

Chapter 4

Committee view

4.1 This bill responds to the tension between the resources sector and some regional communities about certain coal and gas exploration and extraction activities, in particular the extraction of coal seam gas (CSG). The committee supports the principle that an agricultural landholder should have the right to determine who can enter and undertake gas or coal mining activities on their land. Landholders who provide access should be fairly compensated for doing so and shown respect when entry on their land takes place. The committee also expects that coal mining and unconventional gas projects to be subject to robust environmental regulation.

4.2 As outlined in Chapter 1, however, the committee has been tasked with considering a particular bill; it was not directed to undertake a wide-ranging inquiry into coal and unconventional gas. Accordingly, the principal issue that the committee has considered is whether there are issues that require Commonwealth legislation to address them, and if so, whether this bill is an appropriate and workable response.

4.3 It is clear that aspects of this bill would create uncertainty or would simply not work in practice. The committee notes, for example, the evidence received about the broad definition of 'ownership interest', and how it would be difficult, if not impossible, for a company to know that it has obtained written authorisation from every person who has an ownership interest in the relevant land. In addition, by providing an absolute right for landholders to veto land access, the bill could introduce what is essentially akin to a private ownership scheme for certain resources. Large amounts of compensation that private landholders may secure as a result of this would reduce the wider public benefit that arises from state ownership of the resources. It is also unclear why the written authorisation requirements, and the ban on hydraulic fracturing, would apply to some resources, but not others.

4.4 In any case, regardless of the views that exist on land access laws, hydraulic fracturing and competing land uses, these matters are principally the responsibility of the states. Various state parliaments have enacted detailed laws that address land access issues, including arbitration and compensation. State governments are also responsible for planning and land use policies. It is clear that issues related to land access and hydraulic fracturing have received, and continue to receive, careful consideration at the state level. Inquiries into unconventional gas are underway in Victoria, South Australia and Western Australia. Inquiries have concluded in recent years in New South Wales, Tasmania and the Northern Territory. Some state governments have imposed moratoriums on hydraulic fracturing while the issue is reviewed.

4.5 The committee also notes that landholders' rights can be enhanced as a result of arrangements between representatives of agricultural landholders and resource companies, such as the Agreed Principles of Land Access in New South Wales.

The committee encourages the further development and application of land access principles, such as the Agreed Principles of Land Access, that cover all industry participants in all relevant jurisdictions.

4.6 Landholders' interests and the interests of future generations need to be respected as part of the development of the unconventional gas sector. The regulatory regimes in place also need to be robust so that risks to agricultural land and water resources are minimised. The committee, however, fundamentally disagrees with the overall approach taken by the bill. The committee considers that this bill is an excessive and unworkable response to concerns that landholders may have about gas and coal activities. The committee also does not consider that it was provided with sufficient credible scientific evidence during the inquiry to justify a ban on hydraulic fracturing.

4.7 Any questions about the Commonwealth's and states' roles and responsibilities in these areas are most appropriately dealt with by the Council of Australian Governments (COAG), not by unilateral action undertaken by the Commonwealth. Although the primary responsibility for the regulation of unconventional gas rests with the states, the Australian Government can continue to show leadership via the COAG Energy Council and through Australian Government policies. The committee endorses the approach taken by the Australian Government regarding unconventional gas, as expressed in the Energy White Paper and the Domestic Gas Strategy. In particular, it is important to enhance community confidence about the development of unconventional gas by building on, and utilising, the knowledge base of unconventional gas so that policy and regulatory decisions are clearly based on sound evidence.

Recommendation 1

4.8 The committee recommends that the Senate not pass the bill.

**Senator the Hon Anne Ruston
Chair**