

Lock the Gate Alliance Northern Territory

7 October 2016

RESPONSE TO THE DRAFT ADVICE OF THE NT EPA RECOMMENDED REFORMS FOR THE TERRITORY'S ENVIRONMENT LEGISLATION

Dear Bill Freeland and NT EPA team,

Thanks for the opportunity to read over and comment on the NT EPA response to the Hawke Report on reforms for the Territory's Environment Legislation.

Lock the Gate Alliance is a national grassroots organisation made up of thousands of individuals and over 160 local groups across Australia, concerned about unsafe mining practices, and particularly unconventional gas extraction.

The mission of the Lock the Gate Alliance is to protect Australia's agricultural, environmental and cultural resources from inappropriate mining and to educate and empower all Australians to demand sustainable solutions to food and energy production.

Lock the Gate Alliance is committed to advocating that community health and rural industries should take priority over the development of the unconventional gas industry in Australia.

With over 80% of the Northern Territory under licence or application for onshore oil and gas exploration, Lock the Gate Alliance NT has a strong interest in ensuring the environmental assessment legislation of the Northern Territory is improved to protect communities and the environment.

We applaud all improvements the NT EPA can make to legislation to ensure landholders and community members are better included in the assessment process. We support moves that ensure the process is clearer and more transparent, and that the cumulative impacts of extractive industry projects can be considered fully and upfront by both the Authority and community members.

With dozens of Territory-based community action groups within our network, and with thousands of supporters across the Territory, the Lock the Gate Alliance NT has conducted numerous interviews with Territorians about their suggestions for improvements needed to the process of environmental assessment decision making, compliance and legacy of resource extraction in the Territory.

The most reoccurring themes are around the failure of mining companies to be responsible over the long term for mine site rehabilitation, inadequate environmental bonds, the lack of transparency around water use, inexperienced and under resourced compliance teams, blind support by government for

projects, failure to undertake meaningful pre-activity scientific studies and failure of cumulative impacts of neighbouring projects to be considered.

We assert that this review process and subsequent improvements offers an opportunity to reframe the debate in the Territory and to build credibility and power back into the NT EPA.

Lock the Gate NT hopes to be a useful resource to the NT EPA, in order to act as a conduit between local landholders and policy makers. We also take our role of public advocacy very seriously. We have been empowered by our members and supporters to speak up strongly when the decisions of the NT Government or mining companies active in the NT are not fulfilling their roles for the betterment of Territorians, have breached public trust, or where there are improvements to be made.

Having read the EPA's draft advice and the response from the EDONT legal firm, we would like to strongly commend the submission of the EDONT to the NTEPA.

Please find the PDF of the EDONT submission attached.

In addition to their submission, Lock the Gate Alliance NT would like to offer the below further recommendations and quick comments.

Overall, we are very supportive of the approach of the NT EPA in addressing in detail this review and taking a common sense approach to improving the environment assessment process.

We fully support the comments of the EDONT and similarly would like to continue to engage with the NTEPA to ensure aspects of the proposed changes are the subject of detailed consideration and community engagement during the reform process.

We would also like to specifically note the significant importance of merit review rights for landholders and community members. We wish to re-assert the point made by EDONT, that PDI 88 be amended to specifically note the intention that decisions to be subject to merits review by the Tribunal. We also agree that it should specifically allow third party appeals for a broad cross-section of the community. Due to the potential expanded nature of future projects, particularly in relation to unconventional gasfields, broad standing provisions are appropriate. This could be achieved by formally providing for broad standing provisions, e.g. open or expanded standing, or standing for anyone who has made a submission, is a person aggrieved or has a relevant interest.

Considering the long distances, the seasonal nature of the regional workloads of Northern Territory residents and business owners, language barriers and long distances or lack of Internet in some areas, we also strongly recommend that as part of this process, the timeframe for bringing a merits review of any decision under the act be at least 45 days (preferably 60), rather than 28 days.

In fact, those communication constraints impact on all levels of the assessment process. We back up the recommendation regarding PDI 62: There should be powers for the NT EPA to extend timeframes unilaterally where:

- i. The proposal is of such significant impact or public interest that the NTEPA is of the opinion that additional time is required (reasons should be given for forming this opinion).
- ii. Insufficient information is provided to enable the NTEPA to make recommendations; or
- iii. Where agreed in consultation with the proponent.

We agree with the EDONT note: This safeguard is important to allow flexibility. Particularly it redresses the problems that may arise where the NTEPA (or other decision maker) can be inundated with EIS material but is forced to comply with strict timeframes.

In the last 12 months and even this very week, The Lock the Gate Alliance has been made aware of assessment process deadlines that have felt rushed by the NT EPA, due to pressure from the proponent. For example, the Jemena Northern Gas Pipeline assessment has had major assessment milestones made on Christmas Eve, and just this week has advised stakeholders that remote Traditional Owners would be unlikely to be able to have late responses to the EIS considered by the proponent due to tight timelines.

This sort of external pressure is inappropriate for solid environmental assessments. It appears to be driven by political decisions to support proponents with unrealistic approval timelines. It is not appropriate and puts undue strain on both the NT EPA and Territory residents for whom these decisions have the greatest long-term impact.

The Lock the Gate Alliance NT would also like to reiterate the EDONT points around cumulative impacts of projects, to avoid a death by a thousand cuts assessment regime. The NT Act should provide specific criteria, which the Minister must consider before issuing an approval. This should include specific requirements for the Minister to consider:

- b. The object of the Act;
- c. The potential cumulative impacts of the proposal considering the nature and location of the action;
- d. The societal distribution of burdens and benefits associated with a proposal;
- e. The opportunity cost of approving a project and the potentially more desirable alternatives to the project;

f. The impacts of climate change on the project, and the project's impact on climate change; and

g. a proponent's environmental history.

Finally, we would like to note that further work is required by the NT EPA in relation to the requirement of environmental bonds that are adequate to protect against tax payer funded clean ups, ongoing environmental contamination and disruption to livelihoods of neighbouring Traditional Owners and land users.

We hope these comments are useful in light of your detailed and thoughtful work to improve the environmental assessment processes across the NT.

We look forward to future engagement on this matter and to working together for a better outcome for a sustainable, economic and environmentally pristine Northern Territory.

Yours sincerely,

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On behalf of the Lock the Gate Alliance NT

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