



Environs Kimberley submission — WA Fracking Inquiry 2018

Executive Summary

It is well established that the environment and landscapes of the Kimberley are of international significance and the region is a stronghold of Aboriginal culture that is of import to the nation and world. Kimberley people strongly support the conservation and protection of the environment and want to see development that is compatible with the natural and cultural values of this part of Northern Australia.

The more awareness there has been about fracking, the more it is opposed by people here who do not want to see their land and waters irretrievably damaged by pollution from the industry. The risk, however large or small, is unacceptable given that pollution of aquifers cannot be remediated, scarred landscapes will not recover for generations, if ever, and the damage to existing industries would be difficult, expensive if not impossible to repair.

The evidence is clear, there is significant opposition to fracking from Kimberley people. Traditional Owners do not want fracking unless it can be shown to be safe – something that has yet to be demonstrated anywhere in the world.

The trauma that comes from fossil fuel conflict has already been visited on the Kimberley. We have experienced this in Broome and have yet to heal from the efforts to inflict industrialisation on a community that didn't want it. Trauma, family breakdown, social dislocation and a lack of community cohesiveness are issues that government has not dealt with after the rejection of the industrialisation of our region. Only now are we beginning to recover from this traumatic episode.

It has been demonstrated that the benefits of the fracking industry are short-term, with small financial returns over the long term, and generally flow to shareholders and investors outside the region. The Kimberley's tourism economy is worth hundreds of millions of dollars and employs far more people than could ever be employed in the oil and gas fracking industry. Why would we risk this economy for such short-term gain?

Industry and government have attempted to reassure the citizens of Western Australia that fracking is safe and has not posed any problems in this state or elsewhere. It is clear from our investigations that they have relied upon factually incorrect information; they could be accused of a campaign of misinformation whilst attempting to hide serious regulatory failure.

There appears to be a culture of denial and lack of transparency in government and industry with regards to the process and results of fracking. This has led to the industry having no social licence to operate in the Kimberley.

Despite the moratorium on fracking, the industry continues on the same pathway of development to get gas out of the ground through fracking.

The latest report on the Canning Basin in the Kimberley states that, if fully developed, the fracking industry would emit carbon pollution twice that of Australia's Paris Agreement energy sector budget. Why would we allow this in a world that must decarbonise?

Recommendation to the WA Fracking Inquiry and WA McGowan Government
That fracking be banned in the Kimberley region of WA.

The Kimberley – internationally significant for its environmental values¹

The Kimberley is recognised as part of the most intact tropical savannah woodlands in the world. It contains Ramsar-listed wetlands, is on the National Heritage list for its cultural and environmental values, has many threatened species and threatened ecological communities and is known globally for its spectacular landscapes.

Environs Kimberley – a history of protecting nature in the region

Environs Kimberley Inc. (EK) is the peak environment group in the Kimberley region of Western Australia, with 400 members and 10,000 online supporters. EK was formed in 1996 to support Traditional Owners' efforts to protect the Fitzroy River, which was threatened with dams, and the savannah woodlands of the west Kimberley, vast areas of which would have been cleared to make way for 200,000+ hectares of GM cotton. After seven hard years, the proposal was defeated. In the meantime and subsequently, EK expanded its conservation agenda to include Cultural and Natural Resource Management projects in partnership with emerging Aboriginal Ranger groups across the west Kimberley.

Broome and the West Kimberley – a community that strongly supports conservation

Broome and West Kimberley communities have consistently demonstrated strong support for conservation and economic development that is not destructive to our globally significant environment. Records from many conferences, meetings and projects provide evidence of the community's desire to ensure that development is done in an economically, socially, culturally and environmentally just way. Some examples are:

- The Kimberley – Our Place Our Future² (1998) Kimberley Land Council
- Kimberley Appropriate Economies Roundtable (2005)³ – Kimberley Land Council, Australian Conservation Foundation, Environs Kimberley.
- Kimberley Water Forum (2008)⁴ – Organised as a partnership between Department of Water, Kimberley Land Council, Tropical Rivers and Coastal Knowledge (TRACK), Environs Kimberley
- and the Department of Agriculture and Food WA
- FitzCAM (2007–2010)⁵

Other evidence is the result of the 2013 state election, which became a referendum on the proposal for gas refineries at James Price Point pushed by the Barnett-Grylls Liberal-Nationals Government. The results for Broome⁶ show strong support for the protection agenda — the only party to unequivocally pledge to ensure James Price Point was not sacrificed to industrialisation convincingly won the popular vote. A month later the Woodside joint venture withdrew the proposal.

It is widely acknowledged that there is a strong demand from local people for conservation in the Kimberley.⁷

Fracking industry – overwhelming evidence of damage and global opposition

Fracking is controversial globally and many countries and jurisdictions have banned it⁸.

¹ Broome Future (April 2015) [Unlocking the Door - A study into the feasibility of Broome as a commercial and logistics hub for the Kimberley Region](#) (p. 61)

² Kimberley Land Council (1998) *The Kimberley – Our Place Our Future*

³ Kimberley Appropriate Economies Roundtable Forum Proceedings (2006)

⁴ Department of Water (2009) [Water Planning Activities in the Kimberley E-bulletin February 2009](#)

⁵ Centre of Excellence in Natural Resource Management (2010). [Fitzroy River Catchment Management Plan. The University of Western Australia. May 2010.](#)

⁶ West Australian Electoral Commission [2013 State General Election Kimberley District Profile and Results](#)

⁷ Broome Future (April 2015) [Unlocking the Door - A study into the feasibility of Broome as a commercial and logistics hub for the Kimberley Region](#) (p. 61)

⁸ Concerned Health Professionals of New York (March 2018) [Compendium of Scientific, Medical, and Media Findings Demonstrating Risks and Harms of Fracking \(Unconventional Gas and Oil Extraction\) Fifth Edition](#)

There is overwhelming evidence of the health, environmental and social harms and risks from the fracking industry with peer reviewed, referenced, scientific papers publicly available and being added to regularly as more studies are completed.⁹

France, Bulgaria, Germany, New York State, Victoria and Tasmania have all banned fracking.

