



Katherine – Environment Centre NT

Please be advised that this transcript was produced from a video recording. As such, the quality and accuracy of this transcript cannot be guaranteed and the Inquiry is not liable for any errors.

8 August 2017

Katherine Godinmayin Yijard Rivers Arts & Culture Centre, Katherine

Speakers: Shar Molloy

Hon. Justice

Rachel Pepper:

Thank you very much. If you could state your name and if you're appearing on behalf of an organisation please state the name of that organisation as well, thank you.

Shar Molloy:

Thank you. My name is Shar Malloy and I am the Director of the Environment Centre of the Northern Territory. So I'd like to begin by acknowledging the traditional owners of the land that we meet on and I pay my respects to their elders past, present, and future. And also want to acknowledge any other aboriginal or Torres Strait Islander people that are here present or are watching online. And so good afternoon Justice Pepper and all of the panel and everyone here and listening online. So I'm going to do my best to read through my presentation and I apologise for any coughing interruptions as I am recovering from the flu, which has been spreading around a bit as well.

So I thank you for all the work that you've done with the interim report and the continual work that you're doing. I have managed to read through it all, so thank you. So I'd like to begin by reminding us of what's at stake and acknowledging the land here that so many of us love. And just to pull out a few, couple of stanzas from a well known poem. So, "I love sunburnt country, a land of sweeping plains, of rugged mountain ranges, of droughts and flooding rains. I love her far horizons, I love her jewel sea, her beauty and her terror, the wild brown land for me." And this little bit: "an open hearted country, a willful lavish land, all you who have not loved her, you will not understand."

Now this poem isn't necessarily describing the NT outback, and it is written from a privileged position, but it's something that we can relate to in our connection to this wild and relatively intact landscape of the Northern Territory. So the land is the part of the territory way of life that's hard to put into words, but it's about jumping in the ute, hitching up the boat or throwing on our hiking boots and heading out bush. And it's about the deep trust in this relatively pristine landscape of drinking safely from flowing streams, of sitting on the earth and feeling that ancientness of the land and



the care that others have provided it over a millennia. And as we explore detail of the report, then I asked us to stay connected to this big wide green and brown land and the people who live on it all.

So as I comment on this interim report I am torn between responding to a specific issues that need to be addressed if this industry goes ahead versus simply making the case for why it needs to be banned and so my presentation is biased towards the later response. But first of all I would like to comment on the process of the inquiry and the first concern that we'd like to raise is regarding the social impact assessment and I know that has been brought up last week. But on Thursday the 27th of July representatives from the Environment Centre NT met with representatives from [inaudible] and they did agree to us to keep a record of that meeting as I away in Tasmania and wasn't able to attend. We had grave concerns that their consultations were not necessarily having the same scenarios as the ACIL Allen consultations.

One of the representatives clearly said that they were not been provided with the scenarios, so they didn't even what ACIL Allen scenarios were being used. And so I would like for the panel to be able to confirm that they have now seen the consultation material that [inaudible] are now using, because when they met with us the cross-cultural consultants were already out in the field and already using the data that they had. And also what was of great concern was the visual aids that were being used to discuss the industry. They consisted of a bulldozer and some mechanical equipment and that was really about all. And when we asked to take pictures, so they asked to take some photocopies of that visual aid, because I wasn't there, it was denied for us to be able to take that copy of that and this should be information that needs to be out there in the public.

Our concern is that the social impact assessment appears almost to be demonstrating our complaints where communities, especially aboriginal communities are not given the full picture of the extent of possible development and where they only have a right to say no at the exploration stage. So we're calling for collaboration between the consulting companies and for true visual representations of the scenarios to be used at the moment. So when we were there the only figures that they were providing when they talked about the development was for origins developments scenarios in the Beetaloo Basin Area and even those that they were using now downplaying the scale of a larger development.

For example what was being said, and I quote, "that at a large scale there would be 60 pads with maybe 15 to 20 wells per year over 45 years." So what's not being said is that in a larger development would represent 400 to 500 wells and also it's only the details of Origins possible development scenarios that are being talked about. So none of the other companies, Santos, Pangea, and also what is missing is being able to see a visual impact of those wells on the current landscape as it is. So to be able to look and say, this is the explorations, this is possibly where you'll see 500 wells over time here you'll see another 300 to 400 here possibly and another 300 here, then



you'll see the roads that will connect them and then you'll see some waste treatment and this is what the pads look like, and this is what a well looks like. None of these being provided and then what you're asking people to do is to then consider what the social impacts of that are.

