

The Senate

Environment and
Communications References
Committee

Oil and gas exploration and production in
the Beetaloo Basin

April 2023

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Contents

Members	vii
List of Recommendations	ix
Abbreviations and acronyms.....	xiii
Chapter 1—Introduction.....	1
Referral	1
Re-adoption of the inquiry in the 47th Parliament.....	1
Acknowledgements	2
Declaration.....	3
The Interim Report.....	4
Background context	4
The Pepper Inquiry.....	4
Strategic Basins Plan.....	5
BCD Program	7
Scope of the Final Report	8
Chapter 2—Update on matters raised in the 46th Parliament	9
Status of the BCD Program.....	9
Tamboran Resources Limited	9
Senate’s power to summon witnesses	12
Resolution of Federal Court litigation.....	13
Accountability for a Russian oligarch’s interest in the Beetaloo	14
Australia’s sanctions law	15
Economic rationale for shale gas activities in the Beetaloo	19
Role of the BCD Program	19
Commonwealth investment in Territory Infrastructure	24
Chapter 3—Role of the Australian Government.....	31
Matters of national environmental significance in the Beetaloo	31
Water trigger.....	33
Regional plans	35
Australian and NT Government collaboration.....	37
Bilateral Energy and Emissions Reduction Agreement	37

International climate change commitments	38
Paris Agreement.....	38
Australia’s NDC.....	38
COP26 and Australia’s response to climate change	39
Chapter 4 – Beetaloo environmental and emissions regulation.....	41
Implementation of recommendations from the Pepper Inquiry	41
Surface and groundwater in the Beetaloo	44
Environment Management Plans	47
Concerns regarding EMP approvals	47
Lifecycle GHG emissions in the Beetaloo	49
Projected emissions	50
Pepper Inquiry lifecycle GHG recommendation.....	52
Commonwealth actions on Recommendation 9.8.....	53
The NT Climate Change Response.....	59
Greenhouse Gas Emissions Offsets Policy	60
GHG Management for New and Expanding Large Emitters Policy	61
Chapter 5 – First Nations and pastoralist perspectives.....	65
Concerns expressed in relation to gas activities in the Beetaloo	65
Destruction of culture and Country	65
Pastoralists’ views.....	66
National Water Initiative	68
Committee view	69
Consultations with First Nations people and pastoralists	70
Issues of consent.....	70
NT Government’s level of engagement.....	77
Protection and preservation of cultural heritage.....	79
Committee view	82
Australian Government partnerships with First Nations people.....	82
Concluding comments	84
Coalition Senators' dissenting report.....	87
Senator Lidia Thorpe's additional comments.....	107
Appendix 1 – Submissions and additional information	111

Appendix 2—Public hearings and witnesses	113
Appendix 3—Recommendations from the Interim Report.....	115

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List of Recommendations

Recommendation 1

2.40 The committee recommends that the Australian Government publicly confirm its position on increasing the transparency of the beneficial ownership of companies and update the Treasury website to reflect this position.

Recommendation 2

2.92 The committee recommends that the Senate refer an inquiry to the Environment and Communications References Committee into the Middle Arm Sustainable Development Project, noting that a future liquified natural gas and petrochemical plant in the area would likely source feedstock from the Beetaloo Basin.

Recommendation 3

3.21 The committee recommends that, consistent with Pepper Inquiry Recommendation 7.3, the Australian Government bring forward legislation to amend the *Environment Protection and Biodiversity Conservation Act 1999* to expand the water trigger to include all forms of unconventional gas, to be in operation by 31 December 2023.

Recommendation 4

4.11 The committee recommends that the Northern Territory Government expedite full implementation of all outstanding recommendations from the Scientific Inquiry into Hydraulic Fracturing in the Northern Territory, to fulfil its promise made to Northern Territorians to fully implement all recommendations of the independent inquiry.

Recommendation 5

4.24 The committee recommends that the Australian Government fund the Department of Climate Change, Energy, the Environment and Water; Geoscience Australia; the Bureau of Meteorology; and the CSIRO to conduct a collaborative and targeted study of the impacts to water resources (surface and groundwater) in the Beetaloo resulting from implementation of the Beetaloo Strategic Basin Plan.

Recommendation 6

4.73 The committee recommends that the Australian Government:

- **strongly assist the Northern Territory Government to create a regulatory framework that will enable the Territory to fully implement Recommendation 9.8 of the Pepper Inquiry prior to shale gas production in the Beetaloo; and**
- **ensure that supporting frameworks and materials are developed expeditiously and made available to all ‘new entrants’ in the Beetaloo, to support the net zero Scope 1 emissions requirement.**

Recommendation 7

4.75 The committee recommends that the Australian Government, in collaboration with other members of the Energy and Climate Change Ministerial Council, prioritise developing a national approach to offsetting all Scope 2 and Scope 3 greenhouse gas emissions from shale gas production in the Beetaloo.

Recommendation 8

4.90 The committee recommends that the Northern Territory Government reconsider the industrial project threshold set out in the Greenhouse Gas Emissions Management for New and Expanding Large Emitters policy, to ensure that the policy captures large emitters which establish shale gas production facilities in the Beetaloo.

Recommendation 9

5.23 The committee recommends that the Australian Government, as part of its efforts to renew the National Water Initiative, obtain from the Northern Territory Government a brief on actions undertaken by the Territory to give effect to its existing commitments under the Intergovernmental Agreement on the National Water Initiative.

Recommendation 10

5.52 The committee recommends that the Northern Land Council and the Top End (Default PBC/CLA) Aboriginal Corporation RNTBC collaborate with Native Title holders and Traditional Owners in the Beetaloo:

- **to implement the principles of Free, Prior and Informed Consent in all decisions relating to gas exploration and production in the Beetaloo; and**
- **if requested, to formulate a plan to establish a new prescribed body corporate for Traditional Owners with native title interests and rights in the Beetaloo.**

Recommendation 11

5.61 The committee recommends that the Northern Territory Government takes steps to ensure that the perspectives and interests of people working and living in the Beetaloo, including First Nations people and pastoral interests, are respected and upheld throughout the decision-making frameworks for petroleum and environmental approvals.

Recommendation 12

5.74 The committee recommends that the Northern Territory Government increase funding for the Aboriginal Areas Protection Authority, to enhance the identification, management and protection of sacred sites (including their sub-surface features) within the Beetaloo Sub-basin.

Recommendation 13

5.75 The committee recommends that the Northern Territory Government strengthen the *Northern Territory Aboriginal Sacred Sites Act 1989* (NT) to enable stop work orders where sacred sites are at risk of damage or destruction.

Recommendation 14

5.82 The committee recommends that the Australian Government, in collaboration with the First Nations Heritage Protection Alliance and the Northern Territory Government, as part of the modernisation of Aboriginal and Torres Strait Islander cultural heritage protections, develop a requirement for activity proponents to provide a comprehensive cultural impact assessment for proposed gas production activities.

Abbreviations and acronyms

Aboriginal Land Rights Act	<i>Aboriginal Land Rights (Northern Territory) Act 1976</i>
ACCU	Australian Carbon Credit Unit
AEMO	Australian Energy Market Operator
ALEC	Arid Lands Environment Centre
ALFA	Arnhem Land Fire Abatement
APPEA	Australian Petroleum Production and Exploration Association
Authority	Aboriginal Areas Protection Authority
Autonomous Sanctions Act	<i>Autonomous Sanctions Act 2011</i>
BCD Program	Beetaloo Cooperative Drilling Program
Beetaloo	the Beetaloo Basin
Beetaloo Strategic Basin Plan	<i>Unlocking the Beetaloo: The Beetaloo Strategic Basin Plan</i>
Bilateral Agreement	Commonwealth–Northern Territory Bilateral Energy and Emissions Reduction Agreement
CDU	Charles Darwin University
CLA	Cambrian Limestone Aquifer
CLA	community living area
COP	United Nations Conference on the Parties
CSIRO	Commonwealth Scientific and Industrial Research Organisation
DAWE	former Department of Agriculture, Water and the Environment
DCCEEW	Department of Climate Change, Energy, the Environment and Water
DEPWS	NT Department of Environment, Parks and Water Security
DFAT	Department of Foreign Affairs and Trade
DISER	former Department of Industry, Science, Energy and Resources
ECNT	Environment Centre NT Inc
EDO	Environmental Defenders Office
EIA	environmental impact assessment
EMP	environment management plan
Empire Energy	Empire Energy Group Ltd
EP	Exploration Permit
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
ERF	Emissions Reduction Fund
Falcon	Falcon Oil and Gas Australia Ltd

Federal Court	Federal Court of Australia
FPIC	free, prior and informed consent
fracking	hydraulic stimulation or fracturing
GBA Program	Geological and Bioregional Assessment Program
GGAP	Greenhouse Gas Abatement Plan
GHG	greenhouse gas
GISERA	CSIRO's Gas Industry Social and Environmental Research Alliance
GLNG	Gladstone Liquefied Natural Gas Project
GSOO	Gas Statement of Opportunities
IEA	International Energy Agency
Instrument	Industry Research and Development (Beetaloo Cooperative Drilling Program) Instrument 2021
Large Emitters Policy	NT Greenhouse Gas Emissions Management for New and Expanding Large Emitters policy
Mb/d	million barrels per day
MNES	matters of national environmental significance
Native Title Act	<i>Native Title Act 1993</i>
NDC	nationally determined contribution
NIAA	National Indigenous Australians Agency
NLC	Northern Land Council
NT	Northern Territory
NT Climate Change Response	<i>Northern Territory Climate Change Response: Towards 2050</i>
Nurrdalini Corporation	Nurrdalini Native Title Aboriginal Corporation
NWI	National Water Initiative
Offsets Framework	Northern Territory Offsets Framework
Offsets Policy	Greenhouse Gas Emissions Offsets Policy
Origin	Origin Energy Ltd
Partnership Agreement	Partnership Agreement with Australian Government and First Nations Heritage Protections Alliance on Indigenous Cultural Heritage
PBC	prescribed body corporate
PC	Productivity Commission
Pepper Inquiry	Independent Scientific Inquiry into Hydraulic Fracturing in the Territory
Petroleum Act	<i>Petroleum Act 1984 (NT)</i>
President	President of the Senate (Senator the Hon Sue Lines)
R&D	research and development
Rallen	Rallen Australia Pty Ltd
RNTBC	registered native title bodies corporate
Sacred Sites Act	<i>Aboriginal Sacred Sites Act 1989 (NT)</i>

Safeguard Bill	Safeguard Mechanism (Crediting) Amendment Bill 2022
Samuel Review	second statutory review of the <i>Environment Protection and Biodiversity Conservation Act 1999</i> , undertaken by Professor Graeme Samuel
Santos	Santos Ltd
Sweetpea	Sweetpea Petroleum Pty Ltd
Tamboran	Tamboran Resources Ltd
tCO ₂ -e	tonnes carbon dioxide equivalent
Top End PBC	Top End (Default PBC/CLA) Aboriginal Corporation

Chapter 1

Introduction

Referral

- 1.1 During the 46th Parliament, the Senate referred to the Environment and Communications References Committee (the committee) an inquiry into oil and gas exploration and production in the Beetaloo Basin (the Beetaloo), for interim report by 3 August 2021 and final report by 29 March 2022.¹
- 1.2 Following extensions granted by the Senate, the committee presented several intermediate reports, including a substantive interim report on 24 August 2021 (the Interim Report). These reports are referred to where necessary throughout this Final Report.²
- 1.3 In the 47th Parliament, the Senate agreed to the committee's recommendation that the inquiry be re-adopted, for inquiry and report by 14 February 2023, with its terms of reference unchanged. These terms are:

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.³
- 1.4 On 9 February 2023, the Senate granted the committee an extension of time to report to 21 March 2023.⁴ Further extensions were granted on 21 and 28 March 2023 and on 12 April 2023, requiring the Final Report to be tabled by 19 April 2023.⁵

Re-adoption of the inquiry in the 47th Parliament

- 1.5 On re-adoption, the Senate resolved that the committee has the power to consider and use its records from the 46th Parliament for the inquiry.⁶
- 1.6 These records comprise the 316 submissions received, the *Committee Hansard* transcripts of evidence from five public hearings and all other documents

¹ *Journals of the Senate*, No. 105, 23 June 2021, p. 3722.

² The Senate Environment and Communications References Committee reports can be found at: [Senate Standing Committees on Environment and Communications](#) (accessed 6 March 2023).

³ *Journals of the Senate*, No. 7, 4 August 2022, pp. 197–199.

⁴ *Journals of the Senate*, No. 32, 9 February 2023, p. 975.

⁵ *Journals of the Senate*, No. 39, 21 March 2023, p. 1112; *Journals of the Senate*, No. 43, 28 March 2023, p. 1226.

⁶ *Journals of the Senate*, No. 7, 4 August 2022, pp. 198–199.

published as part of the inquiry. These records are also available on the committee's website.⁷

- 1.7 In the 47th Parliament, the committee agreed to receive new submissions and updates to submissions received in the 46th Parliament. The committee received 17 new or updated submissions, which are listed at Appendix 1.⁸
- 1.8 The committee also held a public hearing in Canberra on 10 October 2022. A list of witnesses who gave evidence at this hearing is at Appendix 2.
- 1.9 All public submissions, *Committee Hansard* transcripts, additional information, tabled documents and answers to questions on notice are available on the [committee's website](#).

Acknowledgements

- 1.10 The committee would like to acknowledge the individuals and organisations whose contributions have informed the committee throughout the 46th and 47th Parliaments.
- 1.11 In order to speak directly with First Nations people, the committee held a public hearing in Darwin on 23 March 2022. A large number of Traditional Owners, Native Title holders and their families travelled many hundreds of kilometres to attend this and the previous day's public hearings. The enormity of this effort was contextualised by Ms Larissa Baldwin, then Director of the First Nations Justice team at GetUp:

People from as far as Alice Springs and the town camps outside Alice Springs have been on the road. We drove up here so we could pick up different family members on the way. Over the course of the last year, in terms of lobbying for this inquiry, it has been thousands of kilometres... [I]t's really important to understand that biosecurity zones have only just been lifted. For communities in the NT that have been facing huge outbreaks, to travel to Darwin today it would have to be for a very important reason. A lot of these members haven't been outside their communities... They're very cautious about where they go, especially for the traditional owners... Also, these people who are here—there are more people who are not here today—are representatives of their communities. They're not people who just jumped in the car and wanted to come up for a ride. There is a broader consideration about who's going to come up and represent the community, who can speak up strongly and what are the themes and the issues that need to be discussed. There are lots of community meetings that have happened over the last couple of years in relation to this specific inquiry.⁹

⁷ See: [Senate Standing Committees on Environment and Communications: Oil and gas exploration and production in the Beetaloo Basin](#) (accessed 6 March 2023).

⁸ Note: the committee received in excess of 1215 form letters (with variations) and short statements.

⁹ Ms Larissa Baldwin, Director, First Nations Justice, GetUp, *Committee Hansard*, 22 March 2022, pp. 27–28.

1.12 In view of these tremendous efforts, the committee especially thanks First Nations people for their assistance in providing the committee with their valuable perspectives on hydraulic stimulation or fracturing (fracking) in the Beetaloo.

Figure 1.1 Consultations with First Nations people, Darwin, 23 March 2022



Supplied by the secretariat, with permission from those pictured, with Senators Malarndirri McCarthy, Lidia Thorpe and Dorinda Cox.

Declarations

1.13 The Chair, Senator Sarah Hanson-Young, has advised that, in the 12 months to 30 September 2022, the Australian Greens received donations of \$14 500 each from the Ravazotti-Langenhoven family-owned pastoral companies, Rallen Australia Pty Ltd (Rallen) and Amanzi Property Group Pty Ltd. Rallen and one of its directors, Mr Pierre Langenhoven, provided information to the inquiry in March 2022. The Chair and her staff were not aware and had no knowledge of the donations until 5 December 2022 at which point the Chair immediately advised the committee in writing of the donations.

The committee notes Senator Malarndirri McCarthy's Traditional Owner declaration included in the Register of Senator Interests:

The Northern Land Council records the following traditional interests in land in the Northern Territory held by Senator Malarndirri McCarthy.

Senator McCarthy is a traditional Aboriginal owner, as defined in the Aboriginal Land Rights (Northern Territory) Act 1976, of Vanderlin Island (Wurralibi Aboriginal Land Trust) and holds beneficial interests in the Narwinbi Aboriginal Land Trust ('Borroloola Commons') in the Northern Territory.

Senator McCarthy is second generation jungkayi ('custodian' for mother's country) for Wuyaliya country on Southwest Island (Wurralibi Aboriginal Land Trust).

Senator McCarthy is jungkayi for the emu dreaming and country called ngalamja which is on 7 Emus Station.¹⁰

¹⁰ [Register of Senators' Interests](#) (accessed 19 April 2023).

The Interim Report

- 1.14 The Interim Report focussed on the now closed Beetaloo Cooperative Drilling Program (BCD Program), which aimed to encourage and facilitate oil and gas exploration in the Beetaloo, and an associated funding instrument, the Industry Research and Development (Beetaloo Cooperative Drilling Program) Instrument 2021 (Instrument).
- 1.15 The Interim Report examined:
- the former Australian Government and the NT Government's economic rationale for developing a gas industry in the Beetaloo;
 - the views of First Nations people regarding the development of that industry on Country; and
 - the potential environmental implications of fracking in the Beetaloo.
- 1.16 The Interim Report made six recommendations to the Australian Government, and, in one of those cases, also to the NT Government.¹¹ These recommendations are set out in Appendix 3.
- 1.17 In accordance with a Senate resolution of 14 March 1973, Commonwealth government responses to committee reports are to be presented within three months of a report being tabled.¹² Successive governments have affirmed their commitment to providing timely responses. However, the Senate has not yet received a response to the committee's reports from the 46th Parliament.¹³
- 1.18 In this Final Report, information, conclusions and recommendations from the Interim Report are referred to where necessary.

Background context

- 1.19 The Interim Report contained contextual information for the inquiry, some of which is outlined below.

The Pepper Inquiry

- 1.20 In March 2018, the Hon Justice Rachel Pepper presented a final report to the NT Government for the Independent Scientific Inquiry into Hydraulic Fracturing in the Territory (the Pepper Inquiry). The terms of reference for this inquiry required the panel to assess and determine:
- the nature and extent of the risks associated with hydraulic fracturing of onshore unconventional shale gas reservoirs and its associated activities on

¹¹ Senate Environment and Communications References Committee, *Oil and gas exploration and production in the Beetaloo Basin, Interim report*, August 2021, p. vii.

¹² *Journals of the Senate*, No. 8, 14 March 1973, p. 51.