Opposition to fracking in the Kimberley

During the 2017 election, a poll of 502 people in the Kimberley showed that 83% were either 'very concerned' or 'concerned' about fracking¹⁰. It is very clear: the Kimberley community does not want fracking.

Native Title groups have also rejected fracking, according to an ABC report in May 2013:

Yawuru Chairman Patrick Dodson said that Yawuru people are opposed to fracking on Yawuru country until they can be satisfied that it doesn't pose a risk. It's a position that remains unchanged.

"We've made it clear to Buru and the public at large as well as the state that we're not in support of fracking until we can be convinced beyond doubt that the consequences of that are safe," Mr Dodson says.

The Aboriginal Charitable Trust KRED Enterprises is negotiating with Buru Energy on behalf of traditional owners other than Yawuru people. The Trust's CEO, Wayne Bergmann, says traditional owners feel trepidation about fracking.

"Traditional owners are extremely concerned about fracking and have asked for a veto over the process." Says Mr Bergmann.¹¹

In 2014 a strong majority of Yawuru Native Title Holders Aboriginal Corporation members resolved that

"Yawuru does not agree to the 2014/2015 fracking at Yulleroo..."¹²

Indigenous Leader and Chair of the Yawuru Native Title Group Professor Patrick Dodson also said at the time:

"Our people have been grappling this for the past 18 months, recently we had a community meeting where the community voted overwhelmingly to oppose fracking."

"There's a lot of anxiety and concern and there's no real diligence I think that's been created in the state to look at this from an absolutely detached point of view as opposed from one that's going to be exploration where there's revenue that comes back to the state."

"...if that is successful then we're likely to see a whole lot more use of the technology in a very fragile desert region, the fact that people aren't there in great densities is material to the quality of that country and the people who belong to that country, their attachments to it and the significance of those lands from a cultural point of view"¹³

When the Noonkanbah community expressed support for fracking, other Traditional Owners stated they were *"Our membership...are not convinced Buru Energy has the social licence to operate or that they can carry out fracking safely."¹⁴*

⁹ Concerned Health Professionals of New York & Physicians for Social Responsibility March 2018 Compendium of Scientific, Medical, and Media Findings Demonstrating Risks and Harms of Fracking (Unconventional Gas and Oil Extraction) Fifth Edition

¹⁰ Reachtel (2017) Poll on fracking in the Kimberley

¹¹ [ABC Kimberley \(2013\) Buru seeks approvals for new round of fracking in the Kimberley](#)

¹² [Yawuru members make decision about fracking at Yulleroo](#)

¹³ ABC Radio National Breakfast (31 July 2014) [Unconventional gas in WA Canning Basin faces opposition](#)

¹⁴ KRED Enterprises Facebook Page

Further:

"In a [submission to a WA parliamentary inquiry](#) into hydraulic fracturing, the Yawuru Native Title Corporation said there was a "high level of concern" about fracking among the Yawuru community and it would not allow the practice until it had been proved "safe beyond doubt".¹⁵

Other Traditional Owners stated:

"When people are desperate for economic stimulation, it's not surprising they hope fracking can be done safely. But we don't want to be Australia's guinea pig."¹⁶

At a meeting in July 2014:

"Kimberley Aboriginal leaders have called for the WA State Government to put a moratorium on fracking until there are systems in place to ensure all Kimberley Traditional Owners have the relevant resources and information to make an informed decision about what happens on their country."¹⁷

In response to such widespread concerns across the Kimberley and the state of Western Australia, the WA Labor Party banned fracking in the South-west and Perth, declared a moratorium across the rest of the state including the Kimberley and committed to giving veto rights on fracking to Traditional Owners¹⁸.

83% OF KIMBERLEY PEOPLE¹ CONCERNED ABOUT FRACKING

Despite serious global concerns about fracking, oil and gas companies are free to frack in the Kimberley. The WA Government recently opened up Windjana Gorge and Tunnel Creek National Parks to fracking, the Fitzroy River is not protected and even Broome's town-water supply area is under a fracking lease.

WHO WILL PROTECT OUR COUNTRY, WATER AND HEALTH FROM FRACKING?

- Liberal Party** – Supports fracking
- National Party** – Supports fracking but will give landholders (no mention of Traditional Owners) a right to say 'no'
- Labor Party** – Will ban fracking in the South-west and Perth and declare a moratorium in the Kimberley while an inquiry is conducted. It will give veto rights to Traditional Owners
- Greens** – Support a ban on fracking
- One Nation** – Say they don't support fracking but don't have a policy to ban or stop it

The only way to keep Country, water and people safe from fracking is by banning it.

ONCE YOU FRACK, YOU CAN'T GO BACK – VOTE WISELY

¹ ReachTEL poll 23rd January, 2017 of 502 people in the Kimberley
Authorised by D.Kelly, 18 Charles Road, Cable Beach, Broome WA 6725

kimberleyfrackfree@gmail.com
frack free kimberley community

Advertisement – Broome Advertiser March 2017

An intact landscape and healthy ecosystems underpin the economy

Tourism in the Kimberley is based on an intact landscape and healthy ecosystems. The following is a summary of the importance of the industry and how damaging inappropriate development can be:

The Kimberley Tourism industry relies heavily on presenting an image of the region's spectacularly beautiful landscapes and coastlines, a relaxed feel, the outback experience, sustained Aboriginal culture and a multicultural migrant heritage.

