

### Scope of Services

#### 3.1 Background to the Inquiry

On 14 September 2016 the Chief Minister of the Northern Territory, the Hon Michael Gunner MLA, announced a moratorium on hydraulic fracturing of onshore unconventional reservoirs in the Northern Territory. At the same time, the Chief Minister announced that a *Scientific Inquiry into Hydraulic Fracturing of Onshore Unconventional Reservoirs in the Northern Territory* (the **Inquiry**) would be established and released draft Terms of Reference, which were open for public comment for four weeks.

On 3 December 2016 the Northern Territory Government announced the final Terms of Reference for the Inquiry and the composition of the panel that will be undertaking the Inquiry (the **Panel**).

The Inquiry was established under section 4 of the *Inquiries Act 1945* (NT) and is comprised of a judicial chair, the Hon Justice Rachel Pepper, and ten scientists with expertise in areas ranging from hydrogeology to social science.

The Inquiry's final Terms of Reference can be read in full on the Inquiry's website ([www.frackinginquiry.nt.gov.au](http://www.frackinginquiry.nt.gov.au)).

On 20 February 2017 the Inquiry released a Background and Issues Paper, also available on the Inquiry's website, which was followed by hearings and community meetings in March 2017 in various town centres and remote communities across the Northern Territory. The Issues Paper includes a timeline for the Inquiry, which indicates that an interim report will be released in mid-2017, a draft final report will be released during the last quarter of the year, and a final report will be released in December 2017.

The Hydraulic Fracturing Taskforce (the **Taskforce**) has been established in the Department of the Chief Minister to support the Panel.

#### 3.2 Terms of Reference for the Inquiry and the social impact theme

The Panel has divided the work of the Inquiry into the following themes: water, land, air, social impacts, economic conditions, cultural conditions, human health, land access, and the regulatory framework. This request for tender relates to the social impacts theme only, however, there are overlaps with the economic, cultural and regulatory framework themes.

The Terms of Reference for the Inquiry require the Panel to do the following:

- a. determine and assess the impacts and risks associated with hydraulic fracturing of unconventional reservoirs and the associated activities;
- b. determine whether additional work or research is required to make that determination;
- c. for each risk that is identified, advise the level of impact or risk that is acceptable in the Northern Territory context;
- d. describe methods, standards or strategies that can be used to reduce the impact and risk to acceptable levels; and
- e. identify what government can do, including implementing any policy, regulatory or legislative changes, to ensure that the impacts and risks are reduced to the required levels.

The Background and Issues Paper includes a non-exhaustive list of the potential risks and benefits associated with the social impact theme at page 21.

The Terms of Reference make it clear that the Panel must not only look at the impacts of hydraulic fracturing and the associated activities on social conditions in the Northern Territory – the Panel must also consider the social impacts of the onshore unconventional gas industry as a whole on the Northern Territory. This is made clear in the following extract from the Terms of Reference, which has been amended to include the relevant language only:

*"When the inquiry makes a determination... about whether or not there has been an impact or risk on ... social conditions, the inquiry will ... consider the impacts and risks of the development of the onshore unconventional gas industry, including exploration activities such as seismic surveys and aerial surveys, land access and costs and benefits of the industry. This may be undertaken through a social impact assessment or similar activity."*

In accordance with the definitions in the Terms of Reference, a reference to an "unconventional reservoir" in this document is a reference to a reservoir where the rock formation is shale. There is currently no gas being produced from shale reservoirs in the Northern Territory. The Amadeus Basin is currently producing gas from conventional reservoirs.

### 3.3 Steering Committee

A Steering Committee has been established to oversee the work of the supplier. The Steering Committee is comprised of the Hon Justice Rachel Pepper, Dr David Ritchie, Prof Peta Ashworth and the Executive Director of the Hydraulic Fracturing Taskforce. The point of contact for all matters will be the Executive Director of the Hydraulic Fracturing Taskforce.

### 3.4 Probity Advisor

The Territory has appointed a Probity Advisor to oversee the Territory's processes in relation to the stages of this process. The Probity Advisor's role is to ensure that fairness and impartiality are observed throughout, and that the evaluation criteria stated in any related documentation are consistently applied to all submissions.