¹³ See: [President's report to the Senate on the status of government responses to Parliamentary Committee reports as at 31 December 2022](#), (accessed 10 March 2023).

the environmental (aquatic, terrestrial and atmospheric), social, cultural and economic conditions of the NT;

- whether these risks can be mitigated to an acceptable level;
- if they can, by what methodology or methodologies can these risks be mitigated; and
- whether the existing regulatory framework is sufficient to implement these methodologies, and if not, what changes need to be made.¹⁴

1.21 The Pepper Inquiry found, among other things, that an onshore shale gas industry could be developed in a manner that protects the environment, by designing and implementing a robust regulatory framework, which was set out in 135 detailed recommendations:

Most, if not all, of the environmental impacts and risks associated with hydraulic fracturing and any onshore shale gas industry can, in the Panel's view, be effectively managed and mitigated to an acceptable level by strong governance.¹⁵

1.22 The NT Government accepted all 135 recommendations made by the Pepper Inquiry and lifted an onshore fracking moratorium, stating concurrently that the government was committed to implementing the recommendations.¹⁶

1.23 The NT Government then signed a Memorandum of Understanding with the former Australian Government to work together to develop the Territory's gas industry.¹⁷

1.24 In March 2022, the then NT Minister for Environment, the Hon Eva Lawler MLA, affirmed that the NT Government remains committed to implementing the recommendations of the Pepper Inquiry.¹⁸

Strategic Basins Plan

1.25 In the 2020-21 Federal Budget, the former Australian Government committed \$52.9 million over four years to unlock the nation's gas supply, deliver an efficient pipeline and transportation market, and empower gas customers.

¹⁴ The Scientific Inquiry into Hydraulic Fracturing in the Northern Territory, ['Final Report'](#), April 2018, Appendix 1 (accessed 6 March 2023).

¹⁵ The Scientific Inquiry into Hydraulic Fracturing in the Northern Territory, ['Summary of the Final Report'](#), April 2018, p. 47 (accessed 6 March 2023).

¹⁶ NT Government, ['Onshore Gas, Government accepts all recommendations of the inquiry'](#) (accessed 6 March 2023).

¹⁷ Senator the Hon Matthew Canavan, former Minister for Resources and Northern Australia, ['Harnessing the potential of Northern Territory's gas industry'](#), *Media Release*, 15 November 2018 (accessed 6 March 2023).

¹⁸ Letter from the Hon Eva Lawler MLA, NT Minister for Environment, dated 31 March 2022, p. 1.

Part of this funding (\$28.3 million) was allocated to establishing five Strategic Basin Plans to accelerate gas development in priority geological basins.¹⁹

- 1.26 On 16 October 2020, the then Minister for Energy and Emissions Reduction, the Hon Angus Taylor MP, announced that the Beetaloo would be the first basin to be explored under the Strategic Basins Plan.²⁰
- 1.27 Following this announcement, the former Australian Government committed significant funding to directly support development of the gas industry in the Beetaloo,²¹ as well as substantial indirect support for development of the Beetaloo resource, including gas, energy and regional infrastructure.
- 1.28 Most notably, in the 29 March 2022–23 Federal Budget, the former Australian Government announced \$7.1 billion in funding over 11 years from 2022-23, ‘to support existing programs and turbocharge the economies of 4 key regional hubs across Australia’. One of these ‘hubs’ was the Territory, where the Commonwealth’s support was described as follows:
- ...to fund infrastructure projects that support the manufacturing industry, promote the onshore processing of critical minerals and to strengthen the region’s position as an industrial and renewable energy hub.²²
- 1.29 According to then Minister for Infrastructure, Transport and Regional Australia, the Hon Barnaby Joyce MP, of the \$7.1 billion in funding, about \$2 billion had been allocated to the Territory to develop gas related infrastructure at Middle Arm of Darwin Harbour:
- \$1.5 billion to build new port infrastructure, such as a wharf, an offloading facility and dredging of the shipping channel, to boost the region’s importing and exporting ability...
 - \$300 million to support low emissions LNG and clean hydrogen production at Darwin, together with associated carbon capture and storage infrastructure.

¹⁹ Commonwealth of Australia, *Budget 2020–21, Budget Measures, Budget Paper No. 2, 2020–21*, p. 116. Note: this Gas-fired Recovery plan was intended to strengthen the economy and formed part of the Australian Government’s Job Maker plan.

²⁰ The Hon Angus Taylor MP, Minister for Energy and Emissions Reduction, ‘[Beetaloo Basin a key element of the gas-fired recovery](#)’, *Media Release*, 16 October 2020 (accessed 7 March 2023).

²¹ See, for example: Commonwealth of Australia, *Budget 2021–22, Budget Measures, Budget Paper No. 2, 2021–22*, p. 144 (\$2.2 million to build the capacity of the Northern Land Council); Commonwealth of Australia, *Budget 2022–23, Budget Measures, Budget Paper No. 2, 2022–23*, 29 March 2022, p. 125 (\$50.3 million to accelerate the development of priority of gas infrastructure projects).

²² Commonwealth of Australia, *Budget 2022–23, Budget Measures, Budget Paper No. 2, 2022–23*, 29 March 2022, p. 133.

- \$200 million to further develop the Middle Arm Sustainable Development Precinct, delivering enabling infrastructure such as a rail spur and a new road network to strengthen supply chains.²³

Beetaloo Basin Strategic Basin Plan

1.30 On 14 January 2021, nearly one month after announcing the BCD Program (described below), the former Australian Government announced the *Unlocking the Beetaloo: The Beetaloo Strategic Basin Plan* (the Beetaloo Strategic Basin Plan). This plan comprises four key actions:

- Action 1: Building a clear picture of the Beetaloo;
- Action 2: Regulating efficiently and effectively;
- Action 3: Enabling infrastructure; and
- Action 4: Sharing regional benefits.²⁴

1.31 The Interim Report examined these actions in detail, particularly Action 1, a key measure of which is the BCD Program.

BCD Program

1.32 On 17 December 2020, the then Minister for Water, Resources and Northern Australia, the Hon Keith Pitt MP, announced the BCD Program. This program provided up to \$50 million over two years for petroleum exploration that occurred in the Beetaloo before 30 June 2022. Eligible applicants could apply for grants of up to 25 per cent of eligible project expenditure, with a minimum of \$750 000 and a maximum of \$7.5 million per well.²⁵

1.33 On 7 July 2021, Minister Pitt announced the first grants under the BCD Program. Imperial Oil and Gas, a fully owned subsidiary of Empire Energy Group Ltd, was successful in its applications for up to \$21 million for three exploration wells in the Exploration Permit (EP) 187 area.²⁶ These grants were examined in some detail in Chapter 2 of the Interim Report.

1.34 On 7 March 2022, Minister Pitt then announced a fourth grant of \$7.5 million to Sweetpea Petroleum Pty Ltd, a wholly owned subsidiary of Tamboran

²³ Hon Barnaby Joyce MP, Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development, '[2022-23 Budget delivers \\$7.1 billion to turbocharge our regions](#)', *Media Release*, 29 March 2022 (accessed 6 March 2023).

²⁴ Australian Government, *Unlocking the Beetaloo: The Beetaloo Strategic Basin Plan*, Department of Industry, Science, Energy and Resources (DISER), 2021, p. 5.

²⁵ The Hon Keith Pitt MP, Minister for Resources, Water and Northern Australia, '[Beetaloo strategic plan will unlock gas, jobs and development](#)', *Media Release*, 17 December 2020, (accessed 7 March 2023); business.gov.au, '[Funding to accelerate exploration and appraisal activities in the Beetaloo sub-basin](#)' (accessed 7 March 2023).

²⁶ The Hon Keith Pitt MP, Minister for Resources, Water and Northern Australia, '[Grants to help speed up Beetaloo drilling program](#)', *Media Release*, 7 July 2021 (accessed 7 March 2023).

Resources Limited (Tamboran).²⁷ The grant was awarded to support the drilling of the Maverick 1H well within Tamboran's EP 136 area²⁸ and is discussed in Chapter 2.²⁹

1.35 The BCD Program was open for funding applications until 30 June 2022 or until fully subscribed (whichever was the earlier) and is therefore no longer available.³⁰

Scope of the Final Report

1.36 The Final Report focuses on various matters raised in the Interim Report, the regulation and specific environmental impacts of the gas industry in the Beetaloo, and concerns expressed by First Nations communities and pastoralists. The following chapters:

- provide an update on certain matters raised in the Interim Report (Chapter 2);
- examine the role of the Australian Government, including with respect to national greenhouse gas (GHG) emissions (Chapter 3);
- discuss environmental regulation in the Beetaloo, with specific attention to Territory-level GHG emissions from gas activities (Chapter 4); and
- highlight concerns from First Nations communities and pastoralists (Chapter 5).

²⁷ The Hon Keith Pitt MP, Minister for Resources and Water, '[\\$7.5 million to support gas exploration in Beetaloo Sub-basin](#)' (accessed 7 March 2023).

²⁸ Tamboran Resources, '[ASX Announcement](#)', 7 March 2022 (accessed 7 March 2023).

²⁹ Note: the \$7.5 million grant to Tamboran Resources Limited is also discussed in the committee's Second interim report tabled in March 2022, in connection with a matter of parliamentary privilege, and in the committee's Second Progress report tabled in April 2022.

³⁰ business.gov.au, 'Funding to accelerate exploration and appraisal activities in the Beetaloo sub-basin'.

Chapter 2

Update on matters raised in the 46th Parliament

- 2.1 The committee's August 2021 Interim Report examined a broad range of matters associated with oil and gas exploration and production in the Beetaloo.¹ This section provides an update on some of these matters, including:
- the status of the Beetaloo Cooperative Drilling program (BCD Program);
 - the resolution of litigation in the Federal Court of Australia (Federal Court);
 - accountability for a Russian oligarch's interest in the Beetaloo; and
 - the economic rationale for shale gas activities in the Beetaloo.

Status of the BCD Program

- 2.2 As noted in Chapter 1, the Interim Report examined the former Australian Government's BCD Program and its first three funding grants of up to \$21 million, which were provided to Empire Energy Group Ltd (Empire Energy).²
- 2.3 The committee found that Empire Energy had connections to the Liberal Party, and had lobbied government ministers, attended fundraisers and flown then Minister for Energy and Emissions Reduction, the Hon Angus Taylor MP, and his staff on a private jet prior to the grants decisions. The committee expressed its concern at the perception that these factors had directly influenced the awarding of the first three grants under the BCD Program.³

Tamboran Resources Limited

- 2.4 Subsequently, as noted in Chapter 1, Sweetpea Petroleum Pty Ltd (Sweetpea) received a \$7.5 million funding grant under the BCD Program. The committee was previously unable to inquire into the circumstances of this grant as Sweetpea's parent company, Tamboran Resources Limited (Tamboran), refused to participate in the inquiry during the 46th Parliament.⁴ This refusal was examined in the March 2022 Second Interim Report, when the committee

¹ See: paragraphs 1.15-1.16, which outline the matters contained in the Interim Report.

² Interim Report, Chapter 2.

³ Interim Report, paragraphs 2.113 and 2.115. Note: following the tabling of the Interim Report, the funding instrument for the BCD Program—the Industry Research and Development (Beetaloo Cooperative Drilling Program) Instrument 2021—was not blocked by the Senate, when subject to a disallowance motion: *Journals of the Senate*, No. 116, 25 August 2021, pp. 3984-3985.

⁴ Note: the Department of Industry, Science, Energy and Resources (DISER) provided some information in relation to the funding grant: answers to questions on notice, 25 March 2022 (received 8 April 2022), pp. 8 and 17.

indicated its intention to pursue the matter as a possible contempt of the Senate in the 47th Parliament.⁵

- 2.5 As discussed below (see ‘Senate’s power to summon witnesses’), shortly after the commencement of the 47th Parliament, the President of the Senate, Senator the Hon Sue Lines (President), considered a request from the committee to have Tamboran’s actions referred to the Privileges Committee as a possible contempt of the Parliament. The President confirmed that Tamboran’s failure to give evidence at a public hearing when summoned met the preliminary criteria for investigation. However, the President noted that, as the matter arose in the previous Parliament, the newly established committee might wish to consider other actions, including reiterating its invitation to appear before the committee, before proceeding.⁶
- 2.6 In late September 2022, the committee chose to re-invite Tamboran to give evidence to the inquiry and Tamboran duly appeared at a public hearing held in Canberra on 10 October 2022. At this hearing, the committee questioned Tamboran representatives about the grant funding, as well as the company’s gas exploration activities in the Beetaloo.
- 2.7 Managing Director and Chief Executive Officer, Mr Joel Riddle, acknowledged the \$7.5 million funding grant to Sweetpea and advised that Tamboran had intended to make two further funding applications but had missed the grants deadline.⁷ Mr Riddle further advised that Tamboran had so far received approximately \$4.2 million of the grant, which was used to rebate up to 25 per cent of eligible drilling expenses.⁸
- 2.8 Similar to Empire Energy,⁹ Tamboran representatives asserted that the company did not have any unfair advantage in its applications for funding under the BCD Program. Mr Riddle said that he first heard of the program when it was announced by then Minister for Resources, Water and Northern Australia, the Hon Keith Pitt MP.¹⁰ Mr Riddle gave evidence that he did not

⁵ Senate Environment and Communications References Committee, [Oil and gas exploration and production in the Beetaloo, Second interim report](#), March 2022 (accessed 9 March 2023).

⁶ Senator the Hon Sue Lines, President of the Senate, *Senate Hansard*, 4 August 2022, p. 603.

⁷ Mr Joel Riddle, Managing Director and Chief Executive Officer, Tamboran Resources Ltd, *Committee Hansard*, 10 October 2022, p. 3. Note: one reason for the missed opportunity was an ongoing civil dispute between Tamboran Resources Ltd and Rallen Australia Pty Ltd.

⁸ Mr Joel Riddle, Managing Director and Chief Executive Officer, Tamboran Resources Ltd, *Committee Hansard*, 10 October 2022, p. 3. Note: an itemised list of the eligible expenses was subsequently provided to the committee: Tamboran Resources Ltd, answers to questions taken on notice, 10 October 2022 (received 24 October 2022), p. 1.

⁹ Interim Report, paragraphs 2.65–2.70.

¹⁰ Mr Joel Riddle, Managing Director and Chief Executive Officer, Tamboran Resources Ltd, *Committee Hansard*, 10 October 2022, p. 21.

have any personal relationships with members of Parliament or government ministers.¹¹ The committee is, however, aware that Tamboran donated \$200 000 in the lead up to the May 2022 election, including a one-off donation of \$100 000 to the National Party less than two months after the company had been awarded the \$7.5 million grant.¹²

2.9 In its Interim Report, the committee examined Empire Energy's consultations with Traditional Owners, Native Title holders, First Nations people and pastoralists, with respect to the company's operations within its Exploration Permit (EP) 187 area.¹³

2.10 The committee asked similar questions of Tamboran, whose representatives described some of the company's interactions with Traditional Owners and Native Title holders. Dr David Close, Vice President of Operations and External Affairs, advised that Tamboran had followed 'the process prescribed by the legislation [the *Native Title Act 1993* (Native Title Act)] and regulations':

It's an extensive process that's well documented, and the [Northern Land Council (NLC)] is the body that we engage the recognised native title holders through. We do engage more broadly with interested parties and concerned stakeholders and make ourselves available to other concerned or interested stakeholders, but there is a primacy given, of course, under [the Act] to native title through the NLC.¹⁴

2.11 With respect to Traditional Owners in the Beetaloo, Dr Close stated that there is an informal process quite independent of the Native Title Act and the NLC:

The engagement outside the Northern Land Council is not through the same process of work program meeting. So, it will be on a more informal basis... We have had somewhat limited engagement with [the] Nurrdalindi group. We'll make ourselves available to any other groups that want to discuss matters around onshore gas development, protection of the environment, activity regulations and so forth... As I understand it, the NLC have indicated that [the Nurrdalindi Aboriginal Corporation does not represent Traditional Owners for the Beetaloo].¹⁵

¹¹ Mr Joel Riddle, Managing Director and Chief Executive Officer, Tamboran Resources Ltd, *Committee Hansard*, 10 October 2022, p. 22. Note: Mr Riddle once met Minister Angus Taylor but stated that they did not discuss the grant application.

¹² Australian Electoral Commission, [AEC Transparency Register](#) (accessed 10 March 2023).

¹³ Interim Report, Chapter 4.

¹⁴ Dr David Close, Vice President, Operations and External Affairs, Tamboran Resources Ltd, *Committee Hansard*, 10 October 2022, p. 9. Also see: Mr Joel Riddle, Managing Director and Chief Executive Officer, Tamboran Resources Ltd, *Committee Hansard*, 10 October 2022, p. 5, with respect to consultations with pastoralists, including Rallen Australia Pty Ltd.

¹⁵ Dr David Close, Vice President, Operations and External Affairs, Tamboran Resources Ltd, *Committee Hansard*, 10 October 2022, p. 10. Also see: Tamboran Resources Ltd, answers to questions on notice, 10 October 2022 (received 24 October 2022), p. 3.

2.12 The committee considers that this and other information provided by Tamboran would have significantly assisted the inquiry during the 46th Parliament. As indicated in the Second Interim Report, the information was critical to ensure transparency and accountability over the former BCD Program, and to ensure taxpayer funds were being expended appropriately, without political influence, and in the public interest.¹⁶

Senate's power to summon witnesses

2.13 Under Senate Standing Orders, the committee has the power to summon witnesses, a power that derives from section 49 of the Constitution.¹⁷ Odgers' *Australian Senate Practice* notes that failure to comply with a summons may constitute a contempt of the Senate.¹⁸

2.14 In the 46th Parliament, the committee considered it unacceptable that Tamboran, a publicly listed company, whose subsidiary had received a multi-million-dollar grant of taxpayer money, had refused to appear, including when summoned, to answer questions in relation to its gas extraction activities in the Beetaloo.¹⁹

2.15 Accordingly, the committee reported the matter to the Senate in its Second Interim Report, stating:

...Tamboran's actions, on their face, may constitute contempt of the Senate, pursuant to Senate Privilege Resolution 6(13), which states 'a person shall not, without reasonable excuse...refuse or fail to attend before the Senate or a committee when ordered to do so'.

The committee notes that there will not be sufficient time to allow for a referral of this matter to, and consideration by, the Privileges Committee in the 46th Parliament.

However, the committee resolves to commence this process by notifying the President of the grounds for the referral under Privilege Resolution 7, and then pursue this matter further in the 47th Parliament.²⁰

2.16 As noted above, soon after the commencement of the 47th Parliament the committee chose to offer Tamboran one last opportunity to assist the committee with its inquiry and invited company representatives to appear at a public hearing in Canberra on 10 October 2022. Appearing on that date to give

¹⁶ Senate Environment and Communications References Committee, *Oil and gas exploration and production in the Beetaloo, Second interim report*, March 2022, p. 1.

¹⁷ Senate Standing Order 25(14) and H. Evans (ed), *Odgers' Australian Senate Practice*, 14th Edition, 2016, p. 78.

¹⁸ H. Evans (ed), *Odgers' Australian Senate Practice*, 14th Edition, 2016, p. 500.

¹⁹ Senate Environment and Communications References Committee, *Oil and gas exploration and production in the Beetaloo Basin, Second interim report*, 28 March 2022, p. 3.

