

**Submission Independent Scientific Panel Inquiry
– Shane Love MLA, Member for Moore**

Thank you for the opportunity to make a submission to this Inquiry.

I represent constituents in the Electorate of Moore and have particular concerns regarding the shale and tight gas resources in the northern Perth basin – the Mid West region. Development of this gas industry should not progress without regard for the environment, existing land users, the community and the workforce. If the unconventional gas industry must co-exist with existing land users, the goal of regulation should be to minimize the surface footprint, or more specifically, the impact on the environment and adjacent communities.

Community impact

Residents have chosen to live in the Mid West because of the lack of obtrusive industry, its aesthetic appeal and rich environmental values such as floral biodiversity. Gas exploration and a move to the gas production phase has the potential to blight the landscape and transform it from that of rural and nature-based, to industrial and subsequently to devalue the land. The rate of change would be logarithmic as operations are scaled up quickly. Concerns around impacts on water resources, public safety, air pollution, land contamination, waste management, noise and vibration, chemical use and well integrity are among the issues raised by community members, some of whom are also the existing land users.

Landholder rights

For many Western Australian farming businesses, the prospect of negotiating a Land Access Agreement with a well-resourced petroleum company would be a daunting task with the need to involve a costly legal team.

Where the WA farmer and petroleum company are unable to reach agreement regarding compensation, the matter is referred to the Magistrates Court after a three month period.

In the absence of a checklist for farmers sitting down to the negotiation table, there is the possibility that Western Australian landholders will be disadvantaged financially. In any agreement there must be adequate provision for insurance and indemnity issues.

Compensation should cover damage to the land surface or land improvements, as well as giving consideration for diminution in the value of the land and consequential losses. In my view the current range of impacts for which compensation may be given is too restrictive in WA and must be widened.

In Queensland, reasonable accounting, legal and valuation costs incurred by the landholder when negotiating an agreement form part of the compensation package.

Importantly, the inclusion of licensing and environmental conditions within the Queensland land access contract, enables the landowner to deny the operator access to the land where a condition of the contract is breached, without having to go through a regulatory body.

The WA Nationals have been very concerned over the imbalance of power between Landholders and Gas explorers and producers.

In 2015 the Nationals WA State Conference considered the matter as follows:

State Conference 2015

AMENDED MOTION: That this State Convention of The Nationals WA calls on the State Government to ensure that as part of the development of the onshore gas/oil industry there is adequate regulation to guarantee:

- I. Robust baseline monitoring of ground water resources affected by any onshore gas/oil industry development.
- II. Full transparency of any and all chemicals used in the process of extracting onshore gas/oil and open dialogue with all parties affected in the process.
- III. Immediate implementation and regulatory recognition of a Landowners Access Code that protects the right of landowners and ensures their equitable access to legal and professional advice through the development of an independent body to oversee arbitration and agreements.

Carried

The refusal of the WA Government to protect Landholders in its response to the Legislative Councils Standing Committee on Environment & Public Affairs Inquiry into the Implications for WA of Hydraulic Fracturing for Unconventional Gas, led to a further consideration of the issue at the Nationals 2016 State Conference where it was decided to support the ability of Land holders to refuse access to Gas and Oil Explorers as follows

The Nationals WA – Motion Decisions 2016

Fracking Veto

Motion: That this State Convention of The Nationals WA supports amendments to the Western Australian Petroleum and Geothermal Energy Resources Act 1967 to include a 'right of veto' by landholders to protect their interests from exploration and production by commercial onshore oil and gas operators.

Submitted by: Carnarvon, Geraldton, Vasse, Moore Branches and Young Nationals

Motion carried

Following the decision, the following announcement was made explaining the position

"The Nationals WA have unanimously supported landowner's rights to veto onshore oil and gas exploration and production on private land at the Party's 2016 State Conference at the weekend.

The Moore branch of The Nationals WA introduced the motion supporting amendments to the Western Australian Petroleum and Geothermal Energy Resources Act 1967.

State Member for Moore Shane Love said the outcome was a major win for landholders, and if implemented would afford them the same right to veto over the petroleum industry afforded under the Mining Act 1978.

"This is a significant outcome and will help form the Party's position in the lead up to the 2017 State election," Mr Love said.

"Ensuring greater landholder rights has been one of my major priorities since being elected to parliament four years ago.

"The Nationals WA strongly support the landholders having the right to choose whether to allow gas exploration and production on their property."

Mr Love said he would continue to champion the reform if elected at the March 2017 State election.

"I understand community concerns about the potential development of the onshore gas industry in WA," Mr Love said.

"Giving landholder's the right to veto exploration and production is an effective and clear cut way to maintain their property rights.

"If elected in March 2017, The Nationals WA will vigorously pursue this important reform on behalf of WA landholders."

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Protection of the environment

The Mid West of Western Australia is extremely rich botanically - indeed it is a biodiversity hotspot. Mount Lesueur National Park near Jurien Bay - 26,000ha in area –boasts 900 species of plants, many unique, which equates to 10 percent of WA’s known flora.

Any accidents associated with fracking in the Mid West threaten these unique floral communities. Given the environmental value of the Mid West region, will referrals to the *Environment Protection and Biodiversity Conservation Act 1999* be necessary before granting license approval to petroleum companies?

Water quality is of utmost importance to landholders and the community as a whole. Community concerns around fracking are largely associated with water supply and quality. The region has many important water sources such as the Yarragadee and other shallower sources of fresh water. There can be no compromising well design and construction, given wells may be in production for 20 years.

There is a desperate need to establish base line data associated with water to enable the ongoing monitoring of exploration and production sites. The gathering of adequate and independent data associated with water quality and water sources needs to commence before exploration and continue throughout the life of the well and for an appropriate period upon decommissioning and abandonment.

The following questions need further scrutiny:

- Does the fracking process result in water contamination issues in shallow or deeper aquifers?
- If there is a contamination issue, could the pollution be contained or quantified?
- Can the fluids recovered at the surface be recycled or safely stored in evaporation ponds before appropriate disposal?

The NSW Code of Practice for Coal Seam Gas – Fracture stimulation activities, stipulates at 7.2(a) that the Fracking Stimulation Management Plan (FSMP) must identify the location, extent, pre-existing water quality and use of water sources which will be potentially impacted by the fracking activity. In addition, sources of fracking injection water must be identified, together with the estimated quality and volume of this water.

There is a need for a legacy fund to continue the monitoring process following the decommissioning of wells and for an appropriate timeframe into the future.

Stricter regulatory control

I believe there is a need for independence in the assessment of petroleum exploration and production licenses. It is not appropriate that the Department of Mines & Petroleum - the Ministry charged with securing the state's energy security - should assess exploration and production license applications submitted by petroleum companies and conduct environmental compliance audits.

The Environmental Protection Authority offer the level of independence required in carrying out audits and inspections and the ongoing monitoring during the production phase, through to abandonment. The EPA should ensure that the Environmental Management Plan is executed with adequate follow up once a well is decommissioned.

Given the production life of wells may be 20 years or more and given the broad scale of operations which may result in the development of hundreds if not thousands of wells and fracking procedures in the production phase, there will be a probability of accidents and industry failure. Independence at the monitoring phase will be crucial in averting a disaster before it potentially occurs.

To better understand the risks involved, modelling should be developed to analyse the potential effect and treatment of a catastrophic well failure either in its production life or in the future abandonment phase. These wells if developed at all, must not be a dreadful legacy to leave for our following generations.