STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS

INQUIRY INTO THE IMPLICATIONS FOR WESTERN AUSTRALIA OF HYDRAULIC FRACTURING FOR UNCONVENTIONAL GAS

TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
TUESDAY, 25 AUGUST 2015

Members

Hon Simon O'Brien (Chairman)
Hon Stephen Dawson (Deputy Chairman)
Hon Brian Ellis
Hon Paul Brown
Hon Samantha Rowe

Hearing commenced at 10.54 am

Mr RICHARD SELLERS
Director General, Department of Mines and Petroleum, examined:

Ms MICHELLE ANDREWS
Deputy Director General, Strategic Policy, Department of Mines and Petroleum, examined:

The CHAIRMAN: On behalf of the committee, I would like to welcome our witnesses to this hearing. You will each have signed a document entitled "Information for Witnesses". Have you both read and understood that document?

The Witnesses: Yes.

The CHAIRMAN: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. I think you are familiar with these proceedings, but for the record I will again just ask if you could quote the title of any document that you refer to during the course of the hearing so that we have it for the record. I remind you that your transcript will become matter for the public record and if for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt and may mean that the material published or disclosed is not subject to parliamentary privilege.

I will now go to the questions that the committee has prepared and of which some notice has been given. As you are aware, we have been conducting the inquiry for two years now into unconventional gas, and we thank the department for their ongoing assistance and advice. Firstly, we want to canvass the memorandum of understanding with the EPA. Could you discuss for us, please, the referral procedure contained within this MOU?

Mr Sellers: Sure. For the committee's benefit, much of the carriage of the work in terms of negotiating the MOUs with both the Environmental Protection Authority and Water has been through my colleague Michelle Andrews. We have some fundamentals here on the written answer that basically says that we have a flow chart that shows when we refer to the EPA. We have got an MOU, as you mentioned, that directs us to do that in a particular format. But what we have actually found over recent times is most of the projects themselves have self-nominated to the EPA, irrespective of us making that decision. Just on the MOU, it is in the process of having an upgrade at the moment, so what I might ask is Michelle to fill out just the detail around that.

Ms Andrews: There has been an established MOU for some time now to guide officers working in the Department of Mines and Petroleum as to when a proposal that is received by the department should be referred to the EPA. So we have been working with those procedures for some time and quite successfully; there has not been an issue with those. What we have undertaken with the office of the EPA is to review those procedures to see if they can be further strengthened in the context of shale and tight gas and, as an emerging industry, if there is any value in further clarifying those. To emphasise the point that Richard made, under the Environmental Protection Act, matters can be referred to the EPA by a decision-making authority such as ourselves, also the proponent and also the third party. Certainly, the experience around certainly this issue is that matters are being referred to the EPA by either the third party or the proponent themselves and that has already been, if you like, dealt with by the time the matter is before us. What sits behind those procedures is also very

well established in a strong working relationship between the two agencies, and so the informal conversations that happen and the consultation that then informs a decision to refer a matter to the EPA works well also. It is a good working relationship supported by clear published procedures which we have committed to and have commenced reviewing to see whether they can be further strengthened in the context of shale and tight gas.

Hon BRIAN ELLIS: I was a bit surprised. Is that self-referral happening in other mining activities?

[11.00 am]

Ms Andrews: Yes. If you were to look at more traditional mining activities, certainly for well experienced companies—the big BHP, FMG, Rio and so on—they will be engaged with the office of the EPA very early in the development of their project and would be having a discussion about when to refer and so on. It is a very mature, if you like, environment here in Western Australia around the environmental protection legislation and how the various parties engage with it. We have a way of engaging as a decision-making authority and that sort of point of circumstance where we would need to refer, but it is increasingly the exception rather than the norm, because those other mechanisms are working quite well and have matured over the decades.

Mr Sellers: Thanks, Michelle. Just some additional information on that is that I can understand the surprise because if companies did it for everything, the approval process of the EPA would be under a lot of pressure. So in those discussions that Michelle was referring to, there clearly are, say, minerals and things that are best left to process and we would be encouraging companies not to self-nominate, but where there is a genuine public interest or an issue that needs to be threshed out by the EPA, certainly both the projects themselves and third parties do take that option.

Hon BRIAN ELLIS: Is that a changing attitude of mining companies to recognise more their social responsibility that they are prepared to go straight to referral?

Mr Sellers: It certainly could be that; that would be something you could speculate, yes.

Ms Andrews: Probably another thing that is worth highlighting in the context of this, but importantly the relationship between our agency and the EPA in the context of shale and tight gas, is that you would have looked at the bulletins that the EPA has published around shale and tight gas. I think they are making some very important points and have chosen—that is probably worth pointing to as the EPA making some public comments because they were being accused of being missing in action around shale and tight gas. What they sought to do in those publications, if I can put one interpretation around it in publishing those bulletins, was to get some information out into the public arena where they were saying they had confidence in the DMP's regulatory framework to deal with those early exploration activities and then also anticipating that the EPA would be getting involved and they were pointing at it as the industry must move into a more sort of production phase, and also getting some information out there about what proponents would need to provide to the EPA. So what the EPA sought to do, and quite constructively, was instead of appearing to be silent and missing in action, it put a statement out there that again helped frame that quite sophisticated regulatory framework here in Western Australia that does have an independent EPA and an important role to play, but supported by it are other regulatory agencies that are operating under its umbrella, delivering on environmental policies and standards that are often established through the broader EPA processes. They were putting, I think, a very useful comment out there—a statement out there—that helps see the DMP's regulatory processes delivering on environmental outcomes under the umbrella of the EPA and how and when they would be looking to buy in more through a formal environmental impact assessment process.

Hon PAUL BROWN: How many times have the EPA asked the DMP, rather than the DMP referring to the EPA, to refer any proposals to them; and, if they did, would you be likely to do that?

Mr Sellers: The second part first: if they thought that, then they could come to talk to us and certainly we would consider it. My guess is that they would not come and ask for something that

they did not think was important and it is very likely we would. On the first part, the EPA asking us to assess —

Ms Andrews: The EPA has call-in powers—I am sure you are aware—so they can call in any project. Those powers sit there overtly but, gee, they very rarely use them. I cannot even recall when they have used them, and certainly our working relationship would be that it is actually dealt with initially through those informal conversations, and if there is a matter that is looking like it needs to be referred, we would be referring it. I cannot think of a situation to give you either numbers or examples.

Mr Sellers: In my experience since 2009, I cannot recall an example of that.

The CHAIRMAN: In short, when DMP comes to contemplate a proposal or an application that might merit referral, you are inevitably finding that it has already been referred, or self-referred?