²⁰ Senate Environment and Communications References Committee, *Oil and gas exploration and production in the Beetaloo Basin, Second interim report*, 28 March 2022, p. 3.

evidence, and subsequently provide written answers to 64 questions on notice, Mr Riddle explained the previous refusals to attend:

...the committee, during the last Parliament, requested attendance from Tamboran to appear at the inquiry. It was Tamboran's conclusion at the time...that our position should be represented to the committee via our industry's active peak body, APPEA [the Australian Petroleum Production and Exploration Association], who had agreed to attend. On 21 March, the committee, by letter, ordered Tamboran...to attend a hearing on Friday 25 March 2022 here in Canberra... Unfortunately, at that time...I had a major investor roadshow overseas already planned and I was in international transit for that roadshow when you requested our attendance here in Canberra.²¹

- 2.17 The committee expresses its deep dissatisfaction with Tamboran, the company having been repeatedly requested, and then summoned, to give evidence. The committee notes that Tamboran was first approached on 1 March 2022 to appear at a public hearing three weeks later, and, having been consistently refused, Tamboran was then approached on 18 March 2022 to appear at a public hearing a week later. In both instances, the committee sought to facilitate the appearance and the decidedly combative response to the last invitation made no mention of an overseas commitment.²²
- 2.18 While the committee appreciates Tamboran's belated contribution to the inquiry, committee members are unanimous in their view that the company's earlier actions demonstrated a blatant disregard of the Parliament.

Resolution of Federal Court litigation

- 2.19 Chapter 1 of the Interim Report noted that the Environment Centre NT Inc. (ECNT) had commenced litigation in the Federal Court, challenging, among other things, Minister Pitt's decision to approve up to \$21 million in grant funding to Imperial Oil and Gas, a fully owned subsidiary of Empire Energy.²³
- 2.20 On 23 December 2021, His Honour Justice John Griffiths delivered judgement, finding that the former Australian Government had acted in a legally unreasonable manner and breached the model litigant obligations when it executed the funding contracts (the Contracts Decision) part-way through the legal proceedings:

...the Contracts Decision was legally unreasonable because of the circumstances in which it occurred and the effect it had on the extant

²¹ Mr Joel Riddle, Managing Director and Chief Executive Officer, Tamboran Resources Ltd, *Committee Hansard*, 10 October 2022, p. 3.

²² Senate Environment and Communications References Committee, *Oil and gas exploration and production in the Beetaloo Basin, Second interim report*, 28 March 2022, pp. 2–3. Also see: Appendix 1.

²³ DISER, *Originating application for judicial review and for relief under section 39B Judiciary Act 1903, The Environment Centre NT Inc. v Minister for Resources and Water & Anor*, 28 July 2021 (tabled 2 August 2021).

litigation. [The applicant] contended that there was no evident and intelligible justification for the timing of the Contracts Decision... If the applicant had been given prior notice of the Contracts Decision it could have sought urgent interlocutory injunctive relief... The timing of the Contracts Decision had the effect of depriving the applicant of that opportunity and right.²⁴

2.21 The committee notes that the funding contracts were re-executed, although for a slightly lesser amount (\$19.4 million), which the then Department of Industry, Science, Energy and Resources explained was due to a costs review:

The Minister's grant approval decisions were for funding up to \$21 million, with final grant amounts subject to review of costs primarily in light of available efficiencies across the work programs.²⁵

Accountability for a Russian oligarch's interest in the Beetaloo

2.22 In Chapter 2 of the Interim Report, the committee expressed its view that there are certain types of companies that should not have received funding grants under the BCD Program—one reason being issues concerning a company's true ownership.²⁶

2.23 Falcon Oil and Gas Australia Ltd (Falcon, a 98 per cent owned subsidiary of Canadian-based Falcon Oil and Gas) has widespread interests in the Beetaloo (EP 76, EP 98 and EP 117). In March 2022, this interest resulted from a joint venture with Origin Energy Ltd (Origin).²⁷

2.24 At that time, the largest shareholder in Falcon Oil and Gas was the Lamesa Foundation with 16 per cent ownership, which has since decreased to 15 per cent ownership.²⁸ The Lamesa Foundation is reportedly owned by Mr Viktor Vekselberg, a Russian billionaire who was sanctioned by the US Government in April 2018 and who has ties to Russian President Vladimir Putin.²⁹

2.25 Origin's Mr Tim O'Grady, the General Manager of Government Engagement, confirmed that Falcon owns a 22.5 per cent interest in its Beetaloo joint venture

²⁴ [Environment Centre NT Inc. v Minister for Resources and Water \(No. 2\) \[2021\] FCA 1635](#) at 191 and 198, (accessed 9 March 2023). Also see: paragraph 188.

²⁵ DISER, answers to questions on notice, 24 February 2022 (received 17 March 2022), p. 2. Also see: The Hon Keith Pitt MP, Minister for Resources and Water, '[Government getting on with the job of gas exploration](#)', *Media Release*, 23 February 2022, (accessed 9 March 2023).

²⁶ Interim Report, paragraph 2.112.

²⁷ Falcon Oil and Gas, '[Beetaloo Sub-Basin, Australia](#)' (accessed 9 March 2023). Note: late in 2022, Origin Energy Ltd disposed of its interests in the Beetaloo to a subsidiary of Tamboran Resources Ltd (see paragraph 2.30).

²⁸ MarketScreener, '[Falcon Oil & Gas Ltd](#)' <https://www.marketscreener.com/quote/stock/FALCON-OIL-GAS-LTD-6498345/company/> (accessed 9 March 2023).

²⁹ US Department of the Treasury, '[Treasury designates Russian oligarchs, officials and entities, in response to worldwide malign activity](#)', 6 April 2018 (accessed 9 March 2023).

and, as such, Mr Vekselberg has a financial interest in that venture of approximately four per cent. However, Mr O'Grady described this as a 'passive interest':

[The joint venture is between Origin and Falcon] has nothing to do with Mr Vekselberg. We have no relationship at all with Mr Vekselberg. I would also like to highlight that the Beetaloo joint venture is a hundred per cent operated by Origin Energy and is a hundred per cent financed by Origin Energy. So there is an interest from Mr Vekselberg, but it is a passive interest.³⁰

Australia's sanctions law

2.26 Australia implements an autonomous sanctions regime as a matter of Australian foreign policy, under the *Autonomous Sanctions Act 2011* (Autonomous Sanctions Act).³¹ On 18 March 2022, the then Minister for Foreign Affairs, Senator the Hon Marise Payne, announced that Mr Vekselberg had been sanctioned under the Act.³²

2.27 Mr O'Grady advised that Origin had sought information from the Department of Foreign Affairs and Trade (DFAT) on how the company should comply with the sanctions law:

We were aware...that Mr Vekselberg was designated on the Australian sanctions list, and we promptly contacted the Department of Foreign Affairs and Trade [for] advice on what actions, if any, Origin should take by this new development, and we will fully comply with any directions from DFAT and the Australian government.³³

2.28 Mr O'Grady emphasised that there was no financial benefit to Mr Vekselberg from his financial interest in the Beetaloo:

...the Beetaloo project which we've been developing with Falcon for the last eight years is a development project. So the Beetaloo project has not generated any revenue and has not returned a cent of revenue to any of the joint venture partners or shareholders through them. And, importantly, it's not going to produce a cent of revenue for the foreseeable future, for at least a few years.³⁴

³⁰ Mr Tim O'Grady, General Manager, Government Engagement, Origin Energy Ltd, *Committee Hansard*, 25 March 2022, p. 3.

³¹ Department of Foreign Affairs and Trade (DFAT), '[About Sanctions](#)', (accessed 9 March 2022).

³² Senator the Hon Marise Payne, Minister for Foreign Affairs, '[New sanctions on Russian banks and oligarchs](#)', *Media Release*, 18 March 2022, (accessed 9 March 2023). Also see: DFAT, '[Consolidated List](#)' (accessed 7 March 2022). Note: as at the time of writing, Mr Vekselberg is still on the Australian Sanctions List.

³³ Mr Tim O'Grady, General Manager, Government Engagement, Origin Energy Ltd, *Committee Hansard*, 25 March 2022, p. 3. Note: in the interim, Origin Energy Ltd did not make any changes to its joint venture arrangements or operations in the Beetaloo: p. 4.

³⁴ Mr Tim O'Grady, General Manager, Government Engagement, Origin Energy Ltd, *Committee Hansard*, 25 March 2022, p. 3.

2.29 Mr O'Grady's response did not indicate what would be Origin's position if and when exploration wells prove the resource and increase the value of shareholdings, or when the joint venture becomes profitable and dividends become payable to shareholders.

2.30 In September 2022, Origin announced that it would be divesting 100 per cent of its interest in the Beetaloo to Tamboran (B1) Pty Limited, an entity 50 per cent owned by Tamboran.³⁵ Mr Riddle stated that Tamboran's relationship with Falcon arises as a result of this acquisition, and he assured the committee:

...the Australian Sanctions Office [ASO], through their [sic] review in April [2022], identified that Origin was in no way in contravention of sanctions law through the [joint venture] with Falcon... For the record, neither Viktor Vekselberg nor his company Lamesa Holdings has any involvement or communication with Tamboran Resources... [W]e plan to monitor that situation very closely, and, if required, we will confirm the ASO's assessment that was originally made back in April [2022].³⁶

2.31 Mr Riddle added that Tamboran's BCD Program funding grant was tied to EP 136, a former asset of Sweetpea and 100 per cent owned by Tamboran. Accordingly:

Falcon does not benefit from any profits or benefits that we get from EP 136, which Sweetpea own. It's a totally different tenement. The money that comes in from the government for the Beetaloo is Sweetpea's investment and Tamboran's investment. It has nothing to do with the Falcon-Origin deal.³⁷

Departmental response

2.32 Mr Andrew Walter, First Assistant Secretary of the Regulatory Legal Division at DFAT, described how the department determines 'targets' for the purposes of the Autonomous Sanctions Act. He could not speak to ministerial communications on the sanctioning of Mr Vekselberg or what intergovernmental collaboration might have occurred.³⁸

³⁵ Origin, '[Origin to divest Beetaloo Basin interests, intends to exit upstream exploration permits](#)', Media Release, 19 September 2022 (accessed 9 March 2023).

³⁶ Mr Joel Riddle, Managing Director and Chief Executive Officer, Tamboran Resources Ltd, *Committee Hansard*, 10 October 2022, p. 24.

³⁷ Mr Joel Riddle, Managing Director and Chief Executive Officer, Tamboran Resources Ltd, *Committee Hansard*, 10 October 2022, p. 24.

³⁸ Mr Andrew Walter, First Assistant Secretary, Regulatory Legal Division, DFAT, *Committee Hansard*, 25 March 2022, pp. 14–15.

- 2.33 Mr Walter pointed out that identifying the assets of persons or entities sanctioned under the Act is not always straightforward: ‘there can be very complex business structures which make those things difficult’.³⁹
- 2.34 In 2017, the former Australian Government committed to improving the transparency of information on the beneficial ownership and control of companies. The Treasury conducted a month-long public consultation on the potential detail, scope and implementation of a beneficial ownership register for companies, however, the former government did not progress the matter. The matter has now been delayed for nearly five years.⁴⁰
- 2.35 Mr Walter could not confirm whether a beneficial ownership register would have assisted in the identification of Mr Vekselberg’s Australian assets, nor whether the department is certain that it has identified all those assets.⁴¹ Media reports have suggested that the oligarch uses shell companies to actively conceal his assets.⁴²
- 2.36 Mr Walter explained that the sanctions law prohibits any assets that have been provided directly or indirectly to a sanctioned individual or entity: ‘where the complexity comes in is through that ‘indirect benefit’ question and how many [corporate] structures might be in place’.⁴³
- 2.37 When asked whether an increased share price, resulting from government funding grants, would constitute an indirect benefit, the DFAT officers reiterated their evidence regarding the complexity of corporate structures:

There are a couple of challenges... [Y]ou are going to have to trace through the links. The catch is also how would we ever know the causal link? There could be a correlation, but the share prices go up and down for all sorts of reasons. How would you ever form a direct causal link between the share price going up on a stock exchange in a foreign country and an announcement made in Australia? The third point...is some of the factors you identified—for example, a government announcement in Australia made by a minister is not in this case Origin Energy taking action that directly or indirectly benefits that individual. Some of those factors would

³⁹ Mr Andrew Walter, First Assistant Secretary, Regulatory Legal Division, DFAT, *Committee Hansard*, 25 March 2022, pp. 14–15. Also see: Mr Ben Playle, Assistant Secretary, Australian Sanctions Office and Transnational Crime Branch, DFAT, *Committee Hansard*, 25 March 2022, p. 17.

⁴⁰ The Treasury, [‘Increasing transparency of the beneficial ownership of companies’](#) (accessed 9 March 2023); Prime Minister and Cabinet, [‘Beneficial Owner Transparency’](#) (accessed 9 March 2023).

⁴¹ Mr Andrew Walter, First Assistant Secretary, Regulatory Legal Division, DFAT, *Committee Hansard*, 25 March 2022, p. 16.

⁴² See, for example: [‘Russian oligarch’s super yacht arrives in Turkish waters’](#), *Al Jazeera*, 16 April 2022 (accessed 9 March 2023).

⁴³ Mr Andrew Walter, First Assistant Secretary, Regulatory Legal Division, DFAT, *Committee Hansard*, 25 March 2022, p. 17.

be completely out of Origin's control. They're complex factual scenarios that we would have to work through.⁴⁴

2.38 On 12 April 2022, news media reported that Origin had received guidance from DFAT that the company was not in breach of Australia's sanctions law, as Mr Vekselberg was not benefitting from any asset 'tied to' the Beetaloo joint venture.⁴⁵ Although the committee sought further information from the department to understand its reasoning, no further details were provided.⁴⁶

Committee view

2.39 The committee considers that the proposal to create a register of beneficial ownership of companies is meritorious. It is not entirely clear why the proposal was not progressed by the previous government. As pointed out by the former Minister for Revenue and Financial Services, the Hon Kelly O'Dwyer MP, increased transparency assists with 'preventing the misuse of companies for illicit activities including tax evasion, money laundering, bribery, corruption and terrorism financing'.⁴⁷

Recommendation 1

2.40 The committee recommends that the Australian Government publicly confirm its position on increasing the transparency of the beneficial ownership of companies and update the Treasury website to reflect this position.

2.41 Like DFAT representatives, the committee is not able to determine whether Australia's sanctions law captures Mr Vekselberg's beneficial interest in Falcon. This raises questions about the broadly defined term 'asset' in the Autonomous Sanctions Act and other initiatives, guidelines, et cetera that are intended to support this important foreign policy objective.

2.42 The committee notes that DFAT is currently reviewing Australia's Autonomous Sanctions Framework, including with the following three terms of reference:

7. the appropriateness of existing regulatory powers—to examine if additional compliance tools are required, including with reference to the *Regulatory Powers (Standard Provisions) Act 2014*...

⁴⁴ Mr Andrew Walter, First Assistant Secretary, Regulatory Legal Division, DFAT, *Committee Hansard*, 25 March 2022, p. 18.

⁴⁵ See, for example: '[Australia deems Origin not breaching sanctions on Russia at gas project](#)', *Reuters*, 12 April 2022 (accessed 9 March 2023).

⁴⁶ DFAT, answers to questions on notice, 25 March 2022 (received 28 July 2022), p. [14].

⁴⁷ Australian Government, [Increasing Transparency of the Beneficial Ownership of Companies, Consultation Paper](#), February 2017 (accessed 9 March 2023).

9. key concepts, terms and definitions, including the criteria for the imposition of targeted financial sanctions and travel bans—to clarify the operation of sanctions prohibitions

10. any other matters that are relevant to the efficiency and effectiveness of the autonomous sanctions framework.⁴⁸

2.43 The committee strongly encourages the Australian Government, and DFAT, to take note of the concerns raised in the inquiry regarding the statutory definition of ‘asset’ within the *Autonomous Sanctions Act 2011* and the problems encountered with the identification of assets concealed within corporate structures.

Economic rationale for shale gas activities in the Beetaloo

2.44 In Chapter 3 of its Interim Report, the committee examined the former Australian Government’s economic rationale for ‘unlocking’ the gas resources in the Beetaloo. The committee heard that there are a range of projected economic impacts, including the creation of more jobs, increased tax revenues and broader (indirect) economic benefits.

2.45 After examining the information presented to the inquiry, the committee’s majority report concluded that ‘the economic case for gas exploration in the Beetaloo appears to be based on overly optimistic assumptions and unrealistic modelling’.⁴⁹

2.46 Following the tabling of the Interim Report on 24 August 2021, the committee inquired further into the projected economic impacts from development of the Beetaloo resource and the Australian Government’s support in this regard. This section of the report covers three specific topics:

- the role of the now closed BCD Program;
- Commonwealth investment in Territory infrastructure; and
- the continuing industrial need for gas.

Role of the BCD Program

2.47 As noted in the Interim Report,⁵⁰ Minister Pitt announced the BCD Program in December 2020 as part of the former Australian Government’s plan to accelerate gas exploration and development in the Territory by approximately two years:

The Government will provide up to \$50 million for exploration that occurs before 30 June 2022, allowing the benefits of this important asset to be realised sooner...

⁴⁸ Department of Foreign Affairs and Trade, [‘Review of Australia’s Autonomous Sanctions Framework – Issues Paper’](#) (accessed 9 March 2023).

⁴⁹ Interim Report, paragraph 3.48.

⁵⁰ Interim Report, Chapter 1.

The funding will fast track drilling by providing grants to cover 25 per cent of eligible exploration costs, capped at \$7.5 million per well and three wells per exploration venture.⁵¹

- 2.48 In announcing the Sweetpea funding grant in March 2022, Minister Pitt reaffirmed his government’s commitment to expediting the development of the Beetaloo resource:

This grant under the Beetaloo Cooperative Drilling Program is expected to bring forward \$52 million in private investment at Sweetpea Petroleum’s Maverick 1 well. Investment such as this will help accelerate gas development in the Beetaloo, which has the potential to create thousands of jobs. Gas from the basin can also make a significant contribution to maintaining Australia’s affordable and reliable energy supplies. We should take the energy crisis in Europe as a warning of what could happen in Australia if there is not enough investment in the gas sector.⁵²

- 2.49 Two major oil and gas companies operating in the Beetaloo—Origin Energy Ltd (Origin) and Santos Ltd (Santos)—did not receive funding under the BCD Program but proceeded with their exploratory activities nonetheless. In Origin’s case, ‘[the program] was...more focused on an earlier stage of development and [Origin’s activities] were quite advanced’.⁵³

- 2.50 Santos representative, Ms Tracey Winters, the Acting Executive Vice President for Environment, Sustainability and Governance, similarly advised:

[An] application was made in accordance with the rules of the program quite some time ago. In the interim period, Santos proceeded to drill the well that we had applied for in terms of acceleration in any case. On that basis we were no longer eligible for funding.⁵⁴

- 2.51 From this evidence, and that of Tamboran (see paragraph 2.7), the committee understands that privately-owned gas companies operating in the Beetaloo had or were prepared to invest in exploration activities without the assistance of grants under the BCD Program.⁵⁵

- 2.52 The committee notes that, on 29 March 2023, on the motion of Australian Greens Senator Dorinda Cox, the Senate amended the *Industry Research and Development Act 1986*, to prevent the Minister for Industry and Science from

⁵¹ The Hon Keith Pitt MP, Minister for Resources, Water and Northern Australia, [‘Beetaloo strategic plan will unlock gas, jobs and development’](#), *Media Release*, 17 December 2020 (accessed 9 March 2023).

