

21 November 2021

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 2021
TO 31 OCTOBER 2021**

General overview

Implementation of the recommendations continues in accordance with the Inquiry's findings. Importantly, the Strategic Regional Environmental and Baseline Assessment (SREBA) which comprises 24 of the Inquiry's recommendations has been well advanced through work in the field this dry season – albeit with some holdups caused by Covid-19 restrictions. In addition, significant progress has been made on the Aboriginal Information Program that has been tracking behind schedule.

However, for the recommendations that require the support of the Commonwealth to fully implement, it now appears unlikely that the Commonwealth will collaborate with the Territory to implement recommendation R7.3 and there is yet to be a specific commitment regarding R9.8.

The approval process for onshore gas exploration, reformed in accordance with the Inquiry's recommendations, has now delivered 22 Environment Management Plans (EMPs) in accordance with the new *Petroleum (Environment) Regulations*. Annual Environment Performance Reports detailing compliance with environmental obligations specified in EMPs are published on the DEPWS website.

This report is to be read in conjunction with the current progress report on the implementation of each recommendation, available publicly on the website and the summary update provided through the community bulletin on progress as at 31 October 2021.

SREBA

To reiterate previous reports, the 24 recommendations that comprise the SREBA were developed to improve our knowledge about critical natural systems including: ground and surface water, terrestrial & aquatic ecosystems and greenhouse gas emissions, and our understanding of issues concerning people and communities affected by the industry.

Field work has been undertaken across the Beetaloo Sub-Basin throughout this dry season, on ground and surface water, terrestrial & aquatic ecosystems and methane (and other greenhouse gas) emissions. This work program has had to accommodate restrictions on land access imposed by the holders of some pastoral leases.

Work on the cultural and social components of the SREBA are also now underway. This work is being led by a team from the University of Queensland who started engagement with stakeholders in the Territory in August. The success of this work will depend on establishing trust with the people and communities affected by the onshore gas industry. To this end, the work program is being reviewed, for approval, by an independent human-research ethics committee.

As foreshadowed in the previous report, the scope of work for the environmental health component of the SREBA is behind schedule with the scope of works yet to be finalised.

Aboriginal Information Program (R11.5 & R11.6)

Together these recommendations are designed to ensure “reliable, accessible, trusted and accurate information” about the onshore gas industry is effectively communicated to Aboriginal people. Implementation of the cultural and social components of the SREBA depends on successful implementation of the Aboriginal Information Program.

Establishing trust is a critical issue for this program – which is why the Inquiry’s recommendation stipulates an independent third-party be engaged on both design and delivery of the program. CSIRO have been engaged to work collaboratively with land councils and the Aboriginal Areas Protection Authority to develop information packages which are now with the Aboriginal Interpreter Service (AIS) for translation.

Successful implementation of the program requires an ongoing capability to respond to questions from Aboriginal people that will emerge in the course of the cultural and social impact assessments. It is intended that the program will form part of the Community Engagement and Information Program contracted to CSIRO. This includes a dedicated CSIRO officer, based in the Darwin.

EBPC Act amendments (R7.3) and Life cycle GHG emissions (R9.8)

Recommendation 7.3 was designed to ensure that 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 Inquiry also recommended “that the NT and Australian governments seek to ensure that there is no net increase in the life cycle GHG emitted in Australia from any onshore shale gas produced in the NT.” To be fully implemented, these two recommendations require the Commonwealth to make legislative and policy changes to support the Territory.

Representations by the Territory to gain the support of the Commonwealth on both these issues has, so far, been limited.

Noting that there is still a long way to go before R9.8 is completed, the Territory has taken steps to limit life cycle GHG emissions. These include:

- Enacting legislation to ensure greenhouse gas emissions can be regulated under the *Petroleum (Environment) Regulations 2016* and the *Environment Protection Act 2019*;
- Requiring the petroleum industry to comply with a Code of Practice that establishes minimum standards for monitoring and managing emissions from upstream infrastructure;

- A policy: “Greenhouse Gas Emissions Management for New and Expanding Large Emitters” (including the onshore gas industry);
- Investigating practicability and benefit of the onshore gas industry “offsetting” GHG emissions; and
- Investigating practicability and benefit of “carbon capture and storage”.

Cost recovery

The draft framework for the proposed cost recovery system was completed in September 2021. Consultation with industry and key stakeholders is scheduled to commence this month.

Financial Assurance Framework & Reform of Petroleum Act 1984

ACIL Allen has been engaged to provide advice on a financial assurance framework, (which includes engagement with industry, environmental groups and other stakeholders). This advice is due to be provided to government in early 2022.

Amendments to the *Petroleum Act and Regulations* to give effect to seven Inquiry recommendations are expected to be introduced into the Legislative Assembly from Quarter 3 in 2022 to include:

- a financial assurance framework is developed and legislated for bonds and securities (R14.13);
- a non-refundable levy for the long term-monitoring, management and remediation of abandoned wells (R14.14);
- a merits review for decisions under the petroleum legislation with third party standing (R14.24);
- amendment of costs rules (R14.25) to confirm that courts do not make costs orders against an unsuccessful public interest litigant (drafting instructions now in preparation);
- criminal penalties and offences to be contemporised (R14.33) (drafting instructions now in preparation); and,
- enactment of a broader range of powers to sanction remediation and rehabilitation orders, enforceable undertakings, injunctions and civil penalties (R14.29 and R14.31).

Amendments to Environment Protection Act 2019

Consultation on draft legislation to amend the *Environment Protection Act* to create a chain of environmental responsibility for the onshore gas industry (R14.40), to ensure compliance with environmental obligations, is scheduled for early 2022.

Ensuring Benefit to Regional Communities

As outlined previously, information gained from people in communities affected by the onshore gas industry in their region through the social and cultural impact assessment components of the SREBA. These will shape the design and implementation of programs to ensure benefits flow to regions where “onshore shale gas extraction activity has occurred” (R13.1). Meanwhile, the Onshore Gas Supply Chain Working Group has focused on strengthening self-reporting by industry on

employment of locals and procurement of local services on contracts awarded by government in those regions.

Concluding remarks

The most important body of work still to be completed is contained in the SREBA. This work is required to inform critical decisions about the future of the onshore gas industry. The SREBA will shape policy on how the costs and benefits of this industry are distributed. I reiterate that the complexity of this work, and hence the capabilities and resources necessary to successfully complete this part of the Implementation Plan must not be underestimated.

I am in regular contact with senior officers from across the accountable agencies, members of industry, Protect Country Alliance, other NGOs, and the broader community who have an interest in this work.

This has informed my opinion that the progress made on implementing the recommendations is in accordance with the Inquiry's findings.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Ritchie', with a long horizontal flourish extending to the right.

DR DAVID RITCHIE
21 November 2021