¹⁵ [The Guardian \(2015\) Kimberley traditional owners reject fracking as part of oil production deal](#)

¹⁶ [Kimberley Traditional Owners refuse to be Australia's guinea pig](#)

¹⁷ [Kimberley Aboriginal leaders call for a moratorium on fracking](#)

¹⁸ Chris Tallentire, MLA Shadow Minister for Environment; Climate Change Email to Environs Kimberley March 3, 2017

The Kimberley brand has been built with considerable effort over an extended period of time from significant public and private investment. Any threat to the Kimberley and Broome experience will devalue the brand and undermine this investment. Recovery from damage to the brand would be a major challenge entailing considerable additional investment, effort and time.

Kimberley tourism was worth about \$637million in 2008 and represented 35.8% of the region's economy. Tourism is also very important to Broome, representing about 64% of the total revenue generated in the town. The Kimberley has a broad-based and diverse economy in which tourism plays a major role.¹⁹

Fracking to extract gas could significantly damage the reputation of the West Kimberley and Broome region as a tourism destination.

Landscapes in the US (shale gas) and Queensland (CSG) have been irreversibly altered, and are criss-crossed with access tracks and roads, pipelines, well pads, wastewater ponds and pumping stations.



Shale gas landscape in the United States

¹⁹ Curtin Sustainable Tourism Centre (2010) Kimberley Whale Coast Tourism: Opportunities and Threats.



Queensland gasfield

Why would we risk short-term benefits undermining our major regional economy?

Fossil fuel conflict causing disharmony and trauma

The Broome and West Kimberley suffered from significant disharmony and trauma when a mega-industrial development was pushed onto the community by government and industry. The proposal for gas refineries on the Kimberley coast by the Woodside Joint Venture and the WA State Government caused great distress for those who regarded the Kimberley as a place of special global conservation significance as well as a bastion of Aboriginal Culture.

The proposal saw a fracturing of the community and conflict between those who thought they'd benefit financially from the development and those who wanted to protect the community and environmental and cultural values of the region.

The imposition of a gas-fracking industry across the west Kimberley would be likely to cause a similar level of trauma and conflict, compounding the already intractable social and mental health problems of the region. A serious question for government to answer is, 'Why would the government knowingly put a community through such trauma and allow such irreparable harm to the natural environment for such short-term gain?'

The potential for fracking in the Kimberley

A report prepared for the Australian Council of Learned Academies (ACOLA), a body often cited by the gas fracking industry, predicted that there could be more than 40,000 gas fracking wells across the Kimberley.²⁰

²⁰ Frogtech (January 2013) Potential Geological Risks Associated with Shale Gas Production in Australia

The history of fracking in Western Australia – a textbook example of misinformation by the oil and gas industry and regulatory failure

The oil and gas industry and the Minister for Mines and Petroleum Bill Marmion (under the Barnett-Grylls Government) consistently attempted to reassure West Australians that fracking has a long, safe history in the state, implying that opening up new fossil fuel frontiers in the Kimberley and Midwest was unlikely to pose any problems.

In September 2015, Minister Marmion said:

“...our history in hydraulic fracturing has been that since 1958 we have had 780 hydraulic fracturing wells with no problems.”²¹

Advertisements by Buru Energy have stated:

“More than 2 million wells have been fraced throughout the world since 1949...”

In September 2017, the Australian Petroleum Production & Exploration Association (APPEA), the peak national body representing Australia’s oil and gas exploration and production industry, continued to ply this untruth:

“This is not a new technology. According to the Department of Mines, Industry Regulation and Safety, more than 600 wells have been fracked in WA in the past 55 years with no evidence of environmental harm.”²²

However, questions in the WA Parliament revealed these statements to be untrue.

Minister Marmion, who at one stage denied that there was unconventional gas in WA²³, in October 2014 said in response to questions²⁴:

Question from Robin Chapple MLC

“...how many wells have been fracked in Western Australia using the modern fracking methods of extremely high pressure pumping, patented chemical cocktails and proppants?”

Answer from Minister Marmion

“DMP records indicate that 11 wells have used modern fracture technology.”

APPEA claimed (see above) that there was no evidence of environmental harm from the *more than 600 wells [that] have been fracked in WA in the past 55 years* (despite these wells not having been fracked with modern technology), most of which were on Barrow Island. This statement is not based on fact. In April 2015, in response to questions in parliament, it was stated by the Minister for Mines and Petroleum that the Department of Mines and Petroleum didn’t even *“...have a historic catalogue of reports relating specifically to hydraulic fracturing on Barrow Island. This is because hydraulic fracturing has occurred on Barrow Island since 1965 and at that time there were no legislative requirements around environmental reporting.”²⁵*

²¹ Hansard (September 8, 2015) TIGHT AND SHALE GAS — GOVERNMENT POLICY [http://www.parliament.wa.gov.au/Hansard%5Chansard.nsf/0/b9990a130cd9709048257ef3000a9659/\\$FILE/A39%20S1%2020150908%20p5849c-5850a.pdf](http://www.parliament.wa.gov.au/Hansard%5Chansard.nsf/0/b9990a130cd9709048257ef3000a9659/$FILE/A39%20S1%2020150908%20p5849c-5850a.pdf)

²² APPEA (2017) WA needs more jobs – not another fracking inquiry https://www.appea.com.au/media_release/wa-fracking-inquiry-not-needed/

²³ Hansard (19 August 2014) Question 828 [UNCONVENTIONAL GAS — MINISTER FOR MINES AND PETROLEUM — COMMENTS](#)

²⁴ Hansard (September 9, 2014) Question On Notice No. 1506

<http://www.parliament.wa.gov.au/parliament/pquest.nsf/9699994fcf861850d4825718d002fe7fb/b596e8d040c4621c48257d4e0019dcf3?OpenDocument>

²⁵ Hansard (23 April 2015) Question 2589 MINES AND PETROLEUM — FRACKING WATER — BARROW ISLAND

APPEA's statement failed to say that the majority of the wells fracked in Western Australia were targeting conventional oil and gas, not shale and tight rocks requiring modern fracking techniques.²⁶

In further questions in parliament the Minister for Mines and Petroleum stated that the Department of Mines and Petroleum did not have a database of all wells that have been fracked in WA and that *"The records are incomplete regarding compliance visits for historical well activities."*²⁷

In the absence of reports relating to fracking, it is impossible to know whether or not it has caused environmental harm.

