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**22nd March 2022**

**‘Oil and gas exploration and production in the Beetaloo Basin’  
Submission to the Senate Environment and Communications  
References Committee  
Senate Inquiry Public Hearing Darwin NT**

**Senate Members in attendance:** Senators Bragg [by audio link], Cox, McCarthy, McMahon and Thorpe Terms

**Reference for the Inquiry:** Oil and gas exploration and production in the Beetaloo Basin, with particular reference to the Industry Research and Development (Beetaloo Cooperative Drilling Program) Instrument 2021, which provides public money for oil and gas corporations.

**Joint Hearing of Witnesses:**

HOWEY, Dr Kirsty, Co-Director, Environment Centre NT  
KUDRENKO, Ms Jade, General Manager, Arid Lands Environment Centre  
LEE, Ms Heidi, Chief Executive Officer, Beyond Zero Emissions [via audio link]  
LEIKIN, Ms Alina, Special Counsel, Environmental Defenders Office  
SHIN, Ms Sarah, Solicitor, Environmental Defenders Office

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**SHIN, Ms Sarah, Solicitor, Environmental Defenders Office**

[15:04]

**ACTING CHAIR:** I now welcome representatives from the Environment Centre NT, Arid Lands Environment Centre, Beyond Zero Emissions, and the Environmental Defenders Office. I understand that information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. I now invite each of you to make a short opening statement, and at the conclusion of your remarks I'll invite the members of the committee to ask you some questions. Who wants to start?

**Dr Howey:** I will. I'd like to commence by acknowledging that this inquiry is meeting on Larrakia country and I acknowledge their ongoing custodianship and care of these lands and waters. I'd also like to acknowledge the traditional owners of country that will be affected by the gas industry's plans to frack the Northern Territory and that their sovereignty is ongoing and was never ceded.

The Environment Centre NT is the peak environment body in the Territory, raising awareness about environmental issues, holding government to account over environmental decision-making and policies, and supporting community members to participate in decision-making processes. We do this work in the public interest. I have already provided evidence to this inquiry, and I'm not going to go over that old ground, but I will be focusing on a couple of new aspects, including the litigation that my organisation brought in relation to these grants.

To open, I'd like to say that, in the ECNT's view, the federal and Northern Territory governments have embarked upon a strategy of permitting the gas industry to externalise its costs and internalise its profits, with perverse outcomes. In July 2021, the ECNT filed court proceedings in the Federal Court, challenging the grant of \$21 million to Imperial Oil and Gas by Minister Pitt. The ECNT argued that the minister should have considered climate and economic risks. The case was brought because the grants are perceived by many in the Northern Territory to have crossed a line. Why should the taxpayer be funding a multibillion-dollar industry that should be able to stand on its own two feet?

The Federal Court found that Minister Pitt's grants were invalid because it was legally unreasonable and capricious for the minister to enter into the grants while they were the subject of court proceedings, an action which breached model litigant obligations. While the climate grants were unsuccessful, the expert evidence learnt in the case makes clear the extraordinary risks and costs associated with proceeding with fracking the Beetaloo. The ECNT filed evidence from leading climate scientists and economists Dr Hugh Saddler, Nicki Hutley and Professor Nerilie Abram. This evidence was not disputed by Minister Pitt in the proceedings. I seek leave to table copies of these three reports, which I received permission from the experts to provide to you, which represent a bleak analysis of the real costs of fracking the Beetaloo basin. I can return to them in questioning if needed.

Instead of reckoning with the true cost of proceeding with this industry, both the Commonwealth and Territory governments are facilitating its advance by funnelling money to the industry and permitting the industry to avoid bearing its real costs. I want to give a few examples, apart from the \$50 million Beetaloo cooperative drilling instrument that's the subject of this inquiry.

The first is baseline studies. They are critical to this whole industry going ahead and receiving a social licence. We've heard a lot about them this morning. They're being funded by taxpayers instead of by industry as recommended by the Pepper inquiry. The idea is that at some point in the future the gas industry may recoup these costs; nonetheless, it's the taxpayer who's fronting up the bill at the moment.

Secondly, the Pepper inquiry recommended that life cycle greenhouse gas emissions generated in Australia should be offset. Again, this is a topic that's received a lot of attention today. A RepuTex report, commissioned by Lock the Gate last year, found that emissions from fracking the Beetaloo would be up to 1.4 billion tonnes, over 20 years, and that the cost of offsetting could be in the order of between \$3 billion and \$22 billion. There's still no indication how this recommendation will be met.