⁵² D. Durrani, [‘Tamboran \(ASX:TBN\) awarded \\$7.5m grant to support gas exploration in Beetaloo Sub-basin’](#), *The Market Herald*, 7 March 2022 (accessed 9 March 2023).

⁵³ Mr Tim O’Grady, General Manager, Government Engagement, Origin Energy Ltd, *Committee Hansard*, 25 March 2022, p. 4.

⁵⁴ Ms Tracey Winters, Acting Executive Vice President, Environment, Sustainability and Governance, Santos Ltd, *Committee Hansard*, 25 March 2022, p. 6.

⁵⁵ Interim Report, paragraphs 2.94–2.98 and 2.117.

prescribing any funding programs like the BCD Program that would ‘subsidise the extraction of coal or natural gas’.⁵⁶

Economic opportunities in the Beetaloo

2.53 The Beetaloo Strategic Basin Plan stated that ‘maximising regional benefits is a core objective of the Australian and NT Governments’ support for Beetaloo development’. The plan identified four Commonwealth actions in this regard (see Figure 2.1).⁵⁷

Figure 2.1 Beetaloo Strategic Basin Plan, Action 4: Sharing regional benefits

Action 4: Sharing regional benefits

Indigenous economic development	Invested \$1.9 million to develop a Beetaloo Aboriginal Economic Development Strategy.
Indigenous business support	Building a \$2.2 million Barkly Business Hub. This will support local companies to realise the benefits of gas development and other opportunities in the region.
Supporting Traditional Owners	Working to identify the resource requirements needed to ensure positive outcomes to Traditional Owners from the development of the Beetaloo.
Regional development	Delivering, with the NT Government, a Regional Development and Benefits Strategy.

Source: Australian Government, *Unlocking the Beetaloo, The Beetaloo Strategic Basin Plan*, 2021, p. 5.

2.54 In 2020, the former Australian Government commissioned the Northern Institute of Charles Darwin University (CDU) to prepare a high-level report on Aboriginal economic development in the Beetaloo (the Beetaloo Aboriginal Economic Development Strategy). The research aimed to outline how First Nations people could maximise economic development opportunities from onshore gas development in the Beetaloo.⁵⁸

2.55 One theme of the research was workforce development pathways. Under this theme the CDU reported:

The ability of the onshore gas industry to create new jobs for Aboriginal people in the Beetaloo corridor is determined by factors that are both difficult to predict and determined well outside the region. Reliably forecasting workforce needs is challenging. Programs and activities that aim to facilitate the flow of information between employers, trainers and

⁵⁶ *Journals of the Senate*, No. 45, 30 March 2023, pp. 1310-1311.

⁵⁷ Australian Government, [Unlocking the Beetaloo, The Beetaloo Strategic Basin Plan](#), 2021, p. 4 (accessed 9 March 2023).

⁵⁸ Northern Institute, Charles Darwin University, [Aboriginal Economic Development Strategy for the Beetaloo, Main Report](#), Department of Infrastructure, Transport, Regional Development and Communications, October 2020 (accessed 12 March 2023).

job seekers will be important tools in ensuring positive local Aboriginal employment outcomes in the Beetaloo corridor.⁵⁹

- 2.56 Representatives from the gas industry provided the committee with little information on how gas exploration and production in the Beetaloo has or will provide economic opportunities for local workers and businesses.⁶⁰ Mr Alex Underwood, Managing Director of Empire Energy, said:

Imperial [the company's subsidiary] contracts with local businesses wherever practicable. During the recent Carpentaria-1 drilling and flow-testing campaigns, Empire utilised the services of local businesses located in Darwin, Katherine, Daly Waters, Borrooloola, Cape Crawford and the Barkly region for activities including civil works, earthmoving, accommodation, catering and fuel supply.⁶¹

- 2.57 Specifically in relation to First Nations people, Mr Underwood added:

Indigenous people, and for that matter traditional owners, play a very important role in a lot of the work that needs to be done prior to the commencement of petroleum operations, such as cultural heritage clearances and archaeological clearances, and that's because they are the people who know that land the best. We go to great lengths to ensure that we respect that... As I mentioned, we have already been making material investments in local businesses. We foresee that, if we have further technical success and move into commercial production in the future, there will be great employment opportunities for local people, including Indigenous people. That's a really core part of our business strategy.⁶²

- 2.58 Origin's Mr O'Grady agreed that further economic opportunities depend upon whether projects proceed to commercial production:

...if development goes ahead, this project means more work for and jobs with local companies, including Aboriginal companies... We see enormous potential for this project, with benefits to be shared across the local community, the Northern Territory and Australia.⁶³

⁵⁹ Northern Institute, Charles Darwin University, *Aboriginal Economic Development Strategy for the Beetaloo, Main Report*, Department of Infrastructure, Transport, Regional Development and Communications, October 2020, pp. 25-26.

⁶⁰ See, for example: Ms Tracey Winters, Acting Executive Vice President, Environment, Sustainability and Governance, Santos Ltd, *Committee Hansard*, 25 March 2022, p. 2; Santos Ltd, answers to questions on notice, 25 March 2022 (received 4 April 2022), p. 5.

⁶¹ Mr Alex Underwood, Managing Director, Empire Energy Group Limited, *Committee Hansard*, 28 July 2021, p. 43.

⁶² Mr Alex Underwood, Managing Director, Empire Energy Group Limited, *Committee Hansard*, 28 July 2021, p. 49.

⁶³ Mr Tim O'Grady, General Manager, Government Engagement, Origin Energy Ltd, *Committee Hansard*, 25 March 2022, p. 1.

Assessment of economic opportunities for First Nations people

2.59 On 16 January 2023, the National Indigenous Australians Agency (the NIAA) released portions of its report titled *Blueprint for Aboriginal benefits realisation in the Beetaloo Region*, in response to a Freedom of Information request made by the Nurrdalinji Native Title Aboriginal Corporation.⁶⁴

2.60 The NIAA report noted that, where Traditional Owners, Native Title holders and resource companies have made land access and benefit-sharing agreements, the First Nations people have almost always been at a disadvantage to the companies. The report outlined the four factors most often associated with strong benefit-sharing agreements: political/strategic power; legal rights; ethos of the companies involved; and economics of the project. The report noted that, even when strong agreements are negotiated, these can still deliver mixed results for resident Indigenous populations.⁶⁵

2.61 The NIAA report examined these four factors in relation to the Beetaloo and provided a preliminary assessment that ‘the current conditions are not conducive to strong agreements being negotiated’. Its conclusion was based upon, among other things, the following findings:

...Traditional Owners and native title holders have limited political and strategic capacity in the Beetaloo Sub-basin.

- The population of the sub-basin is sparse and widely distributed, with small-scale and informal corporate representative structures existing within the sub-basin.
- There is limited community information and knowledge about the impact of resource development in the sub-basin. There is a risk that companies in the Beetaloo Sub-basin will not commit to principles of corporate social responsibility in relation to Aboriginal people.
- The legislative framework operating in the Beetaloo Sub-basin does not favour Aboriginal interests.

Most of the land within the sub-basin is held by Traditional Owners pursuant to native title, with only a small amount of [*Aboriginal Lands Rights (Northern Territory) Act 1976*] land. The [Native Title Act] does not require informed consent or provide native title holders with a power of veto over resource development.

- Furthermore, the assessment observes that the economic benefit of the project is uncertain and variable.⁶⁶

⁶⁴ National Indigenous Australians Agency, [Agency FOI Disclosure Logs](#), FOI/2223/008 (accessed 21 March 2023).

⁶⁵ National Indigenous Australians Agency, *Blueprint for Aboriginal benefits realisation in the Beetaloo Region*, 2021, p. 4. The four factors are: political/strategic power; legal rights; ethos of the companies involved; and economics of the project.

⁶⁶ National Indigenous Australians Agency, *Blueprint for Aboriginal benefits realisation in the Beetaloo Region*, 2021, p. 4.

Committee view

- 2.62 The committee heard that the Australian and NT Governments are keen to maximise regional benefits through the development of a gas industry in the Beetaloo. However, a federal government report casts doubt upon the ability of the industry to create meaningful local jobs. Another federal agency report—which was not voluntarily published—clearly indicates that Traditional Owners and Native Title holders in the region are unlikely to be able to negotiate strong benefit-sharing agreements.
- 2.63 As discussed in Chapter 5, the Native Title Act does not require gas companies to obtain consent from Native Title holders or claimants. Instead, the legislation compels the holders and claimants to negotiate or engage in arbitration, to obtain the fairest deal possible.
- 2.64 Noting the findings of the NIAA report (above), the committee considers that the gas companies should be required to ‘level the playing field’, including through the timely and contemporaneous provision of information to Native Title holders and claimants. This information should enable the holders and claimant to fairly assess the impacts of gas activities on their native title rights and interests and to negotiate accordingly.

Commonwealth investment in Territory Infrastructure

- 2.65 The Beetaloo Strategic Basin Plan signalled the former Australian Government’s intention to invest in critical infrastructure, as part of the plan to ‘grow the onshore gas industry in the NT’.⁶⁷

Figure 2.2 Beetaloo Strategic Basin Plan, Action 3: Enabling infrastructure

Action 3: Enabling infrastructure

Public road funding	Establishing a new \$173.6 million Roads of Strategic Importance corridor, the NT Gas Industry Roads Upgrades. These upgrades will be required for commercial development.
Midstream infrastructure	Working with the NT Government and gas operators to deliver midstream gas infrastructure, including pipelines.
Infrastructure project financing	Opening up more opportunities for Beetaloo infrastructure financing. This will be through the recent reforms to the Northern Australia Infrastructure Facility.

Source: Australian Government, *Unlocking the Beetaloo, The Beetaloo Strategic Basin Plan, 2021*, p. 5.⁶⁸

- 2.66 Two of the commitments—the ‘NT Gas Industry Roads Upgrades program’ and ‘Midstream infrastructure’ (see Figure 2.2) are briefly discussed below.

NT Gas Industry Roads Upgrades program

⁶⁷ Australian Government, *Unlocking the Beetaloo, The Beetaloo Strategic Basin Plan, 2021*, p. 4.

⁶⁸ Also see: Commonwealth of Australia, *Budget 2021-22, Budget Measures, Budget Paper No. 2, 2021–22*, p. 153.

- 2.67 The NT Gas Industry Roads Upgrades program aims to ‘upgrade roads supporting the development of gas resources in around the Beetaloo’, as existing roads are of ‘low quality’ and ‘cannot support the higher volumes of heavy traffic required for exploration and development activity’.⁶⁹
- 2.68 As at the time of writing, the NT Gas Industry Roads Upgrades program is in the planning stage, with construction expected to have started in early 2023 and finish in mid-2028. The \$217 million project cost will be jointly funded, with the NT Government’s co-contribution being \$43.4 million.⁷⁰
- 2.69 In the Interim Report, the committee considered information received from submitters and witnesses, who argued that Australian Government funding should be directed towards improving basic infrastructure in the Territory, including for the betterment and advancement of First Nations people.⁷¹
- 2.70 At the Darwin public hearings, witnesses who live in and around the Beetaloo continued to call for infrastructure investment. For example, Aunty Naomi Wilfred, an Alawa Traditional Owner from Minyerri, reflected on the state of housing infrastructure in her community:
- [On Country] we have to have our toilet and shower outside, during the big wet. And a small room. We don't know how to fit our grandchildren into one room to live. Small houses! Nothing! That's why we're getting angry. We're saying no to mining and everything. They're building up money mining; we don't know where the money's gone. No-one is helping the community with good, healthy buildings for our children.⁷²
- 2.71 Ms Joni Wilson, a Yanyuwa Gawara woman from Borrooloola, also commented on housing infrastructure in her community:
- They're talking about closing the gap! What happened in Borrooloola and that small outstation where we lived all our life, from little kids—no house and no housing. My house is down the corner. I thought my granddaughter might come and see me lying dead because the housing was falling down. Come on! We need something out here! Help! You want a mine? Help the community with housing!⁷³
- 2.72 The pastoral industry described its frustration with the lack of investment in regional infrastructure, which, in some cases, has generated support for a gas industry in the Beetaloo. Mr Will Evans, Chief Executive Officer of the NT Cattlemen’s Association, stated:

⁶⁹ Australian Government, *Unlocking the Beetaloo, The Beetaloo Strategic Basin Plan*, 2021, p. 18.

⁷⁰ Department of Infrastructure, Transport, Regional Development and Communities, [‘Northern Territory Gas Industry Roads Upgrades’](#) (accessed 9 March 2023).

⁷¹ Interim Report, paragraphs 3.42–3.47, 4.51–4.56 and 4.77.

⁷² Aunty Naomi Wilfred, Traditional Owner, Minyerri, *Committee Hansard*, 23 March 2022, p. 12.

⁷³ Ms Joni Wilson, Traditional Owner, Borrooloola, *Committee Hansard*, 23 March 2022, p. 12.

...a number of my members are looking at gas and saying, 'Well, at least this might bring investment, regional infrastructure and development with it.' I think that perspective shouldn't be so easily dismissed. It's unfortunate in some ways that we are in that position, but the reality is that, for whatever reason, the maths in terms of investing in regional Australia don't stack up at the moment.⁷⁴

- 2.73 Mr Rohan Sullivan, part owner of Birdum Creek Station, expressed his optimism that infrastructure created through the development of a gas industry in the Beetaloo could benefit pastoralists:

Once the exploration phase is finished, I would expect there to be roads put in place and, potentially, water, extra bores. There would be infrastructure that the gas companies had put in for their own operations that we could then make use of. From my point of view, that would be a very positive thing.⁷⁵

- 2.74 Dr Jennifer Ansell, Chief Executive Officer of Arnhem Land Fire Abatement (Northern Territory) Ltd, suggested that Commonwealth funding could be reinvested into the development of clean energy and offsets projects:

The Northern Territory, in particular, has really shown a lot of leadership in this space. The savanna burning method that we work under...has created incredible opportunity for projects right across northern Australia, whether they are on Aboriginal land, pastoral lands or the conservation estate. So there are many ways that we can contribute towards economies that support climate action as well as delivering on other co-benefits like economic and environmental outcomes.⁷⁶

- 2.75 Similarly, Ms Anna Boustead, Chief Executive Officer of the Indigenous Carbon Industry Network, argued that diverting taxpayers' funds to fossil fuel companies limits the creation of other environmental, economic and social benefits. Further:

Our industry, which has been created by traditional owners, has been a path of collaboration, not seeking to create winners and losers, and I think that's a really important case study demonstrating how economically and environmentally sustainable development is not only possible but actually a reality for our members.⁷⁷

- 2.76 Ms Heidi Lee, Chief Executive Officer of Beyond Zero Emissions, agreed that renewable technologies investment in the Territory would create economic opportunities:

⁷⁴ Mr Will Evans, Chief Executive Officer, NT Cattlemen's Association, *Committee Hansard*, 22 March 2022, p. 38.

⁷⁵ Mr Rohan Sullivan, private capacity, *Committee Hansard*, 22 March 2022, p. 7.

⁷⁶ Dr Jennifer Ansell, Chief Executive Officer, Arnhem Land Fire Abatement (Northern Territory) Ltd, *Committee Hansard*, 22 March 2022, p. 58.

⁷⁷ Ms Anna Boustead, Chief Executive Officer, Indigenous Carbon Industry Network, *Committee Hansard*, 22 March 2022, p. 58.

[We released a 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.⁷⁸

2.77 Ms Lee further commented:

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.⁷⁹

Committee view

2.78 The committee recognises that regional infrastructure has long been neglected in the Territory. While Australian Government investment in road upgrades is therefore welcome, it does not begin to address the multiple infrastructure needs of people living and working in and around the Beetaloo. In the committee's view, these needs must be addressed and not as a corollary of gas development in the Beetaloo but as a basic service for regional and remote communities.

Midstream infrastructure

2.79 According to the Beetaloo Strategic Basin Plan, development of a gas industry in the Beetaloo would also require new gas processing and transportation arrangements, such as additions to the Amadeus Gas Pipeline, expanded gas transmission routes to the east coast or additional LNG export facilities. The plan advises:

The NT Government, working with the Australian Government and gas operators, will deliver a midstream infrastructure plan. This plan will coordinate the timely delivery and appropriate scale of Beetaloo gas infrastructure required to support multiple operators.⁸⁰

2.80 In March 2022, the then Minister for Industry, Energy and Emissions Reduction, the Hon Angus Taylor MP, announced his government would be accelerating priority gas infrastructure, with the March 2022–23 Federal Budget providing funding for a feasibility study into the most efficient

⁷⁸ Ms Heidi Lee, Chief Executive Officer, Beyond Zero Emissions, *Committee Hansard*, 22 March 2022, p. 62.

⁷⁹ Ms Heidi Lee, Chief Executive Officer, Beyond Zero Emissions, *Committee Hansard*, 22 March 2022, p. 62.

⁸⁰ Australian Government, *Unlocking the Beetaloo, The Beetaloo Strategic Basin Plan*, 2021, p. 19. Also see: Australian Petroleum Production and Exploration Association, answers to questions on notice, 22 March 2022 (received 30 March 2022), p. 2, who advised that the Midstream Infrastructure Study was still underway.

infrastructure to deliver natural gas from the Beetaloo to the east coast gas market.⁸¹

- 2.81 The committee asked APPEA when pipeline infrastructure might be commissioned. The peak body's response was that infrastructure placement and construction is 'reliant on successful exploration results and better definition of the resource'.⁸²

Committee view

- 2.82 On the information available, the committee understands that the Australian and NT Governments have not yet finalised arrangements for the processing and transportation of shale gas that might be produced in the Beetaloo. Further, gas industry representatives have made it clear that it is by no means certain from where that gas will be extracted. In this regard, the committee recalls that Tamboran plans to enter into commercial production in 2025 (see paragraphs 4.38 and 4.39) by which time it will be necessary to have transportation arrangements in place.

