

COAL SEAM AND OTHER UNCONVENTIONAL GAS MORATORIUM BILL 2015

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Adam Searle.

Second Reading

The Hon. ADAM SEARLE (Leader of the Opposition) [10.24 a.m.]: I move:

That this bill be now read a second time.

I lead for the New South Wales Labor Opposition in debate on this bill. The object of this legislation is to put public policy on coal seam and other unconventional gas in New South Wales on an appropriate, sound footing. That footing is the policy we have campaigned on before, during and since the March State election—an immediate statewide moratorium on coal seam and other unconventional gas exploration activity while the environmental, scientific and regulatory design work recommended by the NSW Chief Scientist and Engineer in her September 2014 report is undertaken and implemented in full.

This is to be underpinned by a range of immediate and permanent no-go zones. This is not only the policy of the Labor Opposition but also the recommendation of the Legislative Council's Select Committee on the Supply and Cost of Gas and Liquid Fuels in New South Wales, given on 25 February 2015. After the mistakes of the past by governments of all major parties, this is the right and necessary course of action. Members opposite and across the Chamber know this to be true. Indeed, that is why the Parliamentary Secretary for the North Coast, Christ Gulaptis, MP, and the Hon. Ben Franklin have spoken in Parliament on the need to ban coal seam gas [CSG] on the North Coast of New South Wales. That is why they both moved on this at The Nationals conference at Pokolbin earlier this year. It is a shame that their party was not with them. I apologise for making the Hon. Ben Franklin blush.

The Baird Government continues to commit itself to its gas plan. Central to that plan is the continued development of the coal seam gas industry in this State. This is despite the Baird Government, in its response to the Legislative Council's select committee report, stating that it supports, without any qualification, recommendation 3 of that report, which states:

That the New South Wales Government fully implement the Chief Scientist and Engineer's Final Report of the Independent Review of Coal Seam Gas Activities in NSW (September 2014) before any expansion of the coal seam gas industry in New South Wales is contemplated.

The inconsistencies in the Government's stated policy positions reveal them to be in disarray on how to deal with this important public policy issue. In November 2011 the New South Wales Opposition called on the Liberal-Nationals Government to suspend all current coal seam gas exploration licences to protect the State's water resources. Labor's position was that the Government should suspend all existing coal seam gas exploration licences, cease issuing new coal seam gas exploration licences or new coal seam gas extraction licences and refuse any applications to expand existing operations. This decision was a departure from previous New South Wales Labor policy and was a decision that was made after hearing the concerns of people across the State.

Coal seam gas has the potential to damage our drinking water and compromise food security. The National Water Commission said that the coal seam gas industry "risks having significant long-term and adverse impacts on adjacent surface and groundwater systems". The CSIRO and the Queensland Water Commission have also expressed a similar view. There are major risks associated with coal

seam gas exploration and production extraction, including risks to water quality; the extent of surface impacts associated with drilling and construction of gas gathering systems; contamination from produced water and flowback water, its storage and risk of spillage or release back into the drinking water supply; and the impact on terrestrial, aquatic and sub-surface ecosystems from clearing.

In July 2013 the New South Wales Planning Assessment Commission [PAC] denied permission for Apex Energy to drill 16 exploration wells within the Illawarra catchment areas. The commission stated that more conclusive studies on the impact of coal seam gas activities to drinking water were needed. The commission also found that impacts of coal seam gas activities "were being questioned in a range of studies in New South Wales, Australia and internationally". The commission said:

It appears that the potential risks of coal seam gas activities are still being established and that there is some uncertainty regarding the potential impacts of the suite of coal seam gas extraction techniques which could be applied within various geological formations.

Ongoing, independent, peer-reviewed scientific research is needed on the impacts of coal seam gas on New South Wales water resources. Evidence from interstate and overseas shows CSG mining can have devastating and permanent impacts on groundwater resources. Once a water aquifer is damaged it can never be repaired. Residents, farmers and communities are deeply concerned about the impact the emerging CSG industry will have on their land, their wider environment and their lives. They deserve clear answers to these concerns.

It is beyond argument that we do not know enough about the longer term impacts of extracting gas from coal seams. Until we do, no prudent government—no prudent Parliament—can permit further development of the industry. Labor acknowledges that governments—including Labor governments—have rushed into CSG mining without fully understanding the potential impacts on the environment. When new medicines are introduced they have to go through rigorous testing to ensure they are safe for patients to consume. No medication is allowed onto the market until it is proven to be safe, and the same should apply to new industries such as CSG mining or extraction. Unless there is a scientific consensus that CSG mining will not damage aquifers and groundwater systems, we need to hit the pause button.