The first well to be fracked in the Kimberley – regulatory failure and denial

Given the sensitivity of the Kimberley environment and strong public support for its conservation, it could be expected that the first well to be fracked here would have had intense oversight from the government, especially when the potential is for 40,000+ gas fracking wells²⁸. The truth is that there was virtually no oversight of the first well to be fracked in the Kimberley, Yulleroo 2, which is located approximately 75 km east of Broome at the head of the Roebuck floodplains catchment. The well was drilled by ARC Energy Limited in 2008. Following the demerger of ARC's Canning Basin assets into a new company, Buru Energy Ltd, the assets were transferred to Buru in August 2008.²⁹

During the drilling a geological fault was intercepted. Answers to questions in parliament show a lack of clarity from the Department of Mines and Petroleum about how the fault was identified and by whom:

*"The fault appears to have been identified on the Yulleroo 3D seismic survey carried out in 2011. The fault is also interpreted to occur within Yulleroo 2, which was drilled in 2008. This information has been provided by Buru Energy and so it is assumed that the fault was recognised by geologists from Buru Energy."*³⁰ [emphasis added]

During gas flow tests the well experienced water influx at around 3,000m depth from the Anderson/Laurel formation, but this did not trigger any concern from the DMP.³¹

Buru Energy denies fracking

The well was fracked in 2010,³² unbeknownst to the residents of the Kimberley, who were in the midst of dealing with the Browse gas refineries proposal on the coast. Despite this, Buru Energy stated on the front page of the *Broome Advertiser* in March 2012:

*"...while the company's operation did not include hydraulic fracturing or "fracking", it could in the future, but Buru was committed to being "totally transparent"."*³³ [emphasis added]

This appeared to be a denial that Yulleroo 2 had been fracked in 2010. Following the false statement, Environs Kimberley called on Buru Energy to *"come out and be transparent"* about their fracking operations³⁴ and, according to a subsequent newspaper article in the *Broome Advertiser*, Buru Energy *"...admitted it conducted small-scale experimental hydraulic fracturing at Yulleroo, near Broome in 2010"*³⁵.

²⁶ Hansard (3 December 2013) Question 1553 UNCONVENTIONAL GAS INDUSTRY — FRACKING PRACTICE

²⁷ Hansard (14 October 2014) Question 1506 HYDRAULIC FRACTURING — WA OPERATIONS

²⁸ Frogtech (January 2013) Potential Geological Risks Associated with Shale Gas Production in Australia

²⁹ Department of Mines and Petroleum (Undated) Recent activities involving high pressure, high volume hydraulic fracture stimulation accessed 10.30am, 16 March 2018

³⁰ Hansard (12 March 2014) Question 166 BURU ENERGY — YULLEROO 2 WELL

³¹ Hansard (22 November 2016) Question 4569 Mines and Petroleum – Buru Energy

³² Hansard (12 March 2014) Question 166 BURU ENERGY — YULLEROO 2 WELL

³³ *Broome Advertiser* (15 March 2012) Big plans for oil, gas finds

³⁴ *Broome Advertiser* (29 March 2012) Environs Kimberley demands clarity

³⁵ Ibid.

Environs Kimberley wasn't the only group concerned about Buru Energy's denial they had fracked. The Chairman of the Yawuru Native Title Holders Corporation, Mr. Patrick Dodson, called on Buru Energy to spell out clearly its exploration and extraction methodology so that Yawuru native title holders could make an informed judgment about the company's activities on Yawuru country³⁶. Mr Dodson stated:

"Buru should detail when and how it has fracked and in what locations, what plans it has to use fracking in its future exploration and production program and what the company considers are the environmental risks associated with this practice.

There are world-wide concerns about fracking and it is completely understandable that Yawuru people should be anxious about fracking activity on Yawuru country."³⁷

Yulleroo 2 wellhead gas leak

In 2013, concerns raised by a traditional owner about the state of Buru Energy's wastewater ponds at

Buru Energy wastewater ponds at Yulleroo in 2013



Yulleroo led to the Department of Environment Conservation visiting the well. During the well site visit in April 2013, the DEC officer identified what appeared to be a gas leak in the Yulleroo 2 well³⁸. The DEC officer reported the leak to the Department of Mines and Petroleum, which had the responsibility for regulating petroleum activities. When asked in December 2013, 8 months after the leak had been reported, whether he was aware of any gas leaks from wellheads in the Canning Basin, the Minister for Mines and Petroleum said that the DMP advised 'No'.³⁹ The Minister also stated that the DMP advised that it was not aware whether Buru intersected any faults during its drilling operations.⁴⁰

The day after the DEC site inspection of Buru Energy's Yulleroo wells, a Buru Energy employee attended the Broome DEC Office without an appointment and said that he needed to speak in private. He was taken to a free office and said "...that he was angered by the DEC Officers who attended the site without calling him, and he proceeded to make a threat towards Officer [name redacted]"⁴¹.

The DEC advised Buru Energy:

*"...it is an offence to make a threat towards a public officer, in this instance, DEC has elected to take no further action on this matter..."*⁴²

³⁶ Yawuru Native Title Holders Aboriginal Corporation Media Release (26 March 2012) Buru Energy Must Explain Their Activities to Yawuru People

³⁷ Ibid.