So I really urge that even at this unknown stage that there is visual representation of what a gas field development looks like in that area. So I'd like to remind us that the intention of this inquiry is to determine the nature and extent of the risk of hydraulic fracturing on water, land, air, social, economic, and cultural conditions in the Northern Territory. And clarity as much as possible of development scenarios need to be provided to determine the risks and the impacts. So the development scenario being applied by ACILAllen also needs to be passed on to the various land councils and ARPA, who you have asked to comment on the impacts and risks that fracking and associated activities will have on cultural values and practices. Because the social consultation that's happening does not, specifically does not include culture, so you then need to be having the other organisations that are commenting on that, they need to see the level of development that is being matched with the level of the economic assessments as well.

And we also note that the panel is seeking information of potential water use base, based on 1000 to 1200 wells, so is that also the same figure that ACIL Allen are using. And we note that the Department of Primary Industry resources estimates, 6,250 wells in the Beetaloo Basin so how can the impact of such vast variances be clarified and it's absolutely imperative that the same analysis is being used across all those different considerations. So please can you make it known and public at this point while the consultation is still happening, that what other scenarios that are being discussed and also to consider that the consultations that happened with very minimal visual aids and small amount of scenarios, that those consultations go back and be redone as well.

And just in continuing to address the process of this inquiry ... Because this inquiry does have the ability to be able to increase trust within the industry and within this process, is that, and I genuinely understand the time issues and the time constraints this panel faces. But also in terms of the lack of timing around announcements that are being sent through. So for example when this interim report was released, we then had three or four days to have a look at the interim report and to then be able to say, okay these are the gaps, these are the people we need to be able to address that gap, and then be able to have people willing to come and present, so that wasn't particular to scientists to such universities and looking at the gaps there, so it just isn't enough time to be able to read the report, assess the gaps, encourage people to come and present and then also in regards to the announcements of the community consultations.

So there people within this Katherine area were expecting that the community consultations would come towards the end of August and in late last week it was announced that the community consultation would be this evening and that's being announced right at the beginning of one of the



biggest weekends throughout the year on the tourist kind of event and calendar. And so it doesn't give enough time for people to be able to read the report and have a look at it and then be able to respond, so I urge the panel and the planning for when the draft final report comes to please allow at least two weeks between when the draft report is being released before then we can sign up to be able to present and also for at least two to three weeks of notice of where community consultations will happen and that includes with the exact times and the exact locations. And I do really acknowledge the constraints that the panel is under, but it's also important that there's trust within the community with this process as well.

Now in addressing the interim report and I'd like to begin by your opening page of the executive summary where you've said, "That properly regulated and adequately safeguarded [inaudible] extraction of shale gas could be beneficial to the Territory." So we have strong doubts that proper regulation can be used to address or compensate for the risks of the fracking industry. Firstly we know differing viewpoints from the industry where in their report Origins state that there exist strict regulatory requirements in the NT that govern oil and gas exploration and development. And then this is in comparison to the environmental defenders of the Northern Territory submission that highlights the NT's appalling environmental assessment regime, poor track record of ad-hoc cowboy operators and ad-hoc and lax enforcement of environmental laws.

So we argue that we're starting a very different divergent views and that how can we trust that proper regulation will supported and not undermined by the industry, particularly given possible economic constraints that they'll be under with high costs of having on shore gas extraction in the Northern Territory. And we're seeing in the US that where a political leader takes office, that is sympathetic to the fossil fuel industry, then regulatory reform changes can be repealed. So the Trump administration is proposing to repeal Obama's fracking regulations that were the oil and gas, which was the hydraulic fracturing on federal and Indian lands final rule 26 March 2015. This rule took over five years to get to the approval stage and it attracted up to 1.5 million comments within the US.

And they're replacing laws that were up to 25 to 30 years old and these regulations included allowable use of expanded set of cement evaluation tools to help ensure that usable water zones have been isolated and protected from contamination, rules around well integrity with requirement to demonstrate well integrity for all wells, more stringent requirements related to claims of trade secrets exempt from disclosure, more protective requirements to ensure that fluids recovered during hydraulic fracturing operations were contained and that included within interim storage of all produced water into rigid, enclosed, covered or netted and screened above ground tanks. It also related to disclosure and public availability of information about each hydraulic fracturing operation, revised record retention requirements to ensure that records of chemicals used in hydraulic fracturing operations had to be retained for the life of the well.