Middle Arm Sustainable Development Precinct

- 2.83 As noted in Chapter 1, the former Australian Government announced about \$2 billion funding for the development of gas infrastructure at Middle Arm of Darwin Harbour in the March 2022–23 Federal Budget (the Middle Arm Sustainable Development Precinct).⁸³

- 2.84 In the October 2022–23 Federal Budget the new Albanese Government committed \$5.4 billion over seven years from 2022–23 to support economic growth and development across regional Australia, including:

\$1.9 billion in equity investment for the development of the Middle Arm Sustainable Development Precinct in the Northern Territory, including common use marine infrastructure and regional logistics hubs.⁸⁴

- 2.85 The NT Government has provided the following description of the 1500 hectares Middle Arm Sustainable Development Precinct, which will:

- capitalise on the Territory's strategic location and world-class solar resources
- be designed to attract industries reflective of the Territory's future economy including hydrogen, carbon capture, advanced manufacturing and minerals processing

⁸¹ The Hon Angus Taylor MP, Minister for Industry, Energy and Emissions Reduction, '[Accelerating priority natural gas infrastructure projects](#)', *Media Release*, 22 March 2022 (accessed 9 March 2023).

⁸² Australian Petroleum Production and Exploration Association, answers to questions on notice, 22 March 2022 (received 30 March 2022), p. 1.

⁸³ See: paragraph 1.28–1.29.

⁸⁴ Commonwealth of Australia, *Budget 2022-23, Budget Measures, Budget Paper No. 2 2022–23*, 25 October 2022, p. 163.

- drive industry diversification, exports, job creation and population growth
- play a pivotal role in growing the Northern Territory (NT) economy.⁸⁵

2.86 In 2020, the Territory Economic Reconstruction Commission—the body responsible for advising the NT Government on ‘accelerating the Territory’s economic rebound and positioning the Territory for growth’—recommended that the government ‘complete the rapid master planning for low emissions petrochemicals manufacturing’. A related action was to: ‘work with upstream gas companies to identify and commercialise feedstock sources to support investment in petrochemical and other gas-based manufacturing projects’.⁸⁶

2.87 Tamboran’s Mr Riddle confirmed:

The Beetaloo basin's development plays an absolutely vital role in the economic development plan for Northern Australia and is strongly supported by the Northern Territory government. Specifically, the gas that will be extracted from the Beetaloo will be necessary for a full range of industrial purposes at the Middle Arm Sustainable Development Precinct, near Darwin. This includes ammonia and urea production for fertiliser, hydrogen production, energy-intensive manufacturing, power generation and LNG export. As we know, gas is not only a vital input into low-emissions, gas-fired power generation but a critical feedstock into a range of industrial processes vital for modern life and the economy at large. With many of our major gas fields such as the Bass Strait forecast to expire in less than a decade, the simple reality is that we urgently need to develop strategic basins such as the Beetaloo just to keep our domestic production levels, let alone increase output as forecast. This is what is necessary for the transition to a reliable, renewable energy-based economy.⁸⁷

2.88 The APPEA’s former Chief Executive Mr Andrew McConville pointed out that 70 per cent of Australia’s gas usage is for manufacturing processes:

...only 30 per cent of gas is used in the generation of electricity, most of which is to support renewables. The other 70 per cent of gas is used in manufacturing processes such as those for many of the things we see around this room: glass, plastics, fertilisers—products that don't have any substitutable alternative for their production other than that which is provided by natural gas. It's very important to understand that.⁸⁸

⁸⁵ NT Government, Department of Infrastructure, Planning and Logistics, ‘[Middle Arm Sustainable Development Precinct](#)’, *Media Release*, 13 September 2022, (accessed 9 March 2023).

⁸⁶ NT Government, [Final Report of the Northern Territory Reconstruction Commission](#), December 2020, p. 54 (accessed 9 March 2023).

⁸⁷ Mr Joel Riddle, Managing Director and Chief Executive Officer, Tamboran Resources Ltd, *Committee Hansard*, 10 October 2022, p. 2. Also see: Dr David Close, Vice President, Operations and External Affairs, Tamboran Resources Ltd, *Committee Hansard*, 10 October 2022, p. 7, who added that the government is very focussed on industries that could be supported by a feedstock of natural gas.

⁸⁸ Mr Andrew McConville, Chief Executive, Australian Petroleum Production and Exploration Association, *Committee Hansard*, 22 March 2022, pp. 5-6.

2.89 Mr McConville also argued that, in addition to economic growth opportunities, the domestic market needs further gas development:

...it's very important to understand that the development of the gas industry in Australia provides benefits domestically in terms of the gas supply into Australia. Every year [the Australian Energy Market Operator] estimates whether there is a potential for either surplus or shortfall. At present [March 2022] it's estimated that there may be a shortfall from 2024 and beyond. And so the supply of gas that could potentially come from the Beetaloo Basin can be fed into the east coast domestic market.⁸⁹

2.90 Ms Winters suggested that the Australian Government's plan to 'unlock' the Beetaloo is also designed to improve Australia's and the region's energy security: 'it's not about helping the oil and gas companies; it's about a much more strategic issue'.⁹⁰

Committee view

2.91 The committee recognises the Middle Arm Sustainable Development Precinct is intended to grow the Northern Territory economy, by attracting a range of industries that rely on gas, including that which could be produced in the Beetaloo. In view of the significant Commonwealth and Territory investment, the committee suggests that the Senate should exercise more detailed oversight of the Australian Government's expenditure on this project.

Recommendation 2

2.92 The committee recommends that the Senate refer an inquiry to the Environment and Communications References Committee into the Middle Arm Sustainable Development Project, noting that a future liquified natural gas and petrochemical plant in the area would likely source feedstock from the Beetaloo Basin.

⁸⁹ Mr Andrew McConville, Chief Executive, Australian Petroleum Production and Exploration Association, *Committee Hansard*, 22 March 2022, p. 4.

⁹⁰ Ms Tracey Winters, Acting Executive Vice President, Environment, Sustainability and Governance, Santos Ltd, *Committee Hansard*, 25 March 2022, p. 6.

Chapter 3

Role of the Australian Government

- 3.1 Australia's principal national environmental law is the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). This Act provides a national scheme of environmental protection, and biodiversity and heritage conservation. Under the Act, the Commonwealth is responsible for matters of national environmental significance (MNES, as defined in the EPBC Act), and state and territory governments are responsible for matters of state and local significance.¹
- 3.2 This chapter discusses the Australian Government's role in relation to the environmental impacts from gas exploration and extraction activities in the Beetaloo, with a particular focus on greenhouse gas (GHG) emissions. It covers the following three topics:
- matters of national environmental significance in the Beetaloo;
 - collaboration between the Australian and NT governments; and
 - Australia's international climate change commitments.
- 3.3 The EPBC Act is one of six key statutes that provides a role for the Commonwealth in the protection and conservation of heritage, including Indigenous heritage.² Chapter 5 examines the role of the Australian Government in relation to cultural heritage in the Beetaloo and the protection of sacred sites in the area under the Territory's *Northern Territory Aboriginal Sacred Sites Act 1989* (NT).

Matters of national environmental significance in the Beetaloo

- 3.4 In 2017, the Australian Government announced a program of bioregional assessments to be conducted in three onshore areas that were underexplored but prospective for shale and tight gas. These assessments comprised the Geological and Bioregional Assessment (GBA) Program.³

¹ For an overview of what constitutes a 'matter of national environment significance' (also called a protected matter), see: www.dcceew.gov.au/environment/epbc/our-role/what-is-protected <http://www.awe.gov.au/environment/epbc/what-is-protected> (accessed 7 March 2023).

² Note: the other Acts are: the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*; the *Native Title Act 1993*; the *Protection of Movable Cultural Heritage Act 1986*; the *Underwater Cultural Heritage Act 2018*; and the *Aboriginal Land Rights Act 1976*.

³ Australian Government, Bioregional Assessments, '[Geological and Bioregional Assessment Program](#)' (accessed 7 March 2023).

- 3.5 The GBA Program included the Beetaloo GBA region. In 2020, results from Stage 2 of the assessment were presented, showing the presence of a number of MNES listed for protection under the EPBC Act:

MNES that occur, or potentially occur, in the Beetaloo GBA region are 14 threatened species, 13 migratory species and one species that is both threatened and migratory. Within the Beetaloo GBA extended region there are one threatened ecological community, 15 threatened species, 15 migratory species and two species that are both threatened and migratory. Other protected matters in the Beetaloo GBA region consist of 21 listed marine species. Within the Beetaloo GBA extended region are located 23 listed marine species, and five areas of Commonwealth lands.⁴

- 3.6 The GBA Program Stage 3 results were presented in late 2021. Consistent with earlier evidence to the inquiry,⁵ the report found:

There are no pathways of ‘potentially high concern’ between unconventional gas resource development and water and the environment in the Beetaloo GBA region. All potential impacts can be mitigated through compliance with existing regulatory and management controls, with a high degree of confidence.⁶

- 3.7 Santos Ltd (Santos) representative, Ms Tracey Winters, Acting Executive Vice President, Environment, Sustainability and Governance, concurred that any potential impacts can be mitigated or reduced:

We operate within a regulatory framework that protects and recognises the interests of a wide range of stakeholders... There have been 13 independent scientific inquiries into oil and gas and hydraulic fracturing in Australia. In all cases the evidence has shown that these activities can be done safely and without harm to water or the environment and that risks can be mitigated or reduced, and in many cases eliminated altogether, with the implementation of recommendations from those inquiries.⁷

- 3.8 The committee notes that not all stakeholders share this view (see, for example, Chapter 5) and that, as the exploration of Beetaloo shale gas reserves continues, it is possible that these surveys will identify further MNES, as well

⁴ Former Department of Agriculture, Water and the Environment (DAWE), Bureau of Meteorology, Geoscience Australia and CSIRO, [Protected matters for the Beetaloo GBA region, Technical appendix for Geological and Bioregional Assessment: Stage 2](#), 2020, p. i (accessed 7 March 2023).

⁵ See: Interim Report, paragraph 5.32; Dr David Robinson, Branch Head, Basin Systems Branch, Geoscience Australia, *Committee Hansard*, 2 August 2021, p. 35.

⁶ DAWE, Bureau of Meteorology, Geoscience Australia and CSIRO, [Impact assessment for the Beetaloo GBA region, Geological and Bioregional Assessment: Stage 3 synthesis](#), 2021, p. 5 (accessed 7 March 2023).

⁷ Ms Tracey Winters, Acting Executive Vice President, Environment, Sustainability and Governance, Santos Ltd, *Committee Hansard*, 25 March 2022, p. 2. Also see: Mr Andrew McConville, Chief Executive, Australian Petroleum and Production Exploration Association, *Committee Hansard*, 22 March 2022, pp. 1–2, noting multiple studies, inquiries and reviews that have reached the same conclusion.

as fauna and flora that is protected, or should be protected, under NT legislation.

- 3.9 The committee notes also, from the *Unlocking the Beetaloo, The Beetaloo Strategic Basin Plan* (Beetaloo Strategic Basin Plan), that the Australian Government considers implementation of recommendations from the Independent Scientific Inquiry into Hydraulic Fracturing in the Territory (the Pepper Inquiry) to have imposed ‘strict conditions on unconventional gas development [which] lie parallel with regulations under the EPBC [Act] that protect matters of national environmental significance’.⁸
- 3.10 As discussed in the Interim Report, and in Chapter 4 of this report, the full and proper implementation of these recommendations is in dispute.

Water trigger

- 3.11 In its Interim Report, the committee adopted an important recommendation of the Pepper Inquiry: that the EPBC Act be amended to include a water trigger for onshore shale gas developments.⁹ At present, MNES include the protection of water resources from coal seam gas developments and large coal mining developments, but not onshore shale gas developments.¹⁰
- 3.12 Witnesses pressed the need for this legislative amendment, including, for example, Ms Jade Kudrenko from the Arid Lands Environment Centre:
- [T]he 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... 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.¹¹
- 3.13 Dr Kirsty Howey, Co-Director of the Environment Centre NT (ECNT), agreed that a water trigger is crucial to protect groundwater in the Territory from impacts of the gas industry:

I do want to mention the state of the Northern Territory's water laws, which the Environmental Defenders Office [EDO] last year diagnosed as the worst in the country, or among the worst in the country. Because of the

⁸ Australian Government, [Unlocking the Beetaloo, The Beetaloo Strategic Basin Plan](#), 2021, p. 17 (accessed 10 March 2022).

⁹ Interim Report, Recommendation 5, paragraph 5.97. See also: The Scientific Inquiry into Hydraulic Fracturing in the Northern Territory, [Final Report](#), April 2018, Recommendation 7.3, (accessed 6 March 2023).

¹⁰ *Environment Protection and Biodiversity Conservation Act 1999*, Subdivision FB of Division 1 of Part 3.

¹¹ Ms Jade Kudrenko, General Manager, Arid Lands Environment Centre, *Committee Hansard*, 22 March 2022, p. 61.

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...and pastoralists... Ninety per cent of consumptive water in the Territory is from groundwater. We have to have every protection in place.¹²

3.14 Ms Alina Leikin, Special Counsel to the EDO, added:

...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.¹³

3.15 Before making its water trigger recommendation, the Pepper Inquiry reached the same conclusion:

Currently, the water trigger in the EPBC Act does not apply to shale gas developments despite water resources clearly being of environmental significance to these developments. There is no good reason why that Act should not be amended to apply the water trigger to onshore shale gas.¹⁴

3.16 Mr James Tregurtha, Acting Deputy Secretary, Major Environment Reforms Group at the former Department of Agriculture, Water and the Environment (DAWE, now the Department of Climate Change, Energy, the Environment and Water (DCCEEW)), acknowledged that the proposal for a water trigger was the one recommendation from the Pepper Inquiry specifically relevant to the Commonwealth environment portfolio.¹⁵

3.17 In March 2022, Mr Tregurtha advised that the Australian Government was focussed on its response to the second statutory review of the EPBC Act, conducted by Professor Graeme Samuel (the Samuel Review), and had 'no plans to extend the water trigger to cover unconventional or shale gas'.¹⁶

¹² Dr Kirsty Howey, Co-Director, Environment Centre NT Inc., *Committee Hansard*, 22 March 2022, p. 65.

¹³ Ms Alina Leikin, Special Counsel, Environmental Defenders Office, *Committee Hansard*, 22 March 2022, pp. 64–65.

¹⁴ The Scientific Inquiry into Hydraulic Fracturing in the Northern Territory, 'Final Report', p. 118. Also see: Dr Damian Barratt, Research Director, CSIRO Energy Resources, CSIRO, *Committee Hansard*, 2 August 2021, p. 44, who supported full implementation of the Pepper Inquiry recommendations, including Recommendation 7.3.

¹⁵ Mr James Tregurtha, Acting Deputy Secretary, Major Environment Reforms Group, DAWE, *Committee Hansard*, 25 March 2022, p. 22.

¹⁶ Mr James Tregurtha, Acting Deputy Secretary, Major Environment Reforms Group, DAWE, *Committee Hansard*, 25 March 2022, pp. 22–23.

3.18 However, following the 2022 Federal Election, the Albanese Government responded to the Samuel Review, announcing that the Commonwealth government will be amending the water trigger in the EPBC Act:

The existing water trigger will be expanded to include all forms of unconventional gas (e.g. shale and tight gas). Decisions will be supported by independent expert advice, ensuring the environmental and water impacts of these proposed developments are managed. The government will consult with industry and other stakeholders to deliver these improved protections for water resources and to avoid unintended consequences.¹⁷

3.19 The committee notes that the Australian Government plans to introduce a suite of environmental reforms in response to the Samuel Review. The legislation is expected to be introduced in the second half of 2023.¹⁸

3.20 The committee welcomes this response and calls on the Australian Government to expeditiously introduce the legislation into the Parliament.

Recommendation 3

3.21 The committee recommends that, consistent with Pepper Inquiry Recommendation 7.3, the Australian Government bring forward legislation to amend the *Environment Protection and Biodiversity Conservation Act 1999* to expand the water trigger to include all forms of unconventional gas, to be in operation by 31 December 2023.

Regional plans

3.22 On 15 March 2022, the then Minister for the Environment and the then Minister for Resources and Water jointly announced that \$62.3 million would be provided in the 2022–23 Federal Budget, to invest in the delivery of up to 10 regional plans in priority development regions.¹⁹

3.23 Mr Declan O'Connor-Cox, Assistant Secretary in the Environment Protection Reform Branch at DAWE, advised that 'there are a number of considerations when considering which locations are suitable for a regional planning

¹⁷ Department of Climate Change, Energy, the Environment and Water (DCCEEW), [Nature Positive Plan: better for environment, better for business](#), December 2022, p. 2 (accessed 7 March 2023).

¹⁸ Mr James Tregurtha, Head of Taskforce, Taskforce for Environmental Legislative Reform and Establishment of an Environmental Protection Authority, DCCEEW, Senate Environment and Communications Legislation Committee, *Supplementary Estimates Hansard*, 9 March 2023, p. 24.

¹⁹ The Hon Sussan Ley MP, Minister for the Environment, and the Hon Keith Pitt MP, Minister for Resources and Water, ['New package to advance environmental law reform'](#), *Joint Media Release*, 15 March 2022 (accessed 29 March 2022). Also see: Commonwealth of Australia, [2022 Federal Budget, Budget Measures, Budget Paper No. 2](#), p. 54 (accessed 7 March 2023).

approach'. Further, 'decisions have not been made about the locations where those [10] regional plans will be developed'.²⁰

3.24 His colleague, Mr Tregurtha, clarified that the Beetaloo might be considered for regional planning purposes:

...we have been thinking about what a relevant location for potential regional plans would be. That, of course, goes to areas where there is prospectivity for development—regardless of whether that's mining development, agricultural development or commercial or residential development—and where we know there are nationally protected matters, which, as you'd be well aware, is pretty much anywhere these days. If you look at those areas where there are protected matters, we're very conscious that there are threatened species in the Beetaloo basin area and that there is prospectivity for development there. So that is potentially one of many areas that we would look at in giving advice to government.²¹

3.25 More recently, DCCEEW has commenced work on regional planning, stating that 'priority areas for consideration will be those experiencing development pressure and with high biodiversity values'. As part of its planning, the department advises that it will undertake 'a highly collaborative' approach:

We will involve the local community, all levels of government, business, natural resource management organisations, environmental NGOs, First Nations people, and technical experts. This collaboration will be key in developing regional objectives and outcomes, with a focus on the unique priorities of each region. First Nations peoples' values, aspirations, knowledge, and science will be incorporated into the objectives of every regional plan. We will embed local First Nations cultural knowledge in each plan to ensure appropriate methods of caring for Country are fostered throughout the planning process.²²

3.26 Should the Beetaloo be proposed for regional planning purposes, the committee cautions that the cumulative impacts of fracking will require very careful consideration. This comment applies equally to the management of threats to biodiversity, noting the number of known, and possibly unknown, MNES in the region.

3.27 The committee notes the intention to consult broadly in relation to regional planning proposals and, in respect of First Nations people, urges the DCCEEW

²⁰ Mr Declan O'Connor-Cox, Assistant Secretary, Environment Protection Reform Branch, DAWE, *Committee Hansard*, 25 March 2022, p. 24.