³⁸ Department of Environment Regulation Incident Report (2 April 2013) ICMS Number: 28134

³⁹ Hansard (4 December 2013) Question 950 BURU ENERGY — WELLHEADS

⁴⁰ Ibid.

⁴¹ Department of Environment and Conservation (15 April 2013) Letter to Buru Energy

⁴² Ibid.

It took until 11 August 2015 for the Minister for Mines and Petroleum to finally admit that the Yulleroo 2 wellhead had leaked in 2013 and in response to questions in parliament the Minister incorrectly stated that Buru Energy reported the leak on 18 April 2013⁴³, whereas in fact the DEC reported the leak on 11th April after complaints had been made by a Traditional Owner.

Information obtained through a freedom of information request appear to show that the Department of Mines and Petroleum were not aware of the 2013 leak and did not investigate it. Internal DMP emails (names redacted) requesting information about the 2013 leak, state:

Email – Thursday, 15 January 2015 11.21am

“Did you investigate the previous release Buru had where they replaced the grease points? If so, can you send me the report please.”

Email – Thursday, 15 January 2015 12.14pm

“If we had known about it I’m sure it would have been investigated. Depending on what documentation Buru sends as per our letter requesting info we might be asking further questions like – was there a gas leak?, was it reported?, if, why not?, etc, etc, etc.”⁴⁴

Despite the gas leak in the first well ever to be fracked in the Kimberley and complaints about the state of waste ponds, the Department of Mines and Petroleum did not investigate the gas leak in 2013 and was yet to undertake a site inspection of the Yulleroo 2 well – 5 years after it was drilled.

Buru Energy wastewater ponds – overflow

Buru Energy said in an ABC Kimberley Forum in January 2014 that the wastewater ponds “...are designed to be able to withstand a two times a 1 in 100 flood event...they cannot flood...in terms of



Buru Energy pond overflow February 2014

Source: Hon Robin Chapple MLC

⁴³ [Hansard \(11 August 2015\) Question 3173 MINES AND PETROLEUM — BURU ENERGY — YULLEROO GAS WELLS](#)

⁴⁴ Department of Mines and Petroleum (15 January 2015) internal emails released under FOI Act by DMP [file no: R – doc 23.PDF]

flooding you get 600mm of rain here, you've got 1.5 metres at least of freeboard on these reservoirs and they sit above the floodplain and they cannot flood, I mean this is an engineering problem [audible audience disquiet], well if it did flood it'd be Noah's Ark for all of us..."⁴⁵

A month later, on the 12th February, 2014, Hon Robin Chapple MLC flew over and photographed Yulleroo 3 and 4 and said that there was evidence of water having escaped from the lined dam at Yulleroo 4 and that it appeared water had been pumped from Yulleroo 3.⁴⁶ He asked the Minister for Mines and Petroleum whether the overflow was permissible; the response was 'No', it was not permissible.

When asked when the DMP was advised of the overflow, the Minister said it was in April 2013 (nearly a year before) and that:

*"Buru made modifications to ensure that there will be no further overflow from the retention pond and have been conducting weekly inspections of the site since May 2013."*⁴⁷

Buru Energy, contradicting the Department of Mines and Petroleum, denied the pond ever overflowed and said:

*"We don't believe that it has overflowed... I don't know what information the Minister's relying on there. We have somebody going out there three times a week to inspect those ponds as a compliance program."*⁴⁸

When asked whether the contents of another large dam were drained, "...siphoned or pumped out via the pipe that is seen leading to a large body of water outside the boundary of the pad...", the Minister for Mines and Petroleum said:

*"Yes. Buru's approved Environment Plan allowed for the discharge of this water to the well site firebreak providing the water was tested for constituents of potential concern and determined to pose no risk to the environment."*⁴⁹



Pipe from pond into firebreak

Source Hon Robin Chapple MLC

So it appeared that one pond had overflowed (in April the previous year) and the other had been pumped out despite reassurances that the ponds 'cannot flood'. When the Minister was asked to table Buru Energy's Environment plan, he refused, saying:

⁴⁵ Buru Energy (22nd January 2014) [ABC Kimberley hosts mining and fracking forum](#) [Fracking Forum Part 3 – MP-3 file 9mins]

⁴⁶ [Hansard \(20 March 2014\) Question 760 BURU ENERGY — YULLEROO WELLS](#)

⁴⁷ Ibid.

⁴⁸ ABC Kimberley (21 March 2014) [Buru Energy denies Government's claim that a gas well retention pond overflowed](#)

⁴⁹ [Hansard \(20 March 2014\) Question 760 BURU ENERGY — YULLEROO WELLS](#)

“The content of Environment Plans remains confidential under the provisions of the Petroleum and Geothermal Energy Resources Act 1967.”⁵⁰

When the Minister was asked about the overflow event Mr Chapple had photographed in 2014, he stated:

“The department is not aware of an overtopping event in early February 2014.”⁵¹

and that the department was not prepared to speculate as to why they were not informed of this overflow event.

Also, the Department of Mines and Petroleum replied that it had *“...no reason to vary its planned inspection schedule.”⁵²*

Dangerous fracking chemicals dismissed

Buru Energy put heavy emphasis on the safety of its fracking fluid and attempted to allay any fears by saying:

“Only common household products in tiny quantities are used. These fluids are drawn back up to the surface for recycling.”⁵³

According to the Minister for Mines and Petroleum, at Yulleroo 2, the flow-back water:

“...was evaporated in lined evaporation ponds after treatment. Flow-back was 6 815 barrels—30 per cent of the water volume used for the Yulleroo 2 hydraulic fracturing treatment.”⁵⁴

Therefore the fracking fluid was not recycled and more than two-thirds of it stayed in the ground.