Thirdly, the Northern Territory government isn't even imposing offset conditions on existing exploration activities. For example, there are currently three environmental management plans being considered by the Northern Territory government—Imperial's, Sweetpea's and Origin's EMPs, although Sweetpea's may have been

withdrawn, according to the latest media—with combined emissions of over 700,000 tonnes over the next three years. At today's spot price for carbon credits, the cost of offsetting these emissions would be over \$22 million. The Northern Territory government should be imposing a condition on these EMPs, requiring them to be offset consistent with the Pepper inquiry. Instead, two of these companies have been granted in the order of \$25 million by the federal government. We suspect this is just a drop in the ocean. We know it's an election year, and we're foreshadowing and suspecting that there'll be a great deal more announcements made with respect to public funding for the Beetaloo basin.

To conclude, I want to make a brief reference to the implementation of the Pepper inquiry recommendations and, again, refer to my submission and previous evidence about that. The EDO will be taking that up in more detail, I understand. I won't go into detail about those failures today, except to say that they're extremely troubling. On the Pepper inquiry's own logic, the industry should not proceed if the recommendations cannot be implemented.

As has been clear in evidence given throughout today, people in the Northern Territory have absolutely no trust in this industry and that these promises are going to be delivered on, and they are increasingly frustrated. The public money that could be spent on any number of better initiatives here in the Northern Territory is being funnelled to fossil fuel companies, to spearhead an industry that will have dire consequences for this place. It's time to put an end to public funding of the fossil fuel industry. This is a transfer of public wealth to private interests for an industry that is hurtling this place towards unliveability.

**ACTING CHAIR:** Thank you. Are there any other brief comments or opening statements?

**Ms Kudrenko:** I think we've all prepared opening statements, if there's time.

**ACTING CHAIR:** Yes, if we can keep them to a minimum. Sorry, there is a very short time frame for the committee.

**Ms Kudrenko:** Pull me up if you need. We're based in Alice Springs and we're Central Australia's peak community environmental organisation. We've been advocating for the protection of nature and ecologically sustainable development in the arid land since 1980. I acknowledge the Arrernte people as the traditional owners of the land on which I live, and the Larrakia people on whose land we're meeting today, and the Aboriginal people across the Northern Territory impacted by decisions being made about their land for which sovereignty was never ceded.

ALEC has worked closely on the focus of this Senate inquiry. Across Central Australia our community have consistently demonstrated strong opposition to fracking in the Northern Territory and we have voiced our concerns for the fear of the real and serious risks to groundwater and the devastating impacts that emissions from gas will have on exacerbating climate change. The Territory is already a place of climate extremes. We know that climate change is increasing the intensity, frequency and variability of climatic events.

In Central Australia this will mean hotter temperatures, more intense heat events, longer periods in drought, more erratic rainfall and aquifer recharge, drier soils, increased evapotranspiration and more wildfires. These effects further threaten already at-risk ecosystems. It's understood that arid and semi-arid environments are undergoing collapse, as are savanna and mangrove environments in the Top End. Climate change presents an existential risk in the Northern Territory's vulnerable and stressed environments.

You've heard from many people, in submissions to this inquiry and in talking here today, about the details of the Pepper inquiry. That inquiry was scientific in nature and it concluded that the Beetaloo basin's risk to Australia's annual greenhouse gas emissions was unacceptable. It was made clear that the full package of 135 recommendations must be implemented in full. Yet we know that a number have yet to be resolved and perhaps at least one is even impossible.

On a personal front, I attended the hearings for the Pepper inquiry in my home town of Alice Springs five years ago. I followed that inquiry and its recommendations. As an ordinary Territorian, as someone planning to stay here, reflecting on all the evidence and the comprehensive recommendations that were brought down I just couldn't have imagined that the Australian system would've let us down so badly. To me it seems unconscionable that public funds in such vast amounts are being gifted to gas companies for private profits at the expense of this place and the people that live here. I was born in Alice Springs and like many other families I'm raising my kids there, yet I'll worry deeply about the beautiful Northern Territory as we know it. It will be ravaged by increased heatwaves, droughts, floods and fires. We're from ALEC. We're from the desert. We understand groundwater. We rely on it. We understand how much of a precious resource it is. We've seen water stressed communities and the devastating effect it can have. Water is life. This isn't just a campaign catchcry; it's a mantra for survival in the Centre and it's one that has been ingrained in us.

In many ways the NT is just a small jurisdiction with limited capability and capacity. It's evident that the Territory government has been grappling with increasing pressures to open up to gas, lifting the moratorium and struggling to address its responsibilities to ensure the full package of 135 recommendations are implemented. It's really dismaying to see the federal government overstep and not redeem itself from this process. The development in the region shouldn't occur without a robust and comprehensive regulatory system. My friends at the EDO have found that only 27 per cent of the recommendations have been implemented. The department representatives—I think they're up next—are probably better placed to outline where we failed on the recommendations so I won't go into that. But I will just say that the only recommendation of the Pepper inquiry that is the sole responsibility of the federal government is recommendation 7.3, which is that the Australian government amend the EPBC Act to apply the water trigger to onshore shale gas developments. However, the EPBC Act currently does not protect Beetaloo water, which is at risk of these shale gas activities. We know that shale gas uses large quantities of water and poses risks to groundwater through contamination. As Territorians we just want our water to be valued and we want it to be protected. We need the water trigger to be expanded to include shale gas activities.

