

*Standing Committee on Environment and Public Affairs — Forty-second Report —
“Implications for Western Australia of Hydraulic Fracturing for Unconventional Gas”*

Resumed from 16 March.

Motion

Hon SIMON O'BRIEN: I move —

That the report be noted.

The Standing Committee on Environment and Public Affairs worked long and hard to produce this report and I think it is reflected in the product that has come to the house and was tabled in November. I would like to introduce members further to this report now in light of the response that has been received to the recommendations of the report and tabled by the government last week. The report itself is the result of an inquiry conducted over some two years. I think it is made clear in my tabling statement, and indeed in the report itself, that at the end of the day we wanted to achieve some answers to some questions that were concerning people in our community and to seek clarification about the matters that those questions related to, and in so doing to make sure that, possibly for the first time in the state, probably in the commonwealth and possibly more widely afield, it was a comprehensive, nonpartisan and unbiased document that could be used by governments and policymakers, by those involved in public affairs and by the community at large as a source of information to guide them in contemplation of an issue that has become very controversial right around the world, because such a body of information had not been drawn together before we embarked on this inquiry. I think it is to the credit of the standing committee that it chose to do this. It is a credit and I want to now acknowledge the efforts of all members from various parties in the house who worked together so diligently and conscientiously over such a long period and in such a harmonious and positive way to produce the result we have. I would also like to acknowledge the committee staff, in particular our advisory officer for this inquiry, Irina Lobeto-Ortega. I think it is a credit to her that we have the resulting report that we are considering.

The report itself, which I urge members to read thoroughly, is designed in its layout to be the sort of report that you can read from cover to cover and still find interesting the whole way through.

Hon Paul Brown: It's enjoyable.

Hon SIMON O'BRIEN: Indeed, I think it achieves that. It is also laid out in such a way that it can be used as a term of reference, so that people can delve into particular chapters searching for answers to discrete questions. I am only going to provide an overview, Madam Chair, and I know other members will wish to speak.

The government provided its responses to the 12 recommendations contained in the report and summarised in the executive summary. I also draw attention to the fact that there were more than 50 findings—in fact, there were 51 findings—that the committee recorded in its report. Each of these I would also recommend to members' attention, because they are about matters that were raised by a body of people that is collectively the entire constituency of the members of this house. We publicly advertised for submissions as part of our process, and that is explained in an early chapter in the report, and we received, predictably, a great deal of interest. I would like to thank all of those who provided submissions. They came from all sources—private citizens, associations of large businesses and everyone in between, be they discrete interest groups, and in some cases some discrete communities. Between them they raised the sorts of questions that we were searching for, and we were not in the least surprised with what they did raise. They gave us a consolidated list of matters to work through and inquire into, and we did that, as I say, over the course of a couple of years. We did that with recourse to every facility at our disposal. Yes, we had plenty of hearings, and I might add that they were very well attended. That, together with the number of submissions, reassured us to a very high level that we were dealing with matters that were of genuine interest to the community. The committee received the benefit of the advice of experts in a whole range of disciplines and, indeed, we did not refuse a single submission.

Our terms of reference were such that we could inquire into every concern or question that was raised. Some of those concerns were raised quite stridently, because it is a controversial area. We have to understand that the issue of hydraulic fracturing, or fracking as it is sometimes called, is something that has been used as a vehicle by a whole range of interest groups in pursuit of their own agendas, and sometimes they are curious and apparently unrelated agendas that some interest groups seek to pursue. We spent some time in this report seeking to identify what the nature of the controversy is—what it is all about—and then trying to establish what the facts are and what the body of information is that we can elicit from all the sources available to us to help provide this body of information, which I think will be of use to all the groups I mentioned, whether it be Parliament, the government of the day or the community at large, to help guide them as they work their way through the issues that may be in and around the whole subject of unconventional gas.

I thank the government for providing a response to the report, and I am sure that there will be more toing and froing about this particular subject in the days and years ahead. Given the downturn in the minerals sector, in

particular in oil and gas, just at this moment, I think it perhaps has taken some of the heat out of this issue, which is a good thing, because, as I have said before in this place, we have a responsibility to consider these things dispassionately. I would in fact be interested to see an opposition response to the recommendations of this report—a considered response—because I think that too would help progress the debate.

