

Introduction – and apologies for why more people couldn't attend

Shelia Conway

People have got health issues, no cars to come in remote, no money, hard for people to present evidence with no support.

We would like the opportunity to have this formal hearing in Mataranka so we can present more evidence and more people can speak about their experiences.

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#### **TIMELINE FOR CHALLENGE TO MATARANKA FRACKING PERMIT**

**21 March 2015** – NTG announces in media it has secured 'historic agreement', the first for shale gas exploration involving fracking on Aboriginal Land Trust land in the NT.

**25 March 2015** – Community meeting at Jilkminngan, residents find out about permit being issued

**1 April** – Residents write to NTG and Land Council asking for evidence of consultation to support granting EP154

**3 April 2015:** The April 2015 edition of Land Rights News, a paper distributed by the Northern Land Council, claimed that 'fracking consents were qualified' and that consultation about EP154 had been held with appropriate Traditional owners since 2010.

**15 April 2015:** Traditional Owners attended a meeting at Mataranka Homestead and asked about the statement where over 140 people had written to Chief Minister Giles and NLC CEO Joe Morrison asking that the licence be revoked due to inadequate consultation. NLC Lawyers responded that they said they received the letter but an agreement had already been made and there was now nothing they could do.

**17 April 2015** – Meeting between Traditional Owners and NLC lawyer, TOs told they could go to jail if they obtain or show anyone a copy of the gas agreement.

**27 April** – Senior TOs write to NLC again outlining concerns with the consultation process and calling for a review of the agreement.

**11 May 2015** – Reps with the community met with Northern Land Council in which internal review is promised. To our knowledge this has never occurred. No signatory to either letter was invited to give their point of view in any review process.

**20 November 2015** – Senior Alawa and Mangarrayi TOs meet in Mataranka to discuss options for challenging the permit, and seek legal support to progress this.

**June 2016** - FOI documents applied for to get copy of the agreement.

August 2016 – Over 350 Mangarrayi and Alawa people become applicants to potential court challenge over the issuing of the permit. This process took a few months, as opposed to the way the land councils run consultations where signatures are sought immediately or within a day or two.

**September 2017** – Mataranka community rallies against fracking proposals in the region, over 400 people attended from communities, tourism businesses and nearby cattle stations.

**23 Jan 2017** - Former Chief Minister Adam Giles employed by Gina Rinehart, owner of Jacaranda Minerals. This brought concerns to the community of a conflict of interest.

**June 2017** – Freedom of Information request to Department of Mines and Energy approved, but all information relating to consultation and the agreement is denied by Northern Land Council under FOI exemption.

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### **Consultation inadequate – consent claims challenged**

In response to questioning the consultation process for EP154 the Northern Land Council has only provided the claim that a 2km restriction on all surface water is evidence of consultation and is based on 'strict environmental conditions.'

But all our surface water is fed by underground springs. The country and river systems are very sensitive. We are worried about any drilling or fracking in that area.

These conditions appear to have been made without regard to relevant underground or surface water studies for the affected regions, and would do little to protect the underground and surface water from drilling within proximity to the catchment areas of the Roper River or Mataranka thermal springs.

How are we supposed to negotiate an agreement that protects our land, water and people when this is the best advice we are being given?

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### **Fracking permits on Aboriginal land – dirty deals done dirt cheap**

Paperwork from consultation meetings to discuss fracking proposals could only be provided by one Traditional Owner. These showed a single gas well, a piece of pipeline and a bulldozer.

The Northern Land Council has never used an interpreter during consultation to help explain the process of fracking or gasfield development. Often old people are forced to meet with the land council to discuss proposals without any family present, especially younger people who can help them to understand.

The visual aids and description of the proposed works give no indication of what the scale and risks of the proposal may be once the project moves to a production stage.

While no project is guaranteed to move to a production phase unless sufficient quantities of gas are found, it should still be a requirement that the companies and land councils provide detailed information about what impact this may have in order for landholders to provide or withhold consent in an informed manner.

Providing this information to landholders is critical to a genuine consultation process, as landholders on Aboriginal Land Trusts such as the Mangarrayi and Alawa Trusts lose their right to object or veto a proposal once it has been agreed to at the exploration stage.

It is not informed consent.

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SHOW ELLAGA VIDEO

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Senior members of the Mangarrayi and Alawa Land Trusts have repeatedly requested the following information to help them understand the process leading to the granting of exploration permit EP154:

- A record of consultation meetings held including dates and locations of meetings,
- A record of what information was presented to landholders at these meetings to explain the nature and risks of the project
- A copy of the agreement with the companies, or even the names of landholders whose signature is on the agreement to determine whether consent was properly granted.
- To respect a legal injunction on behalf of Senior Mangarrayi Elder Shelia Conway not to proceed with the work plan for EP154 until these documents have been provided.

