

The Hon Michael Gunner MLA
Chief Minister of the Northern Territory
GPO Box 3146
DARWIN NT 0801

Dear Chief Minister

RE: PROGRESS ON THE IMPLEMENTATION OF RECOMMENDATIONS FROM THE FINAL REPORT OF THE HYDRAULIC FRACTURING INQUIRY - 1 MAY TO 31 OCTOBER 2020

As foreshadowed in the last Report, the global COVID-19 pandemic caused petroleum companies to suspend their drilling and fracturing programs in the Territory for most of this dry season. Field work on the Commonwealth's Geological and Bioregional Assessment Program, which will feed into the Strategic Regional Environmental and Baseline Assessment (SREBA) for the Beetaloo Sub-Basin, was similarly affected, along with consultations with Aboriginal landowners by the Aboriginal Areas Protection Authority (AAPA) and the land councils.

This means that some of the work scheduled for the 2020 dry season will now resume in 2021, with completion of the SREBA scheduled for the end of 2022..

Notwithstanding this setback, implementation of recommendations continues satisfactorily in accordance with the Inquiry's findings.

This report is to be read in conjunction with the concurrent updates on the website on progress as at 31 October 2020 on implementation of all 135 of the Inquiry's recommendations.

SREBA (R15.1 - 15.3)

The Framework for Strategic Regional and Environmental Baseline Assessment: A guide to undertaking a SREBA in the Northern Territory was released by the Environment Minister in July 2020. There are two broad elements to the SREBA:

- information on critical natural systems including ground and surface water, and
- establishing relationships with people and communities affected by the industry based on mutual understanding.

Scopes of Work for the remaining components that make up these elements of the SREBA are being developed to enable field work in 2021, comprising:

- environmental health
- methane and greenhouse gasses
- aquatic ecosystems, including stygofauna and subterranean ecosystems
- water (ground & surface)
- terrestrial ecosystems
- economic, cultural and social aspects of the environment.

As foreshadowed, this research is complex, is taking place over several years, and will not be completed before the end of 2022.

Aboriginal Information Program (R 11.5 and 11.6)

The last report noted that the intent of this recommendation is that the relevant peak bodies representing the gas industry, Aboriginal landowners and government collaborate as a working group to develop factual, relevant, easy to understand and culturally appropriate information relating to the onshore petroleum industry.

This project has been delayed, in common with others relying on face-to-face engagement with stakeholders.

CSIRO is now working directly with land councils to finalise the information package to be ratified by the working group for use in community engagement in Beetaloo Basin communities on economic, cultural and social aspects of the environment.

Statutory Land Access Agreements (R14.6 and 14.7)

The *Petroleum Legislation Miscellaneous Amendments Bill 2019* was passed in the Legislative Assembly on 24 March 2020 and was assented to on 30 March 2020. The amendments to the Act commenced in June 2020 and allow for regulations to be made in relation to land access (among other recommendations the amended Act completed)

The government consulted with affected stakeholders on draft Petroleum Regulations that detailed the requirements of statutory land access agreements in June 2020. As a result of these consultations, the draft regulations are being further amended and are expected to commence on 1 January 2021. Petroleum companies will not be able to undertake petroleum exploration on a pastoral lease unless they have entered into an agreement with the landowner that mandates the terms of entry, which include the minimum protections recommended by the Inquiry.

EPBC Act amendments (R7.3)

The Inquiry recommended that any onshore shale gas development that may have a significant impact on a natural water source must be approved in accordance with the Commonwealth *Environment Protection and Biodiversity Act* (EPBC Act).

The Northern Territory Government provided a submission to the recent Review of the EPBC Act reiterating its expectation that the Commonwealth review will include a response to recommendation 7.3: that the Australian Government amends the EPBC Act to apply the 'water trigger' to onshore shale gas development. The Interim Report of that review, released in June 2020, did not support the changes to matters of national environmental significance (MNES) as proposed by recommendation 7.3.

The Final Report of the Review was submitted to the Federal Minister for the Environment at the end of October 2020, but has not yet been publicly released. Discussions between the Territory and Commonwealth Governments are continuing.

Cost recovery (R14.1)

Consultation on the proposed cost recovery system is scheduled with industry and key stakeholders in the second half of 2021. A discussion paper for consultation on the proposed cost recovery system is now being prepared by the Department of Treasury and Finance (DTF) for consideration by Cabinet.