Mr Sellers: For these examples, yes, but there is the trigger in our own assessment review where the group that is doing it would reach that trigger point and then make the decision had it not already been referred. In that referral, for a very early stage one, as Michelle indicated, the EPA might make a really early call on that and say, "This is of a size and scale that fits our published criteria around this and, no, we don't have an intention to assess it at this stage", and then it would go back to DMP for processing.

The CHAIRMAN: I want to now go to questions we have about how part 9 of the petroleum and geothermal energy resources regs 2015 work. We are particularly interested in the types of information that are defined in the regulations—basic information, disclosable information, excluded information, interpretative information and permanently confidential information. I am just wondering if you could perhaps talk us through those several types of information so that we can gain a better understanding of these new regs.

Mr Sellers: Sure. Thank you for the question. The principle that we are discussing with the industry—this is over and above coming and setting it into the regulation—was that we consider that if you can get some information through the Freedom of Information Act, then we should be making that available up-front and in a way that is easily searched and retrieved by anyone who has an interest in it. That actually then comes to the heart of your question: what is the interpretative information, what is documentary information and what is the commercial in-confidence? Clearly, in drafting those terminologies we sought some legal advice on the level and the criteria we should set up. For example, the documentary information is information that is already likely to be open. It is stuff that is already defined in our regulation 81 as things that we would report, whether it is an environmental report or the company report would report through its ASX. Interpretative information is really around disclosable, but there are some exclusions there which go to the actual dollars and business of the company, not the environmental process that is involved. Permanently confidential would come into the dollars around the business and the way the business strategy operates, not around how the well is put together, how they deal with any environmental issues, how we manage their environmental issue and what the outcome of that is. That is what it is meant to set up, and we are currently in negotiation with industry to get the regulation right to be able to achieve all those outcomes. In the interim, the companies are already putting on that level of transparency voluntarily, so while we might not have our legislation exactly at the point in time where environmental reports are required to be on there, they will be in the future. The companies are already starting to put those on their website, so instead of being on ours, they put it on theirs so it is there for people to look at with the understanding that that is where we are all trying to work through. Now we have got some detailed information in the written response. Michelle, are there other things you would like to add?

[11.10 am]

Ms Andrews: Probably in terms of the details in here, it might be useful just to give you a quick summary of the three categories of information that are teased out in the regulations. There is what is called "open information", which is really the information that is available immediately. It is the company information that they are required to submit and is available immediately.

The CHAIRMAN: When you say "available immediately" —

Ms Andrews: Publicly available.

The CHAIRMAN: Okay. By what mechanism is it publicly available? Do people have to apply for it or request it, or is it simply published somehow on your website or something?

Ms Andrews: It is a mixture, because it is evolving. That evolution that Richard was pointing to around transparency is where we are moving from a world where most of this information was confidential because there actually was not a level of interest in it. So we are, as an organisation, moving to making our information available and a commitment to transparency and really being guided by the state's freedom of information legislation; that is the policy context we are operating in. To achieve that requires legislative change, regulatory change, procedure change and so on. There is not a straightforward answer to your question; it is a mixture. The bottom line is on request open information will be made available immediately. We do not put people through an FOI process, or companies and so on. If it is in that category of open information, on request it is available. Some of it will be available online, but that is a process of evolution, as the technology supports the implementation of this policy and commitment to transparency. That is the first category of information. The second category is around disclosable. What is intended there is that some information will become publicly available after a period of time and, again, it might be two years or it might be five years depending on the nature of the activity and what is being permitted. That is that idea of where companies are collecting certain information and they are investing and there is certain risk around it, they have the right to be using that information for a period of time, but it will become publicly available—available to other companies as well—over a period of time. Then there is a third category of information that is permanently confidential—that is, the commercially sensitive information. The regulations really frame the information in that way.

Hon SAMANTHA ROWE: Can I just ask on that: the disclosure of chemicals, where do they sit?

Ms Andrews: That is covered in environment regulations. These are resource management regulations, but are broadly under petroleum legislation. That is in the environment regulations that were gazetted probably two years ago. I do not have the exact date.

Mr Sellers: But we do have an answer for that in here as well, and we will get you that.

Hon SAMANTHA ROWE: We are getting this?

Ms Andrews: Yes. One of the very first moves in terms of implementing that policy commitment to transparency was around chemical disclosure, and it is probably even as back as 2011. It was certainly one of the significant learnings we had already made from other jurisdictions. Anything less was not going to be acceptable or appropriate, and we had seen other jurisdictions try and do some kind of compromised version of releasing information around chemicals. There was a decision taken some years ago that in this state, that we were going to set the bar high and that it was full chemical disclosure. So, a very strong message given to companies, if you are going come and operate in this state, that that was the basis on which it was going to happen.

The CHAIRMAN: The easy bit is the open information, of course. When we get into disclosable information, we are starting to get to a key point that we want to ensure; that is, the point at which disclosable information becomes available. From what you are saying, it appears that disclosable information, in many cases, is information that may be disclosed in due course, but not necessarily up-front, and that is where the question of transparency suddenly goes under the microscope. Mr Sellers, did you want to address that?

Mr Sellers: I do; sorry, we obviously were not as clear as we could have been on that, because it actually comes from a policy that is long running in the state. If we just go to minerals, it is probably easier to understand, and we will translate it back to petroleum. So, a company goes out, drills a particular ore body and they have to make that information from that drill result available to us straightaway. Now, the interpretation on when we disclose that is that, let us say they drill out and hit the next big lead zinc deposit, then they have a period of time to keep drilling that while we keep those results in confidence. Then if it turns out that they do not move into production, it does not progress, then there is a time frame when that information then becomes available, so other people that are looking for lead zinc know what they hit, when they hit it and how they went about it. But it is two to five years on releasing that information, depending on the quality, the stage and a whole lot of rules we have in the mineral system around it. When we are talking about information that will be disclosed with a petroleum sector, it is looking at that same set of criteria. It is information about the quality of the resource they hit, the quantity, the types of material they are drilling through, they give us the porosity of the material—a whole range of things that might help a competitor come and stake a tenement next to them and start to drill it. These levels of when we release that information is what we are discussing with companies now, so that we get a workable system like we have in minerals. It is not talking about the amount of water they use, the chemicals they use, how they deal with the environment; it is the things to do with that particular target they are after—gas or oil—and would be of commercial use to other people against them during that period of time where they have invested that money to drain it.

The CHAIRMAN: I think that the committee all acknowledge the sensitivity of information about drilling results, for example, that could have all sorts of impacts, not only with competitors, but also the stock exchange implications and so on. I think that we have got an understanding of that. Where I think we are particularly interested in the context of our current inquiry, is not about what is discovered down the hole, but what is actually put down the hole.

Mr Sellers: Sure.

