

Strengthening the regulatory environment

Inquiry findings

The Inquiry reviewed submissions from the public and found there was a lack of confidence in the regulatory framework at the time of the Inquiry, and a feeling of distrust in the onshore shale gas industry and also in the NT Government to regulate the industry.

The Inquiry found there was a risk that the regulatory framework could not:

- protect the environment or effectively manage remediation and rehabilitation of any damage caused by onshore shale gas industry activities
- ensure transparency and accountability in NT Government decision making and onshore shale gas industry activities
- provide confidence to the community that the NT Government could appropriately regulate the onshore shale gas industry without decision-making being influenced by the industry
- balance the rights of landowners, occupiers and Traditional Owners with the rights of gas companies.

NT Government mitigations

The NT Government accepted all of the Inquiry's recommendations to minimise the risks generated by the regulatory environment and build community trust that the NT Government will effectively regulate the onshore shale gas industry. Over the past four years, the NT Government has made significant changes to the regulatory framework for the onshore shale gas industry.

- The NT Government transferred responsibility for environmental regulation of the onshore gas industry from the Minister for Mining and Industry to the Minister for Environment, Climate Change and Water Security. The Minister for Mining and Industry retains all other regulatory powers for the onshore gas industry. This removed the potential for regulatory conflict that could arise if the same decision-maker is responsible for both environmental protection and industry development.
- The *Environment Protection Act 2019* replaced the *Environmental Assessment Act 1982* and introduced improved regulation for assessing environmental impacts. The Minister for Environment, Climate Change and Water Security can impose conditions on environmental approvals to mitigate risks to the environment.
- The NT Government now requires the publication of Environment Management Plans (EMPs) for drilling and hydraulic fracturing, public comments on EMPs, hydraulic fracturing risk assessments, annual environmental performance reports, and reports about hydraulic fracturing flowback fluids.
- A legally enforceable Code of Practice was developed to set minimum standards for onshore gas industry operations, including reporting requirements.
- The NT Government established the Onshore Gas Non-compliance Hotline where calls can be made anonymously to protect the identity of whistleblowers.
- Open standing was introduced for judicial review of a wide range of NT Government decisions made under the petroleum legislation and regulations. Third party rights to merits review was introduced for key NT Government decisions to include persons directly affected by the decision, relevant Aboriginal Land Councils, registered Native Title Prescribed Bodies Corporate and registered claimants under the *Native Title Act 1993* (Cth), and anyone who makes a genuine and valid submission to the consultation process which results in a Ministerial decision.
- New requirements for the onshore shale gas industry to obtain adequate insurance and pay environmental and petroleum infrastructure securities ensures the NT Government and Territorians will not bear the cost of remediation and rehabilitation if a proponent does not perform their obligations. A cost recovery framework and an orphan well levy will make sure the onshore gas industry bears the cost for NT Government regulation and monitoring of the industry.
- Stronger penalties and offences were introduced to deter non-compliance in the onshore gas industry. The new penalties are equal to or exceed the penalties applied elsewhere in Australia.
- If a gas company does not comply with Territory laws or complete remediation obligations, the NT Government can now redirect compliance action to individuals or companies who were responsible for the non-compliance, e.g. directors of the gas company or its parent company.
- Laws allowing 'interested and affected' persons to bring legal action against companies who cause environmental harm were extended to apply to environmental harm caused by the onshore shale gas industry. If onshore shale gas

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activities cause environmental harm, interested and affected persons can apply to the Supreme Court of the Northern Territory to remedy the harm and restrain the conduct causing the harm.

- The NT Government amended cost rules so the court has discretion on whether to apply cost rules to legal action brought in the public interest. A cost order is when the court orders one party to pay some or all of the other party's legal costs. This removes barriers to legal remedies by improving access to legal action, even if the case is unsuccessful.
- A Strategic Regional Environmental Baseline Assessment (SREBA) was conducted to deliver comprehensive baseline data and a framework that will enable interested parties, including regulators, to appropriately consider the cumulative environmental, social, cultural and economic impacts of onshore gas industry development.

Ongoing monitoring into the future

The Department of Industry, Tourism and Trade (DITT) and the Department of Environment, Parks and Water Security (DEPWS) will review the Code of Practice. Both departments will also ensure they have risk-based and best practice monitoring and compliance strategies in place.

DITT will continue to implement the Petroleum Reserved Block Policy to expand the amount of land that is reserved from onshore gas industry activities as necessary.

The separation of Ministerial responsibilities between environmental protection and industry development has effectively achieved independence of the regulatory function. The NT Government will review the regulatory framework as part of ongoing monitoring, to determine the most appropriate regulatory model for managing the NT's onshore gas industry into the future in consideration of its size and complexity, and the capacity of the regulatory framework to effectively and efficiently manage the industry.

Baseline information captured through the SREBA will inform the ongoing monitoring of environmental, social, cultural and economic impacts. This provides an evidence base to address negative impacts from the onshore gas industry.

Where can I find more information?

Find out more about these reforms in Chapter 1 of the Scientific Inquiry into Hydraulic Fracturing Final Implementation Report.

Data collected from the monitoring process is publically available through the Petroleum Onshore Information Northern Territory (POINT) portal at point.nt.gov.au

The SREBA baseline reports, technical reports and data catalogue, are available at depws.nt.gov.au/sreba

NT Government decisions about EMPs are available to the public on the DEPWS website at depws.nt.gov.au

Fact sheets and audio files in Aboriginal languages are available at hydraulicfracturing.nt.gov.au

To report regulatory breaches by the onshore gas industry, anyone can make a toll free, anonymous call to the Onshore Gas Non-Compliance Hotline. The hotline is available 24 hours a day on **1800 413 889**.