon Kate Doust and me comes back in front of Parliament.

I support a wider discussion about the issues of property rights and access agreements. I think it is a very important issue in the midwest, especially, and in the Agricultural Region. I note that communities such as Coorow, Carnamah and Greenough have very grave concerns about what may be their future as a result of, for instance, hydraulic unconventional gas fracturing, or hydraulic fracking, in their communities. These communities have said very clearly to government, and I am sure to members opposite, that they are not really interested in having hydraulic gas fracturing in their area; they want to be frack-free. They are concerned about their water. I think communities have a right to voice those concerns.

Hon Paul Brown interjected.

Hon DARREN WEST: I am glad the honourable member raised that. There is quite a point of difference between the policies of the government and the opposition on this issue.

Several members interjected.

The DEPUTY PRESIDENT: Order, members! Hon Darren West has the call.

Hon DARREN WEST: I think the member for Rockingham, the Leader of the Labor Party, has been on the record several times pointing out that hydraulic gas fracking is a possibility but more scrutiny is needed on its environmental impact. That is something that this government has failed to do with its open slather approach. We have seen breaches, contamination and pollution but that is another debate. I am responding to the interjection. It is not really the matter before us today, which is that we need an improved land access regime.

Hon Jacqui Boydell; Hon Martin Aldridge; Hon Kate Doust; Hon Darren West; Hon Ken Baston; Hon Paul Brown

The only issue that I have with this motion is that, as a landholder—as I have told the house before, I am the only member in Parliament who lives on a farm and operates a farming business—I would have some concerns about what it might mean for me. I do not instantly think that an improved land access regime would entail a good outcome for me. There may be some fine print that I should look through. I will always take the side of landholders and respect their property rights as freehold landowners. Should this debate continue, that would be first and foremost in my thinking because it is clearly an important issue for my electorate. I like the words “including a code to govern compliance of unconventional gas activities” in the motion. Clearly, that is an important issue. I am sure that Hon Martin Aldridge has seen first hand contamination and leakage of unconventional gas wells. People know this is a potential concern.

Hon Martin Aldridge: There is no leakage of a gas well. You obviously didn’t listen to my contribution to the house.

An opposition member: He said “potential”.

Hon DARREN WEST: Yes, potential.

The DEPUTY PRESIDENT: Order, members! Let Hon Darren West make his contribution.

Hon DARREN WEST: Speaking of listening, I said the word “potential” for a very good reason. I am not categorically saying that leaks occur in every gas well, but there is certainly a potential. Communities such as Carnamah and Greenough and the Shire of Coorow share those concerns about the potential problems of unconventional gas activities.

Several members interjected.

Hon DARREN WEST: Fortunately, the debate will last more than 20 minutes. There will be an opportunity for other members to get up and have their say.

I think it is a good motion. I wondered how Hon Jacqui Boydell and Hon Martin Aldridge could keep a straight face during their contributions. I think it is a bit of a flim-flam attempt to convince the electorate that members of the WA National Party care about property rights. We will see how they vote next week or the week after or whenever it will be on the Criminal Code Amendment (Prevention of Unlawful Activity) Bill 2015 because there are clearly similarities between that piece of legislation and today’s debate. We will look forward to seeing whether property rights are important to members of the WA National Party or whether it is all about unconventional gas fracturing. We know that royalties for regions money has been put into conventional gas exploration. We know that the National Party has been a supporter of that industry.

Several members interjected.

The DEPUTY PRESIDENT: Order, members! Hon Darren West.

Hon DARREN WEST: As members would know, the electorate will always have concerns. It is not all about big business and big profits. Sometimes the concerns of the electorate need to be considered as well. I welcome the motion. I think it is a worthy idea. I look forward to a wider debate. I would like to see a more consistent approach to this issue from members of the WA Nationals.

HON KEN BASTON (Mining and Pastoral — Minister for Agriculture and Food) [12.14 pm]: Thank you very much, Madam Deputy President.

Hon Kate Doust: I am pleased that you could join us today.

Hon KEN BASTON: I thank Hon Kate Doust for welcoming me.

Hon Kate Doust: I just thought I would be encouraging.

Hon KEN BASTON: The member did encourage me.

I thank Hon Jacqui Boydell for bringing this motion to the house. I looked at this motion, I looked at my notes and I spoke to the minister last night. Basically, I want to inform the house of the work that we are doing and the round table that has been set up. I was pleased to see that representatives of the Pastoralists and Graziers Association of WA, the Western Australian Farmers Federation, vegetablesWA and the Australian Petroleum Production and Exploration Association have formed a land access round table. The round table—as mentioned before, it is chaired by Hon Hendy Cowan—is developing a template access agreement and reviewing APPEA’s code of practice on onshore gas. Oil and natural gas are considered strategic resources. Landholders have the right to negotiate compensation but have no legal veto or right to deny or otherwise restrict access. However, agreement needs to be reached for compensation before the minister allows it to go ahead.

Hon Jacqui Boydell; Hon Martin Aldridge; Hon Kate Doust; Hon Darren West; Hon Ken Baston; Hon Paul Brown

One of the things that I heard today that I thought could be a problem relates to the amount of compensation paid. That is a commercial matter between the company and the landowner. That negotiation, based on a template—I think Hon Martin Aldridge mentioned it—involves what is a low, what is a high and what expectation can occur. That is the important part of the whole motion that I listened to today. I was pleased to hear the minister say to me that negotiations are still occurring and the round table is going very well. As far as I am concerned, I see that as a step in the right direction. The negotiations with the government over that issue are going very well.

