



# PURPOSE OF THE INQUIRY

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## Chapter 1 Purpose of the Inquiry

### 1.1 Establishment of the Inquiry

As stated in the *Background and Issues Paper (Issues Paper)* released on 20 February 2017, 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 shale gas reservoirs in the Northern Territory (NT). The Chief Minister also announced that he would appoint an independent scientific panel (**Panel**) to inquire into the impacts and risks associated with hydraulic fracturing.

On 3 December 2016, the Northern Territory Government (**Government**) announced that it had established the Inquiry under the *Inquiries Act 1945* (NT).

The Inquiry is Chaired by the Hon. Justice Rachel Pepper, a judge of the Land and Environment Court of New South Wales (LEC) a superior court of record. Her Honour was formally appointed as Chair of the Inquiry on 30 January 2017.

The Panel is comprised of nine eminent scientists across a range of disciplines. A list of the names and biographies of the Chair and the other Panel members can be found on the Inquiry's website at [www.frackinginquiry.nt.gov.au](http://www.frackinginquiry.nt.gov.au).

The Government has stated publicly that the moratorium will stay in place for the duration of the Inquiry.

### 1.2 The Terms of Reference

The Government published draft Terms of Reference on 14 September 2016. After public consultation, these were amended, and on 3 December 2016, the Government announced the final Terms of Reference for the Inquiry. The Terms of Reference are set out in Appendix 1.

### 1.3 The purpose of the Inquiry

The purpose of this Inquiry is found in the Terms of Reference, the drafting of which the Inquiry had no input into. While limited to onshore unconventional shale gas only, the Terms of Reference are nevertheless broad in their scope. They require the Panel to assess and determine:

- the nature and extent of the risks associated with hydraulic fracturing of onshore unconventional shale gas reservoirs and its associated activities on the environmental (aquatic, terrestrial and atmospheric), social, cultural and economic conditions of the NT;
- whether these risks can be mitigated to an acceptable level;
- if they can, by what methodology or methodologies can these risks be mitigated; and
- whether the existing regulatory framework is sufficient to implement these methodologies, and if not, what changes need to be made.

The Terms of Reference, notwithstanding their breadth, nevertheless provide constraints on the scope of the Inquiry. Excluded from its scope is coal seam gas (CSG), sandstone (or 'tight') gas and shale oil. Critically, an examination of the place and future of renewable energy within the NT is outside the Terms of Reference as are the occupational health and safety implications of any onshore shale gas industry.

In the course of delivering on its Terms of Reference, the Inquiry was required to develop and implement a stakeholder engagement program, which included opportunities for the public to make oral and written submissions to and consult with the Panel.

## 1.4 Overview of previous inquiries into hydraulic fracturing in the NT

As was discussed in the Issues Paper<sup>1</sup>, this is not the first inquiry that the NT has held into hydraulic fracturing. However, as indicated above, this Inquiry differs from its predecessors, by reason of its scope (it is wider) and its mandate to consult widely with Territorians.

In 2011, the former Labor Government commissioned Dr Tina Hunter, an expert in petroleum law, to report on the capacity of the NT's legal framework to regulate the development of the onshore petroleum industry in the NT (**2012 Hunter Report**).<sup>2</sup> A key recommendation from the 2012 Hunter Report was that the Government should prioritise the development and implementation of regulations under the *Petroleum Act 1984* (NT) (**Petroleum Act**) for the protection of the environment<sup>3</sup>.

In March 2014, the former Country Liberal Party (**CLP**) Government under Chief Minister Adam Giles commissioned Dr Allan Hawke AC to conduct an inquiry into the potential impacts of hydraulic fracturing in the NT (**2014 Hawke Report**).<sup>4</sup>

The 2014 Hawke Report's major recommendation was that, "*consistent with other Australian and International reviews... the environmental risks associated with hydraulic fracturing can be managed effectively subject to the creation of a robust regulatory system*".<sup>5</sup>

Another relevant recommendation was that the Government conduct a review of the environmental assessment and approval process in the Territory. The CLP Government therefore reengaged Dr Hawke to conduct this inquiry. Dr Hawke's second report (**2015 Hawke Report**) was released in May 2015.<sup>6</sup>

Following the 2012 Hunter Report and the 2014 and 2015 Hawke Reports, new *Petroleum (Environment) Regulations 2016* (NT) (**Petroleum Environment Regulations**) were promulgated in July 2016.

In early 2016, the CLP Government commissioned Dr Tina Hunter to conduct an independent assessment of the Petroleum Environment Regulations (**2016 Hunter Report**) to ensure that they complied with the principles of best practice regulation. Dr Hunter described the new environment regulations as "*a quantum leap from the Northern Territory regulations of old*" and said that "*the fundamentals of the Regulations are sound*".<sup>7</sup>

The principal difference between this Inquiry and the reviews described above is the broad scope of the Inquiry's Terms of Reference and its clear instruction to consult widely with all Territorians.

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1 Issues Paper, p 10.

2 2012 Hunter Report.

3 2012 Hunter Report, recommendation 16.

4 2014 Hawke Report.

5 2014 Hawke Report.

6 2015 Hawke Report.

7 2016 Hunter Report, p 4.

## 1.5 The identified risks of hydraulic fracturing in the NT

The potential risks associated with hydraulic fracturing for onshore shale gas in the NT were identified in the Issues Paper as 'issues', which were categorised into nine themes for ease of reference.

A total of 1257 submissions have been received by the Inquiry (of which 582 are pro forma letters that do not materially differ in substance from each other). This is in addition to the information obtained at the hearings and community forums, and the feedback contained in more than 221 'Have Your Say' forms.

The risks set out in detail in the Issues Paper have been discussed during extensive consultations in urban centres and rural and remote communities across the NT. As a result of these discussions, additional issues were identified, which have been taken into account by the Panel. A final list of issues compiled pursuant to this process is attached at Appendix 2. The new risks raised by the public during the course of the consultations are identified in italics.

Based on the available evidence, the Panel has now assessed these risks and determined whether or not they are material, and where it has been found that they are, the extent to which, if any, they can be mitigated to an acceptable level by appropriate recommended safeguards (the Panel's methodology is set out in Chapter 4). The Panel has made a number of recommendations (see Chapter 16) to the Government to assist it in the effective establishment and maintenance of those safeguards.

Ultimately, it is a matter for the Government, not the Inquiry, upon receipt of this Report, to determine whether or not the current moratorium should be lifted. The Terms of Reference do not permit such a recommendation to be made by the Inquiry.