²¹ Mr James Tregurtha, Acting Deputy Secretary, Major Environment Reforms Group, DAWE, *Committee Hansard*, 25 March 2022, p. 24. Also see: Dr David Robinson, Branch Head, Basin Systems Branch, Geoscience Australia, *Committee Hansard*, 25 March 2022, p. 25, who observed that, through the GBA Program, the Australian Government has invested in understanding potential impacts of gas development in the Beetaloo.

²² DCCEEW, '[Regional planning](#)' (accessed 7 March 2023).

to consult in a timely and appropriate manner. The committee also notes the Australian Government's partnership with the First Nations Heritage Protection Alliance (see Chapter 5), consistent with which regional plans will consider cultural heritage priorities.

Australian and NT Government collaboration

3.28 The Australian and NT Governments share responsibility for environmental management in the Beetaloo. In March 2022, DAWE's Mr O'Connor-Cox advised that the Commonwealth had not yet received any Beetaloo-related referrals for environmental approval under the EPBC Act.²³

3.29 However, the Beetaloo Strategic Basin Plan identifies additional measures by which the Australian Government intends to help the NT Government create an efficient and rigorous regulatory environment for the Beetaloo. The main measure relevant to the committee's inquiry was the negotiation of 'a Bilateral Energy and Emissions Reduction Agreement with a Beetaloo focus'.²⁴

Bilateral Energy and Emissions Reduction Agreement

3.30 The Australian Government is currently progressing a series of bilateral energy and emissions reduction agreements with state and territory governments, developed by the former Australian Government, designed to improve energy reliability and affordability across the country, and to support the transition of energy markets to lower emissions technologies.²⁵

3.31 In April 2022, the Australian and NT Governments announced the signing of a 'landmark' Commonwealth–Northern Territory Bilateral Energy and Emissions Reduction Agreement (Bilateral Agreement).²⁶ The agreement provides for the Commonwealth to contribute \$660 million to help deliver 'affordable and reliable power, unlock gas supplies to help prevent shortfalls in the domestic market, and invest in key emissions reduction projects'.²⁷

²³ Mr Declan O'Connor-Cox, Assistant Secretary, Environment Protection Reform Branch, DAWE, *Committee Hansard*, 25 March 2022, pp. 23–24. Note: the NT Government responsibilities are further discussed in Chapter 4.

²⁴ Australian Government, *Unlocking the Beetaloo, The Beetaloo Strategic Basin Plan*, 2021, Action 2, pp. 4 and 16. Note: another measure discussed in the Final Report is the GBA Program and in the Interim Report, the GISERA collaboration.

²⁵ DCCEEW, ['Bilateral Energy and Emissions Reduction Agreements'](#) (accessed 7 March 2023).

²⁶ Australian Government and NT Government, [Commonwealth-Northern Territory Bilateral Energy and Emissions Reduction Agreement](#), 8 April 2022 (accessed 7 March 2023).

²⁷ Hon Scott Morrison MP, Prime Minister, the Hon Michael Gunner MLA, Chief Minister of the Northern Territory, the Hon Angus Taylor MP, Minister for Industry, Energy and Emissions Reduction, and the Hon Eva Lawler MLA, Northern Territory Minister for Renewables and Energy and Minister for the Environment, 'NT deal to deliver secure, reliable and affordable energy', *Joint Media Release*, 12 April 2022.

3.32 Specific commitments set out in the Bilateral Agreement are referred to in Chapter 4.

International climate change commitments

3.33 Australia is a party to several multilateral and bilateral commitments to address climate change (for example, the UN Framework Convention on Climate Change, the Kyoto Protocol, the Paris Agreement and the Glasgow Climate Pact). Throughout the inquiry, multiple submitters and witnesses referred especially to the Paris Agreement and indirectly also to the United Nations Conference on the Parties (COP) held in Glasgow in October-November 2021 (COP26).

Paris Agreement

3.34 The Paris Agreement is a legally binding international treaty that was adopted by 196 Parties at COP21 in Paris on 12 December 2015 and entered into force on 4 November 2016.²⁸ This agreement aims to strengthen the global response to the threat of climate change by holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit temperature increase to 1.5°C.²⁹

3.35 The Paris Agreement works on a five-year cycle of increasingly ambitious climate action carried out by countries. By 2020, countries submitted their plans for climate action, known as nationally determined contributions (NDCs).³⁰

3.36 In their NDCs, countries communicate actions they will take to reduce their GHG emissions in order to collectively reach the goals of the Paris Agreement. Countries also communicate the actions they will take to build resilience to adapt to the impacts of rising temperatures.³¹

Australia's NDC

3.37 In its first NDC (2016), Australia committed to reduce GHG emissions by 26 to 28 per cent below 2005 levels by 2030.³² Prior to COP26 in Glasgow, the former Australian Government revised Australia's NDC to reduce GHG emissions to net zero by 2050 and reaffirmed the 26 to 28 per cent below 2005 levels by 2030.³³

²⁸ United Nations, Climate Change, [‘The Paris Agreement’](#) (accessed 7 March 2023).

²⁹ United Nations, Climate Change, ‘The Paris Agreement’.

³⁰ United Nations, Climate Change, ‘The Paris Agreement’.

³¹ United Nations, Climate Change, ‘The Paris Agreement’.

³² NDC Registry (interim), [‘Australia’](#) (accessed 16 February 2022).

³³ Australian Government, [‘Australia's Nationally Determined Contribution, Communication 2021’](#), p. 3 (accessed 7 March 2023).

COP26 and Australia's response to climate change

3.38 COP26 took place with the aim of accelerating action towards the goals of the Paris Agreement and the UN Framework Convention on Climate Change.³⁴ The first of four key goals was to secure global net zero emissions by mid-century and keep 1.5 degrees within reach:

Countries are being asked to come forward with ambitious 2030 emissions reductions targets that align with reaching net zero by the middle of the century.

To deliver on these stretching targets, countries will need to:

- accelerate the phase-out of coal
- curtail deforestation
- speed up the switch to electric vehicles
- encourage investment in renewables.³⁵

3.39 Following COP26, Professor Jacqueline Peel, Director of the Melbourne Climate Futures initiative based at the University of Melbourne, wrote in respect of the first key goal:

The beating heart of the Paris Agreement is its system for countries to make, and ratchet up over time, their climate action pledges. In the lead-up to COP26, many countries strengthened their targets for 2030 and made net zero commitments.³⁶

3.40 Both Professor Peel and several submitters to the inquiry commented on Australia's failure to strengthen its NDC prior to COP26. Mr Michael Cook, for example, argued:

...Australia is a signatory of the Paris Agreement, the central purpose of which is to keep global temperature rise 'well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius.' The idea that the Federal government of Australia is prepared to be a signatory to such an important international agreement, while at the same time supporting the exploration and development of new gas mining operations in the Northern Territory, specifically the Beetaloo Basin, is at best contradictory and at worst deplorable.³⁷

³⁴ UN Climate Change Conference UK 2021, ['Delivering the Glasgow Climate Pact'](#) (accessed 7 March 2023).

³⁵ UN Climate Change Conference UK 2021, ['COP26 Goals'](#) (accessed 7 March 2023).

³⁶ Professor Jacqueline Peel, ['What was achieved at COP26'](#), 15 November 2021 (accessed 7 March 2023).

³⁷ Mr Michael Cook, *Submission 247*, p. 1. Also see: Professor Jacqueline Peel, 'What was achieved at COP26?'.

- 3.41 Following the 2022 Federal Election, the Albanese Government informed the UN Framework Convention on Climate Change that Australia had enhanced its NDC.³⁸
- 3.42 Reflecting the new NDC, in July 2022, the Australian Government introduced the Climate Change Bill 2022 into the Parliament. This bill, among other things, set out the government's GHG reduction targets, as follows:
- (a) reducing Australia's net greenhouse gas emissions to 43% below 2005 levels by 2030...
 - (b) reducing Australia's net greenhouse gas emissions to zero by 2050.³⁹
- 3.43 The Australian Parliament passed the bill, with the *Climate Change Act 2022* commencing operation on 13 September 2022.⁴⁰
- 3.44 The committee expresses its disappointment that Australia's GHG emissions reduction target was not strengthened prior to COP26 and welcomes recent government initiatives in this area. The committee notes that the 43 per cent target acts as a floor, rather than a ceiling.⁴¹
- 3.45 The committee also welcomes the provisions in the Climate Change Act that allow the Climate Change Authority to advise the Australian Government on GHG reduction targets to be included in a new or adjusted NDC.⁴² The committee notes that the Act requires that future NDCs 'must represent an enhancement of Australia's level of ambition'.⁴³
- 3.46 Some committee members are of the view that these targets should have already been revised prior to COP27 held at Sharm El Sheik, Egypt in November 2022.⁴⁴

³⁸ United Nations, Climate Change, '[Nationally Determined Contributions Registry](#)' (accessed 7 March 2023).

³⁹ *Climate Change Act 2022*, ss. 10(1).

⁴⁰ See:

www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r6885 (accessed 7 March 2023). Also see: Chapter 4, which discusses the Safeguard Mechanism (Crediting) Amendment Act 2023.

⁴¹ *Climate Change Act 2022*, Note to ss. 10(1).

⁴² *Climate Change Act 2022*, s. 15, if requested to do so by the Minister.

⁴³ *Climate Change Act 2022*, ss. 10(6). See also: *Climate Change Act 2022*, ss. 10(5).

⁴⁴ [Senate Environment and Communications Legislation Committee, Inquiry into the Climate Change Bill 2022 \[Provisions\] and the Climate Change \(Consequential Amendments\) Bill 2022 \[Provisions\]](#), August 2022 (accessed 7 March 2023).

Chapter 4

Beetaloo environmental and emissions regulation

- 4.1 The NT Government is responsible for the regulation of onshore gas resources in the Territory, for which the key legislation is the *Petroleum Act 1984* (NT) (the Petroleum Act).¹ The environmental regulations, made under the Petroleum (Environment) Regulations 2016 (NT) (NT Environment Regulations), aim to ensure that ‘regulated activities’ are carried out in a manner that is consistent with the principles of ecologically sustainable development (ESD) and by which the environmental impacts and risks are reduced to a level that is as low as reasonably practicable and acceptable.²
- 4.2 This chapter discusses environmental and emissions regulation in the Beetaloo, with specific attention to greenhouse gas (GHG) emissions, and covers the following topics:
- the implementation of recommendations from the Independent Scientific Inquiry into Hydraulic Fracturing in the Territory (Pepper Inquiry);
 - lifecycle GHG emissions from an onshore gas industry; and
 - the NT Climate Change Response policy.

Implementation of recommendations from the Pepper Inquiry

- 4.3 In February 2022, the NT Government reported that 65 of the recommendations (47 per cent) from the Pepper Inquiry (see Chapter 1) had been fully implemented, as assessed by the Independent Officer, Dr David Ritchie.³
- 4.4 The Australian Petroleum Production and Exploration Association (APPEA) submitted that 31 of the 65 recommendations were required to be implemented prior to the grant of exploration approvals. However, Ms Alina Leikin, Special Counsel to the Environmental Defenders Office (EDO), disputed the number and adequacy of recommendations implemented.⁴

¹ [Petroleum Act 1984 \(NT\)](#) (accessed 8 March 2023). Note: provisions relating to the environmental regulation of exploration and production of petroleum (including onshore gas) are administered by the Northern Territory Department of Environment, Parks and Water Security (DEPWS).

² [Petroleum \(Environment\) Regulations 2016 \(NT\)](#), reg. 2, (accessed 8 March 2023). These regulations are also administered by the DEPWS.

³ NT Government, [‘Government accepts all recommendations of the inquiry’](#), (accessed 8 March 2023); NT Government, [‘Action items’](#) (accessed 8 March 2023).

⁴ Australian Petroleum Production and Exploration Association, answers to questions on notice, 22 March 2022 (received 30 March 2022), p. 1; Ms Alina Leikin, Special Counsel, Environmental

- 4.5 Ms Leikin stated that the EDO’s analysis showed that 100 Pepper recommendations had not been implemented (74 per cent), meaning that ‘the NT regulatory framework is patently inadequate to ensure the necessary safeguards and oversight mechanisms are in place’.⁵ In particular, Ms Leikin remarked:

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.⁶

- 4.6 Some witnesses—such as Ms Jade Kudrenko, General Manager of the Arid Lands Environment Centre⁷—contended that the gas industry in the Beetaloo should not proceed until all the Pepper Inquiry recommendations have been fully implemented.⁸

- 4.7 In response, the NT Department of Industry, Tourism and Trade representative, Mr Shaun Drabsch, Chief Executive Officer, advised that the Territory’s regulatory regime now represents best practice:

Government investment in delivering the [Pepper] inquiry recommendations, to date, has been extensive and diverse. We have already seen significant legislative reform and dramatic shifts to increase regulatory efficiency for both government and industry... We are proud to have introduced regulatory requirements to these high standards, which industry [has] publicly stated are some of the strictest in the world. The calibre of the independent inquiry and the extensive culturally appropriate and targeted consultation which informed [its] findings ensure that government, community and industry can be confident the recommendations represent best-practice measures to support the responsible development of the onshore gas industry...

Defenders Office, *Committee Hansard*, 22 March 2022, p. 63. Also see: Dr Alaric Fisher, Acting CEO, Flora and Fauna, DEPWS, *Committee Hansard*, 22 March 2022, p. 72.

⁵ Ms Alina Leikin, Special Counsel, Environmental Defenders Office, *Committee Hansard*, 22 March 2022, p. 61.

⁶ Ms Alina Leikin, Special Counsel, Environmental Defenders Office, *Committee Hansard*, 22 March 2022, p. 61.

⁷ Ms Jade Kudrenko, General Manager, Arid Lands Environment Centre, *Committee Hansard*, 22 March 2022, pp. 60–61.

⁸ See also, for example: Dr Kirsty Howey, Co-Director, Environment Centre NT Inc., *Committee Hansard*, 22 March 2022, p. 60; Ms Anna Leikin, Special Counsel, Environmental Defenders Office, *Committee Hansard*, 22 March 2022, p. 63, who gave evidence that the Pepper Inquiry recommendations would never be fully implemented without the Australian Government implementing Pepper Inquiry Recommendation 7.3 (expansion of the water trigger, see Chapter 3).

We are confident we are on track to complete inquiry recommendations this year [2022] and be in a position to consider production approvals in the Beetaloo sub-basin in 2023. The Northern Territory as the regulator of this development will drive and manage this industry in a way that protects the environment...involves and assures the community and facilitates sustainable economic development.⁹

4.8 As at March 2023, the NT Government reports that 75 per cent of the Pepper Inquiry recommendations have been completed and 25 per cent have commenced but are not complete.¹⁰

4.9 The committee notes that the Commonwealth–Northern Territory Bilateral Energy and Emissions Reduction Agreement (Bilateral Agreement) (see Chapter 3) specifically recognises:

The Territory is working to...implement all the recommendations of the Scientific Inquiry into Hydraulic Fracturing in the Northern Territory [Pepper Inquiry]... The Territory will complete implementation of its response to the Recommendations of the [Pepper Inquiry] by the end of 2022, in line with public commitments to enable consideration of production approvals.¹¹

4.10 The committee recognises that the Territory’s environmental regulation for gas exploration and production in the Beetaloo requires the full implementation of all recommendations from the Pepper Inquiry. While the NT Government is making progress towards implementation, based on its most recent advice, the government is well behind schedule on its commitment, including under the Bilateral Agreement.

Recommendation 4

4.11 The committee recommends that the Northern Territory Government expedite full implementation of all outstanding recommendations from the Scientific Inquiry into Hydraulic Fracturing in the Northern Territory, to fulfil its promise made to Northern Territorians to fully implement all recommendations of the independent inquiry.

⁹ Mr Shaun Drabsch, CEO, Department of Industry, Tourism and Trade, *Committee Hansard*, 22 March 2022, p. 68. Also see: Mr Paul Purdon, Executive Director, Environmental Assessment and Policy, DEPWS, *Committee Hansard*, 22 March 2022, p. 74, who suggested that there might be some ‘misinterpretation or a difference of opinion about whether a recommendation has been met or needs to be met’.

¹⁰ NT Government, [‘Action items’](#) (accessed 8 March 2023).

¹¹ Australian Government and NT Government, [Commonwealth-Northern Territory Bilateral Energy and Emissions Reduction Agreement](#), 8 April 2022, Schedule C, Agenda paragraph 3 and Actions paragraph 8 (accessed 7 March 2023).

Surface and groundwater in the Beetaloo

4.12 As noted in Chapter 3, the Beetaloo Geological and Bioregional Assessment (GBA) Program specifically considered potential regional-scale impacts on water and the environment from the development of unconventional gas resources. In relation to water, the assessment concluded:

Surface water - Where activities are conducted in the vicinity of waterways, a small number of pathways have potential for impact. There is high confidence that existing mitigation strategies will avert these impacts.

Groundwater - Groundwater is the most probable source of water for unconventional gas resource development. The assessment has found that aquifers in the region, such as the Cambrian Limestone Aquifer, can supply this water without adverse regional impacts.¹²

4.13 Throughout the inquiry, submitters and witnesses expressed heightened concerns regarding the sustainable management of surface and groundwater in the Beetaloo.¹³ For example, Mr Ray Dimakarri Dixon, a Mudburra Traditional Owner from Marlinja north of Elliot in the NT, expressed his key concern that fracking in the Beetaloo could contaminate water sources with widespread and deleterious impacts on Country:

While fracking is taking place in the Beetaloo...I've been concerned with water and our sacred site, our families and our future children, and the environment, the trees and the animals. It's about our culture and identity, our connection to country. Fracking uses a lot of chemicals underground. That's what we are worried about, that it's going to contaminate the water; it's going to make it bad for our people. It doesn't matter where we are. It doesn't matter where we live. It doesn't matter what colour or race we are, what tribe we are, water's still very important for us. It doesn't matter what language we speak. Water's very important for life. We shouldn't have fracking in our Country.¹⁴

4.14 In March 2022, Rallen Australia Pty Ltd (Rallen) owned four stations in the Beetaloo: Tanumbirini, Kalala, Forest Hill and Larrizona, which collectively spanned more than one million hectares. Rallen was running approximately 70 000 head of cattle across the four properties, however, Tanumbirini is the station most affected by gas exploration activities in the Beetaloo.¹⁵

¹² Department of Agriculture, Water and the Environment, Bureau of Meteorology, Geoscience Australia and CSIRO, [*Impact assessment for the Beetaloo GBA region-Geological and Bioregional Assessment: Stage 3*](#) (accessed 8 March 2023).

¹³ See, for example: Interim Report, paragraphs 4.58–4.62 and 5.26–5.32; Chapter 5.

¹⁴ Mr Ray Dimakarri Dixon, Mudburra Traditional Owner, *Committee Hansard*, 21 March 2022, p. 20.

¹⁵ Rallen Australia Pty Ltd, *Submission 314*, p. 2.