It's deeply concerning that the federal government is attempting to fast track exploration in the Beetaloo basin whilst disregarding the regulatory framework and the recommendations of the Pepper inquiry. Instead, the federal government have ensured that water resources are not protected in the Beetaloo whilst fast-tracking development through the Beetaloo Cooperative Drilling Program.

The Beetaloo might seem far away for people like me. I'm in Alice Springs. The Beetaloo's not exactly the arid zone. However, we stand in solidarity with the folks there. We know that decisions that get made here about the Beetaloo will have an affect on us sooner or later. We're in a really vulnerable position and the ramifications are extremely concerning. It dismays us to see the federal government propping up industry. We want the government to spend money on securing healthy and prosperous futures for Territorians. We need infrastructure for safe drinking water. We need clean energy transitions and climate mitigation and adaptation investments. I'll pull up there. I just want to say: Canberra seems a really long way away for us. I'm from Alice springs. I'm part of the Lingiari electorate, which also covers the Beetaloo. I really appreciate that you've come here today to hear from us.

**ACTING CHAIR:** Thank you. Thank you for your comments. I'll pass over to Alina.

**Ms Leikin:** Thank you, Senator. We'll be as brief as we can. Firstly, I'd also like to acknowledge that we're appearing on Larrakia country and pay deep respects to elders past and present. I want to also acknowledge the traditional owners who've travelled to appear and to be here today. The Environment Defenders Office, or EDO, is an independent community legal centre specialising in public interest environmental law. EDO advocates for strong environmental laws and effective compliance and enforcement of the regulatory frameworks that protect our community, our important natural assets and our unique landscapes.

Today, we want to focus our remarks on the concerning lack of progress in implementing the 135 recommendations handed down by the Pepper inquiry in 2018. We have undertaken a forensic analysis and found that, four years on, the majority of recommendations have still not been implemented. The analysis has been provided to the committee, and we have a few copies if that would assist. This means that the NT regulatory framework is patently inadequate to ensure the necessary safeguards and oversight mechanisms are in place and that granting further approvals and publicly funding exploration activities poses significant risk to the community and to the environment.

A snapshot of our analysis of the 138 implementation actions arising from the Pepper recommendations is as follows. On our analysis, only 38 out of the 138 implementation actions have been fully implemented by the NT government. This means that the remaining 100 implementation actions are not fully or properly implemented. That's 27 per cent of the Pepper implementation actions that have been completed to date.

Seventy-three actions, the majority, have not been implemented according to the NT government's own reporting. Of those actions, 52 were promised to be completed by the end of 2021 and have not been. Some of those delayed recommendations do not have revised time lines for completion.

Of the 65 implementation actions marked as completed by the NT government, 27 have not been fully or properly implemented on our analysis. This is either because the government determined that there was no need for the recommendation to be implemented, meaning it will never be completed, or the government departed from aspects of the recommendation by setting a lower bar than Pepper required. I'll now hand over briefly to my colleague Sarah Shin to provide a couple of key examples.

**Ms Shin:** As our analysis shows, there are far too many issues to detail here today, but we want to highlight a few examples. The recommendations which have not been fully implemented, according to the government,

include 5.5: there are still no new wastewater treatment and disposal facilities; 7.4: there are still no guidelines for human health and environmental risk in relation to fracking chemicals; 14.24: there is no opportunity for people impacted by fracking to meaningfully challenge government decisions through a merits review legal framework; and 11.5 and 11.6: recommendations relating to respecting culture and engaging with Aboriginal people and communities are woefully off track.

Of the recommendations marked as completed, 27 have not been fully or properly implemented. Again, there are too many to detail, so we can offer a few examples. On recommendation 7.3, the rigorous assessment of surface and groundwater impacts, which is in place for coalmines and coal seam gas projects across the country, will not be triggered for shale gas projects in the Beetaloo. This is because the Environment Protection and Biodiversity Conservation Act was not amended to expand the water trigger to shale gas. On recommendation 14.34, the Northern Territory Department of Industry, Tourism and Trade, which promotes the mining industry, still holds the power to approve well operations management plans, WOMPs, undermining independence and accountability. WOMPs regulate standards for well integrity. Well blowouts can have significant environmental impacts, so it is essential that WOMPs are subject to proper assessment. And on recommendation 11.3, the sacred sites act was not amended to ensure that sacred sites under the ground are adequately protected. There is a risk that these sacred sites, including dreaming trails, will be destroyed.