Any benefits the CSG industry may potentially offer cannot be delivered at the expense of our age-old aquifers and prime agricultural land. Until a water-tight regulatory framework is in place, based on independent scientific research and conclusive evidence, we should not be allowing CSG mining to proceed. The risks to our most important natural resources are just too high. The Labor Party will not permit any expansion of CSG in New South Wales unless the industry is proven to be safe. The coal seam gas and unconventional gas industry has caused alarm across the Australian community. There is a well-founded sense that the costs and implications for the environment and communities are not adequately understood and therefore the risks of allowing the industry to expand are too high.

The New South Wales Chief Scientist summarised the areas of concern as follows: contamination and depletion of groundwater resources and drinking water catchments; impacts of the co-produced water from CSG activities on the environment; impacts on the environment of hydraulic fracturing or fracking; impacts on human health from air quality, chemicals and noise; rapid expansion of the industry; access and landholder rights; potential impact on property values; fugitive emissions; uncertainty of the science; a lack of data, especially baseline data and a lack of trust in the data sources, particularly as they are primarily from industry; the industry is moving ahead of scientific understanding and regulation; cumulative impacts of multiple CSG wells and multiple land uses, such

as other mining and agricultural activities; inadequate monitoring by government of industry activity and perceived unwillingness by government to enforce legislation and standards; and complex and changing legislation.

The size and scope of the uncertainty around this industry is unacceptable. Labor has argued for a moratorium on all CSG and unconventional gas exploration and extraction until we have the scientific data to inform management and regulatory approaches that provide safety for both our communities and our environment. The Labor Opposition is committed to the full implementation of the recommendations of the Chief Scientist in her final report of 30 September 2014. A Labor government will implement the recommendations of the Chief Scientist before any expansion of CSG in New South Wales is decided upon. But we should not have to wait for the election of a Labor government, which is why we have proposed the legislation that is now before the House.

The recommendations of the Chief Scientist we seek to have implemented are as follows: strengthened protections and benefits for landowners around access, valuation and compensation; recovery of full cost to government of regulation and support of the CSG industry, reported through the State budget process; the development and designation of areas where CSG activity is permitted and where it is not; a single Act for all onshore subsurface resources, excluding water; separation of the process for allocating rights to exploit subsurface resources from regulation of the activities to give effect to that exploitation, with a single and independent regulator; a new regulatory system focused on continually updated environmental impact and safety targets, to drive the adoption of new technology and innovation; and appropriate penalties and automatic monitoring systems that detect cumulative environmental impacts.

We also seek to have implemented the following recommendations of the Chief Scientist: the development of insurance arrangements to cover short- and long-term environmental damage; the development of an interactive whole-of-environment data repository for all State environmental data associated with water management, gas extraction, mining, manufacturing and chemical processing activities; a centralised risk management and prediction tool for all extractive industries in New South Wales, to be used to assess compliance and new proposals; a standing body of experts from across relevant disciplines to advise government, including on the overall impact of CSG; CSG extraction proponents to identify impacts on water resources, pathways, consequences and likelihood, baseline conditions and risk triggers prior to any activity commencement; and work with government to ensure ongoing mandatory training, accreditation and certification for all working in the CSG industry, including compliance, inspection and audit functions.

However, let us be clear, despite claims from this Government and the coal seam gas industry, the New South Wales Chief Scientist did not say this industry can be safely operated in New South Wales. She set out a road map—a body of scientific and regulatory design work—that, if done properly, would inform government and the wider community about whether the industry can be safely operated. This is a vital distinction. Under Labor's proposed moratorium in this bill there would be an immediate suspension of existing exploration licences and we would ensure by law that no compensation is payable to any party, we would cease issuing new CSG exploration and extraction licences, and we would refuse any applications to expand existing operations. Labor would support lifting the moratorium only if each of the issues identified by the Chief Scientist is safely resolved and we have a world-class legislative and regulatory system in place to ensure our natural assets and our people are protected. The onus of proof is on the industry.