It was a remarkable opportunity that members took to acquaint themselves with an industry that I think all of us were unfamiliar with before we embarked on this inquiry. I am pleased to report that I did not see any undue influence or bias being exhibited by any member at any time during the conduct of this inquiry, which is as it should be and as we would expect. That was not without all sorts of pressures being applied to members from without, but at all times I believe members conducted themselves very well in exploring this issue. We have been out and stood next to drilling rigs in operation. We have spoken to people in country halls. I am very, very proud of this report and I think it is a great example of what our committees can produce. I hope members find it interesting and informative, and that it is a tool that they can reach for when they are looking for answers to some of the issues that no doubt will be raised with their constituents in the future.

Hon PAUL BROWN: I, too, would like to acknowledge the very considerable body of work that my colleagues on the Standing Committee on Environment and Public Affairs have put together. I also acknowledge the work of our staff, in particular, our advisory officer, Irina Lobeto-Ortega. It is a mouthful.

Hon Ken Travers: Hansard got it correct first time!

Hon PAUL BROWN: It took me only three or four goes. It is probably a name I should not forget because she was so instrumental in assisting the committee, particularly with all our hearings and deliberations. She also accompanied us wherever we went through the state, to other states and also overseas, where we informed ourselves to a large extent given that two of the countries we visited are well ahead of us as a nation in development of the shale gas industry. Those visits gave the committee an incredible opportunity to identify and learn and hopefully inform this place, the state and its people of the mistakes that have been made over considerable decades since companies first started to explore for shale gas in the Marcellus Shale in Pennsylvania, where it all began.

I would also like to thank those who took the time to make submissions to the committee. We received 116 submissions. Some of them were incredibly short but some were incredibly voluminous. They contained a great deal of detail. Obviously, many people who wrote submissions expressed a great deal of concern and passion. Representing the Agricultural Region, where operations are being undertaken by proponents of onshore gas, I regularly deal with people who have those concerns. I am happy to listen to their concerns. Members should understand that this was a unanimous report; there was no dissent. It was a bipartisan committee and there was full unanimous support right across the board. I acknowledge what Hon Simon O'Brien said; that is, nobody on the committee brought preconceived beliefs with them. I do not want to put words into the mouths of other committee members, but I could say that not many of us had a great understanding of the industry before we started.

Hon Samantha Rowe interjected.

Hon PAUL BROWN: Maybe Hon Samantha Rowe had a better understanding of it. Although I had a very simple understanding of the industry, I now have a much greater understanding of the potential impacts of hydraulic fracturing and also the concerns that were raised throughout those public hearings and during our deliberations.

I also thank all the expert witnesses who provided evidence to the committee, including here in WA, in South Australia, the United Kingdom and also in the United States of America, which we visited. Those visits highlight the efforts that the committee went to to ensure that we were well informed. We did not contain ourselves to a limited scope of the information that we wanted to avail ourselves of. During the hearings that we held in Perth and Dongara, we spoke to a wide range of interest groups with a very broad range of concerns and backgrounds. We spoke to people from farm communities, agricultural lobby groups and Doctors for the Environment Australia. The 116 submissions we received came from far too many groups who appeared before us to remember off the top of my head without looking at the list, which I will not do.

This inquiry was an own committee; it did not come from a petition presented to us from the house. Given that we were members of the Standing Committee on Environment and Public Affairs, we identified that this issue related to the environment and was of heated public concern. The five committee members unanimously agreed that this was an important inquiry to undertake for this state. We noted that the issue of hydraulic fracturing for onshore gas is contentious. There is a wide range of opinion about the effects that that industry and that process will have on our environment, whether that be the subterranean environment through our aquifers or the surface environment through land access, drill sites, piping, roads and all the other mechanisms that go with onshore drilling. The committee did an outstanding job in gathering all the available information.

We have to acknowledge that the government agencies that we spoke to were very forthcoming with all their information. It took the committee quite some time to work through the government policy and the information from the Department of Water, the Department of Mines and Petroleum and the Department of Health. Some information came to us two years after we undertook this inquiry but nonetheless it was very valuable. Even though it came late in the inquiry, it was not withheld. I do not think there was a policy to withhold information from the inquiry. I think that is acknowledged by those departments because it was such a broad unanimous inquiry. When we sat in hearings and spoke to expert witnesses, members of the public and officers from government agencies, we were willing participants in seeking that information. I will not for a second say that some of the hearings did not become heated sometimes as a result of questioning. A few people may have raised a few eyebrows, but it was always done in the spirit of goodwill. I think the government agencies also understood that we were trying to illicit as much information from them as we could in the spirit of goodwill.