The CHAIRMAN: At face value, I would not have thought there would be the same considerations.

Ms Andrews: No; that is right.

The CHAIRMAN: What actually is the proposed or the new disclosure regulation for what chemicals are used in fracking—hydraulic fracturing?

Mr Sellers: Okay. It actually takes us to the next question, which is the disclosure of chemicals to us and the general public and the chemical risk assessment process, which, as Michelle just alluded to, is under some legislation in the environment area that was passed a couple of years ago. That directly answers your question about what goes down the hole, what is used, in what quantity, and that is part of the environmental assessment of it and, as Michelle went into some detail, is the publicly available information. We were one of the first regulators in the world to do that, and it is now maturing as it is being implemented. But if you look at the fundamental of it, there is not a chemical that someone gets approval through DMP that has not been looked at, assessed and made public. Included in that—and I will get the names wrong, so I will ask technically—but there is an accredited listing of what the chemicals are and what they are used for and their toxicity and other things that are all part of that application process and disclosure.

[11.20 am]

Ms Andrews: Sometimes what does get discussed in this space is distinguishing between the summary environment plan and the full environment plan. Again, this is another one of those areas where, because of the original construct of the legislation, the environment plan is not automatically available. We are at the point now where summary environment plans are required to be publicly available, and we are working with industry to then look at implementing those broader reforms—

so a legislative framework that supports public release of the full environment plans, but, as Richard mentioned previously, most companies are moving to make them publicly available automatically—the full environment plan, on their own website—again, a recognition that, really, in terms of a broader responsibility to the communities in the region they are working in and that concept of their social licence, that sort of information sits above any consideration of resource value concerns that we are talking about that are picked up in a resource management meeting.

Hon PAUL BROWN: Just to clarify, all chemicals will be publicly available.

Ms Andrews: Yes.

Mr Sellers: Are.

Hon PAUL BROWN: Are publicly available—because there is some confusion within the communities that, certainly, some of us represent, being in the Irwin, Coorow, Carnamah area where fracture stimulation is a potential. We have the confidence here to be able to say, through our report and publicly, that all chemicals are publicly disclosable. We are not necessarily worried about the recipe, but all the ingredients are publicly available, not just to the DMP, but also to the public at large.

Mr Sellers: That is right.

Ms Andrews: Yes. It is exactly as you described it. What we had to work through with industry was that point you made about the recipe. It was a way of presenting the information so that the recipe aspect of it—the commercial value aspect of it—was not disclosed, but absolutely all the information around the chemicals, the risks, how they are regarded and rated through those normal Australian and international standards, that information is all there.

The CHAIRMAN: Just to clarify that point, there has been a change, has there not, that DMP has introduced in that respect?

Mr Sellers: Yes, some time ago.

The CHAIRMAN: In recent times, yes.

Ms Andrews: A couple of years ago; is that what you are talking about?

The CHAIRMAN: Yes.

Mr Sellers: Yes, that is right.

Ms Andrews: It was not the case before—we can confirm the exact date for you when it came —

Mr Sellers: It was 2012.

Ms Andrews: Until 2012 that was not the case, but we have been putting a concerted effort into learning from other jurisdictions about this new industry. That was, most definitely, one of the learnings from other jurisdictions, that full chemical disclosure needed to be mandated and anything less was not going to be acceptable. At the back of the document we have provided to you, what we have attempted to do—we thought it might be helpful—was actually provide a one-page summary. In that process of looking at other jurisdictions—going to Queensland, going to New South Wales, looking at international experiences, particularly in the United States—we actually came back with, really, the roadmap for us here in Western Australia about what we needed to strengthen here to support this emerging industry if it was going to come on in a well-planned, well-controlled and well-regulated way, and in a way that we could maintain community confidence around it. That one page there is very brief, but those principles on the left-hand column were the learnings from those other jurisdictions that we just have to have best-practice regulation. Then there are the very steps that we have been taking in terms of reforms. This has really been a four-year program for us here. Whole-of-government coordination: we saw that very clearly when we went to Queensland three years ago. The state government agencies were not working together at that point in time. I think that has been somewhat addressed now. Transparency of information was critical.

Working with communities: as a government department that regulates this sector, we have not previously put a lot of time into actually being actively out there in those regional communities, but in the last two years, we have had a very intensive rolling program of getting out there that we have a responsibility as the regulator to be getting information to those communities about how the industry would be regulated, and also requirements on industry about how they work with their local communities. Again, previously, I would not have been so clear with the expectations, but it was clearly a really big issue in Queensland that some of the early movers—the early explorers—had no capabilities in this space in terms of how they worked with their local communities, and again saw the Lock the Gate campaign and all those sorts of things take off. So we have been very clear with industry. Again, their obligations to how they work with their local community are very, very clear. APPEA has also stepped into that space much more actively than happened in Queensland in terms of codes of practice, in terms of setting standards, as well as that bottom item around land access actually working to negotiate template land access agreements.

The CHAIRMAN: We are probably canvassing a whole wide range of areas.

Ms Andrews: That is right. It was just giving you a sense that that particular issue —

The CHAIRMAN: We will receive that as a tabled paper. That is a one-page document headed "Regulatory Framework for Shale and Tight Gas in Western Australia", just for the record.

Hon STEPHEN DAWSON: Chair, just to be clear in my head, according to this paper—thank you for this—chemical disclosure is required for all chemicals being used down-hole under section 15.9 of the petroleum and geothermal energy resources regs. Is public disclosure mandated or is that a policy decision?

Mr Sellers: My understanding is it goes onto the website as part of the summary of the environmental plan.

Ms Andrews: Yes.

Mr Sellers: So anyone can have a look at it.

Hon STEPHEN DAWSON: Sure, but the regulations stipulate chemical disclosure to the department. They do not stipulate public disclosure to the community, do they?

Mr Sellers: Certainly, that is the intent and that is what we do.

Hon STEPHEN DAWSON: Okay; so it is a policy decision basically. They have to disclose to you —

Mr Sellers: Sorry, Mr Dawson. We have jumped from the regs we just put through to the ones we put through in 2012. I would need to have a quick look at them, but I know they were drafted for full public disclosure of this. I would have to have them in front of me if I were to answer that question.

Hon STEPHEN DAWSON: Sure. Chair, perhaps, then, this is a point that we canvass, and I think will continue to canvass, so if you take that away and if we ask for supplementary information.

Mr Sellers: Yes.

Ms Andrews: Yes.

Hon STEPHEN DAWSON: What do the regs—as in 2012—mandate? What is chemical disclosure according to those regs? Is it disclosure to the department, and then it is a policy decision of the department to disclose to the public, or do the regs stipulate that public disclosure happens?

