

30 January 2019

Economic Policy Scrutiny Committee
Legislative Assembly of the Northern Territory
Parliament House
Darwin, NT 0800

By email: EPSC@nt.gov.au

Dear Chair and Committee members,

RE: Submission on the Petroleum Legislation Amendment Bill 2018

Lock the Gate welcomes the opportunity to make a submission to the Committee on the *Petroleum Legislation Amendment Bill 2018*.

By way of background, Lock the Gate Alliance is a national grassroots organisation made up of 100,000 individuals and over 250 local groups who are concerned about unsafe or inappropriate mining. The mission of the Lock the Gate Alliance is to protect Australia's agricultural, environmental, and cultural resources from inappropriate mining and to educate and empower all Australians to demand sustainable solutions to food and energy production. Lock the Gate works across the NT and is committed to advocating for environmental and community health, and the productivity of local economies.

Feedback on 15A Appropriate person to hold permit or licence

The appropriate person test appears to allow for consideration only of 'contravention of prescribed legislation' but allows consideration of record of compliance with 'prescribed environmental legislation'. We recommend it should properly consider both contravention of and record of compliance with, both sets of legislation. Please make an addition to s15 A 1 to include 'the person's record of compliance with the prescribed legislation', to ensure consideration of both contravention of and record of compliance with both sets of legislation.

Please add an additional criterion to the appropriate person test to specifically consider the environmental record of proponents and their associated entities internationally.

Please add more specifics with regard to the requirement for the proponent to provide evidence that they are an appropriate person and the mechanics of how this forms part of their application.

There should also be written in an opportunity for third party submissions and evidence to be brought by the public to help inform the decision.

It also needs to be clear that this test applies to any proponent wanting to undertake a petroleum activity including granting a permit or licence, for any exploration activity, appraisal or delineation applications, all EMPs, plus the production application phase. The decision on whether a proponent is an 'appropriate person' should also be guided by the opportunity for public submissions of relevant information.

We have concerns around 15A (4), which states:

Despite subsection (1), the Minister may disregard contraventions mentioned in that subsection having regard to: (a) the degree of seriousness of the contraventions; and (b) the length of time since the contraventions occurred; and (c) any other matters that appear relevant to the Minister.

We are concerned that this could allow to the Minister to disregard contraventions of prescribed regulations (ie previous convictions), based on the seriousness, length of time etc. It is important that such contraventions cannot be so easily brushed aside. 15A (4) should either be removed or include provisions for a process that engages public consultation to make such a decision, instead of it simply being up to the discretion of the Minister.

Clear information on how Merits Appeal Rights will work is important.

The Petroleum Act was supposed to be one of the legal frameworks for introducing merits appeal rights for the community. However, it is missing from this Bill. The community wants certainty that the recommendations of the NT Fracking Inquiry will be implemented.

It is the opinion of our network that exploration, appraisal and delineation wells for fracking should be subjected to merits appeal provisions. These activities come with significant risks, waste production, chemical use, water use and land clearing, and approvals for such activities should be able to be considered and appealed on their merits by the community. Even if merits appeal provisions were only to be enacted at the production phase of fracking, there is no reason not to include these provisions in this version of the Petroleum Amendment Bill, in order for the community to understand the full suite of amendments and how they are to interrelate. Therefore, we recommend that merits appeal rights are included in this version of the Bill.

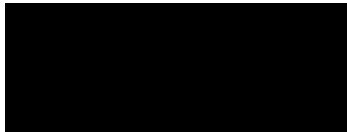
Codes of Practice must also be available for public consultation and feedback

Section 118 is designed to provide for the regulations to 'make and enforce a code of practice'. It appears that this is where all the specifics of the practices that are allowed for fracking will be specified. This raises concerns that there can be no legal or public scrutiny of the details, and that enforcement may not be as strict, as it is a subsidiary document under the regulations. This could also mean that a code of practice could then just be amended at the whim of the Department or the Minister. Therefore, it would be appropriate to include in the Act the requirement that codes of practice, and new codes of practice, to be put out for public consultation and feedback, to ensure the highest level of scrutiny and transparency.

Thank you for your consideration of this feedback in relation to the Petroleum Legislation Amendment Bill 2018.

I can be contacted to discuss elements of this submission further.

Yours truly,



Naomi Hogan
Lock the Gate Alliance