

The Hon Michael Gunner MLA
Chief Minister of the Northern Territory
GPO Box 3146
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Dear Chief Minister

RE: QUARTERLY UPDATE ON THE IMPLEMENTATION OF RECOMMENDATIONS FOR HYDRAULIC FRACTURING

Progress has been made on over half of the 135 recommendations made by the Inquiry Panel. This work is itemised in the December 2018 status report on progress on the Implementation Plan. As foreshadowed in my last advice, it is now apparent that not all of the Stage 2 recommendations were fully implemented by the target date of the 31 December 2018.

This advice is focused on the recommendations that comprise Stage 2 (i.e. that must be implemented before further exploration is approved). The current work plan, endorsed by all agencies, aims to have legislative and regulatory processes necessary to affect the remaining recommendations completed in conjunction with the parliamentary sittings in February and March 2019. On this basis, I am comfortable that the Government's approach to implementation is in accordance with the Inquiry findings.

The recommendations to be implemented before further exploration is approved 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.

- Public disclosure of information about hydraulic fracturing fluids including waste and produced water is now a requirement of the *Petroleum (Environment) Regulations* (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 14.27).
- Prior to the grant of any further exploration approvals, all draft Environment Management Plans (EMPs) for 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, must be published immediately upon notification in print and online (Recommendation 14.16).
- Cumulative impacts of any onshore gas development must be taken into account when the Minister assesses EMPs under the *Petroleum Act* for exploration activities (Recommendation 14.19).

Improve industry practice (including accountability and regulatory controls).

- Codes of Practice covering surface activities, well operations, waste water and methane emissions are well advanced have been developed with CSIRO. The codes will be released for public comment prior to finalisation. The codes will become enforceable with the passing of the Petroleum Legislation Amendment Bill introduced in November 2018.
- A Compliance and Monitoring Strategy has been drafted in collaboration with Territory and Commonwealth, drawing on the experience of similar jurisdictions (Recommendation 14.26). The community and industry will be given an opportunity to review and comment on the draft strategy before it is finalised.
- For an EMP to be approved, it must be accompanied by an Authority Certificate (within the meaning of the *NT Sacred Sites Act*) 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. Results from the first stage of this work, undertaken by CSIRO was published mid-January 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 will be controlled under amendments to the *Water Act* 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).
- Identification of areas to be declared reserved blocks or 'no-go zones' (Recommendation 14.4) under the *Petroleum Act* has commenced through consultation with Aboriginal Land Councils.

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

- The process is underway to transfer the responsibility of the *Petroleum (Environment) Regulations* from the Minister for Primary Industry and Resources, where it currently sits, to the Minister for the Environment and Natural Resources. This includes the responsibility for approving EMPs. This will ensure that both the environmental and economic aspects of the hydraulic fracturing are considered impartially. This is significant and central to the strengthened regulatory framework. As outlined in my last advice, this clear separation (as envisaged in Recommendation 14.34) signals the government's will to do business differently and the capability of agencies to meet the objectives underpinning the reform process.
- The expertise of the Environment Protection Authority has been increased by additional members with specialist skills relating to the assessment and management of the environmental impacts of onshore gas development. This will enable independent expert advice to be provided to the Minister for Environment to inform decision making (Recommendation 14.34).
- The onshore gas industry is now subject to the *Water Act*. Offences and penalties have been updated in line with national practice (Recommendation 7.1).

I am in regular contact with the Implementation Taskforce, Senior Officers from across the accountable agencies, and with members of industry and the broader community who have an interest in this work. This has informed my opinion that implementation of recommendations in Stage 2 is progressing satisfactorily and that work is underway on recommendations comprising Stage 3.

Yours sincerely



DR DAVID RITCHIE
15 February 2019