



Katherine – Samantha Phelan

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Katherine

Speaker: Samantha Phelan

Samantha Phelan: Yeah, my name is Samantha Phelan, I'm here on behalf of myself and my family and my friends.

Hon. Justice Pepper: Thank you.

Samantha Phelan: In terms of what I present today, it's hard isn't it, to sort of define it, because I come as a punter rather than anything else. But I think it's really important because in reading the draft report, what I find really missing is everything that I've heard being said in these consultation processes. Whilst they're captured in a way, so there is acknowledgement that people of the Northern Territory in the majority aren't accepting of these industry. That that is what you've heard, while they're captured in little moments of sentences, what there seems to be in the document is a way forward for this industry. If you were asked to give, okay, we have an impasse here, we have a public who doesn't want this industry, how do you give us a way forward for this industry?

I think that is what this document is in a nutshell, and it's good in that regard. But I don't know that that is what this consultation and what we have been saying over and over again, I don't think that's reflected in here. I think you need to be really careful in that because it is very easy to marginalise, Lock The Gate, and there is an active campaign now to do that, not that I am a member of Lock The Gate but I obviously know them, discuss things with them.

But I think it's very easy to begin to marginalise that, if nowhere in that document there is the cautionary tale of what we are all saying and that that is built out. Through it, there is an assumption of integrity about what the gas companies are saying and what the gas companies are putting forward. There isn't the same acknowledgement of absolutely step by step if we do not go down this incredibly narrow path of good, robust regulation, what the consequences of that could be at every point in time.

I think there's been enough presentations to actually make that really clear. I think as we carry it forward as a document, it will become increasingly important that the reasons behind these recommendations are spelt out in the report. If we choose to ignore recommendation eight point one, these are the direct consequences of that. This is why this is a recommendation.



Now forgive me if some of it is expanded, I've only read the draft report. I haven't read the extended version, so it may well be that there is more spelt out.

Hon. Justice Pepper: What you're saying when you read the draft, you mean you've read the-

Samantha Phelan: I mean, sorry, the summary.

Hon. Justice Pepper: This, you haven't read that?

Samantha Phelan: I haven't read the big, fat one. I've read the abbreviated version.

Hon. Justice Pepper: Okay.

Samantha Phelan: So, there may be more.

Hon. Justice Pepper: There's a lot more explanation in there as to why.

Samantha Phelan: Okay and is their cautionary tales really spelt out in that? I do apologise, it's just.

Hon. Justice Pepper: No, no, it's fine. It's a massive report. The fact that anyone has read it from start to finish, I think is commendable. I'll come back to you and again, I don't want to interrupt your presentation.

Samantha Phelan: Yeah, okay but the cautionary tales, I think, are really important. Why we are all at this table. Why we all keep turning up as mothers, as fathers, as family members is because we don't believe it. We don't believe those gas companies and we actually, in some way from what I've read in this report or from the report that I have read, is that that voice of the Territory is actually denied.

We live here and we know that our government does not have the capacity to implement good regulation. We know that it can not create a good regulatory regime. We know that it does not monitor sites adequately. We know all that and that knowledge, and it is knowledge. You can, all the sites in the world, that is still knowledge. There is a bit of a romantic picture of the Territory portrayed in this that I find a little bit jarring compared to what certainly I know a lot of people have been saying, you know that we have clear running streams and we have magpie geese and we ... These clear streams that run from the hills, the reality is that the McArthur River, the Daly River, the Katherine River, the Edith River, possibly now the Roper River, but nobody would know, are all contaminated rivers.

They're contaminated because our government has not regulated and monitored these mining companies. To paint a glossy picture of how wonderful and pristine their environment is. It is an unreality. The people who have come to this table have been saying that. We have don't eat limits on fish in all of those, with the exception of the Roper, on all of those rivers. You are restricted in the amount of fish you should eat because they're poisoned. They're poisoned because risk mitigation was thought to have



been put in place and the best risk mitigation of the time was put in place but it didn't work.

That is my fear that we now have 120 recommendations of risk mitigation that won't work. We will have more poisoned water ways. I just would be weary of the romantic notion of this pristine environment because actually from where I sit, it's an environment that has been gradually and quite rapidly eroded by this sort of practise. I'd also just mention too, the railway story, like it was a railway carriage carting chemical that derailed on the Edith River and dropped tonnes and tonnes and tonnes of copper sulphate into that river. The idea of rail in the wet season is also problematic and certainly isn't the be all and end all.

It also, I think the report needs to acknowledge the vulnerability of the NT to these companies. Both because it's a poor state. Because of its massive geography and because it's largely an ESL area. English of the second language area in the areas of operation. I think there is an inherent vulnerability in that that really needs to be recognised within these recommendations.