According to a traditional owner from Broome

“One of the techniques the company Buru used was to put a jar of guar on the table, powdered guar, and tell the attending people in the audience this is what is used to make jelly beans, so when you tell people that in this jar and have a look I’m putting my finger in, and I’m eating and tasting it, it’s all good and old people go ‘Oh jelly beans, I know jelly beans’, then they’re told that this is what’s being put into the ground. They’re not told that there are chemicals that are added to that...and when you actually break that down and tell our people for every one frack at one wellhead something like 244 drums of chemical is used...then they understand.”⁵⁵

In response to concerns about chemical cocktails being used in the fracking process, Buru Energy stated:

“Many things have chemical cocktails, cabbage does for instance...”⁵⁶

Buru Energy’s proposed fracking programme ‘TGS14’ for Yulleroo 3 & 4 and Valhalla North 1 and Asgard 1 near Noonkanbah included the use of a chemical BE-9. BE-9, according to Halliburton, is a chemical called Tributyl tetradecyl phosphonium chloride, Canadian Government regulations:

⁵⁰ Hansard (1 April 2018) [Question 383 BURU ENERGY — YULLEROO 3 AND 4 WELLS](#)

⁵¹ Hansard (1 April 2018) [Question 317 BURU ENERGY — YULLEROO 3 AND 4 WELLS](#)

⁵² Ibid.

⁵³ Buru Energy (2013) Advertisement in the Broome Advertiser ‘Kimberley water...protected forever’

⁵⁴ Hansard (4 December 2013) Question 939 BURU ENERGY — FRACKING OPERATIONS

⁵⁵ Jane Hammond (2017) [A Fractured State - The fight to protect Western Australia’s land, water & health from the unconventional gas industry \(video\)](#)

⁵⁶ Buru Energy (22nd January 2014) [ABC Kimberley hosts mining and fracking forum \[Fracking Forum – MP-3 file 9mins\]](#)

*"...prohibit the use, processing, offer for sale, sale and importation of tributyltetradecylphosphonium chloride into Canada. They permit the manufacture of the substance for export only and only when a fully-contained manufacturing process is used."*⁵⁷

The Canadian Government also said

"This substance may persist in the environment as degradation was not observed in biotic degradation tests and significant hydrolysis and photolysis did not occur under environmentally relevant conditions.

The substance has been determined to be toxic under CEPA as it may enter the environment in quantity or concentration or under conditions that may have an immediate or long-term effect on the environment. "

At a Community Open Day in Broome, Buru Energy refused to answer questions about the chemical.

Buru Energy's vow on gas: Fracking 'only if locals approve'

This was the headline on the front page of the business section of 'The Australian' newspaper on 30 December 2013.⁵⁸



*"The oil and gas executive who has led the charge into Western Australia's highly prospective Canning Basin, Buru Energy executive director Eric Streitberg, says the company will not engage in hydraulic fracturing -- or fracking -- in the environmentally sensitive Kimberley region until community concerns have been allayed."*⁵⁹

Buru Energy has remained silent on this vow.

In its latest annual report the company states:

⁵⁷ Canadian Government (Undated) [Tributyltetradecylphosphonium Chloride \(TTPC\) Regulations \(SOR/2000-66\)](#)

⁵⁸ Andrew Burrell, The Australian (30 December 2013) [Buru boss backs fracking 'only if locals approve'](#)

⁵⁹ Ibid.

“Buru Energy is confident that this current scientific inquiry will come to the same conclusion as all previous inquiries, that the industry is safe if properly regulated.”⁶⁰

They also state that they have “world scale unconventional gas condensate” and that a “Small scale project could supply all the energy needs of the Kimberley for decades” and a “Large scale project with ~8 well pads could supply gas to the Pilbara.”⁶¹

No mention is made of the need to obtain a social licence to operate nor of the vow not to frack in the Kimberley “...until community concerns have been allayed.”

Yulleroo 2 – second gas leak

In January 2015, the ABC reported another gas leak at Yulleroo 2⁶². This leak was found by a member of the public. A month later the Minister for Mines and Petroleum Bill Marmion under parliamentary privilege accused ‘activists’ of damaging the wellhead:

“[It] shows what lengths some people will go to stop proper exploration for gas and mining exploration in Western Australia, Mr Speaker,” he said.

“It’s okay for people to protest peacefully but this goes well beyond what the public and the standards of Western Australia [and] people would expect.”⁶³

The Minister had no evidence to back up his claim and, when asked whether he could rule out the potential for the gas leak at Yulleroo 2 in 2015 to have been caused by Buru Energy or contractors, he had to admit:

“There was no direct evidence available to determine who caused the damage or when it was done.”⁶⁴

What was most remarkable about the gas leak and the information that was disclosed about DMP regulations and inspections, was that Yulleroo 2, the first well to be fracked in the Kimberley, a region with the potential for more than 40,000 gas fracking wells, was not inspected by the DMP for 7 years. It had not been inspected since it was drilled in 2008:

Question by Robin Chapple MLC (16 June 2015):

“...when was the last inspection by the DMP of the Yulleroo 2 well before the gas leak was found”

Answer by Minister for Mines and Petroleum Bill Marmion (8 September 2015)

“7 May 2008.”⁶⁵

During a court case where the person who recorded the footage of the gas leak was prosecuted for trespass, the Manager of Critical Risk at DMP, Shane Daniel, who was responsible for investigating the leak, said:

“...he did not know when the Yulleroo fracking well was last inspected, despite regular safety checks being required as part of Buru Energy’s exploration permit.