## Part A – Social Impact Assessment

### 3.5 Development and implementation of a social impact assessment framework

The supplier must develop a leading practice framework for the identification, assessment and management of the social impacts associated with the development of onshore unconventional gas in the Northern Territory. The framework:

- a) must include a requirement for public participation;
- b) may include components of both strategic and project-level social impact assessment; and
- c) must operate in conjunction with the Northern Territory and Commonwealth environmental assessment frameworks in a way that minimises unnecessary duplication and inconsistency.

The supplier must explain why the proposed framework is leading practice and in doing so must refer to the literature and leading practice social impact assessment frameworks used in other jurisdictions, including overseas jurisdictions.

The supplier must describe the current policy and regulatory regime in the Northern Territory for the identification, assessment and management of social impacts associated with onshore unconventional gas development.

The supplier must identify the structural, policy, regulatory and legislative reforms that must be made to the current regime in the Northern Territory to implement the social impact assessment framework described above.

The supplier must describe how the framework will operate in conjunction with the Northern Territory and Commonwealth environmental assessment frameworks in a way that minimises unnecessary duplication and inconsistency.

### 3.6 Beetaloo Sub-basin

The supplier must identify the people or groups of people that are most likely to be impacted by the development of unconventional gas resources in and around the Beetaloo sub-basin, shown in Attachment B, which may include, without limitation, community members, pastoralists, Aboriginal organisations and local businesses (the Affected Communities).

<sup>1</sup> A 'social impact' is defined as a change to any of the values or conditions set out at **Attachment A** and must include cumulative social impacts.

The supplier must describe the methodology used to identify the Affected Communities.

The supplier must describe the Affected Communities (that is, describe the community profile or baseline conditions), which must include a description of the values listed at Attachment A and how such information was collected.

The supplier must describe the type of potential social impacts, issues, concerns, risks and benefits that may arise from the development of the unconventional gas industry in the Beetaloo sub-basin on the Affected Communities. In identifying the potential impacts the supplier must consider:

- a. the list of social impacts, risks and benefits described in sections 7.5, 7.6, 7.7, and 7.8 of the *Background and Issues Paper*;
- b. submissions made to the Panel in connection with the *Background and Issues Paper*;
- c. social impacts, issues, benefits and risks typically associated with the development of onshore unconventional gas resources that have been identified in the literature and in other jurisdictions; and
- d. issues that have been identified in other social impact assessments and related studies that have been completed in or around the Beetaloo sub-basin, including those listed at **Attachment C**.

For each potential impact identified, the supplier must, to the extent possible:

- a. assess the potential impact (or risk) in terms of likelihood and consequence (high, medium, low);
- b. identify a potential measurable indicator, which can be qualitative or quantitative, and develop a methodology for the collection of appropriate baseline data in the Affected Communities so that changes in social values or conditions as a result of any unconventional gas development can be measured over time;
- c. collect such baseline data;
- d. identify ways to avoid, mitigate and/or manage the risk over time (including the entity that should be responsible for the management and monitoring of such risk) and predict what the level of risk will be following mitigation; and
- e. indicate whether or not the level of risk following mitigation would be deemed acceptable, and why.

For every potential social benefit that is identified, the supplier must recommend strategies to realise and maximise such benefit.

The supplier must identify any issues that must be addressed in subsequent project-based social impact assessments associated with the development of unconventional gas in the Beetaloo sub-basin.

The supplier must develop and implement a leading practice community consultation program to support its responses to section 3.6. The supplier must consult, without limitation and where practicable, the Aboriginal Areas Protection Authority; the Northern Land Council; the Departments of Primary Industry, Resources and Trade, Business and Innovation, and Tourism Northern Territory; local and regional councils; the Northern Territory Cattleman's Association; Northern Territory Farmers, and petroleum operators and titleholders in the Beetaloo sub-basin. The Steering Committee must approve the program prior to implementation.