So the final rule also provided opportunities for the bureau of land management to coordinate standards and processes with the individual states and tribes to reduce administration costs and to improve efficiency. So the rule to be enforced from June 15, it was then appealed and the rules enforcement has been on hold since last July when the federal judge in Wyoming overturned it and ruling that bureau of land management did not have the authority to regulate the fracking at all. So then again the Obama administration appealed that decision, but that case was on hold due to the Trump administration reconsideration of the rule. And so now under the Trump administration on the 25th of July 2017, the rule has been rescinded and that's allow a 60 day comment period.

And the Trump administration also tried to rescind the methane law, but that was lost by two votes, so it could be possible that we have a situation where the current Northern Territory government implements rules, regulations, over their term in this next few years. You can then also have a big swing with a new government suddenly in place who decides to rescind any regulatory reform and with such small populations here in the Northern Territory we've seen it's possible to vote out a government to the point where they cannot even function in opposition as an opposition government.

So the risks to this industry cannot be regulated whilst we still live in a society where economic outcomes, rather than care for the whole, are the main priority and driver. And so given the uncertainties and conflicts that possible when just relying on regulation to address risks. Any area under any sensitive nature, so where there's any doubt of the ... And if there's any doubt that there's risk to economic systems and the precautionary principal must come into play. And it also our concern so we've got strong concerns around the integrity of our water supply for current Territorians and future generations. And as it stands the mining and petroling activities are exempt from the water act, which I know that you've noted and so to quote in the report that relates the primary legislation that provides for the investigation, allocation, use, control, protection, management, administration of water resources.

So in the Northern Territory 90% of the water supply comes from ground water. There are around 35,000 water bowls in the Northern Territory, so overuse of ground water poses a high risk to spring soaks, rivers, so exceptions of this are Darwin, Katherine, and Pine Creek also rely on surface water. And it's interesting for Darwin's water, so to ensure the water quality no development or uncontrolled public access is permitted within the catchment, but then here we are talking about possible development that is actually going through our aquifers. There seems to be a disconnect there.

We also note on page 54 of the interim report where you talk, where you note that both Origin and Santos are designing their water storage's to be within the one in 100-year rainfall events and given the uncertainties regarding the effect of whether within climate change, the holding tanks absolutely need to be designed for maximum possible rainfall events.



Particularly taking into account cyclonic rains. And we also suggest that they follow the recommendations, even though these have been appealed, the tank's been rigid, enclosed, covered or netted and screened. Above ground tanks are not lined pits.

In relation to land we strongly call for more bi-regional assessments. Assessment of Eco-system services and this be over varying seasons and years. And so longitudinal impacts again assessing the impact from the same development scenarios that are going to be used in terms of assessing the economic viability of the industry. And we believe that it's not okay to just have a go and see what happens, that we need to look at the risks of the likely development based on that viability and the impact on the landscape, the amenities, the species across the whole landscape.

So now looking at climate change issues, so the headlines, some of the headlines during last week, just in less than week during the fracking inquiry included, climate change to cause humid heat waves that will kill even healthy people if warming is not tackled. Levels of humid heat that can kill within hours will affect millions across southern south Asia within decades if warming is not addressed. Australia's carbon pollution soars government data shows. Another one, Australia records the hottest July, the Bureau of Meteorology says, so that's the hottest July 2017. So the mean maximum temperature was, in the Northern Territory was three degrees Celsius above average.

Excuse me. So the highest it has been in July since records began more than 100 years ago. And this isn't even in a time when there's an El Nino event. It's just the new norm. And in today's news Commonwealth Bank shareholders sue over inadequate disclosure of climate change risks. So there's more and more information that's coming out daily about the risks of climate change. And so we believe that your, the 2% fugitive emissions that you've stated is debatable. We're not going to go into that, I think there's been some other evidence presented to that, but even if we accept that the emissions from those fugitive emissions, not to mention the emissions from the burning of the fuel, and the potential of the methane reserves, that it's actually too much emissions full stop when we need to actually be stopping, we need to really look at what our emissions are and find other ways.

In the Northern Territory has extraordinary solar and tidal resources that need to be developed. We're also disappointed, and I know it has been addressed, that your greenhouse gas emissions chapter, that a significant amount of time was comparing gas to coal. And this is in a climate where there's currently no national emissions trading schemes for the Northern Territory emissions to be offset against displaced coal in another state. And it's not credible trading framework that can guarantee our exported NT gas will displace coal and there's also, in addition to that, there's a universal failure to control fugitive emissions.