Mr Daniel said while he had only been employed by the department for a short time, he understood monitoring practices had been haphazard, but they had since improved.”⁶⁶

⁶⁰ [Buru Energy 2017 Annual Report](#)

⁶¹ Buru Energy Corporate Presentation (14 March 2018) [Australian Energy & Battery Minerals Investor Conference](#)

⁶² ABC Kimberley (2015) [Investigation launched into fracking site damage after gas leak claims](#)

⁶³ ABC Kimberley (2016) [WA Mines Minister criticises protesters over fracking well ‘vandalism’](#)

⁶⁴ Hansard (2016) Question 4424 MINES AND PETROLEUM — GAS LEAK — YULLEROO

⁶⁵ Hansard (2015) [Question 3251](#)

⁶⁶ ABC Kimberley (2016) [Anti-fracking activist seeking to record evidence of gas leak found guilty of trespass](#)

Industry dismissal of the fracking inquiry

The WA Labor Party recognised the electoral concern about fracking and made election commitments and have since instigated a ban on the practice in the Southwest, Peel and Metropolitan areas, put a moratorium in place across the rest of the state and are working through giving Aboriginal people a right of veto over the practice.

While the oil and gas industry is technically 'on hold' pending the results of the inquiry, they are very confident that the moratorium will be lifted.

Buru Energy said in the Annual Report:

*"...one area of concern was the announcement by the WA Government of yet another inquiry into hydraulic fracture stimulation or fracking. We are confident that this current scientific inquiry will come to the same conclusion as all previous inquiries, that the industry is safe if properly regulated, and we look forward to the outcome."*⁶⁷

APPEA said:

"Western Australia's second inquiry into hydraulic fracturing...is a waste of time and taxpayers' money.

WA does not need another fracking inquiry.

The facts clearly show that fracking is safe. So it's likely this inquiry...will conclude that any risks can be managed with proper regulation.

It is vital, therefore, that this new inquiry report back to the government as quickly as possible and that it results in the removal of the fracking moratorium.

*The industry should be allowed to get on with it."*⁶⁸

Buru Energy was until recently in a Joint Venture with Mitsubishi Corp in several petroleum leases in the Kimberley. In May 2017 the partners announced they would split their acreage and that Buru Energy would take 100% control and ownership of a number exploration permits and that Mitsubishi would take 100% ownership of the petroleum lease, which contains the Valhalla North 1 and Asgard 1 wells. These wells have been fracked and the Valhalla well is estimated to have a recoverable volume of 1.53 trillion cubic feet of gas and 32 million barrels of hydrocarbon liquids⁶⁹.

In late September/early October 2017, Mitsubishi approached the WA Government to discuss their business interests in WA including petroleum leases in the Kimberley. The Minister for State Development, who is also the Premier, Mark McGowan would not disclose details regarding any discussions about gas pipelines in the Kimberley but did appear to flag that detailed proposals were being worked on:

"With respect to the Natural Gas (Canning Basin) Joint Venture Agreement Act 2013, the Department and the Minister for State Development, Jobs and Trade have ongoing discussions and regularly correspond with the Joint Venturers (Diamond Resources (Fitzroy) Pty Ltd, Diamond Resources (Canning) Pty Ltd (both of which are wholly owned subsidiaries of Mitsubishi Corporation) and Buru Energy Limited) associated with the administration of the Natural Gas (Canning Basin) Joint Venture Agreement Act 2013 and related issues. This particular State Agreement was established to facilitate the development of an unconventional domestic gas project (including a gas pipeline) in the Kimberley

⁶⁷ [Buru Energy 2017 Annual Report](#)

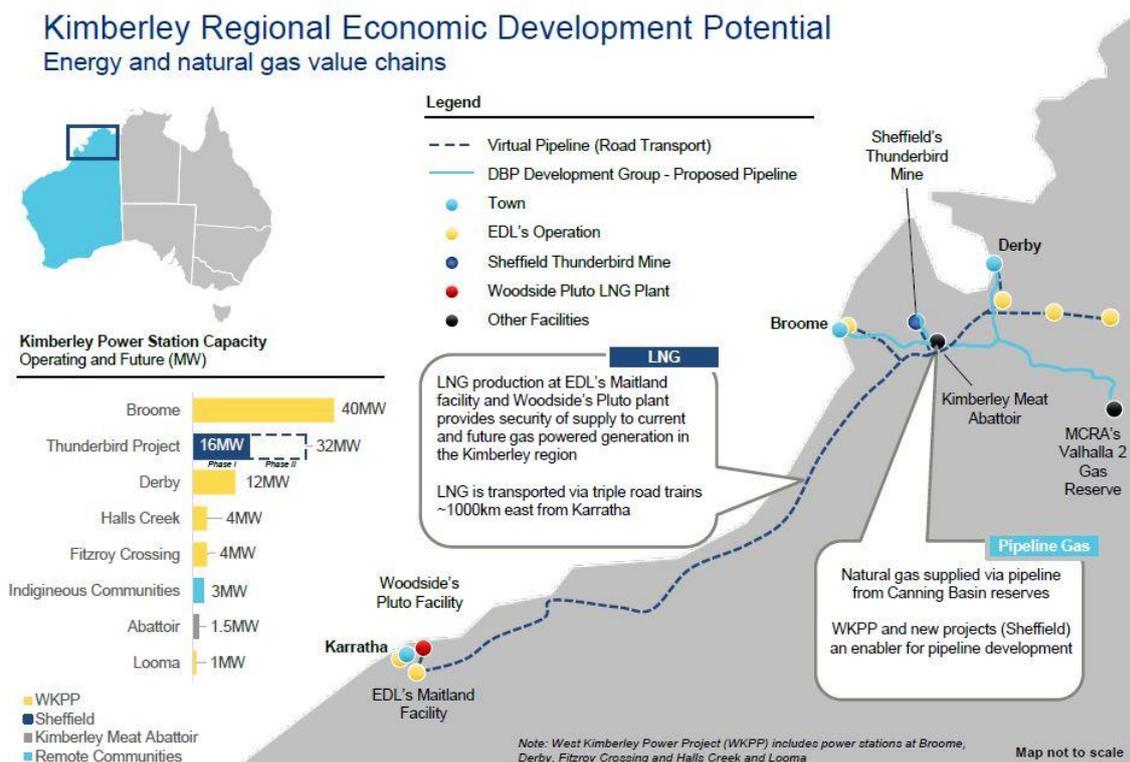
⁶⁸ APPEA (2017) WA needs more jobs – not another fracking inquiry https://www.appea.com.au/media_release/wa-fracking-inquiry-not-needed/

