

SCIENTIFIC INQUIRY INTO HYDRAULIC FRACTURING IN THE NORTHERN TERRITORY



Department of Primary Industry and Resources and
Department of Environment and Natural Resources
Submission #419

Mr Alister Trier
Chief Executive Officer
Northern Territory Department of Primary Industry and Resources
GPO Box 3000
DARWIN NT 0801

Email: [REDACTED]

Joanne Townsend
A/Chief Executive Officer
Department of Environment and Natural Resources
PO Box 496
PALMERSTON NT 0830

By email: [REDACTED]

Dear Mr Trier and Ms Townsend

RE: HYDRAULIC FRACTURING INQUIRY – INFORMATION REQUEST REGARDING THE MANAGEMENT OF WEEDS ON AND AROUND PETROLEUM EXPLORATION PERMITS

I refer to the *Scientific Inquiry into Hydraulic Fracturing of Unconventional Reservoirs in the Northern Territory (the Inquiry)*, which was established by the Northern Territory Government under the *Inquiries Act 1945 (NT)* in late 2016 to investigate the impacts and risks of hydraulic fracturing of onshore shale gas reservoirs and associated activities on the environmental, social, economic and cultural conditions in the Northern Territory.

I also refer to the submissions made by the Department of Primary Industry and Resources (**DPIR**) and the Department of Environment and Natural Resources (**DENR**) to the Inquiry and, in particular, the parts of those submissions that relate to the regulation of weeds. The Inquiry has highlighted the potential spreading of weeds as a key risk associated with the potential development of any unconventional shale gas industry in the Northern Territory.

The Inquiry understands that weeds are managed under several pieces of legislation in the Northern Territory. First, the *Petroleum (Environment) Regulations 2016 (NT)* (**Petroleum Environment Regulations**), which are administered by DPIR, require an approved environment management plan (**EMP**)

to be in place prior to the conduct of any “regulated activity”. Where the spread of weeds is a risk associated with a regulated activity, an EMP must demonstrate that the risk will be reduced to levels that are as low as reasonably practicable and are acceptable.

Second, weeds are also managed under the *Weeds Management Act 2001* (NT) (**Weeds Act**), which is administered by DENR. Section 9 of the Weeds Act imposes general obligations on the “occupier” of land. The Inquiry is seeking legal advice from the Solicitor of the Northern Territory on whether a permittee or licencee under the *Petroleum Act 1984* (NT) (**Petroleum Act**) is an “occupier” for the purposes of the Weeds Act.

Accordingly, the Inquiry seeks a consolidated response from DPIR and DENR regarding the issues outlined below:

1. which “regulated activities” require a weed management plan (**WMP**) under the Petroleum Environment Regulations? Is a WMP required any time the interest holder or its employees enter onto the permit area? I note in this regard that a WMP appears to be required for drilling and hydraulic fracturing activities;¹
2. how does DPIR determine whether or not a WMP under the Petroleum Environment Regulations has reduced the risk of weeds spreading to “acceptable” levels? My understanding is that the WMP, which will often form part of the EMP, is assessed using the checklist at page 203 of DPIR’s submission. The assessment criteria appears to be whether the WMP is “consistent with DENR guidelines”. Please provide a copy of these guidelines to the Inquiry and explain how compliance with the guidelines means that the WMP is approved under the Petroleum Environment Regulations;
3. further, please describe the consultation process, if any, between DENR and DPIR with respect to the assessment and approval of WMPs under the Petroleum Environment Regulations;
4. how does DPIR monitor interest holders’ compliance with WMPs under the Petroleum Environment Regulations? Please indicate whether DENR officers are involved in the monitoring and compliance process;
5. please indicate whether there has been a prosecution, successful or otherwise, under s 117AAC of the Petroleum Act in relation to the spread of weeds. In other words, is the spread of weeds considered an environmental offence?

¹ DPIR submission, page 193.

6. does DENR currently work (either directly or through DPIR) with interest holders under the Petroleum Act regarding the management of weeds both on and off their tenements?
7. assuming a petroleum permittee or licensee is an “occupier” under the Weeds Act, how does DENR monitor and enforce compliance by an occupier; and
8. how does the NT Government manage a weed infestation on an exploration permit site that was legally accessed and utilised by multiple parties, or multiple “occupiers”?

In your response, please highlight any areas of actual or potential duplication between the roles of DENR and DPIR on this matter. Please also indicate any statutory improvements you could suggest to the regulatory framework governing this area.

In order to meet current reporting timeframes, could I please have your response no later than 4 August 2017.

Yours sincerely



THE HON JUSTICE RACHEL PEPPER
Chair

6 July 2017

Please direct all correspondence regarding the Scientific Inquiry into Hydraulic Fracturing to:
Hydraulic Fracturing Taskforce
GPO Box 4396, Darwin NT 0801
T 08 8999 6573
E fracking.inquiry@nt.gov.au
W frackinginquiry.nt.gov.au