As exploration of the Beetaloo basin accelerates, it is clear that the risks identified by the Pepper inquiry have not been mitigated, that necessary safeguards are not in place and never will be, and that the regulatory framework is not ready and never will be. In that context, approvals should be halted and no more public funding should be funnelled into the Beetaloo basin.

**ACTING CHAIR:** Thank you. Ms Lee, do you want to make a brief opening statement?

**Ms Lee:** Yes. It's a pleasure to be here today, and I acknowledge that we're meeting for the hearing on Larrakia country. I'm dialling in from the land of the Taungurung people here, and I'd like to pay my respects to those elders past and present impacted by this inquiry.

Our submission stands. It's primarily focused on a report that we published in partnership with the Environment Centre NT in 2019. In that report, we identified the upside to a large-scale investment in renewable energy and renewable energy powered industries. So our comments today are based on the upside of alternatives to the Beetaloo basin and fracking gas.

The highlights from the 10 Gigawatt Vision, our vision for the Northern Territory, were more than 8,000 new ongoing jobs, more than \$2 billion in new annual revenue, an 80 per cent saving in household transport bills and a 30 per cent saving in household electricity bills for the Territory. While I won't go into detail of the 10 Gigawatt Vision and those research findings, the foundation of that work is in the name: to build 10 gigawatts of new renewable energy. We could capture the benefits for the Northern Territory from that investment. In 2019 figures, it would have cost around \$20 billion and required less than 160 square kilometres to build that 10 gigawatts of new renewable energy. Since 2019, mega projects like Sun Cable are now building out 20 gigawatts of new solar in less than five years. The speed of change is coming faster at every turn.

We have two initiatives in that report to draw your attention to. These are on building renewable energy and powering green hydrogen manufacturing, and also on repowering the manufacturing sector on renewable energy. We have released a subsequent report in 2021, showing that investment in renewable energy in industrial centres elsewhere in Australia can add enormous windfalls to those communities of up to \$13 billion and 45,000 ongoing jobs over 10 years from just two large industrial centres. That work we've done is part of a national program of 14 locations for renewable energy industrial precincts all across the country, including a location in Darwin. Instead of pursuing a sugar hit of fossil fuels like gas, the Northern Territory should be focused on developing industries that can maximise the huge potential of the Northern Territory's exemplary resources in solar—sunshine—and wind.

We have five other recommendations in the Northern Territory report. I want to emphasise that the upside to investing in large amounts of new renewable energy can bring enormous social, environmental and economic benefits to the Northern Territory. This is an opportunity to reduce household costs and to improve energy reliability and affordability and regional economic benefits for the Territory. Thank you for your time.

**ACTING CHAIR:** Thank you very much, Ms Lee. I'll kick off the questions and I'll be very brief. We heard today from APPEA that the offsets that are to be achieved are economy wide. In other words, it's not really just the gas industry's problem. Is that your interpretation of the Pepper report? Maybe I can direct that to the Environment Centre NT.

**Dr Howey:** I listened with interest to that assertion. That's certainly not my interpretation of what the Pepper inquiry said. The Pepper inquiry said that the scale of the carbon emissions to be generated by fracking the Beetaloo is gargantuan by most standards, and that therefore there are limits to what could be achieved within the Northern Territory itself as a jurisdiction in terms of offsets. To take one example, the Indigenous carbon farming industry is not going to be able to provide the offsets for that particular industry, and thus there would need to be offsets achieved elsewhere in Australia. That can be achieved by simply purchasing those offsets, which, as I suggested before, according to the report done by RepuTex last year for Lock the Gate, will be in the order of billions of dollars. Perhaps if the gas industry bears those costs, which we suggest they should, because the taxpayer certainly shouldn't, it should really make that industry unviable.

**ACTING CHAIR:** There has been lots of comment in relation to government not only covering 20 per cent of drilling each well but also paying for other things proponents normally pay for, like the Northern Land Council and paying for the cost of the strategic regional environmental baseline assessments. Do you have any insights into why public money is picking up the tab for this?

**Dr Howey:** I'll have a go at answering. There was a report done by Deloitte—I don't know if it was last year or the year before—which did scenario modelling for the Beetaloo basin and moving it to production. It's easily available on line, and I can provide it subsequently if that's helpful. I reread it recently, and it sounds a bit of an alarm bell for the gas industry. I think it actually uses the phrase 'the window of opportunity is closing on gas.' It mentions that what we need to be getting to by 2023 is 40 wells being drilled a year before we move to production perhaps after 2025. We're so far from that, and I'm no economist, but it seems to me that there might be fear on the part of the federal government, which wants to gasify the Australian economy, that this industry is not going to get off the ground and therefore taxpayer funding is necessary. Others may have other views.

