



Northern
Territory
Government

DEPARTMENT OF
MINES AND ENERGY

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Senator Anne Ruston
Chair
Environment and Communications and Legislation Committee
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Via email: ec.sen@aph.gov.au

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Dear Senator Ruston

RE: Submission to the Inquiry into the Landholders' Rights to Refuse (Gas and Coal) Bill 2015

I write in response to your letter of 16 March 2015 to the Hon Adam Giles MLA, Chief Minister of the Northern Territory, in which you invite a submission to the Inquiry of the Environment and Communications Legislation Committee into the Landholders' Rights to Refuse (Gas and Coal) Bill 2015.

Having considered the Bill, the Explanatory Memorandum and the Second Reading Speech from Senator Waters, it is understood the Bill, if enacted, would have the effect of giving landholders an absolute veto over exploration and/or production of gas and coal on their land and that hydraulic fracturing to stimulate gas flows would be completely banned.

The Northern Territory Government recommends that the Bill not proceed for a number of reasons. Firstly, it would represent an unacceptable intrusion on matters that are rightly the purview of the Territory Government. Although the Territory does not have the constitutional standing of a State, regulation of oil and gas, and all minerals except uranium, were passed to the Northern Territory with the grant of Self-Government. It is therefore for the Territory Government to determine the appropriate rules, including environmental protection, under which minerals, oil and gas can be explored for and, ultimately, produced.

Secondly, the Bill proposes a system of dealing with landholders' concerns that would severely impact on the Crown's ownership of minerals, oil and gas. In giving landholders the right to refuse access for exploration or production, the Bill as proposed would override State and Territory systems for access to land. I note in her Second Reading Speech, Senator Waters suggested governments could acquire areas of land on just terms. Such a proposal is undesirable and impractical because it would impact significantly on State and Territory budgets, and potentially remove primary producer families whose ongoing stewardship of the land is essential to its productivity. The Northern Territory Government recognises the concerns of landholders (primarily pastoralists) about the impact of exploration on their land. Efforts are currently underway between the Territory Government, industry and the Northern Territory Cattleman's Association to negotiate a constructive agreement on how explorers can access land. The critical issue is peaceful co-existence, which is entirely possible with good intent on all sides, rather than an 'us or them' approach.

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Thirdly, the proposal to ban hydraulic fracturing is inappropriate. The Territory Government notes there are concerns about the potential environmental impacts in areas where coal seams and aquifers are geologically close or intersect. However, in the Northern Territory, the primary target is shale gas which is more than one kilometre deep. As a point of practice, the Department of Mines and Energy uses the American Petroleum Institute standards for well integrity as a minimum standard and requires a safe separation between the vertical extent of horizontal fracturing and the base of aquifers. Operators determine this through fracture propagation modelling which must be provided as part of their application to undertake the activity. This ensures that fractures do not extend beyond the deep target shales, which are well distanced from potable aquifers. In these circumstances, the critical issue is well integrity as it passes through aquifer zones. The department ensures there is a minimum of three layers of highly-engineered steel casing at these points which are pressure tested once in place. These casings strings are all cemented to surface, validated via cement bond logs. Further, the petroleum industry has shown itself to be sensitive to public concerns about chemicals used in hydraulic fracturing fluids and has responded by using, where possible, compounds that will have minimum impacts. In the Territory, no BTEX chemicals are permitted in drilling fluids. Industry is also innovating ways to use saline water for drilling purposes, which has been done successfully in Australia.

The Northern Territory Government recently commissioned Dr Allan Hawke AC to undertake an Inquiry pursuant to the *Inquiries Act* into the regulation of hydraulic fracturing in the Northern Territory. Dr Hawke's main findings were that there was no need for a moratorium on hydraulic fracturing and that hydraulic fracturing could continue subject to the adoption of a best practice regulatory system.

The report can be found at www.hydraulicfracturinginquiry.nt.gov.au. Work is already underway on action to review Territory regulatory processes. Draft guiding principles have been developed for industry and these can be found online at www.onshoregas.nt.gov.au. The draft guiding principles were available for public comment, however feedback has now closed. The final Onshore Oil and Gas Guiding Principles are expected to be released mid-year.

In conclusion, I reiterate that the Northern Territory Government does not support the proposals in this Bill and feels it would intervene unjustly and inappropriately in matters that are the purview of the Territory Government. Should further information be required, please contact Mr Russell Ball, Executive Director Strategy, on telephone 08 8999 5240 or email russell.ball@nt.gov.au.

I wish the committee well in its deliberations on the Bill.

Yours sincerely

RON KELLY
Chief Executive

 May 2015