The other question you might want to take as part of this is: in this paper as well it says that all chemical disclosure information submitted to DMP is made publicly available via the environment plans on DMP's website. What is the lag time? Is it once that information is provided to you? Does it happen summarily, or does it take a while? If you could find out for us how long might

that period be when you receive the information as to when it goes on the website and is publicly available.

Mr Sellers: Sure. Thanks, Stephen, we certainly will give you a written response to those, but in terms of responding, not having the reg in front of me, I cannot give you an absolute answer, but I know my discussions with the industry at the time were exactly that; that it was full public disclosure and that was the point of contention we had to work through with industry. I would be surprised if it is not; it might be written in parliamentary draughtsmen speak, but that is certainly the intent of it. The second one is that once the environmental plan is approved, it is available to go on the website. So the answer we will give you will be typically how long it takes to work with a company to reach approval for a plan and then when it is logged onto the website from there.

Hon STEPHEN DAWSON: In that case, that would happen pre fracking taking place.

Mr Sellers: That is right, yes.

Hon STEPHEN DAWSON: So it would not be after the fact.

Mr Sellers: No.

Hon STEPHEN DAWSON: It would be before a permit is given.

Ms Andrews: It is before the activity and after the approval; that is right.

Hon PAUL BROWN: Before we move away from that table that we have got in front of us, in the preliminary confidential information section, dot point three says —

- if the person told the Minister in writing that the person classified the information as a trade secret or that disclosure of which 'would or could reasonably be expected to adversely affect a person's business, commercial or financial affairs'…

What sort of information are we looking at there? Could we potentially have a contamination event that would adversely affect that person's business and standing in the community?

[11.30 am]

Mr Sellers: It is a very good question.

Hon PAUL BROWN: It is very broad language with what a person can apply for when you are talking about adverse impacts on someone's business.

Mr Sellers: Thank you. Just on the example you gave, it would be after approval and would be open to environmental compliance action and reportable. So the pre-approval stage is where you would determine whether something is in confidence or not; in terms of the disclosure of chemicals that go down the hole, there is no commercial-in-confidence on those. There are large companies—only a couple of them—that have come to us and said they now have a special, better fluid that they want to put down the hole but they do not want their competitors to see, and the answer from us is that if they cannot meet our chemical disclosure requirements they cannot use that chemical.

Hon PAUL BROWN: As to surface contamination, we have had some argument recently about an event in the Gingin area that was not disclosed to the locals or neighbouring landowners for many years—I think two or three years after the event. Once again, apart from what is going down the hole, on-surface contamination is probably the most likely source of contamination for a lot of these communities. In that event, once again, can companies apply for this disclosure to be withheld?

Mr Sellers: Not through us. When I say "not through us", we have a framework and there are different regulatory agencies. I am not trying to talk for them, but they would not be hiding it either. If there is an environmental event, it gets dealt with. In terms of the environmental report that the guys have to produce each year, that is part of the discussion of getting that now in a transparent position. In there is the event, what we did about it, what they did about it, and move on. There is a scale issue; if you are talking about surface contamination, it could be a bit of diesel spilling from

a truck or it could be an overflow of a turkey nest dam of water—whatever it is. They all get reported to us, we report them if they are of a nature that, say, the environmental regulation agency needs to deal with it because they are the ones that will drive the compliance of it. We would be doing the reporting to them. As to the annual environmental reporting of projects under us, whether it is petroleum or minerals, the end point of our transparency discussions that we have with them is to have their annual environmental report published on the web. In that report, if there is any incident, no matter what scale it is—so even if it was not reported immediately—what would be reported is what, if any, compliance we took and what, if any, mitigation action the company took. As to the incident you referred to, I have had a look at it as well, and certainly that is not the case now.

Hon PAUL BROWN: I will leave that for now. Thank you.

Hon STEPHEN DAWSON: On the point about the permanently confidential information and the minister agreeing that something should be made permanently confidential information, if the minister decides that is the case and agrees with advice that is presumably from the department, does that get reported anywhere?

Mr Sellers: So are we back on the regulations we were talking about before?

Hon STEPHEN DAWSON: I am quoting from, I think, regulation 83; I presume it is from your act.

Ms Andrews: That is the resource management regulations?

Mr Sellers: Yes, that is the resource management one.

Hon STEPHEN DAWSON: Regulation 82 talks about the minister being able to declare something is permanently confidential —

Ms Andrews: That is not the environment regulations. The environment regulations are separate; this is the resource management regulations.

Hon STEPHEN DAWSON: So would that apply or not apply to a hydraulic fracture?

Ms Andrews: If there is an incident that has happened —

Hon STEPHEN DAWSON: Not necessarily an incident, Michelle, so not a spill or anything. But if the regulations suggest that there are times when the minister could —

Mr Sellers: But not for the hydraulic fluid and not for any of the environmental reporting. This is for how they fund their business.

Hon STEPHEN DAWSON: Okay. So it would be for commercial reasons?

Ms Andrews: Yes.

Mr Sellers: They are separate, yes.

Hon STEPHEN DAWSON: I still have the question though. If the minister did decide that they agreed something should remain confidential, is there a reporting mechanism? Does that appear in your annual report?

Mr Sellers: It would not appear in our annual report; it would go in a confidential folder. My understanding is that once it is in our commercial-in-confidence folder, there is a period of time after which it becomes publicly available anyway, but it is over that 30 years—whatever the regulations around filing are—and that is outside the time frame of most commercial activity. It is designed to protect how they fund their business, who their dealings are with on a particular project, not anything that they have to report through the ASX or any of the normal process. It is very separate, Stephen, from the environmental side, which is where we have all full disclosure on the liquids. We have the intent, through Michelle's earlier description, if not the mechanism yet to make that available on our web. Just to give the committee a feeling on when we are hoping to be

fully electronic with most of these things out and immediately available, we have set ourselves a deadline of being fully digital by 1 July next year. With that comes the ability for people who fill in these forms to fill them in in such a way that the computer takes the commercial and business material away from the environment, and the environment stuff is able, then, to be published straightaway.

The CHAIRMAN: Just on that same one, I think we are contemplating regulation 83, which sets out four situations in which documentary information is permanently confidential.

Mr Sellers: Sure.

The CHAIRMAN: Several of those relate to the minister forming an opinion and those processes.

Mr Sellers: Yes.

The CHAIRMAN: How often does it happen that a minister has to form a view about whether something should be permanently confidential or not?

Mr Sellers: That is a very good question. In my experience, I have never done it.

The CHAIRMAN: Never?

Mr Sellers: Never.

The CHAIRMAN: So it is really —

Mr Sellers: It would be a very unusual circumstance, yes.

The CHAIRMAN: It is some comfort that the minister is not called upon to do that every day of the week.