As I said earlier, this technology, this process and this policy is contentious within our electorates. We did not represent the six upper house regions but I think we represented the wide range of constituents who may well be affected by the onshore gas policy and the hydraulic fracturing process. I say to my electorate that I certainly undertook this inquiry as a member of the committee in good faith, as I said earlier, not fully understanding, but now I think I can speak clearly to my electorate about the issue.

Hon BRIAN ELLIS: I endorse what my committee colleagues have said, and thank all the staff and committee members involved in this inquiry. I have to say that this is probably the most thorough report I have been involved with since I have been in Parliament, and it is perhaps the best. Okay, it took two years, but there was a high degree of research and, as I think as our chair mentioned, with so many submissions everyone had the opportunity to have their voice heard. I think that is evidenced by the fact that, apart from a couple of comments, I have not seen any high degree of fault found with this report. The communities that were for or against fracking have not come out and torn this report apart because it is a factual report that has resulted from the many different sides of the argument having their say. I think the report is held in high regard because it is a factual report. We listened to communities that were very emotive about what could happen to their environment and water supplies, but having questioned and had evidence presented on the facts of the industry a lot of concerns have been allayed. There had been claims and counterclaims on both sides, and we had to try to weave our way through what was factual from either side. As Hon Simon O'Brien said, we had received something like 116 submissions and we read all of them. I got a bit confused when we were bombarded by 2 000 emails, and I have to say that if an organisation such as the Conservation Council wants to be taken seriously, it ought to refrain from such tactics. I became suspicious when I received emails from Harry Potter and Professor Dumbledore.

Hon Paul Brown interjected.

Hon BRIAN ELLIS: That is right. We took the inquiry seriously.

I think the public had been confused—in some cases deliberately—about the fracking operations related to coal seam and shale gas. Western Australia, of course, has shale gas, and there is quite a bit of difference. Arguments in other states around coal seam fracking may or may not be relevant, but we did not delve into those because they did not apply to WA. The main concentration of this report is shale gas, as members who read it will see. WA has an estimated 268 to 280 trillion cubic feet of shale gas, which is a lot. It is mainly found in the Canning and Perth Basins. As Hon Paul Brown mentioned, members representing Agricultural Region probably have a little more to do with the hydraulic fracturing industry because of the wells around Dongara that have been there for quite some time. Some of the gas wells around the Dongara area were established by conventional methods; not all were fracked.

Just the announcement of the inquiry provided a benefit. It helped focus the minds of those opposed—that is fair enough; they raised their campaign—and the industry. The industry, including the Department of Mines and Petroleum, started to smarten up its act. The department took some action prior to the commencement of the inquiry by assessing the readiness of the agency to deal effectively with the regulation of the onshore gas industry. Judging by the government's response, it is prepared to review the regulation and consider the suggestion of raising fines. That will achieve an openness and transparency that I think will give the community confidence in the development and management of the industry.

The industry has come a long way; it has been around for a long time. Having travelled to all parts of the world, as it turned out, to see how the industry has evolved, I think a lot of people would be surprised at how efficient it has become. Yes, I think in the initial stages, particularly in America, there may have been some interesting wells that were originally almost napalmed, I think, when those fracturing operations were started, and I think that probably initially gave the industry a bad reputation. On the subject of having a bad reputation, I also blame the industry for not promoting itself by getting out and explaining how it works. The report makes reference to social licence. The industry should be communicating with landowners and communities. I accept that it is now

starting to do that, but I believe its bad reputation of the past has been its own fault. This industry is probably now at the stage of being no more risky than other mining industries; all mining carries some degree of risk.

I am pleased to see that the government's response supports in part the report's recommendations. I accept the government's response. I still think the Queensland model for land access is probably a better model, but I accept that the department has been in negotiations with the two farming organisations and that there is some agreement around a structure for access and compensation for landowners. We will see what happens with that, although I believe the Queensland model is very efficient. The very fact it was set up means that Queensland does not have much need for an independent body to arbitrate between the miners and landowners. Initially it may have done, but Queensland has found that the arbitration role has dropped off. We will see what happens with that.

It is pleasing that the government has taken on board the recommendations of the committee. I believe, as I said earlier, the report will be useful to industry going forward, and it will be useful for the community to be able to look at the facts we found around some of the issues it was concerned about. As I mentioned, some of the issues were water quality and whether there would be an effect on the incidence of earthquakes. I think the report will be a future useful reference tool for anyone involved with this industry.

Once again, I congratulate all committee members and advisory staff. As already mentioned, Irina was a very valuable assistant to the committee. Thanks to everyone involved in that report.