I think the oil and gas industry has a much smaller footprint than any of the mining industry. The mining industry has to negotiate and there is a right of veto for the landholder but that is not the case with oil and gas, and it never has been. Most of it is covered under the Petroleum and Geothermal Energy Resources Act 1967, which provides that titleholders shall not commence operations on private land until an agreement over compensation is reached. How is that agreement reached? It was suggested that it should go through the State Administrative Tribunal instead of a magistrate. I do not have any opinions on that other than suggesting that perhaps in the early days, somebody could do that mediation. I do not think it will cost an arm and a leg for both parties, particularly for a small business holder such as a farm enterprise.

I have listened to the debate. I think it was brought to the house to bring it up to speed with what is happening, what is going on behind the scenes and the direction the issue is taking. I think it is heading in a positive direction. I also note that the Legislative Council's Standing Committee on Environment and Public Affairs is inquiring into the implications for Western Australia of hydraulic fracturing for unconventional gas. I believe it will inquire into many of those issues. I will wait to see what that report brings down because that matter is very important as well. I am sure that that report will be very valuable, along with what has been discussed here today. People can have input to that report. I commend Hon Jacqui Boydell for bringing the motion to the house and for the discussion we have had.

HON PAUL BROWN (Agricultural) [12.19 pm]: I rise to make a contribution to the fantastic motion that Hon Jacqui Boydell has brought to the house. One of the things that has been discussed in this motion is the mandatory nature of what we are asking for—what my colleagues, certainly, have been asking for—both here and also through discussions with the Minister for Mines and Petroleum, Hon Bill Marmion. In a range of discussions over a lengthy period of time, we have said that a land access code—a mandatory land access code—is greatly needed. We currently have WAFarmers, the Pastoralists and Graziers Association of WA, Australian Petroleum Production and Exploration Association and vegetablesWA, amongst other groups, that are working with Hendy Cowan to develop a draft of a voluntary land access code. We think that is a grand idea and we welcome the final agreement that they put together. Nonetheless, we still think that a mandatory code is required, certainly for our private landowners, who will be greatly affected by the interface between oil and gas onshore, and landowners. One of the things that we have been able to base our discussions on and the development of our policy is that the Queensland GasFields Commission has been very successful against early, very serious opposition to the coal seam gas industry in Queensland. The development of the GasFields Commission in Queensland has led to a very well-negotiated outcome for many landowners—if not all landowners—in that area. We still hear a very vocal minority coming out of some of the eastern states about some of the adverse elements of the industry, but the development of policy is very much based on the Queensland GasFields Commission's land access code. I will reflect on that land access code for a while. Part of the purpose of it, which is very much along our line of thinking, is that it —

- (a) states best practice guidelines for communication between the holders of authorities and owners and occupiers of private land; and
- (b) imposes on the authorities mandatory conditions concerning the conduct of authorised activities on private land.

That goes to activities of a geothermal nature, a greenhouse gas nature, petroleum, or exploration permits and mineral development licences. The idea is to establish —

... good relations between parties requires the use of common sense, —

That is something that is not familiar to the other side of the chamber. It continues —

a practical approach and mutual courtesy between all those involved in dealings between holders and landholders.

The development of good relations between landholders and holders requires recognition of the rights and obligations of both parties. Any person who enters property owned or managed by another party to undertake authorised activities on behalf of a holder should demonstrate common sense and courtesy, consult regularly, and comply with statutory and contractual obligations.

Hon Jacqui Boydell; Hon Martin Aldridge; Hon Kate Doust; Hon Darren West; Hon Ken Baston; Hon Paul Brown

We have also specified that we would like equity in professional and legal advice to be part of the code. As my colleagues alluded to earlier, that is so landowners can have a negotiated outcome on equal footing. With a few minutes left, I understand that Hon Jacqui Boydell would like to offer a response. I thank the house for hearing my contribution.

HON JACQUI BOYDELL (Mining and Pastoral) [12.24 pm] — in reply: I thank my colleague Hon Paul Brown. I thank the house for this debate today. It has been an interesting debate and I think it has brought to the house the real importance of this issue for landholders in Western Australia. However, it is also an important issue for the onshore petroleum industry, because as a key stakeholder in this, it too wants to see government get this right and wants to see landholders, I am sure, are duly recompensed. I thank Hon Kate Doust for her contribution, and I take on board her comments. I want to mention the Lock the Gate Alliance—my intention in raising it is that it is a right-to-veto group. As I said in my contribution, it is not about a right to veto; it is about having a land access code or agreement between the landholders and industry.

Hon Darren West’s inference that this motion has anything to do with the Criminal Code Amendment Bill shows his lack of understanding of this motion, and, in fact, the Criminal Code Amendment Bill. I suggest that he finds out what that is about before he makes his contribution to the debate on that bill.

Hon Darren West interjected.

Hon JACQUI BOYDELL: This has nothing to do with it at all. I have tried to do the member a favour by pointing that out, but he continues to ignore me.

Several members interjected.

The DEPUTY PRESIDENT: Order, members. Hon Jacqui Boydell has the call to reply to the motion at hand to close the debate.

Hon JACQUI BOYDELL: To suggest this has been a “flim-flam”—to use Hon Darren West’s words, not mine—approach to this issue by the WA Nationals is actually unconscionable. As I suggested—if the member was listening, which he clearly was not—we have been working on this issue for over 12 months and have brought some meaningful issues to the table. I find it incredible that Hon Darren West, as a landholder—apparently, the only one in the house—and a businessman, has failed to take the opportunity on this motion to bring some credible debate to the table. I am actually not surprised because that is what the member does all the time. I thank other members for their contributions.

Motion lapsed, pursuant to standing orders.

Visitors — Maylands Peninsula Primary School

The DEPUTY PRESIDENT: That brings us to the close of private members’ business, and I take this opportunity to welcome more students from Maylands Peninsula Primary School to the chamber, and wish them well for their tour and visit of Parliament today.