Mr Sellers: No.

The CHAIRMAN: Can I ask you to take that on notice and check over the last, perhaps, five years how often it has happened that the minister has been asked, in those circumstances, to make that decision? I think that would be instructive, and it would help in addressing that very good question that Hon Stephen Dawson raised.

Mr Sellers: That is a very good question. In the last six years I cannot recall a discussion like that with a minister, but we will check and confirm that.

The CHAIRMAN: Time is a little against us, but we have a few more things we need to go through just before we move off this. A lot of the petroleum resource management administration regulations that we have been discussing cover petroleum-related data. But they do not provide, as I understand it, for the release of incident information or water quality data. Why is it that DMP does not release incident data?

Mr Sellers: I might need to go a little bit technical on this one, I am sorry, Mr Chair.

Ms Andrews: At this point in time there is a requirement to report incidents.

The CHAIRMAN: What is an incident?

Ms Andrews: What is an incident? I think you will know intuitively what an incident is, but in this space there is potentially a spill—these are all scalable as well. The environment plan will actually anticipate different possible incidents and will actually frame their action and response, and then within that context they have reporting obligations to the department. Again, all those things are scalable, and then what the department does about that is determined by the significance of the event. We will then undertake an investigation, and then there are decisions made about whether enforcement action is appropriate and whether the matter has been appropriately rectified and on. But I think what you are looking at is the transparency of that process; is that right?

[11.40 am]

The CHAIRMAN: Yes. If someone is going to drill a well, there is a lot of public interest in what sort of chemicals are going to be used, if we are going to fracture that well, and all of that sort of thing. What the public really wants to know is, if there is an incident, they want some information about that. Is it minor? Is it inconsequential, or is it serious? What is the nature of it, and what is being done? Can you address that question?

Hon BRIAN ELLIS: And the actual reporting time frames as well.

The CHAIRMAN: Yes.

Mr Sellers: If you go back to one of our earlier discussions, we needed to modify our act, which was in fact looking at nondisclosure of a range of things. We are actually heading towards another amendment in October which will remove any possible legal impediment for us to fully report these things straight away. All the environment ones are reported, as we talked about before, after the fact, with mitigation and our actions, and the safety staff is reporting around the safety statistics. But I get the sense that I would expect that if I was in the paddock next door I would want to know what is going on on a day-to-day basis. To make that 100 per cent clear for us and to make us able to do that on the web and through other mechanisms requires an act change. We are going for October for that final amendment. But, if you step back from that, are these things reportable? Yes, they are reportable to us. Are they made public? Yes, but unfortunately not always immediately. To be entirely candid here, the reality for me is that sometimes I hear about an event through the social media at about the same time as my staff are notified, so there are not many things that go on on a mine site or a petroleum site that we do not hear about in real time and, in fact, media and others do not hear about in real time, so this legislation is putting us in a position where we are better able to deal with that. I understand the fear that it will be kept secret, that it somehow will not become available. We have already made changes to make sure that that is not the case—that they are reportable, and they are additionally reportable through a range of statistics and things that we do. The immediacy of it, on the last range of advice that we got, is that there are some issues that we need to clear up. We are moving to clear those up, and hopefully have that in the third quarter of this year and through so that we can have an immediate response. But the practicality of it is that my experience in recent years is that very little happens on the site that we are not dealing with on a 24/7 basis, and making the information we get available as quickly as we can is a principle that we are working to.

The CHAIRMAN: Just a wrap that up, is there in effect a legal impediment to doing all that you would want to do by way of incident disclosure?

Mr Sellers: That is right. To be able to do the contemporary disclosure, and in doing that we are going to be—sorry, just as a practical example, when we do that we will be always guarded in what we put out, because we only put out factual information while others will speculate, but the idea is to be able to do that as soon as we can. Certainly results of any investigation and any activity is reportable now, and will show up in environmental reports.

The CHAIRMAN: Are you able to provide the legal advice that you have got?

Mr Sellers: We normally do not provide legal advice, but we can provide a summary of it and what we are trying to do to address it later in this year's Parliament, if that is suitable.

The CHAIRMAN: In the first instance, then, can I ask you by way of supplementary information to provide a summary of that legal advice, which is specifically the legal advice that I understand is being provided, which shows that there is a lawful impediment to the full disclosure that you would like to provide, and that the cure for that is for some legislative change to the act in the statute book, and you can provide that. I also understand that you are now working towards providing a bill to resolve that, which we might anticipate later this year. Is that correct?

Mr Sellers: Thank you. That will be no problem.

The CHAIRMAN: Thank you very much for that.

We had better move on. The other matters we wanted to clarify with you are fortunately a little simpler, I hope, and a little briefer than that very complicated matter. I understand that there is a possible memorandum of understanding between DMP and the Department of Health in the offing. It was referred to by Professor Tarun Weeramanthri on 17 February last year, as not yet having been agreed to. The Department of Health was actually rushing to finalise that, but progress had not been made, so what I will ask is: has DMP progressed an MOU with the Department of Health since February 2014?

Mr Sellers: What we have progressed with the Department of Health is better communication, better understanding of this issue, which resulted in them providing evidence to this committee, I understand, earlier this year. On the MOU, Michelle —

Ms Andrews: What we have been working with the Department of Health on was clarifying—they have only got a very small team, which I think Tarun would have run through with you—what was the best way for them to be contributing their expert advice to the regulation of this activity. It really is going to be around policies and standards that sit around the regulation of the activity, as well as possible referral to them in certain circumstances. What we have been doing is we have been working on a framework document that I think you have been advised about as well, which is a description of the state's overall regulatory framework, clarifying the processes as we have been developing that framework document. We are expecting to finalise it in the next couple of weeks. When that is published, we are then looking to resume the discussion with the Department of Health as to whether an MOU is still warranted or whether their advisory role is adequately covered in the framework document. Does it need to be supported by a further MOU? We would welcome an MOU if it is going to add value, but we agree with the Department of Health. Let us get the framework document finished and see if it is still needed. That is where we are up to with the MOU discussions.

Mr Sellers: We are hoping to have the framework document completed by the petroleum open day, which is only a week or so away, and so we are actually talking about whether we could bring up an ultimate draft, but with the committee's agreement, we would prefer to provide the final document, as it is being edited at the moment by a couple of other agencies, after the petroleum open day.

Hon PAUL BROWN: Would that substantially add to the relationship that you have got already through the interagency committee?

Mr Sellers: It certainly does, and it formalises roles and responsibilities for anyone outside who is looking for what we should do as a department, what Water should do, and what Health should do.

