

From: Monica Napper
To: [fracking inquiry](#)
Subject: ATTN:- The Hon.Justice Racel Pepper Hydraulic Fracturing Taskforce
Date: Monday, 4 September 2017 4:35:19 PM
Attachments: [Recommendations and follow up comments to the Alawa and Mangarrayi Traditional Owners presentation to the NT Fracking Inquiry.pdf](#)

Dear Justice Pepper,

I am writing to you with your request for written recommendations and comments after the community meeting held in Jilkninggan on the 22nd of August 2017.

Please find attached my pdf.

Please confirm the receipt of this email and pdf.

Yours faithfully,

Monica Napper



Recommendations + follow up comments to the Alawa and Mangarrayi Traditional Owner's presentation to NT Fracking Inquiry.



Alawa and Mangarrayi people call for Territory-wide fracking ban, August 2017.

Justice denied.

Natural justice denied to Aboriginal landholders wanting information about land use agreements on their own land.

Natural justice is not afforded to Aboriginal landholders under the current regime for consultation and issuing of permits for shale gas exploration on Aboriginal land.

There are currently no review and appeal rights for Aboriginal landholders contesting permit approvals such as in the case of EP154.

All mining and land use agreements on Aboriginal Land Trust and Native Title land should be made available to relevant landholders. The extraordinary exemption from Freedom of Information laws for Aboriginal Land Councils mean the organisation holding their constituents legal, cultural and financial asset information is under no obligation to provide these at request by Traditional Owners. In fact, they do not even need to confirm that those requesting the information have a right to it. In our experience the NLC simply refuses to 'confirm or deny' that the requests are made by recognised Traditional Owners, and therefore continues to ignore them.

Requests for FOI documents through the Department of Mines and Energy (NT) to see what evidence of consultation the government relied on to approve the permits was blocked by the NLC using these provisions. Traditional Owners now have no other remedy but to go to court to discover these documents and challenge the authorisation of the permit. Without having access to this basic information the prospect of going to court presents a complex challenge and financial risk to both landholders and any potential legal representative.

It is also blatantly unfair to deny Aboriginal landholders this access. Shelia Conway as the Senior Mangarrayi Traditional Owner is the lead applicant in FOI requests to the NT Government regarding this contract. She believes her signature may be on the contract agreement, despite not being able to read or write English and no knowledge of the permit having been agreed to.

Prior to the announcement of the permit approval in the media in March 2015, Shelia Conway had no knowledge of what fracking was, or the company granted the approval.

This process raises serious questions about informed consent over petroleum agreements.

The community are calling for the exemption from Freedom of Information laws for Aboriginal Land Councils to be revoked to improve transparency and accountability in land use negotiations and agreements, and to avoid lengthy and expensive court processes and reduce conflict in communities.

Consultation processes need to be audited for compliance with obligations under the Land Rights Act (NT) as the current Land Councils as poor practices are leading to more conflict in communities

Private community meetings with affected landholders should be the primary method of consultation, with independent experts invited to attend at the landholder's request. Land Council staff have admitted to not having relevant expertise on many of the subjects they are required to consult on, so there is no independent oversight of the accuracy of what fracking companies (and others) are providing to landholders. In my experience landholders have left consultation meetings about shale gas exploration with no understanding of the process, risks or proposal. Interpreters have not been used for any consultation meetings I am aware of. This is particularly concerning when discussing new mining techniques with significant risks such as shale gas fracking.

Weak environmental protection clauses in agreements

The Northern Land Council claims the 2km exclusion zone around surface waters in the permit areas are evidence of consultation with Traditional Owners and offer environmental protection. The community strongly dispute this. Where are the water studies that can demonstrate this exclusion zone would have any practical effect in reducing risk to surface or ground water from fracking?

Why aren't agreements on Aboriginal land for shale gas exploration required to meet minimum standards set by the NT Government for environmental protection?

The community want to see copies of any evidence the Land Council of NT Government relied on to approve the permits with these weak conditions in place, and how it intends to manage risk associated with any mining that progresses under this agreement.

Without a copy of the agreement or company work plans the community remains in the dark about what environmental risks gas exploration and mining could pose.

Notice and consultation with communities:

Please cross-check with the Inquiry staff who organise the scheduling for community consultations but there are many reports from remote residents about very late and limited notice for the consultations.

For instance, the Mataranka meeting was scheduled for the 22nd August. An email notice called 'Community Update #20' was sent out on August 21st. This is the primary way that people who have indicated they are interested in participating in the consultations have access to these details.

Obviously one day's notice is not appropriate. The problem is compounded by failure to distribute notices by government liaison offices or local councils, or whomever is being relied on to distribute notices.

In my experience this is simply not happening, and therefore it is up to community members like myself to ensure people know and have appropriate notice to get out of other commitments to attend, and also that transport options are organised as it is usually quite a distance from people's communities to travel to with limited to no public transport options.

The scheduling during work hours also presents many problems for the high numbers of local residents who are employed by the NT or Federal Governments and who wish to participate in consultations. Scheduling community meetings in neutral locations during lunch breaks or after 4.30pm would be one way to ensure fairness of participation. Several local people were disciplined for attending the meeting in Jilkminngan, despite this being during breaks on work hours.

The Inquiry must consider that there will be consequences for local people from some workplaces for attending or assisting to promote access to these meetings and seek to minimise these risks.

The Inquiry could go some way to addressing this by notifying government workplaces such as the Education Department, RJCP providers and health services that the consultation is part of an NT Government appointed-Inquiry and to make arrangements so that those local staff wishing to attend can do so without risk.

Recommendations from Alawa and Mangarrayi Traditional Owners

We ask that the Panel consider our case study and make a recommendation that:

- appeal and review rights are afforded all landholders impacted by shale gas and petroleum permits
- and that the exemption from FOI laws be removed for all Territory Land Councils to improve access to natural justice for Aboriginal landholders.
- The fracking permits EP154 and EP153 over our Land Trusts and Native Title lands be scrapped
- Don't just consider the Beetaloo sub-Basin in the Inquiry's deliberations as a case study as it is not relevant to the particular circumstances of many other regions also living with the threat of unwanted shale gas fracking.
- The Inquiry investigate why critical information about gas agreements is being denied to Aboriginal landholders and how these can be addressed.
- That the conduct of the former Chief Minister Adam Giles and the Mines and Energy Minister be referred to a future NT Independent Commission against Corruption (ICAC) investigation, given the perceived conflict of interest with his new role as a employee of Hancock Prospecting and negligence in duties to investigate landholder requests for a review of the permit authorization while in office.
- Guaranteed minimum of 2 weeks notice is given to all communities where consultation meetings are scheduled for any future outreach by the Inquiry Panel. That key community contacts are identified who have expressed a willingness to assist the Inquiry by promoting the meetings within their own communities, and liaison occur to ensure the strongest possible chance of community participation.