**ACTING CHAIR:** Ms Lee, did you have a comment in relation to that?

**Ms Lee:** Not on that, no.

**ACTING CHAIR:** Can I direct my next question to the EDO? You calculated that only 27 per cent of those 135 recommendations have been completed in relation to the Pepper report. What do you see as being the biggest blockers of the implementation of these recommendations?

**Ms Leikin:** That's probably a question best directed to the government, which is not moving towards implementation quickly enough or seemingly at all. From our perspective, it seems to be an issue probably of political will but also I think some of these recommendations—for example, the water trigger, which has been mentioned in the openings—are looking like never being implemented.

At this stage Pepper in its totality—and the recommendations were that every single one be implemented—doesn't look like it will ever be possible because a decision is being made at the federal level for the water trigger not to cover shale gas. I think the Pepper inquiry is used as a shield to say, 'It's going to be safe. All of the impacts on communities and the environment are going to be properly managed.' However, what we do know is that Pepper is never going to be implemented in full.

**ACTING CHAIR:** This committee's been told many times, including today, that we're in the exploration stage. Do any of you know what percentage of the 27 per cent of those recommendations is specific to the exploration stage? It's obviously going to be based on time. We're going to go into production. What are the critical components that need to be implemented right now?

**Ms Leikin:** I can take that one. Forty-one of the recommendations were explicitly linked to exploration stage, so 41 were required to be completed before exploration. One of the recommendations that the NT government accepts that hasn't been fully implemented relates to human health risk assessment. The department says the other 40 have been completed. On our analysis we agree 22 have been but 18 pre-exploration recommendations are still deficient or not fully or properly implemented.

One example that we've already referred to is the separation for the department that's tasked with this between promoting and regulating the industry. Obviously, that creates some pretty significant concerns around accountability, transparency and the quality of decision-making around very important decisions in the well operation management plans. It's not true to say that there's still lots of time to implement recommendations before production stage. Yes, some will link to production but a lot will link to exploration and some were articulated as being necessary to be done as quickly as possible or not specifically being linked to a particular stage. Certainly there are a lot of deficiencies at the exploration stage, and we expect a lot more at the production stage.

**Dr Howey:** Could I add to that analysis if possible. I just want to reiterate the importance of this regulatory separation point and why it's so critical and such a failure that it hasn't been addressed adequately. The Pepper

inquiry was so heavily reliant on regulation as the key mechanism to achieve a social licence for fracking, and that's probably what happens when you put lawyers in charge of an inquiry. But environmental regulation in the Territory is a complete disaster. Just look at Rum Jungle, Mount Todd and the unfolding disaster at McArthur River Mine, which I know Senator Thorpe has visited. Part of the reason for repeated regulatory failure is that the department that's tasked with promoting the industry in the Territory is the same one that is tasked with regulating it. Therefore Pepper said you have to move all responsibility for environmental regulation over to the environment department.

It's a myriad of different approvals and processes that you've got to wade through to work out exactly what an approval looks like, but the well operation management plans, which are the key thing that governs well integrity, impacts on water and what happens with the commissioning, are still ticked off by the Department of Industry, Tourism and Trade, the resources department. We're not even sure that the environment department gets access to them. We've raised this with the minister, and we don't believe we've had an adequate response. I think that one in particular undermines the entire logic of the Pepper inquiry.

**ACTING CHAIR:** Thank you. That's all the questions I have. Senator McMahon, do you have any questions?

**Senator McMAHON:** I don't.

**ACTING CHAIR:** Senator McCarthy.

**Senator McCARTHY:** Thank you all for appearing this afternoon and for your evidence to us. I might go to Dr Howey in regard to your evidence that's just come through, I think, in the last hour. You made reference to it. We obviously haven't had a chance to read through it. I understand that that was in relation to the court case that took place. Because we haven't had the chance to look at it, would you like to provide to the committee a verbal statement in regard to that?

**Dr Howey:** Sure. The evidence was filed and served by leading climate scientists and economists. I mentioned Dr Hugh Saddler, Nikki Hutley and Professor Nerilie Abram. You can read about their qualifications in those reports. There's a lot of detail to wade through to make sense of them. Of note from this evidence: the burning of even 10 per cent of the hopeful reserves in the Beetaloo basin would constitute double Australia's current emissions. The economic cost of climate change is of course projected to be huge, but on one approach that's used in Professor Hutley's report, at paragraph 127, the economic, social and environmental cost of emissions from the Beetaloo sub-basin alone—this is called the social cost of carbon, and there's a whole methodology behind it that I'm not across, but it is described in the report—could rise to \$11 billion. So there is another cost that we are bearing as Australians and across the world from fracking the Beetaloo that's not being borne by industry.