I'd also just caution on the indigenous voice. I mean in this, I'm yet to see and I may be wrong, but I'm yet to see in monitoring as I have the video whenever I can of these consultations. I'm yet to see one indigenous person that doesn't represent a political or organisational body or a consultant on behalf of indigenous people that really supports fracking. The indigenous voices I've seen stand up at these sorts of things or the public forums overwhelmingly don't seem supportive.

I just wonder where that voice is in the document because it's find for NLC or CLC or various consultants who are being paid significant amounts to speak on behalf of indigenous people. But if the people that are coming to these meetings and standing up and saying no, if that voice isn't heard, then I think we've got trouble. I don't think it's fair. There's also a recommendation that this translation of all information given to indigenous people and I just wonder, do we post that information? None of that has been happening, so that's a way forward but it doesn't address all the consultation that's gone before. That consultation is still being used, both in contract form and in theory. While it's a great idea and it should have happened at the get-go, it hasn't. We're seven or eight years down that journey now.

The NT way that is mentioned, I mean the NT way is probably to some extent what's got us into this trouble. The NT way of she'll be right, has led us down the path of she'll be right. I think a diversion from the NT way and a much more sophisticated approach to an industry that has the potential that this industry has to damage the environment must really be considered this. The NT way is also not today not tomorrow. That's what NT stands for. Not this month.

To some extent I wonder where that lies in terms of the development and regulation of this industry. A lot of stuff in this report talks about this all



needs to be done before production, okay. Before production. Now before production we've already cut out vast tracks of land. We've already chosen the land. We've already drawn up our grids. We've already done all our sacred site surveys. We've already put down a test well every five K. We've done a whole leap of stuff before production. I would contend that a lot of these recommendations need to happen before exploration because the negative impact of them exists. Whether we go to production or not. If we're clearing tracks like that photo of Amungee, of land right the way through this country and we aren't required to be doing anything much with anything much in a regulated capacity and the industry folds, then we're left with the consequences of that.

I think it needs to, I think we actually need a timeline. I heard on the radio yesterday afternoon, they've appointed these three economic wonders who are going to lead us forth into great economics with offshore gas. They've employed three, the Territory government has announced three economic leaders to engage with local business. It basically is chapter 13 of your report, which worried me because whilst on the radio, they talked about we should not just be a gas exporter for offshore gas. What I heard in that was we are developing the mechanism to add to chapter 13.

Given that the ducks are beginning to line up, I think in terms of this industry going ahead, your report finishing the moratorium being lifted and full scale exploration beginning. I think this is the trajectory that we are on politically. That we need a timeline and we need it really quickly. It needs, tick a box, have we done this before we can go to that. Do we have, I mean do we have 10 years of fire data for these places? I don't know. Do we? Who's the fire person?

Hon. Justice Pepper: Sorry?

Samantha Phelan: 10 years of fire data that's required, do we have that? On these properties?

Dr. Alan Andersen: Yes.

Samantha Phelan: Yeah, we do. Yeah, I just read that and input, where? Do we have that sort of stuff for everywhere?

Dr. Alan Andersen: For all of Northern Australia.

Samantha Phelan: Yeah, great. But there really needs to be a checklist of what regulation needs to be done before or what development of legislation needs to happen before we can take the next step. Like we need an ordered approach from this point forward and I think this is, your Inquiry is probably the way to do that. Well, who else does?

Hon. Justice Pepper: I think we can make the recommendations, it'll be up to the government to implement those recommendations.

Samantha Phelan: Sure but at the moment-



Hon. Justice Pepper: If it chooses to lift the moratorium.

Samantha Phelan: Totally. But at the moment, what we have is blocked recommendations where nothing is hinged on the next. Do you see what I mean? Like when does the SREBA come in and how long does the SREBA operate for? SREBA whatever you're calling it, you know what I mean? The research model. How long does that operate before we allow exploration to continue or production to continue. It needs to be really specific because as a mom and as a person in this community, this is the last document I will have to be able to say are you doing it right or not.

Is this really what the intent of this Inquiry was or not? The next writing journey, I think, needs to really be looking at it from the other side of the fence. Not from, this is an industry that has integrity and has given us all this information, and we will do it. But really try and just change your position in the seat and go okay, I'm a worried mother in Katherine, who has a good brain and foresees all of these problems. Does this give her the next reason to go to the next chief minister and say, "No, that isn't what the Inquiry said."

That's what, as a punter I need from this document now. A timeline would be really helpful for that because it enables us to see what should be happening inside both government and industry.