## Part B - Social Licence to Operate

### 3.7 The supplier must describe, with reference to the literature and examples from other jurisdictions:

- a. the concept of a "social licence to operate" as it applies to the onshore unconventional gas industry in the Northern Territory;

- b. the nature and extent of any potential risks to affected stakeholders, including the Northern Territory Government, petroleum titleholders and operators in the Northern Territory, the Northern Territory community, and the communities affected by development, where industry has not obtained and/or maintained a social licence to operate;
- c. the measures that onshore unconventional gas industry and government can take to enable industry to earn and maintain a social licence to operate in the Northern Territory; and
- d. how industry's social licence to operate can be measured in the Northern Territory, including a part of the Northern Territory.

### 3.8

The supplier must identify, to the extent practicable, the measures that the petroleum titleholders and operators in the Beetaloo sub-basin have taken in the past, and can take in the future, to earn and maintain a social licence to operate in the Affected Communities.

### 3.9 Timelines and Reporting

The work must be in the form of a written report.

The report must include a literature review that includes all references used in section 3.5 and 3.6.

At the end of each calendar month following the award of the tender the supplier must provide the Steering Committee with a written progress report and a verbal presentation within five working days of receipt of the report.

The supplier must provide the Steering Committee with a draft final report and a verbal presentation to the Steering Committee on or prior to 1 September 2017.

A final report must be provided to the Steering Committee by 15 September 2017 and the supplier must present the final report to the Panel on a date to be determined.

The Inquiry will publish the final report on the Inquiry's website on a date to be determined.