Finally, the extraction and use of gas from the Beetaloo sub-basin will also have an effect on the ability of Australia to meet commitments under international law, including the UN Paris Agreement. Emissions from the hopeful gas from the Beetaloo sub-basin would represent 196 per cent of Australia's estimated remaining carbon budget. That's the permissible amount of further carbon emissions that Australia can burn, if you work out what country has what carbon budget, for limiting global warming to reasonable amounts and what we've agreed to under the Paris Agreement. There has been reporting before, including from the ABC, on the fact that fracking the Beetaloo might impact our obligations under international law. But I think this is perhaps the first expert report that was filed and was not disputed that has shown that very clearly. I think that's significant evidence that I would welcome the inquiry's consideration of.

**Senator McCARTHY:** In relation to the court case, which came to a conclusion just before Christmas, is there anything else you want to put on the record here with the inquiry around that? I understand that would be the end of it but perhaps there may be other views from yourself and the EDO.

**Dr Howey:** Others may have a different view. There are limits to the nature of this kind of litigation. It's judicial review; it can only take you so far. Of course, Minister Pitt did grant \$19.4 million as opposed to \$21 million under that grant program recently. The findings were quite extraordinary. You don't really often get a Federal Court judge calling a minister of the Commonwealth capricious and unreasonable. Judicial review proceedings are such an important check on the power of government. We don't have a human rights act in Australia, so we have to rely on administrative law to safeguard against arbitrary and capricious decision-making. Ultimately the court found that that grant was unlawful. It's a great disappointment to us that that money has been effectively regranted and that the program is still on foot. We believe it shouldn't be.

**Senator McCARTHY:** We've got the Northern Territory government after you give evidence. One of the areas that I'm interested in understanding more about is the failure to expand the water trigger. I know you've raised it. We've certainly heard the EDO as well and the concerns from ALEC in terms of what water means in

central Australia. Do you care to elaborate more on that particular recommendation? I leave that as an open question to each of you.

**Ms Leikin:** I'm happy to take that. I think the key issue from the EDO's perspective is that there really isn't any material or substantive reason why the water trigger shouldn't apply to shale gas, when it applies to coalmines and coal seam gas. It's not the case that the risks are lower. It's not the case that the water resources that might be impacted are significantly different. There really doesn't seem to be any probative reason why the water trigger shouldn't be expanded in that way. It was a critical part of the Pepper recommendations. While it's not been expanded, those recommendations can't be fully implemented.

**Senator McCARTHY:** Ms Kudrenko, do you want to say anything?

**Ms Kudrenko:** I think it's been covered.

**Senator McCARTHY:** Dr Howey, you're comfortable with that response?

**Dr Howey:** I will add something else. The water trigger is actually absolutely crucial to ensure the safeguarding of water in the Territory if this industry proceeds. I do want to mention the state of the Northern Territory's water laws, which the Environmental Defenders Office last year diagnosed as the worst in the country, or among the worst in the country. Because of the state of the Territory's laws, it's absolutely vital that the water trigger be expanded to include shale gas, otherwise we are just not going to get the assessment of the cumulative impacts of this industry on our water resources, which is of the utmost importance to every traditional owner who's here and has made the trip to Darwin, and pastoralists who have given evidence this morning. Ninety per cent of consumptive water in the Territory is from groundwater. We have to have every protection in place. We encourage the government to proceed with ensuring that that recommendation is implemented.

**Ms Leikin:** Could I add one small comment. What the water trigger would do, as Kirsty has said, is give an additional layer of assessment but also give an additional opportunity for people impacted to be heard about those issues and potentially take up challenges where they feel that the incorrect decision has been made. It's critical both in terms of assessment and in terms of that public consultation and opportunity for people to be heard.

**Senator McCARTHY:** In your presentation you outlined—all of you did, actually, but you seemed to go into more detail—the recommendations that have not been implemented. You've obviously taken steps—and I've seen the Environment Centre's submission—to get a report from the Northern Territory government on that. Where are things at in terms of any response whatsoever from the Northern Territory government in terms of recommendations?

**Ms Leikin:** Our analysis is based on the most recent progress update, which I believe is published online and which we've also seen. As we said in our opening, that analysis shows that around 27 per cent have been implemented; the vast majority remain outstanding. The majority of the government's own analysis is still not implemented. But certainly we've also looked at the ones that the government's given itself a tick on. We say some of those aren't fully implemented or aren't implemented at all, like the water trigger. That's got a tick at the moment. That's marked as fully completed even though it's patently not completed. Obviously we all know that that hasn't been done. That's where things are at. That progress update was to the end of 2021, so that's recent analysis.