Financial Assurance Framework (R14.13)

The Department of Industry, Tourism and Trade (DITT) and the Department of Environment, Parks, and Water Security (DEPWS) in consultation with community and main stakeholders are in the process of developing a 'financial assurance framework' that will underpin regulations for an environmental bond or security for onshore petroleum activities, in accordance with amendments to the Petroleum Act 1984.

On ground monitoring (R7.11, 7.13, 8.2-8.6, 9.2-9.5 and 14.26)

DITT resumed onsite inspections in October to monitor compliance during drilling and fracking operations at Kyalla 117 (Origin) and vertical drilling at Carpentaria 1 (Empire Energy).

DEPWS have been reviewing monitoring reports and conducting periodic inspections of well sites. Gas companies are now providing 'Annual Environment Performance Reports' detailing compliance with their Environment Management Plans (EMPs). Eight reports have now been published on the DEPWS website.

A critical part of the on-ground monitoring regime is the information now being obtained from the mandated continuous monitoring of aquifers at drilling sites and gas wells. This comprises: upstream control-bores (to establish base-line data), and monitoring bores located downstream from (and in close proximity to) all gas wells. Any substance entering the aquifer from a gas well can be detected and identified by comparing the two data sets. This regime, in conjunction with the requirement that all wastewater must be stored in enclosed tanks, is essential for the community to have confidence that aquifers and surface water are not being compromised.

Environmental Offsets (R 8.9)

The 'Northern Territory Offsets Framework' (Offset Framework) and 'Northern Territory Offsets Principles' (Offset Principles) were released in July 2020. The Offset Principles will support the development of offset policies to guide design of offsets to mitigate environmental damage from projects where this cannot be managed practicably in other ways.

The Offset Framework, is now being used to develop and biodiversity and greenhouse gas offset policies targeted at individual projects.

Life cycle GHG emissions (R 9.8)

The Territory is now negotiating a Bilateral Agreement on energy and emissions with the Commonwealth Government. Negotiations will consider options to address

recommendation 9.8: “that the NT and Australian governments seek to ensure that there is no net increase in the life cycle GHG emissions emitted in Australia from any onshore shale gas produced in the NT.

Ensuring regional communities’ benefit (R13.2 - R13.10)

The Inquiry made several recommendations designed to ensure that regions are the source of taxation revenue benefit from any local shale gas industry production. These recommendations require the NT Government to work with stakeholders and gas companies to maximise local employment and develop local procurement targets.

The NT Gas Service and Supply Plan aims to “increase local participation to at least 50 per cent by 2025” by getting gas companies to use local content through increasing the capability of the local workforce, businesses and service and supply systems. The Plan will be oversighted by the Onshore Gas Supply Chain Working Group, which held its inaugural meeting on 16 July 2020 with membership including NTG, Santos, Origin Energy, Armour Energy, Empire Energy, Pangaea and Central Petroleum; and the Gas Industry Reference Group of peak bodies which met on 27 October 2020.

Concluding remarks

I note that:

The *Petroleum Act* will require further amendments in 2021 to complete several outstanding Inquiry recommendations, which include:

- a merit review for decisions under the petroleum legislation with third party standing;
- a non-refundable levy for the long-term monitoring, management and remediation of abandoned wells;
- development of a financial assurance framework (e.g. environmental bond) for petroleum operators; and
- a broader range of powers to sanction under the legislation.

DITT is developing a framework for mitigating induced seismicity occurrences (R5.7), as a result of petroleum industry activities, and continues the work with CSIRO and regulators to formulate an appropriate system for measuring seismic intensity in the Northern Territory.

DEPWS is implementing recommendations from the informal review, mentioned in the last report, aimed at improving the efficiency and effectiveness of environmental regulation.

The concluding observations from the last Report remain salient: the most important body of work still to be completed is the SREBA. The aspect of the SREBA involving the establishment of relationships based on mutual understanding with the people and communities affected by the onshore gas industry, must now be given the highest priority if it is to be completed by the end of 2022.

I am in regular contact with the Hydraulic Fracturing Inquiry Chief Executive Officer’s Steering Group, Onshore Shale Gas Community Business Reference Group (CBRG),

Senior Officers from across the accountable Agencies, members of industry and the broader community who have an interest in this work. This has informed my opinion that implementation continues satisfactorily in accordance with the Inquiry's findings.

Yours sincerely

DR DAVID RITCHIE
26 November 2020