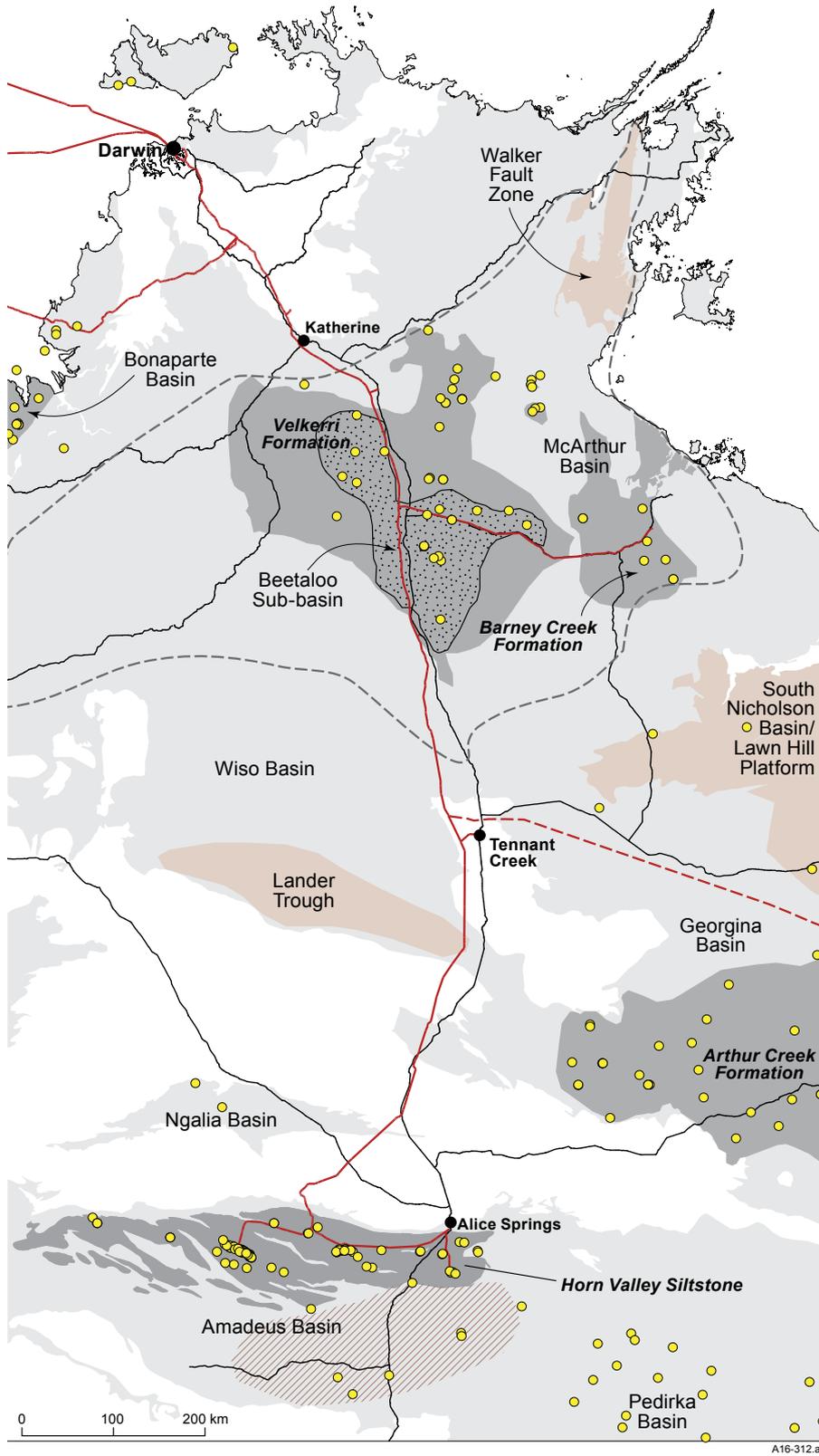
#### Attachment A

The *International Association for Impact Assessment* defines "social impacts" as changes to one or more of the following:

- a. people's way of life – that is, how they live, work, play and interact with one another on a day-to-day basis;
- b. their culture – that is, their shared beliefs, customs, values and language or dialect;
- c. their community – its cohesion, stability, character, services and facilities;
- d. their political systems – the extent to which people are able to participate in decisions that affect their lives, the level of democratisation that is taking place, and the resources provided for this purpose;
- e. their relationship with their environment – the quality of the air and water people use; the availability and quality of the food they eat; the level of hazard or risk, dust and noise they are exposed to; the adequacy of sanitation, their physical safety, and their access to and control over resources;
- f. their health and wellbeing – health is a state of complete physical, mental, social and spiritual wellbeing and not merely the absence of disease or infirmity;
- g. their personal and property rights – particularly whether people are economically affected, or experience personal disadvantage which may include a violation of their civil liberties; and
- h. their fears and aspirations – their perceptions about their safety, their fears about the future of their community, and their aspirations for their future and the future of their children, in each case, to the extent such impact would not otherwise be assessed as part of an environmental impact assessment under Northern Territory or Commonwealth legislation.

<sup>2</sup> Adapted from Vanclay, F. 2003 International Principles for Social Impact Assessment. *Impact Assessment and Project Appraisal* 21(1), 5-11 (available at <http://dx.doi.org/10.3152/147154603781766491> last accessed 21 April 2017).

# Attachment B(1)



- sedimentary basins
- extent of known prospective source rocks<sup>#</sup>
- largely untested petroleum plays
- Amadeus Basin subsalt play
- Beetaloo Sub-basin
- petroleum wells
- potential extent of McArthur Group\*
- Beetaloo Sub-basin
- gas pipeline
- proposed gas pipeline
- road
- major town