**Senator McCARTHY:** Why would they have given that a tick if it has not been done?

**Ms Leikin:** Again, this is probably a question for the departments, but—

**Senator McCARTHY:** Don't worry, we'll be [inaudible].

**Ms Leikin:** My best assumption on that is that it's a federal decision, so the NT government's view, no doubt, is that they can't implement it. So, rather than keep it in the unimplemented recommendations column, it has now been moved to implemented. The NT government is not going to progress this any further.

**Senator McCARTHY:** Okay, we've got quite a lot of questions coming up for the next lot of witnesses. I'll put the same question that I put to previous witnesses, and, by all means, this is an open question. In relation to Viktor Vekselberg, the Russian billionaire who has shareholdings in Falcon Oil & Gas, a partner with Origin, and who is now on Australia's official sanctions list, do you have any comments or advice for the committee in relation to that particular situation?

**Ms Kudrenko:** I don't have a comment on that, but I could slightly pivot to make an observation about comments that have been made in the media by some members of the government about the importance of Australian gas in European markets, for example, because of the conflict in Ukraine. The complexity and the cost of getting our gas to those markets and, in particular with the Beetaloo the time lines, it just doesn't line up. I think they are quite disingenuous comments. But, unfortunately, I don't have anything directly on the question.



**Dr Howey:** I'll just briefly say that one of the Pepper inquiry recommendations—and it's just a matter of good environmental governance and regulation—is, of course, the 'fit and proper person' test. I don't know the minutiae of what the arrangements are with that particular individual and Origin, but clearly it raises serious questions that require some interrogation about exactly who we're doing business with in this particular industry.

**Senator McCARTHY:** Thank you.

**Senator THORPE:** First, I'll say that it's great to have an all-women panel, including the one on the phone, so thank you. In 2013 a new assessment trigger was added to the EPBC Act which had significant impacts on water resources. You've mentioned that the water trigger doesn't come into play when fracking is involved. If the water trigger was applied in this instance, do you think this project could, or would, go ahead?

**Dr Howey:** That's a good question. We would love the water trigger to apply to shale gas. However, there are so many questions about this industry that we've all raised in this session. We've got the huge emissions that will be generated and the impacts on water. Will they be safeguarded by the water trigger? I don't have the blind faith in regulation that perhaps others do. And, of course, there are all the unimplemented recommendations of the Pepper inquiry. So, if we went ahead with the water trigger, I would welcome it; however, it would not resolve my concerns about this industry.

**Ms Leikin:** I would add that there is so much that's unknown about water in relation to what's proposed. Last year Imperial submitted an EMP which a water expert looked at on behalf of Lock the Gate, with our support. One of the things that expert really pointed to was the number of unknowns, uncertainties, question marks and the lack of information; so it's difficult to answer a question about whether the water trigger would be enlivened. The hope is that it would give an opportunity for a cumulative assessment of risks around water, but there are still just so many unknowns.

**Senator THORPE:** Thank you. You've said that people in the NT don't have trust in this polluting industry. Can you flesh out a little as to why? I'm very keen to hear, in your experience, how gas corporations have told their story about how great this is and how safe this is, for their own needs and greed. What are they saying?

**Ms Kudrenko:** Firstly, I'd just say that I base that opinion on work that we've done with our membership. In Central Australia we've got a really strong group, the Central Australian Frack-Free Alliance, that's formed out of our worries and concerns. I would say—and we heard this from other witnesses earlier—that gas companies in fact haven't consulted widely with communities. Certainly in Alice Springs we feel very disconnected from the process that occurs, and it's probably one of the biggest concerns that we have. I'll share with my other colleagues.

**Ms Howey:** I would like to mention the McArthur River Mine. This room is filled with people from the Territory and traditional owners from Borroloola. That's one of the great things about you all meeting here. But we've seen disaster after disaster, and that particular mine featured very, very heavily in the Pepper inquiry as the No. 1 reason why people do not trust the government to regulate the gas industry.

For those who don't know about that mine, traditional owners have fought against it for 40 years. When there was a proposal to divert a major tropical river upon which so many people have relied for millennia—it was four kilometres wide in flood—to dig an open pit mine in the old river bed, traditional owners took both the Northern Territory and the federal government to court. They won in court, and they were overruled both times. There were laws passed overriding the court's decision by the Northern Territory Labor government, and then in the Commonwealth Minister Peter Garrett signed off on the final approval under the EPBC Act after traditional owners won the federal court proceedings. Since that time we've seen an exploding, combusting waste rock dump and we've heard that there are toxins and acid mine drainage leaching into that river system and the clean up bill is almost unquantifiable because it will require 1,000 years of monitoring. That mine figures so large in the minds of anyone who's lived here for any period of time, and I believe that people are speaking from experience when they say that they don't trust the government to do the right thing here.