- 4.15 Rallen's submission described gas exploration by Santos Ltd (Santos), Tamboran Resources Ltd (Tamboran) and Origin Energy Ltd (Origin) on Tanumbirini Station, pointing out:

All of this onshore petroleum activity intends to draw its water from the Cambrian Limestone Aquifer (the CLA). The CLA feeds around 80% of the water bores drilled in the Beetaloo Basin, supplying water for the pastoral industry and for communities including Elliot, Daly Waters, Larrimah and Newcastle Waters.¹⁶

- 4.16 Rallen argued that, for geological reasons, the impacts of an onshore shale gas industry in the Territory will surpass impacts seen so far in Queensland:

What is proposed for the Northern Territory is far more dangerous. In Queensland they seek coal seam gas, closer to the surface, through softer material that requires less fracking. In the Territory they seek to frack through shale – harder rock, kilometres deeper, requiring more chemicals, water and sand. All that is costly and high risk... At the same time, the Territory landscape is more fragile, less able to carry cattle, totally dependent on aquifer water, and requiring more land to sustain each head of cattle.¹⁷

- 4.17 When asked whether fracking would adversely impact water in the Beetaloo, Santos stated that the company meets all requirements for its petroleum activities, including the minimum standards in relation to water:

Santos has been granted water licences that set a limit on the extraction of groundwater for use in operations. The NT Government assesses applications in the same way as any other licence applicant, including checking proposed water requirements and verifying that these are reasonable, evaluating water availability and evaluating the potential impacts on the water source. Additional rigour for this assessment is also applied to the petroleum industry to ensure the extraction does not impact nearby water bore supplies.

The licence details volumetric limits and Santos measures and reports the volume of all water we extract to the NT Government. We are confident that this activity does not impact the availability of groundwater to other users or the environment.¹⁸

- 4.18 Origin provided similar evidence, as did Tamboran, whose Vice President of Operations and External Affairs, Dr David Close, informed the committee that the company mitigates any risk to aquifers in accordance with the Territory's Code of Practice for onshore petroleum activities:

¹⁶ Rallen Australia Pty Ltd, *Submission 314*, p. 3. Note: in late 2022, Origin Energy Ltd disposed of its interests in the Beetaloo to a subsidiary of Tamboran Resources Ltd (see paragraph 2.30).

¹⁷ Rallen Australia Pty Ltd, *Submission 314*, p. 5. Also see: Mr Dan Robins, Lock the Gate Alliance, *Committee Hansard*, 22 March 2022, p. 19, who commented on the amount of water used in fracking operations.

¹⁸ Santos Ltd, answers to questions on notice, 25 March 2022 (received 4 April 2022), p. 4.

The code of practice is very explicit about aquifer protection. There are minimum standards that must be met by all well designs... We have drilled water bores before. We've drilled the Maverick 1 well, understood the depth of the Anthony Lagoons and the depth of the Gum Ridge Formation—those two Cambrian limestone aquifers—and the depth to the watertable, and we've been able to assess what we'll require in terms of monitoring of and isolation between those aquifers... So, yes, we understand the hydrogeology and the drilling engineering very well. The code of practice is rigorous, so aquifer protection is part of every well design.¹⁹

4.19 Mr Ray Hall, Managing Director of EcOz Environmental Consultants, the largest environmental consultancy in the Territory, expressed his confidence in the Territory's groundwater monitoring and reporting requirements:

...monitoring has been set by the Pepper inquiry as to what's required. It's incredibly detailed and rigorous. We have to reach particularly high standards to ensure that we do that monitoring properly... [W]e do it independently of the companies. We report to the government... [N]othing gets missed, covered up or hidden and everything gets reported.²⁰

4.20 The Central Australian Frack Free Alliance was not so assured, submitting:

In our 6 year-long engagement with the Central Australian community on the topic of fracking, the concern most often vocalised is the risks fracking poses to water. This includes competition between the gas industry and other water users, the potential for negative impacts on groundwater and groundwater dependent ecosystems from contamination and excessive extraction as well as the risk of contamination of surface water. These concerns have been expressed at every chance since fracking was first proposed in the NT, and they still have not been addressed in a way that is publicly acceptable.²¹

Committee view

4.21 As discussed in the Interim Report, and noted in Chapters 4 and 5 of this report, surface and groundwater are critical to the wellbeing, livelihoods and culture of people who live and work in and around the Beetaloo, as well as being a critical environmental consideration.²²

¹⁹ Dr David Close, Vice President, Operations and External Affairs, Tamboran Resources Ltd, *Committee Hansard*, 10 October 2022, p. 26. Also see: Origin Energy Ltd, answers to questions on notice, 25 March 2022 (received 4 April 2022), p. 4; NT Government, DEPWS, '[Code of Practice: Onshore Petroleum Activities in the NT](#)' (accessed 8 March 2023).

²⁰ Mr Ray Hall, Managing Director, EcOz Environmental Consultants, *Committee Hansard*, 22 March 2022, p. 2. Also see: p. 8, where Mr Hall noted that accredited laboratories conduct the testing and have never found non-compliances.

²¹ Central Australian Frack Free Alliance, *Submission 39*, p. 2.

²² Interim Report, Chapters 4 and 5. Also see, for example: Nurrdalindi Native Title Aboriginal Corporation, answers to questions on notice, 22 March 2022 (received 31 March 2022), pp. 1–2,

- 4.22 The committee recognises that it would be highly detrimental to deplete or contaminate the valuable water resources of the Territory and, for this reason, approves the Australian Government's decision to expand the water trigger in the *Environment Protection and Biodiversity Conservation Act 1999* to better protect water resources that might be impacted from shale gas activities in the Beetaloo (see Chapter 3). The expansion of the water trigger will provide the Commonwealth with greater oversight of water-related environmental impacts in the Beetaloo resulting from gas activities.
- 4.23 The committee acknowledges that this action will not reassure all stakeholders. Given the importance of water to the various communities in and around the Beetaloo, as well as First Nations people with cultural connections in the area, the committee considers that the Australian Government should fund a further research study of the impacts to water resources in the Territory arising from the gas exploration and potential production in the Beetaloo.

Recommendation 5

- 4.24 The committee recommends that the Australian Government fund the Department of Climate Change, Energy, the Environment and Water; Geoscience Australia; the Bureau of Meteorology; and the CSIRO to conduct a collaborative and targeted study of the impacts to water resources (surface and groundwater) in the Beetaloo resulting from implementation of the Beetaloo Strategic Basin Plan.**

Environment Management Plans

- 4.25 The NT Environment Regulations require interest holders (activity proponents) to submit environment management plans (EMPs) to the NT Minister for Environment and Parks and Water Security.²³ These plans are activity specific plans that seek to implement appropriate environmental management practices during the various stages of that activity. They identify the key environmental matters associated with an activity and provide strategies and plans for managing them effectively.²⁴

Concerns regarding EMP approvals

- 4.26 According to the Department of Environment, Parks and Water Security (DEPWS) *2021–22 Annual Report*, there were 22 active EMPs across the Territory between 1 July 2021 to 30 June 2022, nine of which were approved in

which commented on the potential for fracking to contaminate water and impact on health, as shown in scientific studies now coming out of the US and eastern Australia.

²³ Petroleum (Environment) Regulations 2016, reg 6.

²⁴ NT Government, DEPWS, '[Environment Management Plan](#)' (accessed 8 March 2023). Note: this webpage also outlines the Environment Management Plan (EMP) process, including a 28-day public consultation period for activities proposing well drilling and/or hydraulic fracturing.

that financial year.²⁵ Six of these EMPs appear to relate to petroleum activities in the Beetaloo.²⁶

- 4.27 In the previous financial year—1 July 2020 to 30 June 2021—Santos received approval to drill an additional well at the Tanumbirini Station well site within EP 161. This expansion of activities led to litigation between Rallen and Santos. Mr Langenhoven informed the committee that the litigation highlighted the Territory's 'worthless' system of EMPs:

...the EMP system in the Northern Territory is not worth the paper it's written on. It is atrocious. For example, the first EMP is for seismic exploration. They plan to cut our paddock up into 150-kilometre by five-metre grids. In the first EMP they state that they will rehabilitate all of the seismic lines so that it will have no significant impact on the environment. The second EMP, which is the civil drilling EMP, proposes they will repurpose those seismic lines in order not to cause more damage... But the first one's been approved on those lines. That's one of many inconsistencies in the EMPs. It just gets rubber-stamped, because no-one is looking at anything.²⁷

- 4.28 Similar to Rallen, one community member, Dr Samantha Phelan, also questioned how activity proposals are presented in EMPs. Focussing on well pads, Dr Phelan submitted that there is a difference between the Pepper Inquiry's understanding of 'multiwell pads' and industry's understanding or portrayal of that term:

General understanding throughout the Pepper Inquiry was that "multiwell pads" were related to the horizontal projections off a single vertical well. Origin and Santos described a system of 6-10 horizontal wells off a single vertical well at many of the hearings...

Last week I reviewed the Tanumbirini site photograph and noticed 3 wells within metres of each other. I had previously read the EMPs for Tanumbirini 2H and 3H at the time of their approval and even in reading them my assumption was that the 2H and 3H were horizontal projections off the Tanumbirini 1 well rather than the drilling of full separate vertical wells... [T]he risk of aquifer roof subsidence with a single, well-constructed, stringently monitored, vertical well...is less than 3 separate holes...in close proximity to each other.²⁸

- 4.29 DEPWS representative Ms Amy Dennison, Executive Director of Environmental Regulations, informed the committee that activity proponents

²⁵ DEPWS, [2021-22 Annual Report](#), 2022, p. 42 (accessed 8 March 2023).

²⁶ DEPWS, ['Environment management plan decisions'](#), (accessed 8 March 2023).

²⁷ Mr Pierre Langenhoven, Director, Rallen Australia Pty Ltd, *Committee Hansard*, 22 March 2022, p. 36.

²⁸ Dr Samantha Phelan, *Submission 308*, pp. 2–3.

are now submitting more holistic EMPs that provide ‘a much bigger picture of [their] exploration program’.²⁹

- 4.30 The committee notes stakeholders’ concerns that EMPs are being approved without reference to previously approved EMPs for the same permit area, leading to misunderstandings and lack of agreement regarding gas activities. The committee urges the DEPWS to consider how this issue might be resolved, such as through a review of internal processes or the inclusion of a user-friendly and holistic summary for each proposal.³⁰

Lifecycle GHG emissions in the Beetaloo

- 4.31 The *Environment Protection Act 2019* (NT) (EP Act) is the Territory’s key environmental protection legislation. This Act requires certain proposals—such as petroleum activities—to be referred to the NT Environment Protection Authority (EPA) for assessment.³¹
- 4.32 Under the Environment Regulations, the NT Minister for the Environment, Climate Change and Water Security cannot approve an EMP unless the EPA has determined that: an environmental impact assessment (EIA) is not required; an EIA is required and has been granted environmental approval; or the EP Act otherwise permits the making of the decision.³²
- 4.33 The EP Act requires the application of a decision-making hierarchy for developments that may have a ‘significant impact’ on the environment:
- first—to ensure that actions are designed to avoid adverse impacts on the environment;
 - second—to identify management options to mitigate adverse impacts on the environment to the greatest extent practicable; and
 - third—if appropriate, to provide for environmental offsets in accordance with the Act for residual adverse impacts on the environment that cannot be avoided or mitigated.³³
- 4.34 Stakeholders focussed primarily on the third element—the offsetting of environmental impacts that cannot be avoided or mitigated—in relation to GHG emissions.

²⁹ Ms Amy Dennison, Executive Director, Environmental Regulations, DEPWS, *Committee Hansard*, 22 March 2022, pp. 72–73.

³⁰ In this regard, see: Mr Pierre Langenhoven, Director, Rallen Australia Pty Ltd, *Committee Hansard*, 22 March 2022, p. 43, who expressed a view that EMPs are extremely large and complicated documents that only present point-in-time proposals.

³¹ *Environment Protection Act 2019* (NT), Division 3 of Part 4.

³² Petroleum (Environment) Regulations 2016 (NT), reg. 9.

³³ *Environment Protection Act 2019* (NT), s. 26.

Projected emissions

- 4.35 As noted in the Interim Report, the Pepper Inquiry assessed the quantity of lifecycle GHG emissions for any new onshore shale gas field in the Territory. The Australian component (i.e. domestic production, use and preparation for export) was estimated to range from an increase of 4.5 to 6.6 per cent of Australian GHG emissions, depending upon the amount of yearly production.³⁴
- 4.36 Project proponents—such as Tamboran—highlighted their plans to achieve ‘net-zero’ with respect to Scope 1 and 2 emissions, including by the use of renewable energy at their production facilities and by purchasing carbon offsets. The company’s Managing Director and Chief Executive Officer, Mr Joel Riddle, told the committee:
- ...with our net-zero plan, we will be a net-zero energy company not in 2050 or 2035 but by first commercial production in 2025. Our business plan has been able to achieve this because the gas that Tamboran plans to commercialise has CO₂ levels in the reservoir of approximately three per cent.³⁵
- 4.37 Tamboran’s emissions forecasts for its pilot facility would be 50 000 tonnes CO₂-e. Mr Scott Crabtree, Sustainability and Climate Change Advisor, explained that the company is considering the use of renewable technologies and battery storage to electrify ‘the facility so that it’s able to run on different fuel sources in addition to gas’.³⁶
- 4.38 Tamboran is also exploring options to reduce fugitive methane emissions:
- ...with the greenfield facility, it does allow us to implement some of the proven technologies from the US as well, around methane leak detection repair and really making sure that we’re operating at the lowest emissions possible.³⁷
- 4.39 A Santos representative, Ms Tracey Winters, Acting Executive Vice President, Environment, Sustainability and Governance, stated that with respect to Scope 1 and 2 emissions, Santos has ‘a clear decarbonisation strategy and a

³⁴ Interim Report, paragraph 5.49.

³⁵ Mr Joel Riddle, Managing Director and Chief Executive Officer, Tamboran Resources Ltd, *Committee Hansard*, 10 October 2022, p. 1. Note: Tamboran later advised that it had ‘a total of 20 557 carbon offsets in its portfolio’: see Tamboran Resources Ltd, answers to questions on notice, 10 October 2022 (received 24 October 2022), p. 2. Also see: Empire Energy Group Ltd, *Submission 26*, p. 4; Mr Alex Underwood, Managing Director, Empire Energy Group Ltd, *Committee Hansard*, 28 July 2021, p. 50, who anticipated low CO₂ in the Beetaloo resource producing emissions lower than many other gas fields.

³⁶ Mr Scott Crabtree, Sustainability and Climate Change Advisor, Tamboran Resources Ltd, *Committee Hansard*, 10 October 2022, p. 18.

³⁷ Mr Joel Riddle, Managing Director and Chief Executive Officer, Tamboran Resources Ltd, *Committee Hansard*, 10 October 2022, p. 1.

commitment to achieve net zero emissions by 2040 by producing cleaner energy and clean fuels'. Ms Winters added:

We have a target to work with our customers to reduce their emissions by a million tonnes a year by 2030 and we are working with them to do that, but, in addition to that, Santos is responsible for scope 1 and 2 emissions, which are our own emissions, and we're very focused on achieving net zero by 2040 when it comes to those emissions. The accounting framework for emissions is that customer emissions are actually the scope 1 and 2 emissions of other companies [that is, Scope 3 emissions]. So we will work with them to help them reduce those through carbon capture and storage and by other means.³⁸

- 4.40 As discussed below, Scope 3 emissions, that is emissions resulting from end users' consumption of gas, will be the largest component of the Beetaloo emission profile. Professor Nerilie Abram, a paleoclimate scientist based at the ANU Research School of Earth Sciences at the Australian National University, suggested that the Beetaloo GHG Scope 3 emissions could be even higher than estimated by the Pepper Inquiry:

Combustion of gas from a new Beetaloo Basin shale gas field would result in annual emissions of approximately 64 Million tonnes CO₂-equivalent... This equates to a 13% increase on Australia's 2020 greenhouse gas emissions of 499 Million tonnes CO₂-equivalent.³⁹

- 4.41 Similarly, Emeritus Professor Ian Lowe argued that, if the Beetaloo resource proves to be equal to the Marcellus Shale deposit in the United States, then:

...the scale of production [from the Beetaloo] would contribute about 600 million tonnes of carbon dioxide equivalent per year. To put that figure in context, Australia's total emissions for the most recent year—the highest ever recorded—were 560 million tonnes. So just extracting and burning gas at the rate projected, without taking into account the extra contribution from fugitive emissions [methane leakage], would do more to accelerate climate change than Australia's entire current activity.⁴⁰

- 4.42 APPEA, which represents upstream gas suppliers in Australia, considered that achieving net zero in respect of Beetaloo gas would not be the sole responsibility of the companies producing that gas. Former Chief Executive Mr Andrew McConville stated:

[I]t's an economy wide response to emissions reductions, so that emissions from the development will be offset not only by actions undertaken by the

³⁸ Ms Tracey Winters, Acting Executive Vice President, Environment, Sustainability and Governance, Santos Ltd, *Committee Hansard*, 25 March 2022, p. 2.

³⁹ Environment Centre NT, *Affidavit of Nerilie Abram*, 10 September 2021, p. 56 (tabled 22 March 2022).

⁴⁰ Interim Report, paragraph 5.52; Emeritus Professor Ian Lowe, *Submission 6*, Attachment 1, p. 5. Also see: Emeritus Professor Ian Lowe, private capacity, *Committee Hansard*, 22 March 2022, p. 49.

gas industry but by actions across the economy, whether that be greater adoption of renewable energy, the adoption of electric cars and so on.⁴¹

Pepper Inquiry lifecycle GHG recommendation

4.43 Arguably, the most important recommendation from the Pepper Inquiry was for the Australian and NT Governments to ensure that there is no net increase in lifecycle (Scopes 1, 2 and 3) GHGs emitted in Australia from any onshore shale gas produced in the Territory (Recommendation 9.8):

...while this recommendation may present a challenging task, it is based on the principles of ESD. It also reflects widespread and strongly held concerns that were articulated to the Panel regarding the impacts of increased GHG emissions. To achieve this outcome, the increase in lifecycle GHG emissions in Australia from any onshore shale gas produced in the NT...must be fully offset. For example, 26.5 Mt CO₂e/y must be fully offset for a gasfield producing 365 PJ/y [equating to a relatively small domestic production facility] and 38.9 Mt CO₂e/y must be fully offset in Australia for a gasfield producing 1,240 PJ/y [equating to a large export and domestic production facility]. In the latter case, the residual emissions of some 60 Mt CO₂e/y are emitted overseas, and they should therefore be offset overseas.⁴²

4.44 The NT Government reports that Recommendation 9.8 is 50 per cent complete, with the government 'having taken significant actions to implement the recommendation within its sphere of control'. Two of these actions are discussed below (see 'Greenhouse Gas Emissions Offsets Policy' and 'Greenhouse Gas Emissions Management for New and Expanding Large Emitters policy').⁴³

4.45 However, the NT Government emphasises that Recommendation 9.8 is also directed to the Australian Government in recognition that:

...the NT Government has limited control over full life cycle emissions from gas production in the Territory, with a shared commitment from the Commonwealth Government required to meet the recommendation.⁴⁴

4.46 In particular:

The Commonwealth Government has a major role to play in implementing Recommendation 9.8. If Territory gas is consumed elsewhere in Australia, [the Commonwealth] will be responsible for managing the majority of emissions from the production of onshore petroleum in the Territory.