Hon SAMANTHA ROWE: I am pleased to comment on the tabling of the forty-second report of the Standing Committee on Environment and Public Affairs, of which I am a member. It is a thorough report that was two years in the making and it contains 108 pages. Its 11 chapters break down sensibly a very complex issue, an issue on which I was not an expert in 2013. Hydraulic fracturing was not something that I was overly familiar with, but after working for two years with my colleagues on the committee and our advisers, and after 116 submissions and many hearings and meetings with experts in the field, I think the committee has produced a very worthwhile and thorough report. Like Hon Simon O'Brien said, I think it will become a very useful reference tool.

This inquiry was a fact-finding mission. The committee did not set out to say whether the state should or should not partake in hydraulic fracturing; it wanted to present the facts because it is a contentious issue and one that polarises the community. Committee members felt that it was timely that this inquiry be put together using a factual methodology, taking out all the emotion. I think the committee has been able to achieve that in making 12 very sound recommendations, to which the government has responded.

It is fair to say that community is polarised by the issue of whether resource companies should be allowed to practice hydraulic fracturing on wells if there is a risk, however small, to environment, property or humans. A lot of the submissions that the committee received contained some common themes and they were around the protection of groundwater, the chemical disclosure requirements by companies undertaking or wanting to undertake hydraulic fracturing and the obtaining of a social licence to operate. These were universal concerns of many of the people and organisations that made submissions to the inquiry. I thought the social licence to operate was an interesting area for the committee to delve into. For those who are not aware of what that might mean, I refer to chapter 10 of the report, headed "Social licence to operate", which states on page 169 —

A social licence to operate (as opposed to a legal licence) has been defined as a 'set of concepts, values, tools and practices that represent a way of viewing reality for industry and stakeholders.' Put more practically, its purpose is to create a 'forum for negotiation' where parties involved can be heard and meaningfully involved in decisions made. Respect is a central element of these interactions, as is accountability, credibility and flexibility.

As other members have said before me, this was an area of concern for a lot of those who put forward submissions; that is, they were not receiving communication and/or engagement from organisations and companies that wanted to undertake hydraulic fracturing. It is really important that if the state decides to go down this path that there is a level of acceptable engagement, and operating with a social licence is important.

I thank committee members and also the staff for the outstanding work they did, particularly our adviser Irina Lobeto-Ortega who has done an incredible job putting the report together. It was a huge task that ran over two years and she has done a wonderful job.

Hon BRIAN ELLIS: I rise again because another member would like to speak on the forty-second report of the Standing Committee on Environment and Public Affairs. I mentioned earlier the community confusion and some of the falsehoods that circulate, and that I understand why communities become confused and concerned. I do not know whether members have seen the documentary *Gasland*, but the committee took its subject matter seriously. On its travels, the committee visited Dimock, the place upon which *Gasland* was centred. We had a very interesting meeting with the community there. I found it interesting because the documentary prompted

a lot of political outcry over what was happening at Dimock, yet when we visited, the only protest sign we saw was one calling on the government to get on with fracking. We learned that most of the argument has been around the different compensation paid to farmers and landowners. Landowners find that if they hold off claiming compensation they may receive more than their neighbours, and so there is protest and complaint from those people who have made earlier claims, and I accept that there are some genuine concerns there. *Gasland* shows how tap water can be set alight as it comes out of the tap, and that is why the report stresses the importance of companies doing baseline studies before starting their operations, because in a lot of cases the lighting of water occurs before fracking is started and before the wells are put down. I wanted to raise those falsehoods and the reasons that people were confused.

Once again, I am not picking entirely on the Conservation Council of WA, but it came into a hearing and said that hundreds of thousands of wells will be put down across the state. We know that is not the case, particularly now with the more modern practice of putting up to 18 wells in the one spot. We will not get to 100 000 wells in my lifetime. I just wanted to point out some of those things and the importance of the industry to the state. We are yet to discover it. Wells have been put down and there has been a demand for gas around the world, but, as we all know, there are other ways of generating power. At this stage I would say that the industry is mainly centred on exporting the gas. We have a long way to go before we need to put down a lot of wells to get at the gas reserves that we have. We are fortunate in that way, because there is no urgency, so we put in place regulation and controls before progressing down that path.

Once again, I commend the report to the chamber and members. I do not intend to go through the entire report but I wanted to point out a couple of things that struck a chord with me during the inquiry. As I said, the beauty of the report is that it points out the facts of the matter and hopefully eases the community's mind.