**Senator THORPE:** What I've heard from traditional owners—and I just need some clarification if this is what you're hearing or if this is correct—and from others is that some of these mining companies walk into communities and tell the communities what a great opportunity it is, that people will get jobs out of it and that it's completely safe. Once they get in the door, because that's okay as far as people are concerned in the first instance, you can't get them back out. They come with the fanfare of waving the carrot, and then, once they get in, they don't leave, and all of the things they promised the traditional owners, like it being safe and the proper consultation, never actually happen. Have you heard that from people on the ground?

**Ms Kudrenko:** We don't represent Aboriginal people at the environment centre, but I suppose I would just think about this question—and it's an important one. Aboriginal people in the Northern Territory have a right to be informed about what is going to happen with these developments, and already today we've heard conflicting

evidence as to if people have been informed appropriately and had opportunity to make those decisions without pressure, influence or incorrect information. I suppose that process in the Northern Territory isn't one that environment centres are invited to; we're not invited to provide an alternative view or to provide balance to that discussion, so I'm not there in the room when those discussions are had. That's unfortunate because that could bring some integrity to the decision-making.

**Senator THORPE:** We have heard from experts on climate and on the effects of fracking on country, culture, connection—song, dance, law totem, sky. We have heard from those experts. We then hear from the other experts, who say, 'It's all fine. We are going to make you some money, we are going to buy you some cars, and we are going to build the economy and create all these wonderful opportunities.' We have had report after report, evidence after evidence and we still sit here today hearing from witnesses that there is still no problem from fracking. We are now hearing from witnesses and traditional owners who are saying there are these problems with fracking. What are we going to do? You have a Senate inquiry. You have had federal inquiries. You have had federal decisions made against the rights and interests of traditional owners for 240 years, so where do we go next? What do we do next? Have we exhausted every avenue?

**Dr Howey:** I hope we haven't exhausted every avenue but, I have to say, it is wearying. All the people who have done this today have done this so many times. It is exhausting and it is wearying. The point you make is a really important one. I would say that of course we privilege Western expertise and science in these questions, and that is exactly what the Pepper inquiry did. But on-one knows that country—the way that water works, the changes that people who live there are seeing on the ground—like traditional owners and pastoralists who work on that land and also people who live in towns like Katherine and Alice Springs and places where the bush is there and they know it. That is not me but I think we have to start listening to the people who are going to be affected. That might sound very naive. We keep getting told that the science says but that is not what we are hearing and that is not what we are experiencing.

**Ms Leikin:** I would echo the observation that we can't say it as compellingly or as powerfully and our message is nowhere near as important as the people impacted—the traditional owners and the pastoralists who have given evidence today. But if you look at the exploration stage, wells have been drilled, more are approved. We know that this safety net, this shield, that is built in as an assumption by those who advocate for fracking will say that Pepper gave this red mark to make it safe. It is all safe. It is all okay. That is totally flawed. If we are already seeing these massive flaws at the exploration stage, it is pretty frightening to think about what will happen beyond if it goes to production stage. It seems completely irresponsible to be proceeding down this path in circumstances where those safeguards and oversight mechanisms that were promised are just not being delivered.

**Senator THORPE:** Do you think our lives depend on these decisions? The traditional owners sitting here today, do you think their lives are at risk from fracking the Beetaloo basin?

**Dr Howey:** I think everything here is at risk—people, livelihoods and the liveability of this place—if we don't start making some very hard decisions.

**Senator McMAHON:** Following on from Senator McCarthy's question, did you say that there were either 27 recommendations or 27 per cent of recommendations that had actually been completed by the NTG?

**Ms Leikin:** There are two 27s, which might have caused confusion. Twenty-seven recommendations, we agree, have been properly implemented. The other 27 is the number of the 65 that the government have ticked off that we say have deficiencies. So they are the two 27 numbers.

**Senator McMAHON:** So you are saying 27 per cent, you agree, have been done?

**Dr Howey:** That is correct.

**Senator McMAHON:** The remainder of that, the remainder 70-odd per cent, are they all recommendations that would relate to production, not exploration, or do they cover both?

**Ms Leikin:** No. Some of those relate specifically to exploration. We say there are 19 recommendations that relate to exploration that have not been fully implemented. Some recommendations were not linked to either exploration or production; they were just worded 'to be completed as quickly as possible' or didn't have timing built in necessarily. So, yes, there are some that are linked to production but even some of those are delayed from when they were supposed to be implemented. But certainly, on the exploration side of things, there are recommendations that have not been implemented.

**Senator McMAHON:** Therefore, is it your opinion, based on those figures, that the Northern Territory government has been derelict in its duty in this area?

**Ms Leikin:** I am not sure it is for me to give an opinion on that. Our emphasis is on a regulatory framework that protects communities and environments and that is absolutely not in place.

**ACTING CHAIR:** If you do not have any further comments, thank you to all of the witnesses for appearing today.

**Proceedings suspended from 16:01 to 16:16**