The CHAIRMAN: One thing I think I can share with you is that we are inquiring into these matters when they are very much alive and developing issues. Of course, there are all sorts of things happening. You have introduced regulations in the course of our inquiry, public health have been doing some things there, and the rest of it. We will look out with interest to see the framework, which will involve a number of agencies, and we will look forward to seeing that. I think that is all we had on that one.

Moving along, we have a how long is a piece of string question to ask you, which is just to give us a flavour, if you could, about the cost of drilling wells in Western Australia. I will let you tell us why, but that is very much a conditional answer. We just wanted to get a feel for what it actually costs for someone to be entering into gas well drilling in WA.

[11.50 am]

Mr Sellers: Thank you for the question. Just to put it in context, if you were looking to get rigs and drilling happening in an area that had lots more activities with marketing competition, then the costs would be less; so there is already a distance and a lack of rigs and a range of other costs on top of that. So when you actually then come down to the hydraulic fracturing component of it, which is what the written question is about—or is it about the total cost of drilling a well?

The CHAIRMAN: It is basically to help inform the discussion if when we report we can provide some general information about what is actually involved, including costs, in drilling one well or 100 wells or 100 000 wells in WA.

Mr Sellers: The range at the moment, if everything goes well, could be as cheap as $2 million to drill a shallow well close to Perth where you do not have to do much mobilisation, or as much as $15 million, or sometimes even $20 million, if something goes wrong in a more remote spot where you have got to mobilise the gear there. When you do an individual hydraulic fracture on top of that, indicative costs range to several million dollars per operation.

The CHAIRMAN: That is on top of the well drilling?

Mr Sellers: Yes—on top of the well drilling. You drill your well; you do everything to get it ready. Remember from previous testimony, before they do any hydraulic fracturing they have to go in and pressure test it to above whatever the pressures are; then it is ready for hydraulic fracturing, and that is a separate cost on top of drilling the well.

Ms Andrews: Probably another thing to mention around that is that since you started your inquiry costs have shifted significantly as well, so the broader economic context is important in this space also—and we have seen cost of drilling drop in that two-year period also.

Hon PAUL BROWN: One of the comments we have had through testimony certainly from the Conservation Council in Western Australia was that there would be hundreds of thousands of wells across Western Australia. I think that is where a lot of our concern was. Is that likely given the cost and where we are finding the resource and the cost of the wells, and also the new technology as well?

Mr Sellers: That is a very good question. If we went to where the coal seam methane has been developed in central northern Queensland at the moment, the way a coal seam bed is developed is you have wells that are repetitive on a pattern over a distance. As the technologies change, the distance between those wells is increased or decreased, but it is still a grid of wells that covers basically the coal bed itself, and once they suck the water out the gas goes into those and each one collects the gas and goes forward. Typically, in a modern shale or tight gas field you have one pad, and from that pad the one main well is drilled and then there are radial arms that go out from it. So on the surface there would be a pad and, depending on the type of the shale and the material and other things, the laterals could be anything from a kilometre to several kilometres long, so you could end up with something that has a radius of three to five kilometres and so a diameter of 10. If the field was uniform over many hundreds of thousands of hectares, you would not see anything more than one of those pads every 10 kilometre diameter radius for the good part of the shale or tight rock bed. As they have gone on and learnt more about this, they have realised that not all shale and tight rocks are uniform, so there are always sweet spots in them. You might actually only—if this whole room was a shale field that was potentially gas or condensate producing, the hot spot might be where Michelle and I are and you have one or two of those here and the rest of the field is not commercially viable and is not picked up. Whereas if I jump back to the coal seam methane example, if you have got a waterlogged coal bed that has the methane and a consistent depth, for the entire area of that, you will get wells appearing in a very geometric pattern; it can be literally 1 000, 1 500 wells required to run an LNG facility in Queensland.

Here, should it go into a production stage, you are going to see those pads isolated around the areas that are sweet, and depending on the distance of their radial arms they are going to be some kilometres if not tens of kilometres apart, and they will be for the area of that shale or tight rock that is gas and condensate producing, which will be not uniform like you see in the coal seam. So it is for the new ways of producing gas, coal seam methane, yes, you will see many wells geometrically patterned over a very large area. For the modern use of tight and shales, with the radials you will see them, depending on the type of shale and rock it is, up to a 10-kilometre radius from the one bed. Is that okay?

Hon PAUL BROWN: That is perfect.

The CHAIRMAN: That is very useful. Before we move onto our final questions, while we are at it, we are contemplating questions of cost and availability of equipment and, presumably, personnel as well. It has been suggested to us that we could be looking at 100 000 wells for tight gas in the Kimberley; is that realistic?

Mr Sellers: Anything is possible. I do not know how realistic that would be. If the Kimberley was underlain by really consistent high-grade gas and condensate producing shale and tight rock there is a possibility that you are going to get multiples of the types of bed that I am talking about. But what we are seeing on this is that it is a more costly operation than the historic gas fields, and you need the infrastructure to go with it. So I think a more realistic medium to long-term suggestion would be that somewhere in the next five to 10 years we will know whether or not there are shale and tight rock beds that are capable of producing economic quantities of gas and condensate. Those areas will come into production, if all the approvals are right, only when the economics of it work; so, there is no gas pipeline yet to the Kimberley. We have got the possibility of that through Buru. That goes to the bottom of the Fitzroy trough.

If you are looking at where Conoco drilled in the Canning Basin, they did a 685-kilometre track just to get their drill rig in. There is no infrastructure there; there is no pipe. We could find a medium sized, great field sitting out there, and the economics of it, if you wanted to produce that field, you would actually have to underwrite a pipeline out there, you would have to have someone who is going to take that gas at the cost of doing that business. What we have seen offshore is that we have very nice finds of oil and gas—mixtures of gas and condensate—that sit there, some of them for 40 or 50 years waiting for the economics to line up. Onshore, the economics are different; but the big unknowns are whether the shale is going to produce like the estimates predict and if and when the infrastructure will be commercially viable to do that. If we bring that model down to the Perth basin, if you discovered a commercially flowing area of rock there now, you might only be 35, 40, 50 kilometres away from a pipeline. There are many large industrial customers that would buy your gas; that is a very different proposition. But if we go back to Paul's question, to make a field like that run would probably be one or two at the most of those pads; so the thousands, I think, is unlikely. Certainly, the medium to long-term could produce a much greater outcome than what is expected at the moment. We are still in the determining exactly what is there, and if you went to a medium term and the pipeline that was subject to the state agreement was put in place, then you could see some medium-sized fields developed that would be tens of wells, not hundreds of wells.

[12 noon]

The CHAIRMAN: Thanks for your thoughts on that. We have two other questions. I know that you have provided informally some notes on some of these matters. If you want to simply read some of those notes into the record, that would be fine. But my question is: what does "substantial improvement" mean in section 16(2)(b) of the Petroleum and Geothermal Energy Resources Act 1967, and how does the minister or his delegate judge what is "substantial"?