And the only consideration of gas in terms of, it's through the electricity generations in measuring the emissions. And there also needs to be baselines that are established. So again we call for the development scenario that's being used for the economic analysis to be used to ascertain, even at 2% emissions what the impact of that's going to be. And surely with one of the world's solar radiance, we should be leading the world in renewable energy and this is where our ingenuity, our resources, our energy needs to go towards. So just pursue fossil fuel development is a failure to see that we're part of a whole earth community with responsibility to take action in a way that cares for the needs of the whole. So that would like, okay as a whole community this is our carbon budget. How we're actually going to respond to that over time.

So in a closing remark, given the climate emergency we're faced, the current Northern Territory regulatory framework is currently whether NTEPA is of the view that hydraulic fracturing does not give rise to environmental impacts, yet here we are in this inquiry. It's actually astounding, it's truly astounding. And what we're saying that it isn't, we don't believe it's the time, and certainly not the place to develop a shale industry. In the submissions that we've heard, there does not appear to be an economic case for pursuing the industry and I know that you're doing more research in that and with potentially also the impact that it has on other industries such as tourism, agriculture and the threats to our Eco-system.

There isn't a trust in the government to regulate, to monitor, and to deal with legacy issues. Again, we iterate other submissions that there is not a social license and the trust that safety, care, and the well-being of people will be the priority for gas companies and government. So, thank you.

Hon. Justice
Rachel Pepper:

Thank you very Miss Malloy for that wide-ranging submission. That was very useful, thank you. I guess a couple of comments from me, from the outset. In relation to the criticisms, they have been directed to use the ACIL Allen scenarios. So if they're not, that's a matter of concern and we will chase that up. I've also seen their materials as part of the information that was provided to us and in those materials there was certainly photographs of the trucks, the drilling, and the impact that would have on the landscapes, so again you're telling this inquiry that's not the photographs that are being used, that's not the materials that are being used in the community consultations, again that is a matter of concern. We will chase this up with [inaudible]. We will certainly find out what is going on, cause you're the second person to, provided us with this information and we will get to the bottom of it.

Shar Molloy:

Yeah, thank you.

Hon. Justice
Rachel Pepper:

So, that's the first comment I want to make. In relation to the time for consultations, I do accept that there was probably not enough time between the, or time in relation with the notification of when the consultations were



going to occur and you sitting here, the interim report has been out for three weeks plus a summary document. I do think that that's enough time for people to of read that and gotten on top of it, but I do accept that there was not enough time in terms of the notification of the consultations and we will endeavour to allow more time next time around. As I said, we will be back and there will be another round of consultation. We are of course juggling tourist season, plane schedules, hotel accommodation, and of course panel availability plus a need to continue to do the research that we're doing and assessing the risks that we've identified in the issues paper and background and issues paper and of course revised in the interim report.

So all of that is being juggled, but we will try and do better next time. Having said that let me stress that people can make submissions at any time, not just now during a consultations, at any time. A written documentation like the very comprehensive one that Dr. Lawson provided to the panel can be submitted at any time. Video recordings can be submitted at any time, oral recordings can be submitted at any time, emails can be submitted at any time, so there are lots of different ways to participate in this inquiry and to make sure that your opinions and your voices are heard.

Shar Molloy: Thank you.

Hon. Justice
Rachel Pepper: Any questions? Yes, Dr. Ritchie?

Dr. David Ritchie: Hi, because there is a very wide range [inaudible], I just wanted to tease out of it with you. As an organisation that has a long history in the Norther Territory, you seem to be indicating that you feel that things weren't doing any better or things were going worse. Is that the case that they've had over the last, say as people say, 15 years that environmental regulations and the approach to the environment by government agencies. Do you see that as, based from the point of view of legislation and practice? So how do you see that, getting better, staying the same, getting worse or too lumpy to comment at this stage?

Shar Molloy: I think that one of the ... It's not better, because we still have the same legislation. There is a commitment from this government to look at the environmental regulations. There has been draft discussion paper about possible changes and, which a whole lot of us have commented on and in including industry as well, so ... And I know that that was an election promise by the government, but also at the same time you have industry that is still trying to water down those suggestions. So for example in regards to rehabilitation bonds, so within the mineral institute's submission to that regulation, they've said that they don't want rehabilitation bonds to be into the public, but then if you don't actually have known how much a bond is for a mining development you don't know if you've actually got enough resources there to cover potential legacy issues. So I would also like to say that this government and departments are considering the extension of a particular mine and having it mining, it's ability to mine extended and



that they would consider that having 1000 year rehabilitation program, is acceptable.