Right through the report I had to sort of smile because I was there with a pen and a highlighter and right through the report, I've just written in the margin who does this? Who does this? Who does this? Because there's a lot of grey areas about whose responsibility within those recommendations that it's so, all who does this, human health risk assessments. Okay, who does them? Ground water modelling, who does them in every instance? Is it always SREBA or when it goes to oh we just need to cut across that stream? We don't think that's going to cause too much trouble and the gas company said it isn't. Is that okay or are all ground water modelling and all surface water modelling based on an independent body?

Who does the seismic testing? Who does the suitability for re injection? Who does hydrate geological investigations? At what point does SREBA drop out and gas company come in? Monitoring for drill down, it says that is a gas company's role. Ongoing vulnerable species monitoring? Gas companies are doing it? Well integrity testing, who does it? Given the lack of faith that so many people have in the integrity of these companies, I think that that needs to be really spelt out. Roles and responsibilities of each because there aren't too many of us who really want the folks in charge of the in house. I think it is a really dangerous place to go to and I think if we're going down this path of industry at every point, we need an independent assessor.

I don't think we should move forward at all with gas companies doing their own monitoring. And this is the catch that there is no capacity in the Territory to do it. I don't know how you get around that and I don't know how you address that in your report, but I don't believe there is the money,



the capacity, even if there's the will to actually independently manage these giants. That is where you get into dangerous Territory, I think.

The fox in the hen house is the other, was the other, who does this and then the fox in the hen house? I assume you know what I mean by that. Just in terms of gas companies ID-ing critical habitats is mentioned, that they'll be doing that. That they'll be doing the HRRAs, the health risk assessments. That they'll be funding and designing information about the programmes. That one blew me away, but they are responsible for funding and designing information that is being taken to community.

I didn't understand the rationale for that and I would be very cautious of it. Having been to every show in the Northern Territory and talked to gas companies for the last five years. Every show I can get to, every town I'm in, I had discussions with them and watched that evolution of that story. And the gradual dolling out of fact as the population has become more aware that the level of knowledge they are prepared to disclose every year increases because they realise they are now dealing with an educated population. Their answers that they could have given me seven years ago but chose not to. So, if they are in charge of developing and funding the development of all the information that is disseminated in communities about what they're going to be doing, I recon it can't help but be bias. I think that probably needs to be addressed.

In the document too, I mean I sat here last session and listened to Origin Energy and in that one of their non-negotiables was well spacing. They wouldn't negotiate a minimum well spacing anywhere. In the document I read, which will be the document that a lot of people as a go to document rather than that weighty creature. I think that the draft summary probably needs to reflect the balanced opinion that possibly the FICA document does. But that sort of stuff isn't reflected, so the feeling you get when reading it is that here we have companies that are advising us. They're advising us pretty openly and transparently that we think they should probably be the advisers on this stuff and that the views that they ... That there isn't the conflict that there is. Okay, so non-negotiation of minimum well spacing to me, is a massive red flag about what the potential for a landscape is but that's not noted.

There's just your recommendation of a two K minimum without a really clear statement of gas companies don't want that. You might be up for a bit of a fight on that. You know, I think there's a subtlety to this conversation that's happened that might have dropped out. I get why, I mean you could do a book that big. But I think, can you understand from where I sit?

Hon. Justice Pepper: I do, I do understand what you're saying and look, I think there are certainly, there are places where when we do, this is why we have a draft report. This is why you're released draft reports so that we can get this feedback and we're grateful for it. There's certainly places where it think we need to go back and clarify and reconsider but in fairness to us, I do think that it is, I mean it's a problem with executive summaries in the sense it is just a snapshot. You try and do your best without making something, the



executive as big as the actual main report. It is a package document. You do need to read this.

You will need to read it. You need to read it with the interim, you need to read it with the background and issues paper as well. They all sit together. I realise that's a huge reading task but certainly at the very least the draft report itself does provide a lot more explanation of the risks identified. Identified by you. We set out our own risks and then we put those out. We got more risks back and that was then what we went away and assessed.

Samantha Phelan: Yeah, okay and I apologise for not reading it before I come in and criticise, but-

Hon. Justice Pepper: No, no, oh no, no, please, please, no, no, no. Please do not in any way apologise. It's a massive document and that's why tonight, from five to eight there'll be quite a lengthy long presentation on the content of this report because we don't expect people to have read it. We just don't. Hopefully some of those, hopefully some questions will be answered. It may well be that more are raised and that's fine. That's what the discussion after the presentation will be for.

Samantha Phelan: Yeah, okay. The re-use of flow back water as well. I mean it's sitting with Origin there. It sounded really dodgy. Like it just was so grey what they were actually saying with the re-use. Like the re-usable flow back water and I just wonder where's that actually happened? How often has it happened and how really, like to they really intend to do that? Because, yeah?

Hon. Justice Pepper: It saves them money.

Samantha Phelan: To some extent it does but not if it doesn't run through their machines easily.