Mr Sellers: We do have some dot points there, and we have tabled these documents with you. This is part of the bundle that we have given you, so would you still like me to read through it?

The CHAIRMAN: Just for the record, yes.

Mr Sellers: Thank you. It reads —

- Section 16 provides that access to a PGERA titleholder can be denied where the land is: private land less than 2000m2 (one fifth of a hectare) in extent; land used as a cemetery or burial place; or land within 150m laterally from such cemetery, burial place, reservoir or any substantial improvement. The owner or the trustee of the land described above can agree to entry onto that land for the purposes of the PGER operations or not.

- This provision has existed in the WA petroleum legislation since 1936 in both the current legislation (PGERA) and its predecessor the Petroleum Act 1936. There is no record of the 'substantial improvement' provision ever been used under either the 1936 or the 1967 petroleum legislation.
- The Minister (or delegate) is the sole judge of what is, or is not, a substantial improvement. If required, the land holder would have to demonstrate that a tangible improvement had been made. The Department's recommendation would take into account the circumstances and the reasonableness of the arguments advanced as to the 'tangible improvement'.
- A similar provision exists in the Mining Act 1978 in section 29 'Granting of mining tenements in respect of private land' Section 29(2)(d). If a question arises as to whether something is a substantial improvement under s.29, the question is determined by the Mining Warden and the Warden's determination is final and conclusive and not subject to appeal. Only one instance of the use of this provision has been recorded—Striker Resources NL v Benama Pty Ltd (No.2) (2001) … In that case an access track was held to be a substantial improvement to the land.

Just as an anecdote on the end of that, the reason why it is so rarely tested is that the substantial improvements of buildings, industrial sheds, main roads, airstrips, power stations, power poles—those sorts of things—when they are put to us are very much deemed reasonable improvements on land, and we go out of our way to get a negotiated outcome with proponents. Sometimes that, in, say, the iron ore industry, has not been as successful as we would like, you know, with getting roads and rails across each other, but in the main for explorers we have been fairly good at brokering negotiations between landholders and operators. In the petroleum industry it is usually a little bit easier because where they site their drilling equipment has some leeway, and so you can tend to get a fair distance away from an area of particular interest and drill down and then come across; given the current lateral drilling technology, you can hit pipes like Montara from a kilometre and a half away. And so it adds a cost, but as part of a negotiated outcome it is part of what is normal business.

Hon SAMANTHA ROWE: Thank you for your answer, Mr Sellers. With the third dot point, does that mean that there is no actual definition of "substantial improvement"? Is that the policy, because there is no actual hard definition; is that right?

Mr Sellers: You are right. Aside from the prescriptive piece that I read out around giving the example for cemeteries, water reservoirs and things like that, there is no prescription on it. But the point that I was just trying to add on is that it has never made it to the decision-maker, in this case the minister, for a decision in that where we have had any sort of conflict around an explorer and some existing infrastructure or some existing right, we have been able to negotiate outcomes between the two parties where the proponent, in this case oil drilling, would avoid those areas or operate its equipment so that it was not going to have an effect.

The CHAIRMAN: I think one of the concerns that people making submissions to our inquiry frequently expressed is that a PGERA titleholder in the course of exploration or possible further exploitation of a resource can impact on a private landholder.

Mr Sellers: Sure.

The CHAIRMAN: You know, people have nightmare scenarios about drilling rigs coming next door to their house and things like that, but in practical terms that has not been an issue.

Mr Sellers: It has not been but I understand the fear. So, for example, APPEA and the pastoralists association, through Mr Park, are very close, I understand, to formalising an agreement for pastoral stations so that these views are dealt with up-front in this agreement. For ourselves, you might recall recently that some acreage was released along the coast north of Perth. The way that that acreage was released includes discussions with the entity that lets them know that things like, for example, the Pinnacles national park clearly falls into the category of not something they would go near.

But the way that the act is drafted, with acreages on particular blocks, a particular block might overlap an edge of a town and then on the condition of approval or for agreement leading up to it, we can exclude all sorts of things from the activity on that site. So, with the coastal strip, the company themselves knew that these areas were no-go and wrote to us and said, "It's never going to be our intention to operate in such a way that affects the Pinnacles." And there are half a dozen other sites that you would expect them to stay clear of, town sites and others, in those areas. So, that is an example of how the negotiated outcome works. We are strengthening that with our process, because you might recall that from the start of the discussion on acreage lease to when the acreage is finally released it can be as long as five years. If you go back historically, at the beginning of that process, if it was in the same area, we would write to Cervantes council or Lancelin council and tell them that we are looking to possibly release that acreage and are there any commissions or areas in there that that particular group was interested in, and they would give it to us, and any proponents that come along would get that list of things that they need to work through in their consultation up-front. In the past, that five years worked reasonably well, but now we all know that in five years you can have two or three people through a job in a council and you might have a completely different set of eyes looking at it. So we are shifting our process to not only include that original phase, but prior to grant—Denis and Jeff's area—going back to the proponent and saying, "Give us proof that you have talked to, addressed and dealt with these issues, and in doing that your issues can come to the fore." So, that is how it has been dealt with. I know it does not go to the definition, but that is just the process we have had to date.

Hon STEPHEN DAWSON: Mr Sellers, for somebody who has land of more than 2 000 square metres, would it be possible then for them to have a hydraulic fracking operation 151 metres away from their house? You were saying if it is within 150 metres, they could refuse it.

[12.10 pm]

Mr Sellers: I would have to take that on notice and have a look at what has happened in the past. What I am saying is that for someone to come and operate on someone's property now, part of the approval process is they have to show that they have talked to that landowner and they have reached some form of agreement on how they are going to operate. So, in that case, potentially if a landowner said to them, "For this compensation, you can operate here on my property", it could happen. The process that we have set up is that they actually are talking to the people prior to the grant, and, if the answer is no, they do get the grant—it would be something that we would push back on to the company to go and find a solution for before there was a grant. To give a live example that we ran as part of the department, you are probably aware that we have done some recent drilling for carbon sequestration in the Harvey–Waroona area. We did two and a half years of negotiation with the many small landholders down there around things like where we could do our seismic work and where we could do our drilling, and when after some discussions people said, "We are just not interested", we as the proponent at that stage did not do anything on or around their property and so they were excluded from the seismic lines. So, there is that availability. If you think of an acreage release, if we are down into small lots, there are going to be lots of other areas that you can operate your equipment in.

Hon PAUL BROWN: But that is a voluntary code, really.

Mr Sellers: Yes.

Hon PAUL BROWN: APPEA, WA Farmers, the PGA, DMP and Vegetables WA are currently going through a voluntary land access code.

