

The Hon Michael Gunner MLA  
Chief Minister of the Northern Territory  
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Dear Chief Minister

**RE: QUARTERLY UPDATE ON THE IMPLEMENTATION OF RECOMENDATIONS FOR HYDRAULIC FRACTURING**

The recommendations that had to be in place before exploration recommenced (i.e. Stage 2) are now being implemented. This was enabled by the legislative and regulatory reforms completed in conjunction with the parliamentary sittings in February and March this year. The current work plan, aims to have a further 27 recommendations completed by June 2019.

On this basis, I am comfortable that the Government's approach to implementation is in accordance with the Inquiry findings.

The recommendations encompass the reforms necessary to achieve five broad objectives. Completed, and substantially completed, recommendations are outlined under these objectives

**Inform and involve the Territory community.**

- Anybody may now apply to the Northern Territory Supreme Court for the judicial review of decisions and determinations made under the *Petroleum Act 1984* and the *Petroleum (Environment) Regulations 2016* (Recommendation 14.23).
- Public disclosure of hydraulic fracturing chemicals used, flowback fluid and produced water consumption is now a requirement of the *Petroleum (Environment) Regulations 2016*. (Recommendation 7.10) An information portal is being developed to provide this information to the public.
- The "Onshore Gas Non-Compliance Hotline" has been established. (Recommendation 14.27b).
- Prior to the grant of any further exploration approvals, all draft Environment Management Plans (EMPs) for drilling of petroleum wells and hydraulic fracturing must be published in print and online and available for public comment prior to Ministerial approval. All comments made on draft EMPs must be published online. The Minister must take into account comments received

during the public consultation period when assessing a draft EMP (Recommendation 14.15).

- Prior to the grant of any further exploration approvals, notices and reports of environmental incidents, including reports about reportable incidents under the *Petroleum (Environment) Regulations 2016*, must be published immediately upon notification in print and online (Recommendation 14.16).
- Cumulative impacts of any onshore gas development must be considered when the Minister assesses EMPs under the *Petroleum Act 1984* for exploration activities (Recommendation 14.19).

#### **Improve industry practice (including accountability and regulatory controls).**

- The enactment of the *Petroleum Legislation Amendment Bill 2018* gives legal authority to a Code of Practice for Onshore Petroleum Activities. This Code will set the standards for petroleum companies operating in the Northern Territory. A draft Code has now been widely circulated for public and industry comment.
- This Code is central to fourteen recommendations made by the Inquiry into Hydraulic Fracturing in the Northern Territory (the Inquiry); including requirements for safely managing and disposing of wastewater, monitoring results to be made available online in real time, pressure testing of petroleum wells and setback distances for all gas infrastructure from buildings or premises where people reside or work including, schools, playgrounds, sporting facilities and medical facilities (Recommendations 5.1, 5.3, 5.4, 5.5a, 5.6, 7.11, 7.12; 7.15, 8.15, 9.1, 9.2, 9.6, 10.2, 14.18).
- Regulation of the gas industry will be in accordance with the Compliance and Monitoring Strategy, currently under development (Recommendation 14.26).
- Monitoring and reporting of methane emissions results being made available online in real time (Recommendation 9.5).
- An applicant for a permit or licence issued under the *Petroleum Act 1984* must now demonstrate the company's history of compliance with petroleum, environmental, work health and safety and corporation laws under changes to the *Petroleum (Environment) Regulations 2016* passed the Legislative Assembly on 19 March 2019 (recommendations 14.12 and 14.20).
- For an EMP to be approved, it must be accompanied by an Authority Certificate (within the meaning of the *NT Sacred Sites Act 1989*) covering works and regulated activities in the area subject to the EMP (Recommendation 11.1).

#### **Better understand the natural, social and cultural environment so we make decisions based on reliable evidence.**

- Baseline monitoring of methane levels in the Beetaloo Sub-basin (Recommendation 9.3) commenced in July 2018. The first stage of this work, undertaken by CSIRO, was published in the baseline methane monitoring Interim Report in February 2019.
- Consultation is underway with holders of existing Exploration Permits in the Beetaloo Sub-basin in order to accurately identify locations of exploration so effective weed surveying can continue in accordance with the Beetaloo Sub-

basin Weed Management Plan. A dedicated weeds officer has been employed since July 2018. (Recommendations 8.2, 8.3, 8.4).

**Establish setbacks, buffers and 'no-go areas' to protect what we already know is important.**

- The use of water resources by the onshore gas industry is now controlled under amendments to the *Water Act 1992* that give the Water Controller power to not approve reinjection for wastewater, the use of surface water or the extraction of ground water within 1 km of an existing bore. Further proposed amendments will remove the Controller's discretion in law (Recommendations 7.6, 7.8a).
- Consultation with the community is about to start protecting "no-go zones", places of particular significance, from any petroleum exploration or production activities by declaration under Section 9 of the *Petroleum Act 1984* (Recommendation 14.4).

**Separate the Agency responsible for regulating the industry from the Agency responsible for promoting the industry.**

- Responsibility for the *Petroleum (Environment) Regulations 2016* has now been transferred from the Minister for Primary Industry and Resources, to the Minister for the Environment and Natural Resources. This includes the responsibility for approving EMPs (Recommendation 14.34). This will ensure that both the environmental and economic aspects of the hydraulic fracturing are considered impartially. This is central to the strengthened regulatory framework recommended by the Inquiry.
- The two additional members with specialist skills relating to the assessment and management of the environmental impacts of onshore gas development have now in their roles on the Environment Protection Authority providing advice to the Minister for Environment to inform decision making, including EMPs (Recommendation 14.34).
- The onshore gas industry is now subject to the *Water Act 1992*. Offences and penalties have been updated in line with national practice (Recommendation 7.1).

As a result of these recommendations being implemented several EMPs lodged by Santos and Origin are in the process of formal assessment. If they are approved exploration works are expected to take place this Dry Season. It is also anticipated that the rate of applications will increase and that there will be a significant expansion of exploration activity in the coming years. This work must be monitored (and seen to be monitored) by the government regulator (e.g. Recommendations 5.2, 12.26, 15.2).

The regulatory framework to do this is now in place. The next step is to ensure the government regulator has the capability to deploy the resources required on-site. The experience from other jurisdictions is that this capability cannot be developed quickly at the last minute.

The work envisioned in the Inquiry's recommendation for a cultural impact assessment requires the collaboration of traditional Aboriginal owners. The recommendation acknowledges the complexity of this task and stipulates that the process:

*Be designed in consultation with Land Councils and AAPA engage traditional Aboriginal owners, native title holders and the affected Aboriginal communities, and be conducted in accordance with world-leading practice (Recommendation 11.8).*

The next step is to ensure the accountable Agency has the capability to start work on the ground with affected Aboriginal communities.

I am in regular contact with the Implementation Taskforce, 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 of recommendations is progressing satisfactorily - notwithstanding the need to refocus now on the recommendations that must be in place before production starts (Stage 3).

Yours sincerely



DR DAVID RITCHIE  
21 May 2019