Hon. Justice Pepper: It does happen. It is happening and it's highly likely that it will happen because it saves them money.

Samantha Phelan: Yeah, alright. I think, yeah and also make good clauses and compensations. I mean, a make good clause once the horse is bolted, you still don't have a horse and I think wherever we have made good clauses and compensations, it probably needs a really big, fat description of what these, what these should look like and what events you see and make good clause would come into, I mean less than a metre drop in water, okay, what do they really look like?

What happens? What's the process if somebody refuses a land access agreement? Refuses to sign. What happens then?

Hon. Justice Pepper: Again the report indicates.

Samantha Phelan: Goes in there, okay. I'll do that then.



Hon. Justice Pepper: There would be a, you can't enter onto the land unless you have one. If you don't have one, then you go off to court.

Samantha Phelan: The court's never found in favour of a land owner?

Hon. Justice Pepper: They don't get to court by March. They don't. It does, again the evidence indicates that it does have the desired and intended effect of shifting power to the land owner. It has a tendency to make the gas companies try that much harder to reach agreement. That's been the experience of Queensland and elsewhere.

Samantha Phelan: Alright.

Hon. Justice Pepper: Where they're mandatory.

Samantha Phelan: That's me. Okay, but I just, yeah, if we can lose the romance and add the really what Territorians are really concerned about and it's easy for organisations and there's a real risk in organisational stuff I think too. We all do it. When you're at work, that's the framework you're working in without hop into the other side of the fence and seeing how this document will be used in a way forward. For people like us who want to make sure that if this happens, we know what should be happening before it happens.

Hon. Justice Pepper: I understand. Any, a lot of the questions that I had have actually been answered in the exchanges that we've had, but yes, Doctor Andersen.

Dr. Alan Andersen: Yes, so just to clarify that the industry opposition to well spacing and the reasons for it are in the main report. I saw it.

Samantha Phelan: Thank you.

Dr. Alan Andersen: Perhaps I could add that the industry reiterated its opposition to prescribe minimum spacing in the Darwin areas. It's still the industry [inaudible]. But to be fair to the industry, it wasn't projected to us in a, it's not negotiable, can't happen. It was presented in a case of-

Samantha Phelan: Here it was. It was presented as these are our three points of non-negotiation.

Dr. Alan Andersen: Yeah but as for the hearing it was more a case of we'd much prefer there weren't a mandate in minimum but it's something we could live with.

Samantha Phelan: Yeah.

Hon. Justice Pepper: Yes, Professor Hart.

Prof. Barry Hart: Just to comment on use of flow back water. As chair says, it's in their interest. To answer your question though, how much? It's really variable. If you look at what's happening in the states, the best I've seen is 80%, but it goes down to five. It depends on the particular shale situation. I think the



companies aren't being cute, I think they're actually saying yes we'll do it and they've been saying, well, there's a number of numbers in various submissions. Most of them are sitting around about the 30% but it's been, I can't remember. Someone actually said higher than that. Much higher than that. I don't know. I think there's a way to go. I think, to me there will be no question that if moratoriums are lifted, that they will definitely re-use. It's absolutely in their interests because they don't have to take as much good quality water. That's in their interest.

How much it will be, I think, really depends on what the actual plays are like. The shale deposits are like.

Samantha Phelan: Have we got a record of, like a mandated record of quantity of flow back water? Is there a mandated record of that in any recommendation? I'm yet to see it of volume.

Dr. David Jones: It's not mandated because the problem is that this early exploration stage they're not quite sure what procedure would or might flow back. For example the Amungee well, I think only about 20 to 30% of the water that went down actually [crosstalk].

Samantha Phelan: But if the quantity that is received just, is there someone external tracking that water? Is there a compulsory? Like if they pour back however many millimetres, is that then watched over time?

Dr. David Jones: Yeah.

Samantha Phelan: It is? Is there any recommendation that that happens?

Prof. Barry Hart: Well, it's part of the whole government responsibility. Now you might not agree that that's a good thing but we have made recommendations in chapter 14 that tries to separate the government responsibilities so that a lot of that authorization, environmental authorizations and so forth and re-tracking of various components would be done by a more independent group.

Samantha Phelan: Alright, thank you and thanks for your hard work.

Hon. Justice Pepper: Thank you and again, you have, as you've pointed out before, you've come on a number of occasions to address the panel and the Inquiry and each time you have raised very thoughtful points, which I know, speaking for all of us. I'm seeing all the nodding heads. We will go away and think about again because I think some of the points you're raised, do require some further thinking on our part and further exploration and consideration to the initial of the drafting, so thank you for that and thank you again for engaging with the Inquiry, we do appreciate it.

Samantha Phelan: Okay, thanks.