Mr Sellers: Yes, that is what they are developing.

Hon PAUL BROWN: If you go to the back page of your submission about your experience in other jurisdictions—other states—why are the minister and the department not considering a legislative land access code rather than a voluntary land access code? It has been shown

particularly in Queensland with the GasFields Commission, and we have taken evidence from Mr John Cotter and others, that that is a very effective mechanism that is able to give equity and a negotiated outcome between landowners. I just find it rather stubborn.

Mr Sellers: Paul, I am struggling a bit. You just said a negotiated outcome is what the GasFields Commission comes up with. That is what we have.

Hon PAUL BROWN: Yes, but it is backed by legislation—there has to be a process whereby there is a negotiated outcome rather a voluntary one. At the moment, we have a voluntary code, and you can choose to be inside it, but if you choose to be outside it, it just falls back to the Magistrate's Court and you end up with a David and Goliath battle potentially again.

Mr Sellers: You are talking about post-approval with the voluntary code. We are talking about the lead-up to releasing acreage, which is when we look at the bona fides of the company and what they have discussed with industry. We do have in our process the requirement for them to go and consult with landholders and for them to provide proof of that consultation to us. With the GasFields Commission legislation, they already had these things granted and they put some legislation in to make sure that they come up with a negotiated outcome. We have the ability already to make sure that people talk prior to the release of this land, and that is what we are enforcing. There is always going to be a negotiation. We cannot write a statute that says it is worth X or Y. It is going to be whatever the people require. If you look at how governments typically—sorry; I am not trying to be offensive here. I am just saying there is a continuum. If everything is going well, you have very loose things in there like guidelines and you then move towards regulation as you go along. If you have a group of people who have been able to negotiate outcomes, as we have seen with Buru in the Kimberley, that is at the end of the spectrum where we as government—big "G" government—like to operate, because we do not want to create any more regulations than we need. So Buru has worked with the traditional owners and the community up there to the point where they are very comfortable with what they are doing on their land. What we would like companies to do is work with the community to a point where they are either acceptable or they are not. We would like the majority of that to happen pre-releasing the acreage, but then on the release of the acreage we put conditions on about what they are going to do as well. So I think we have a fairly competent system here, and it does allow for that negotiation. I understand that at the moment APPEA and the pastoralists are looking for a voluntary code on how they go about negotiating the value of what happens on their land. But the ability to get on their land is another negotiation that takes place in some cases five years before that, undertaken and oversighted by Dennis's group.

Hon PAUL BROWN: The information that has certainly come to me is that WA Farmers and certainly the pastoralists and graziers would prefer a land access code that has legislative power rather than a voluntary code. They are working in that round table at the moment, because that is the only round tabled that has been offered to them—the only outcome that has been offered to them—with regard to a land access code. I would suggest that perhaps WA Farmers and the PGA would prefer a legislative code that has the backing of government and has a level of independence as well, similar to the GasFields Commission.

Mr Sellers: Thanks. That is an opinion.

Hon PAUL BROWN: Yes. It is my opinion,

Hon STEPHEN DAWSON: My question, before Paul popped in, was about access; that is, potentially how close to a house could a hydraulic fracture take place? So could you take that on notice and provide that information later?

Mr Sellers: Sure. We are talking about things that are three to five kilometres under the ground. So even if was right next to the well, it is going to be three-plus kilometres away.

Hon STEPHEN DAWSON: What if it was 150 metres away?

Mr Sellers: I am unaware of any drill rig that I have seen in Western Australia that is operating a hydraulic fracture within sight of any other infrastructure.

Hon STEPHEN DAWSON: That is certainly what we have seen. What I am asking, though, is what is the potential distance; and if you can by way of supplementary advise how likely it is that that would happen, so if it was 151 metres away —

Hon PAUL BROWN: Worst-case scenario.

Hon STEPHEN DAWSON: How likely is it that that would happen, and on what basis is that not likely to happen; so if you can give us that.

Mr Sellers: Yes. That is a very good question. No problem.

Hon BRIAN ELLIS: From what you have been saying, though, if it is 151 metres, that would be in the agreement with the landowner?

Mr Sellers: Yes; it would have to be.

The CHAIRMAN: We have received advice that in the bad old days—if they did exist—a mining company or a resource company would say to a private landowner, "We have got a right to come onto your land and there is nothing you can do about it". Those days have done. We seem to have different standards today. We have heard that before from people at that table, and that is reassuring. But what it boils down to, though, is that section 16 of the PGER act 1967 actually is the bottom line for absolute protection, is it not? They are the cases in which access may be denied by a landowner or landholder if push really came to shove.

[12.20 pm]

Mr Sellers: Yes.

The CHAIRMAN: Just to share with you, and I know you have been watching closely the submissions we have had, there is a sense of unease amongst landholders, rightly or wrongly, that they are concerned in the future that they may not have strength on their side if they are dealing with a petroleum company. I just mention that to further our communications with DMP to make it explicit that that is the concern that has been raised.

Mr Sellers: Thanks, Chair.

The CHAIRMAN: People are basically looking for protections against overzealous or perhaps disrespectful resource companies in the future.

Mr Sellers: And, clearly, we are as well. Michelle went through some detail of how we have been broad in our engagement of the community in trying to maintain a social licence to regulate, just like industry has a social licence to operate. While I can understand that fear, it is one that is evaporating with the understanding that is growing in the community about how people should operate and what is responsible and what is not and the pressure that is brought on multinational companies in terms of shareholders and other mechanisms that make sure that they are good social operators and they actually maintain that licence.

Hon PAUL BROWN: Just as supplementary, we were talking just before about the land access agreements and your comments around that negotiation that you have already set in place with industry and landowners. When we get the supplementary package, can you just highlight that information for us so that we have got it for the committee?

Mr Sellers: Certainly. Just to put on the record, it is the process that we go through in releasing acreage and the questioning that we ask the community prior to having proponents come and bid for the acreage.

Hon PAUL BROWN: Yes; that is fine.

The CHAIRMAN: That is a very important part of our concerns, or at least reflecting concerns that have been expressed to us.

Just finally, if there are no other questions from my colleagues for now, we gave you some notice of a question about calculating chemical content in fracking fluid, and you have provided an answer to that in a paper marked —

> **7. Calculation: DMP refers to chemicals being 0.5% of the total fracturing fluid that is used during drilling.**

And so on. Thanks very much for that response, which I think meets our needs. We will take that paper as tabled and that way we can share it with others.

If there are no further questions at this stage, I would again like to thank you for giving us the benefit of your advice on those matters, but for now we will bid you a good day and look forward to receiving that further information from you.

Hearing concluded at 12.22 pm

_____