⁶⁹ The West Australian (25 May 2017) [Buru takes control of Kimberley oilfield](#)

Region. It would be inappropriate to table any information arising from these discussions and correspondence until detailed proposals have been agreed.⁷⁰

The Minister for State Development did, however, disclose that he and/or the Department for State Development had received an application or correspondence relating to an unconventional gas production facility in the Kimberley.⁷¹

Broader industries also believe the fracking moratorium will be lifted and are actively planning around this scenario. In the Kimberley, a mineral sands project proponent, Sheffield Resources, has been promoting the concept of a pipeline to supply domestic energy requirements in the region using gas fracked in the Noonkanbah area (see map below).⁷²



In the fourth quarter of 2016, a Joint Venture between Andrew Forrest's Squadron Resources and Goshawk Energy applied for petroleum leases across the Canning Basin. The Minister for Mines and Petroleum refused to disclose the area applied for, saying:

*"Applications for Special Prospecting Authority with Acreage Option (SPA-AO) under the Petroleum and Geothermal Energy Resources Act 1967 cannot be publicly disclosed as they are provided in confidence to the Department of Mines, Industry Regulation and Safety."*⁷³

The *West Australian* reported⁷⁴ that the acreage was 220,000km²; however, it is unclear how much of the application has actually been assessed as such information is difficult or impossible to obtain from the Department of Mines, Industry Regulation and Safety website. According to the Minister for Mines and Petroleum:

⁷⁰ Hansard (12 October 2017) Question 320 [DEPARTMENT OF STATE DEVELOPMENT — MEETINGS — MITSUBISHI](#)

⁷¹ Hansard (12 October 2017) Question 319 [MINES AND PETROLEUM — UNCONVENTIONAL GAS PRODUCTION FACILITY — KIMBERLEY](#)

⁷² Sheffield Resources (31 August 2017) [Memo from Sheffield Resources regarding an energy and natural gas value chain](#)

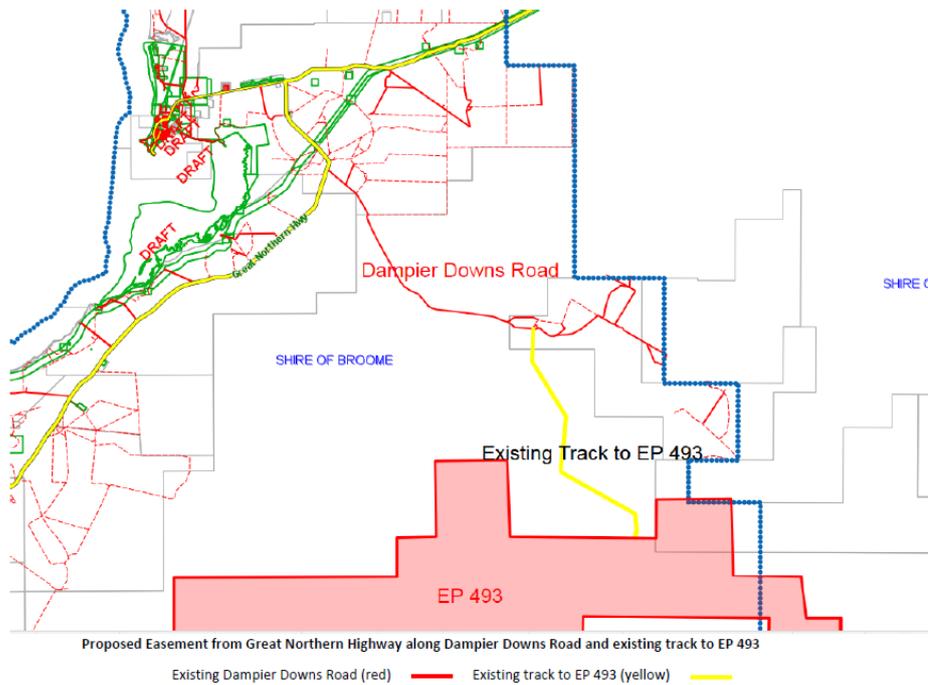
⁷³ Hansard (12 September 2017) Question 140 [MINES AND PETROLEUM — PETROLEUM EXPLORATION APPLICATIONS — KIMBERLEY](#)

⁷⁴ The West Australian (1 November 2016) [Forrest ramps up onshore oil and gas exposure](#)

“Spatial descriptions of applications that have been progressed and are subject to a section 29 public notice, in accordance of the Native Title Act 1993 (Cwth), are available on the DMIRS website. Details of applications that are not subject to a section 29 public notice cannot be publicly disclosed as they are provided in confidence to the Department of Mines, Industry Regulation and Safety.

Applications that are subject to a section 29 notice total 46 223.04 km².⁷⁵

Finder Shale Pty LTD is forging ahead with its plans and sought an access easement from the government for its petroleum exploration permit EP 493 (see map below)⁷⁶ – business as usual, it appears.



It is clear that the gas fracking industry expects to recommence fracking following the inquiry.

⁷⁵ Hansard (12 September 2017) Question 140 [MINES AND PETROLEUM — PETROLEUM EXPLORATION APPLICATIONS — KIMBERLEY](#)

⁷⁶ Shire of Broome (December 2017) [PROPOSED EASEMENT FROM DAMPIER DOWNS ROAD TO PETROLEUM PERMIT EP 493 \(FINDER SHALE PTY LTD\)](#)