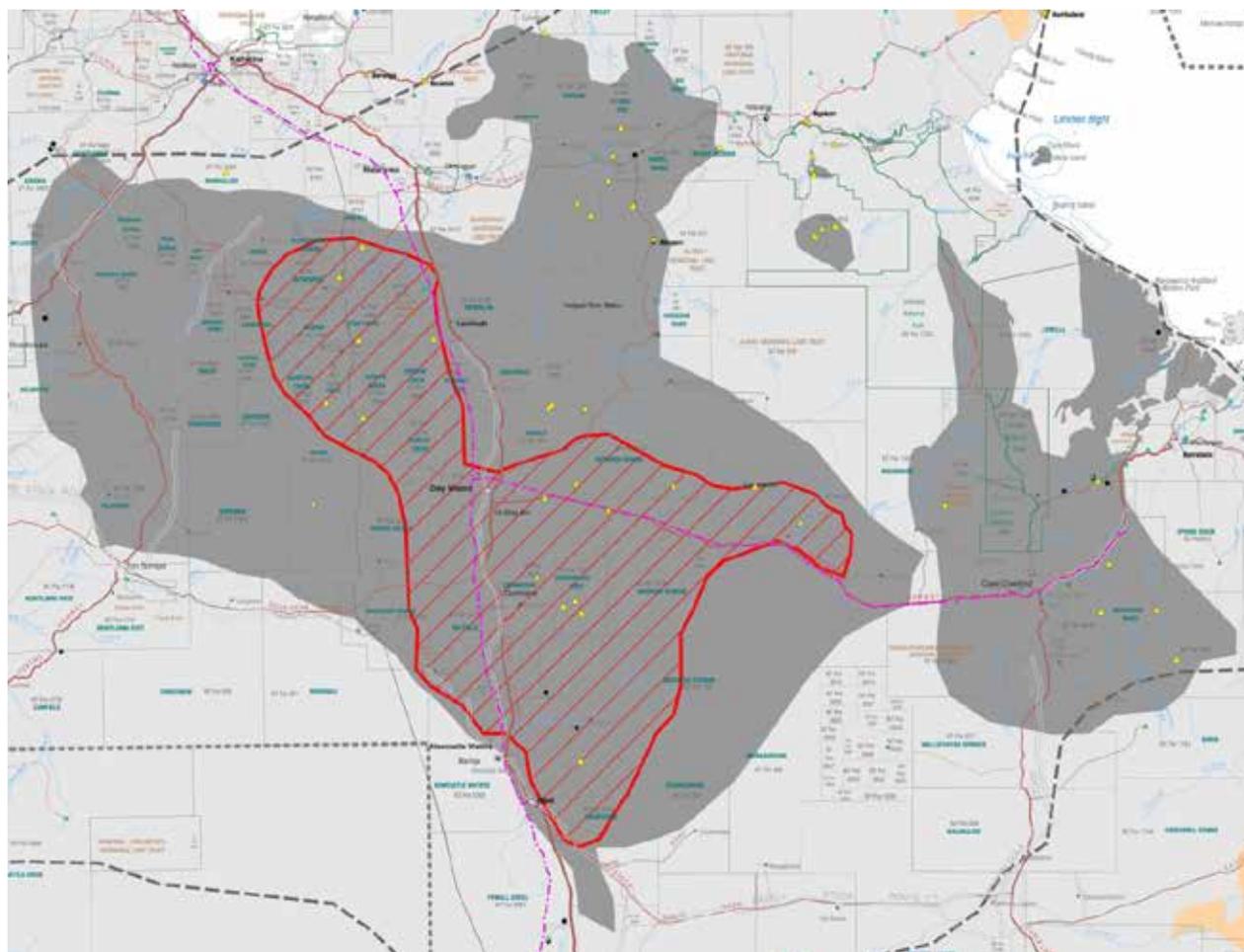
<sup>#</sup> Approximate areas within which key prospective shales are likely to be present, although this does not imply that the shales are necessarily present or are gas-bearing over the entire area indicated (sources: Bonaparte and Amadeus basins from Ahmad and Scrimgeour (2006); Velkerri Formation from Bruna (2015) NTGS DIP012; Arthur Creek Formation adapted from Munson (2014).

\* Approximate interpreted area within which the McArthur Group and equivalents may occur in the subsurface. This does not include the Lawn Hill Platform, which also contains shales of this age.

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## Attachment B(2)



## Attachment C

- The research monograph entitled "Ngukurr at the Millennium: A Baseline Profile for Social Impact Planning in South East Arnhem Land," by J. Taylor, J. Bern, and K.
- Social Impact Assessment undertaken by EcOz in connection with the Western Desert Resources Roper Bar Iron Ore Project.
- The Economic and Social Impact Assessment undertaken by EcOz in connection with the Sherwin Creek Iron Ore Project.
- The Social Impact Assessment Scoping Study and the Economic and Social Impact Assessment undertaken by Circle Advisory in connection with the Northern Gas Pipeline.