None of these documents have been provided by either the Northern Land Council or the NT Government.

Following an expensive and protracted year-long application to obtain copies of any evidence of consultation provided to the NT Government by the Northern Land Council before issuing EP154, all relevant information pertaining to the consultation process and agreement making were denied by the Land Council.

This lack of transparency and deliberate blocking of critical information for landholders means only an expensive and difficult court remedy remains as an option to challenging the issuing of the permit.

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**We want to know why none of the agencies that hold this information are coming before this Inquiry to answer questions?**

- The NT Government Department of Mines and Energy
- The Northern Land Council
- Hancock Prospecting/Jacaranda Minerals and joint partner Minerals Australia

The government and fracking industry say we do not know about fracking. But we know about looking after the land, our communities and our culture and we don't want this fracking coming in.

If approvals for fracking permits are being issued on our lands, where is the responsibility of these agencies to make sure our people are informed before legal contracts are signed?

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Senior Mangarrayi Elder Shelia Conway believes her name may be on the gas agreement, but she continues to be denied copies of the agreement or any confirmation as to whether her name is or isn't on the agreement or was required for consent to EP154.

Other Elders who have now passed on may have also been asked to sign without fully understanding. Copies of any agreements should be made available to the affected families.

We believe the permit should be revoked under provisions of the Land Rights Act and Petroleum Act NT because:

- Inadequate consultation with all relevant Traditional Owners for the areas impacted by EP154;
  - That correct NT Petroleum Act Exploration licence application processes had not been followed;
  - The proponent did not adequately explain the exploration and works program to Traditional Owners.
  - The Aboriginal Land Rights Act would allow the NLC to call on the Mines Minister to revoke an EL if a) it can be shown the proponent did not fully explain its program of works and b) it is believed the program of works will cause harm.
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\*Show slide from interim report quotes from gas companies making agreement with mob

Page 122, Interim Report.

Gas companies say Aboriginal people are well informed about gas agreements and negotiations. But fracking is a new type of mining that we haven't had on our land before, and information about the risks is coming to light every day. How can we make an informed decision if we don't know about the process or risks and don't have the resources for independent legal or technical advice?

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DESCRIBE VIDEO OF NLC MEETING, VOTE TO SAY NO TO GAS

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### **Recommendations and summary**

We agree with the Panel in its Interim Report that review and appeal processes must apply to existing and future petroleum agreements, without it there is no justice for Indigenous communities and landholders.

At present, our only remedy for accessing documents related to the consultation process and granting of agreements is through a lengthy and costly court process – an option that would be denied most aggrieved Aboriginal landholder due to lack of resources and difficulty negotiating the governmental and legal framework.

Land Councils exemption from FOI laws mean they do not have to provide anthropological information or information regarding financial assets that they may hold on behalf of an Aboriginal landholder group or individual.

It is our strong view that the exemption from the Freedom of Information Act allows Aboriginal Land Councils to operate with a very low degree of transparency and accountability that is exacerbating conflict in our communities and denying us enjoyment of our full rights as landholders under the Aboriginal Land Rights Act.

**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 permit over our lands be scrapped**
  - **The Inquiry investigate why critical information about gas agreements is being denied to Aboriginal landholders**
  - **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.**
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- We do not believe that natural justice is afforded to Aboriginal landholders under the current regime for consultation and issuing of permits for shale gas exploration on Aboriginal land.
  - All agreements on Aboriginal Land Trust and Native Title land should be made available to relevant landholders.
  - The exemption from Freedom of Information laws for Aboriginal Land Councils should be revoked to avoid lengthy and expensive court processes and reduce conflict in communities.
  - We have shown we are determined to fight to protect our land. We don't accept the risks of fracking for our communities. We have held big protests, we have told the Land Council we won't be going to any more meetings to talk about the gas plans until they show us the record of meetings and agreements, we have written to governments and the gas company.
  - This Inquiry is only looking in detail at fracking in the Beetaloo Basin but what about all the other communities now locked into agreements we are fighting? What will you be recommending?
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**Our communities have shown time and again that we don't support fracking in the region. We do not know of any Aboriginal communities where there is strong support for this type of mining. We would like to see the Inquiry recommend a vote be held to on whether to have a fracking ban across the Territory.**