Labor will not permit the further development of the unconventional gas industry in New South Wales unless it is proven to be safe. We have a large task ahead to fully understand the risks and their mitigation. In particular, the structure and relationships of our underground water sources must be mapped and understood. We have nothing like the level of understanding needed to allow intrusion into our groundwater systems with any sense of certainty and reassurance. In order to start building the necessary scientific understanding in New South Wales, we propose the adoption of the Chief Scientist's recommendation to establish a whole-of-environment data repository that includes all data collected according to legislative and regulatory requirements associated with water management, gas extraction, mining, manufacturing and chemical processing activities.

Most of the legislation that regulates the unconventional gas industry was written before unconventional gas was conceived of. Labor will begin again—and we propose beginning again in this bill—armed with the necessary scientific information, to build a regulatory system for unconventional gas that is specific to it. As recommended by the Independent Commission Against Corruption, we believe there should be established an independent panel that assesses the environmental, social and economic issues associated with exploration licences before they are issued. The bill will ensure exploration licences cannot be issued in "no-go" zones.

In line with the Chief Scientist's recommendations, the bill would allow only an unconventional gas industry that performs to the highest levels of safety and on a full cost-recovery basis. We believe there must be rigorous enforcement of compliance with legislation to ensure transgressions are punished with high fines and revocations of licences, as necessary. The industry should be expected to carry insurance and bonds high enough to cover any damage for which it is responsible. These are not the recommendations of any think tank or fringe concern; they are the minimum conditions for the industry recommended by the Chief Scientist.

There is too much uncertainty about the social and environmental impacts of coal seam gas. We cannot put our water quality and food security at risk for an unproven industry. Until we have mapped the aquifers, until we fully understand the impacts highlighted by the Chief Scientist in her report, and unless they can be safely managed, CSG should not proceed in this State. In line with the Chief Scientist's recommendation No. 6, we believe there should be immediately identified a number of "no-go" zones—places where unconventional gas extraction should never occur. These are places where large-scale industrialisation and its attendant infrastructure are simply not appropriate. They include core drinking water catchments, a two-kilometre exclusion zone around national parks, a two-kilometre exclusion zone around residences, critical industry clusters and prime agricultural land.

CSG and unconventional gas extraction will be banned from core water drinking catchment areas under this legislation. In the Sydney water catchment, we seek to legislate to ban unconventional gas in the special areas. On the Central Coast, the bill moves to protect the mangrove water catchment and other core water drinking catchments. In the Hunter, the bill will protect the core water catchments identified in the Hunter Water Regulation 2010. Elsewhere, the bill seeks to ensure all water catchment areas—however they are described—under an environmental planning instrument are also protected. The bill will ensure the integrity of each of the Avon, Bordeaux River, Warragamba and Woronora dams. Across the rest of the State, we will seek to work with local water authorities to ban unconventional gas in lands whose subsurface areas directly feed drinking water storages. This will include the Great Artesian Basin, the lifeblood of outback Australia. We include the banning of unconventional gas in the recharge zone of the Great Artesian Basin within New South Wales, including the Pilliga.

The northern rivers region is unique. It is one of Australia's most biologically diverse areas supporting a variety of significant habitats. Many parts of the northern rivers have been given World Heritage recognition, and the region is home to key industries such as tourism, manufacturing and agriculture which support thousands of local jobs. It is the job of a responsible Parliament to protect the northern rivers from activities which threaten the region's precious environment, local industry, businesses and agricultural land. Good economic development must support and enhance our environment. We on this side of the House seek to ensure the risks associated with the expansion of CSG and unconventional gas will not threaten the northern rivers. We know many of those opposite share those concerns and we hope they will join with us in putting this matter beyond doubt.

This region is pristine and stunning, with World Heritage-listed national parks and recreational areas. It has a unique quality of life, with a blend of lifestyles ranging from alternative to agricultural. It has a mild, subtropical climate, with a significant elderly and retirement population. The region has the nation's most significant internal migration in Australia. The industries of tourism, cattle, sugar and dairy all rely on the area's natural values. The environmental values of the region, where I grew up, are internationally significant. The development of the CSG and unconventional gas industry in this area would fundamentally undermine these environmental assets and the economic drivers that rely on them and should not be allowed.