And that's in the face of how do you actually even have companies be willing to stay the course of 1000 rehabilitation and I think it's There are so many ongoing continual issues within the Northern Territory around mines, around legacy, around consultation, around who are the right people to be talking to, and it's happening now, it's happening today in all sorts of different developments. So I would say this much, not much change, not much difference. There's the talk of what this government's saying that also at the same time you have a mining conference that's going to happening next week within Darwin and that's being spruiked as the chief minister there and up to 20 different department heads that are there talking up mining and that's in the face of there not being regulations to actually be able to monitor this and that includes on shore gassing.

How do you have trust and continue to build social licence when that's happening? So, I hope answered your question.

Dr. David Ritchie: No that's a good question.

Shar Molloy: Thank you.

Hon. Justice
Rachel Pepper: I think that's a fair comment. We have yet to have anybody from any department appear in person before this inquiry.

Shar Molloy: It's actually outrageous. I think it's ...

Hon. Justice
Rachel Pepper: They have provided us with information and they've certainly answered all requests, but they have not appeared in person before this inquiry.

Shar Molloy: Yeah, I agree.

Hon. Justice
Rachel Pepper: And that cannot assist with trust building.

Shar Molloy: No. It cannot assist with building trust at all. So I really appreciate that you recognise that. Thank you.

Hon. Justice
Rachel Pepper: Any other questions. Yes, Dr. Beck.

Dr. Vaughan Beck: I think most people would agree with you of the desire to move to a renewable energy future, so I think we're all basically hitting so, totally agree with that aspiration. Just to note that in respect of electricity generation has been this recent Finkel report that takes into account different forms of generational electricity, but also takes into cost of generation and also those issues surrounding reliability and security and



supply and in that regard there is a buildup of renewables, but over the next 20 odd years certainly renewables are increasing, but I don't take over the total generational electricity in Australia. And gas is moving from some 6% of electricity generation down to 3%, so there are some movements, but there's no instantaneous Nirvana available. So there is that transitional issue that is relevant.

Shar Molloy: I think that's the thing is to actually really acknowledge that we're in the transition. So we don't know what it's going to even look like in ten years, so we're talking about an industry that is going to be gearing up to then be able to be producing in ten years, but goodness knows with the rate and the acceleration of warming what that's going to look like in ten years. And also in terms of the what people expect of the government in terms of addressing that, so you do then have the risk of getting this industry up and running, but then they're being stranded assets or are being for ... It's unknown. We're in such an accelerated rate of change that it's really unknown what it's going to be like in ten year's time and what's going to be needed.

Dr. Vaughan Beck: Difficult to make precise estimates, but some modelling has been done. So just acknowledging that. Let me also support what you were saying about the absolute need for any baseline studies, that's absolutely ...

Shar Molloy: An independent.

Dr. Vaughan Beck: And independent and transparent.

Shar Molloy: Absolutely. Just on that, we have kind of a situation again with the largest mine here in the Northern Territory where there is concerns about contamination of the river in terms of lead and zinc, but again there's no baseline studies that show what level was there, the lead and zinc in that river. What level of lead and zinc was there in the sea life there, so it's very hard even for that community to be able to prove what the impact has been. It's extraordinary. It's not acceptable at all. And there might be baseline figures that are floating around there and one would have imagined that it would have been prudent to do baseline studies, but they're certainly not public sphere and accessible.

Dr. Vaughan Beck: Can I just make one further observation in terms of your presentation this morning. You mentioned that there's been universal failure to control futitive emissions, just to note, I think it's in the report there has been a trend over time to bring down the levels of emissions. And there's been a definite trend and only recently for the recent announcements on Trump nevertheless, before Trump there was, appeared at a year or two where there was, what's called news source emission requirements and that has proved to be a very substantial reduction in the US emissions from futitive emissions. The trend is down over time. Not saying what might happen ...

Shar Molloy: Yeah that's right, exactly. It's a real concern, because what you ... In terms of what's happening within the US and with those regulations being rescinded,



it's that kind of awareness that we're part of one whole so if you've got a country like the US currently saying it doesn't matter what sort of emissions we put into the air, then you almost need another country to be counter balancing that and Australia could be that. We're part of one whole. All that pollution is going up and there's no boundaries there, whatsoever at all. I could go on, so I won't. It is nearly lunch time.

Hon. Justice
Rachel Pepper:

Thank you. Any other comments or questions? Thank you very much Miss Malloy for coming again to the inquiry and engaging with the inquiries, thank you.

Shar Molloy:

Thank you so much and thank you for your time.