Hon PAUL BROWN: I thank Hon Brian Ellis for his contribution. Interestingly enough, the committee received a belated response last week from the Minister for Environment. Of all the committee's recommendations in its voluminous report, the two that stand out for me, and I am sure to my fellow colleagues, are recommendations 5 and 6. They basically deal with the land access code and the establishment of a mandatory statutory body that will deal with the landowner versus proponent interface. Recommendation 5 states quite clearly —

The Committee recommends that the Government establish a statutory body similar to the Queensland GasFields Commission to act as an independent arbiter for land owners and resource companies in land access negotiations involving onshore shale gas.

That has been noted by the minister. Prior to the report and throughout the duration of the inquiry, my National Party colleagues and I were advocating to the Minister for Mines and Petroleum that there needs to be, firstly, the statutory body and, secondly, the mandated land access framework to establish a level playing field for landowners potentially affected by access issues around onshore gas. My colleagues and I have had considerable lengthy discussions with the department and the minister about this matter and it was supported through the report. When the committee met with Mr John Cotter, the GasFields commissioner in Queensland, he said that the establishment of an independent statutory body in Queensland that reports directly to the Parliament, not to the minister or a department, was one of the key factors in having sensible negotiations continue in Queensland. As Hon Brian Ellis mentioned earlier, Queensland is a very different kettle of fish from Western Australia. It has predominantly coal seam gas. Western Australia is not looking at a coal seam gas industry but a shale gas or tight gas industry that is very much in its genesis. It is a nascent industry that has only one production well in Irwin, in the midwest, but others are being developed. They are two very different industries. The Queensland industry has been racked with demonstration and protestation by landowners and concerned environmental groups and individuals, and we have seen that imported here to Western Australia. I maintain that the concerned environmental groups here are not relaying the facts to the people; they are bringing that coal seam gas mentality here from Queensland and northern New South Wales. The New South Wales government fought an election in many of those seats in the northern part of New South Wales on coal seam gas and the access and tenements of coal seam gas companies. I happened to be over there for some of that, and it was ugly. I do not want to see that happen here. I do not want to see that sort of vitriol and those personal attacks, vandalism and, some would say, social terrorism as well. I am not saying that it happens here, but I do not want to see it imported here. The establishment of a mandated land access code and an independent statutory body will help alleviate those concerns. An independent body will be able to work alongside landowners and industry proponents.

Sorry, minister. I thought you were going to make a point of order. I did not realise your leg had gone to sleep!

Hon Ken Travers: Do you think there might be a bit of tension between you and other government colleagues today?

Hon PAUL BROWN: No. It is all hunky-dory at the moment, Hon Ken Travers.

Hon Ken Travers: That's good to hear. A happy government is a good government.

Hon PAUL BROWN: We are happy government members. Just take a little pill. Take a Bex and have a lie down.

I will go back to the point that I was making about the independent statutory body, which has worked very well in Queensland. One of the things that Mr John Cotter, the GasFields commissioner, was able to illustrate and inform the committee about was that more than 4 000 land access agreements have been undertaken in Queensland. Since the introduction of the independent statutory body, the Queensland GasFields Commission, none of them have gone to court. They have all been dealt with legitimately through the GasFields Commission on an even playing field. One of the things that we have called for here through the independent statutory body—call it whatever you will, whether it is a commission or a tribunal—is basically an independent expert body that is the independent arbiter on land access on people's property. That will ensure that, through that process, landowners have equity in professional and legal advice that is equal to that which large gas companies and potentially oil companies can bring to the table. Outside of the committee and outside of the report, one of the things that my colleagues and I have advocated for through representations to the minister is that the industry should provide financial input for landowners to have equity in the professional and legal opinion that they put forward. If a gas company that wants to go onto the property of citizen X is using a phalanx of QCs or Senior Counsel, it must provide the landowner with a similar benefit in legal accountability. In that way, a gas company cannot take up the opportunity to use very expensive expert legal advice against a landowner who may well be able to get only the local settlement clerk to put together some legal paperwork for them.

That is one of the things that we have been calling for outside of this place, the report and the committee. We think that is very valuable, and the committee members thought enough of that to put it in as part of the report.

Hon KEN TRAVERS: I move —

That consideration of the forty-second report of the Standing Committee on Environment and Public Affairs be postponed to the next sitting of the Council.

I know that another member of the committee who is away on urgent parliamentary business wants to speak to this report, so, as there are only nine minutes left, I would like to postpone the debate.

Question put and passed.