Therefore, we seek to implement a total ban of CSG and unconventional gas in the northern rivers region of New South Wales, encompassing the local government areas of Ballina Shire, Byron Shire, Kyogle Shire, Lismore City, Tweed Shire, Richmond Valley and Clarence Valley. Labor's legislation will not allow any unconventional gas wells within two kilometres of residential areas. The bill also provides for a two-kilometre buffer zone around all land declared as a wilderness area under the Wilderness Act 1987 or the National Parks and Wildlife Act 1974, or reserved under the National Parks and Wildlife Act 1974, and an area listed as a wetland under the Convention on Wetlands of International Importance done at Ramsar, Iran on 2 February 1971.

We will extend this protection to the Greater Blue Mountains World Heritage area. I declare a further interest in this regard: I am a resident of the Blue Mountains local government area, a former councillor and mayor. That does not unduly influence me; it just gives me an appropriate insight into the need to provide extra protection for this unique environment. The listing of the Greater Blue Mountains World Heritage area in 2000 was a resounding achievement for the preservation of a unique environment of international standing. The Blue Mountains is a vitally important and environmentally sensitive region, with pristine natural heritage, water catchment and national parklands. It is also home to a sensitive and unique ecology and biodiversity, including the endangered prehistoric dwarf mountain pine which is more than 200 million years old.

The World Heritage area contains a wide representation of eucalypt habitats from wet and dry sclerophyll, mallee heathlands, to localised swamps, wetlands, and grassland and several evolutionary relic species such as the prehistoric wollemi pine. It is inhabited by over 400 different forms of animals. Among them are rare mammal species such as the spotted-tailed quoll, the koala, the yellow-bellied glider and long-nosed potoroo. There are also some rare reptiles, such as the Blue Mountains water skink. One of the most exceptional features is the hanging swamps and associated groundwater-dependent ecosystems. These ecosystems rely solely on the purity and the reliability of groundwater aquifers, which would be greatly threatened by any CSG exploration and/or production.

The likely impact on the quantity and quality of water in the Greater Blue Mountains World Heritage area is seen as being highly destructive not just to the World Heritage listing, a listing that is regularly

reviewed, but also to the water supplies of Sydney and Lithgow which are sourced from within the Greater Blue Mountains World Heritage area. In particular, the impact of contaminated coal seam water entering both groundwater and surface water systems in the Greater Blue Mountains World Heritage area, and the effect on drinking water quality in these areas, is of specific concern. It is also worth noting that, given the requirement for dewatering of coal seams, it is likely that extraction, even outside the area, would have an impact in the Greater Blue Mountains World Heritage area given the interconnecting and complex nature of groundwater aquifers. All would be put at risk by CSG or other gas exploration. Labor will not permit this, which is why we bring this bill to this Chamber.

Labor presents a carefully balanced and thoughtful policy solution to the difficulties posed by coal seam and other unconventional gas in this State. If members want to take a scientifically based approach to these issues, they will vote for this bill because it places the report and recommendations of the Chief Scientist and Engineer at its heart. If members want to protect our core water drinking catchments and ensure the integrity of the water on which we all depend for life, they will vote for this bill. If members want to make absolutely sure that vital areas—such as the northern rivers region of New South Wales, the Pilliga and the Blue Mountains—are protected, they will vote for this bill.

There has been a lot of politics around these issues for a long time. That has created uncertainty for communities such as Narrabri, Gloucester and Bentley, and for commercial undertakings. The outcome of this uncertainty is demonstrated by the debacle of the attempts to suspend the Metgasco licence at Rosella on the North Coast near Bentley. Under political pressure from that community and the wider community, the Minister rushed to take the issue off the table before the recent State election, but did it in a way found by the Supreme Court to have no legal basis. This was not the result of some quirky or obscure operation of the law; it was as open-and-shut a case as any matter in the law could be, in my view.

The Minister in budget estimates last week was, to put it mildly, opaque as to how such an important step could be taken without it being legally rigorous. I look forward to reading the answers to questions he took on notice in this regard. It is important and in the public interest to know how and why the legal powers of the Minister were used incompetently on that occasion, exposing the State to potential financial liabilities in the tens, if not hundreds, of millions of dollars. When the suspension occurred, Labor offered bipartisanship to the Minister to support legislation putting the validity of actions beyond doubt but the offer was not taken up, for reasons not explained by the Government. The legislation now before this House will provide that certainty on this and other issues outlined in my second reading speech. I invite all honourable members to support this legislation to put these matters beyond doubt, to provide certainty for communities across New South Wales and to put public policy in connection with coal seam and other unconventional gas on a sound and scientific basis into the future.