⁴¹ Mr Andrew McConville, Chief Executive, Australian Petroleum Production and Exploration Association, *Committee Hansard*, 22 March 2022, p. 4.

⁴² The Scientific Inquiry into Hydraulic Fracturing in the Northern Territory, 'Final Report', April 2018, p. 239.

⁴³ NT Government, 'Onshore Gas, 9.8'. Note: other actions discussed in this chapter include the Code of Practice for onshore petroleum activities.

⁴⁴ NT Government, 'Onshore Gas, 9.8'.

The Commonwealth Government has committed Australia to emissions targets for 2030 and 2050 and is undertaking reforms to the Safeguard Mechanism and is reviewing the integrity of the Australian carbon credit units.⁴⁵

4.47 DEPWS representative Mr Paul Purdon, the Executive Director of Environmental Assessment and Policy, later added:

The Northern Territory government has been pretty clear that it's not paying for the cost of offsetting these emissions [resulting from the domestic consumption of Beetaloo gas that occurs outside the NT]. That's not the government's responsibility. The government is setting the regulatory and policy framework to implement 9.8, and the cost of managing emissions—whether it's avoiding, mitigating or offsetting—will rest with the industry itself.⁴⁶

4.48 The committee notes that Pepper Inquiry Recommendation 9.8 has not yet been fully implemented, although this had been expected to occur by the end of 2022.⁴⁷

Commonwealth actions on Recommendation 9.8

4.49 The Bilateral Agreement executed by the Australian and NT Governments in April 2022 explicitly reaffirmed:

The Commonwealth will work with the Territory on its commitment to seek to ensure there is no net increase in greenhouse gas emissions in Australia associated with the production of gas in the Territory.

This will be achieved through the use of appropriate technologies and policies to support industry to avoid, mitigate or offset emissions produced in Australia from gas produced in the Beetaloo Sub-basin, as well as from existing gas production facilities in the Territory in line with commitments in the [Pepper Inquiry] and where the Parties have jurisdiction to facilitate these outcomes.⁴⁸

4.50 In answers to questions on notice, the former Department of Industry, Science, Energy and Resources (DISER) provided examples of some actions already taken by the Australian Government to support the NT Government. These included:

a. Investing \$40.4 million to increase participation in the Emissions Reduction Fund (ERF)...and the supply of Australian Carbon Credit Units

⁴⁵ NT Government, 'Onshore Gas, 9.8'. Also see: Dr Alaric Fisher, Acting CEO, Flora and Fauna, DEPWS, *Committee Hansard*, 22 March 2022, p. 70; Mr Paul Purdon, Executive Director, Environmental Assessment and Policy, DEPWS, *Committee Hansard*, 22 March 2022, p. 71.

⁴⁶ Mr Paul Purdon, Executive Director, Environmental Assessment and Policy, DEPWS, *Committee Hansard*, 22 March 2022, p. 69.

⁴⁷ NT Government, 'Onshore Gas, 9.8'.

⁴⁸ Australian Government and NT Government, Commonwealth-Northern Territory Bilateral Energy and Emissions Reduction Agreement, 8 April 2022, Schedule D Agenda 2 and 3.

[ACCUs], by increasing the number and types of activities recognised under the ERF;

b. Finalising the development of a carbon capture and storage method, which will encourage investment in projects that reduce fugitive emissions from natural gas production; and

c. Prioritising the development of a new and updated savanna fire management method, which will support land managers in the NT to undertake activities that reduce the frequency and extent of late dry season fires, thereby reducing carbon emissions.⁴⁹

Stakeholders' view on actions

4.51 Submitters and witnesses commented on the actions identified by governments and proponents to satisfy Recommendation 9.8. In general, they voiced concerns about whether those actions would be capable of offsetting the high levels of predicted GHG emissions from the Beetaloo and whether the cost associated with these reductions or offsets would be economically viable.

4.52 Dr Kirsty Howey, Co-Director of the Environment Centre of the NT Inc (ECNT) stated:

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... Thus there would need to be offsets achieved elsewhere in Australia. That can be achieved by simply purchasing those offsets.⁵⁰

4.53 RepuTex, a leading carbon market specialist, published a detailed analysis of the NT's gas expansion plans. It estimated production of up to 1.4 billion tonnes of GHG emissions over the first 20 years, more than 2.5 times Australia's total annual emissions. Based on this estimate, RepuTex forecast that the cost of offsetting these emissions could reach \$22 billion.⁵¹

4.54 By comparison, over five years, the former Australian Government's primary abatement program, the ERF, has contracted approximately 200 million tonnes of abatement from the 11 auctions conducted between April 2015 and September 2020. The overall cost to taxpayers has been \$2.4 billion.⁵²

⁴⁹ DISER, answers to written questions on notice 18, 24 February 2022 (received 17 March 2022), p. 2.

⁵⁰ Dr Kirsty Howey, Co-Director, Environment Centre NT Inc., *Committee Hansard*, 22 March 2022, p. 62.

⁵¹ RepuTex, *Analysis of Beetaloo Gas Basin Emissions & Carbon Cost, Australian carbon advisory*, October 2021, pp. 11 and 18.

⁵² Climate Change Authority, [Review of the Emissions Reduction Fund](#), October 2020, p. 26 (accessed 8 March 2023).

4.55 Arnhem Land Fire Abatement (Northern Territory) Ltd (ALFA) is an Aboriginal-owned carbon business that operates five eligible offsets projects which generate ACCUs through an approved methodology determination (the savanna fire management method).⁵³

4.56 ALFA's Chief Executive Officer, Dr Jennifer Ansell, emphasised that GHG emissions should be avoided, mitigated then offset, as per the decision-making hierarchy in the EP Act and particularly in relation to the gas industry in the Beetaloo:

...offsets work only in the context of strong efforts to avoid and reduce emissions, and offsets shouldn't be used to enable a significant increase in emissions from new developments of the scale which is estimated from the Beetaloo basin. And, as a large producer of [ACCUs], ALFA has serious concerns about the ability of the Northern Territory and Australian governments to deliver on their commitment to uphold [Pepper Inquiry Recommendation 9.8]...given the scale of the offsets that would be required to be purchased and surrendered.⁵⁴

4.57 Dr Ansell continued:

Looking at the Pepper inquiry, the most conservative annual emissions estimates for the Beetaloo basin are in the range of 26½ to 38 million tonnes of carbon dioxide equivalents per year. To put that in perspective, annual production of [ACCUs] is 16.5 million tonnes. So, we're talking about an additional quantity that exceeds current offset productions.⁵⁵

4.58 In February 2023, the CSIRO published its report, conducted as a GISERA collaboration, titled 'Mitigation and Offsets of Australian Life Cycle Greenhouse Gas Emissions of Onshore Shale Gas in the Northern Territory'.⁵⁶ This research assessed options to mitigate and offset GHG emissions associated with potential production and Australian consumption of gas extracted from the Beetaloo. These included 'mitigation activities during production, potential carbon capture and storage based out of Darwin, savannah fire management and other land-based offsets.' The CSIRO reported:

⁵³ Arnhem Land Fire Management, *Submission 313*, pp. 1 and 3.

⁵⁴ Dr Jennifer Ansell, CEO, Arnhem Land Fire Abatement (Northern Territory) Ltd, *Committee Hansard*, 22 March 2022, pp. 54–55. Also see: Ms Anna Boustead, CEO, Indigenous Carbon Industry Network, *Committee Hansard*, 22 March 2022, p. 58 and pp. 55–56.

⁵⁵ Dr Jennifer Ansell, CEO, Arnhem Land Fire Abatement (Northern Territory) Ltd, *Committee Hansard*, 22 March 2022, p. 55. Dr Ansell acknowledged, in 2019, Australian forests sequestered a net average of 48.6 Mt CO₂-e in 2019. Also see: Department of Industry, Science, Energy and Resources, [National Inventory Report, 2019, The Australian Government Submission to the United Nations Framework Convention on Climate Change, Australian National Greenhouse Accounts](#), April 2021, Vol 2, p. 1 (accessed 27 March 2022).

⁵⁶ Gas Industry Social and Environmental Research Alliance, [Mitigation and Offsets of Australian Life Cycle Greenhouse Gas Emissions of Onshore Shale Gas in the Northern Territory](#), 2022 (accessed 8 March 2023).

Four scenarios considered production of 365 PJ/year and one scenario of 1,130 PJ/year [similar to the Pepper Inquiry], with a variety of end use cases for the shale gas. The estimated annual emissions associated with these scenarios range from 6.6 million tonnes (Mt) to 33 Mt CO₂e/year...

[F]or the lower impact scenarios (365 PJ/year production) the majority of GHG emissions could be mitigated or offset with options available in Australia. The higher impact scenario (1,130 PJ/year production) would require international offsets in addition to mitigation and offsets within Australia.⁵⁷

Committee view

- 4.59 There are several assessments of the potential amount of lifecycle GHG emissions from the development of the Beetaloo resource. These range from 6.6 million tonnes per annum at the lower end, to hundreds of millions of tonnes per annum at the upper end.
- 4.60 The committee notes that, without the effective implementation of Pepper Inquiry Recommendation 9.8, Australia's GHG emissions could increase by 4.5 to 6.6 per cent based on that inquiry's estimate of lifecycle emissions of between 26.5 and 38.9 million tonnes per annum.
- 4.61 The committee further notes the importance of the Pepper Inquiry Recommendation 9.8, particularly in the context of the recent debate on the Safeguard Mechanism (discussed below).
- 4.62 Based on the NT Government's information to the inquiry, the committee understands that the Territory has partially completed implementation of Pepper Inquiry Recommendation 9.8. As discussed earlier, the NT Government has committed to full implementation of the recommendation prior to shale gas development in the Beetaloo.
- 4.63 The committee understands that the Pepper Inquiry and the NT Government anticipated that the Australian Government would have a role in the offsetting of lifecycle GHG emissions produced in the Beetaloo, specifically in respect of Scope 3 emissions. The committee notes that, until recently, this was not a view shared by the Australian Government (see 'Safeguard Mechanism reforms' below).⁵⁸ As discussed, the recent parliamentary debate on the safeguard mechanism has clarified the ministerial council mechanism by which governments will address the requirement to not increase lifecycle emissions.

⁵⁷ CSIRO, '[CSIRO research assesses mitigation and offset options for onshore gas in the Northern Territory](#)', *News Release*, 10 February 2023 (accessed 8 March 2023).

⁵⁸ Hon Chris Bowen MP, Minister for Climate Change and Energy, *Insiders Program*, ABC, 26 February 2023 at 25:57–26:14 (accessed 22 March 2023).

Safeguard Mechanism reforms

4.64 On 30 November 2022, the Albanese Government introduced the Safeguard Mechanism (Crediting) Amendment Bill 2022 (the Safeguard Bill) into the Parliament. This bill is one component of the broader ‘Safeguard Mechanism’ reform package, which in turn is part of the government’s whole-of-economy plan to meet legislated emissions reduction targets and Australia’s Nationally Determined Contribution under the Paris Agreement (see Chapter 3).⁵⁹

4.65 On 30 March 2023, the Safeguard Bill passed both Houses of Parliament.⁶⁰ The reformed Safeguard Mechanism requires Australia’s 215 largest GHG emitters—those with emissions of over 100 000 tCO₂-e annually, including large onshore gas producers such as Santos, Empire Energy and Tamboran—to gradually reduce their facilities’ emissions. This will reduce large facility emissions at source, through trading reductions made by other industrial facilities or by purchasing carbon offsets.

4.66 In addition, safeguard facilities will deliver a proportional share of the national 43 per cent by 2030 emissions reduction target. According to the Department of Climate Change, Energy, the Environment and Water (DCCEEW):

...net emissions covered by the Safeguard [will] fall from a projected 143 million tonnes in 2022-23 before the reforms start [in July 2023] to no more than 100 million tonnes by 2030... The reformed Safeguard Mechanism is expected to deliver [on aggregate] an estimated 205 million tonnes of abatement by the end of the decade.⁶¹

4.67 When announcing the agreement on the broader safeguard package, the Minister for Climate Change and Energy, the Hon Chris Bowen MP, stated:

Australia is one step closer to achieving net zero by 2050... [T]he Albanese Government has secured additional Parliamentary support for the Safeguard Mechanism reforms... These are overdue, sensible reforms which ensure Australia’s largest emitters are competitive in a decarbonising global economy and make a fair contribution towards the nation’s emissions reductions task.⁶²

4.68 As part of the reforms, new facilities will need to meet international best practice to ensure GHG emissions decline over time. New gas fields supplying existing liquefied natural gas facilities will be treated as new facilities.

⁵⁹ Parliament of Australia, [‘Safeguard Mechanism \(Crediting\) Amendment Bill 2022’](#) (accessed 8 March 2023).

⁶⁰ *Votes and Proceedings*, No. 48, 27 March 2023, p. 616; *Journals of the Senate*, No. 45, 30 March 2023, pp. 1311-1312.

⁶¹ Senate Environment and Communications Legislation Committee, [Safeguard Mechanism \(Credit Reporting\) Bill 2023 \[Provisions\]](#), March 2023, p. 4 (accessed 8 March 2023).

⁶² Hon Chris Bowen MP, Minister for Climate Change and Energy, [‘Safeguard Mechanism one step closer to Parliamentary passage’](#), 27 March 2023 (accessed 30 March 2023). Note: the Safeguard Mechanism reforms will be in operation from 1 July 2023.

For these fields' reservoir CO₂ emissions, best practice is zero given the existence of low-CO₂ fields and opportunities for carbon capture and storage.⁶³

4.69 The agreement on the Safeguard Mechanism reforms included specific arrangements in relation to the Beetaloo:

...all new gas entrants in the basin will be required to have net zero scope 1 emissions from entry, consistent with the then Commonwealth Government's April 2022 commitment to "work with the [Northern] Territory to support its implementation of recommendation 9.8 of the [Hydraulic Fracturing Inquiry] using available technology and policies".⁶⁴

4.70 During the second reading debate in the Senate, the Minister for Finance reiterated the Australian Government's commitment to 'help deliver the commitment to scope 1 emissions' and:

...given the cross-jurisdictional nature of scope 2 and 3 emissions, the government will refer scope 2 and 3 emissions to the Energy and Climate Change Ministerial Council.⁶⁵

4.71 The committee notes another element of the Safeguard Mechanism reforms was to increase transparency by improving the reporting of methane emissions to the minister and the public.⁶⁶

Committee view

4.72 The committee acknowledges the significant progress made by the Australian Parliament to reduce GHG emissions from large industrial facilities through the implementation of the Safeguard Mechanism reforms. The committee welcomes the government's commitment to assist with the offsetting of Scope 1 emissions in the Beetaloo, by requiring 'new entrants' to have net zero Scope 1 emissions from commencement.

Recommendation 6

4.73 The committee recommends that the Australian Government:

- **strongly assist the Northern Territory Government to create a regulatory framework that will enable the Territory to fully implement**

⁶³ Hon Chris Bowen MP, Minister for Climate Change and Energy, 'Safeguard Mechanism one step closer to Parliamentary passage', 27 March 2023.

⁶⁴ Hon Chris Bowen MP, Minister for Climate Change and Energy, 'Safeguard Mechanism one step closer to Parliamentary passage', 27 March 2023.

⁶⁵ Senator the Hon Katy Gallagher, Minister for Finance, *Senate Hansard*, 28 March 2023, p. 21. Also see: *Journals of the Senate*, No. 43, 28 and 29 March 2023, p. 1250; *Journals of the Senate*, No. 44, 29 March 2023, pp. 1256–1257.

⁶⁶ Hon Chris Bowen MP, Minister for Climate Change and Energy, 'Safeguard Mechanism one step closer to Parliamentary passage', 27 March 2023.

Recommendation 9.8 of the Pepper Inquiry prior to shale gas production in the Beetaloo; and

- **ensure that supporting frameworks and materials are developed expeditiously and made available to all ‘new entrants’ in the Beetaloo, to support the net zero Scope 1 emissions requirement.**

4.74 The committee notes that Scope 2 and Scope 3 emissions, the latter of which comprises the bulk of GHG emissions, would be referred to the Energy and Climate Change Ministerial Council. The committee notes the complexity of the task facing the council and urges all members to work collaboratively to ensure there is no increase in lifecycle emissions from the development of the Beetaloo, in accordance with Recommendation 9.8 of the Pepper Inquiry.

Recommendation 7

4.75 **The committee recommends that the Australian Government, in collaboration with other members of the Energy and Climate Change Ministerial Council, prioritise developing a national approach to offsetting all Scope 2 and Scope 3 greenhouse gas emissions from shale gas production in the Beetaloo.**

The NT Climate Change Response

4.76 In July 2020, the NT Government released the *Northern Territory Climate Change Response: Towards 2050* (the NT Climate Change Response). This document sets out a broad policy framework that aims to respond proactively to the risks and opportunities of climate change, while maximising the economic, social and environmental well-being of Territorians.⁶⁷

4.77 A key objective of the NT Climate Change Response is ‘to progressively reduce net greenhouse gas emissions in the Territory, with the goal of achieving net zero emissions by 2050’.⁶⁸ The response explains:

The objective of net zero emissions will be achieved by strategies and actions aimed at reducing emissions, investing in renewable energy and supporting opportunities for carbon sequestration and storage. The Territory Government will provide a policy and regulatory environment that incentivises and facilitates business and industry investment in reducing emissions. The Territory Government is also committed to reducing emissions and transition to more sustainable energy sources.⁶⁹

⁶⁷ NT Government, [Northern Territory Climate Change Response: Towards 2050](#), July 2020, pp. 5 and 7, (accessed 8 March 2023). Note: NT emissions currently account for around three per cent of Australia’s total emissions.

⁶⁸ NT Government, *Northern Territory Climate Change Response: Towards 2050*, July 2020, pp. 5 and 7.

⁶⁹ NT Government, *Northern Territory Climate Change Response: Towards 2050*, July 2020, p. 9.

4.78 As part of the NT Climate Change Response, the NT Government established the Northern Territory Offsets Framework (the Offsets Framework). This framework aims to support the use of offsets under the EP Act and comprises several related but separate policies and guidelines.⁷⁰ Two of these policies are the Greenhouse Gas Emissions Offsets Policy (Offsets Policy) and the Greenhouse Gas Emissions Management for New and Expanding Large Emitters policy (the Large Emitters Policy).

Greenhouse Gas Emissions Offsets Policy

4.79 According to the NT Government, GHG emissions offsets might be required as ‘a last resort to compensate for emissions from a development proposal that cannot be avoided or mitigated’. The Offsets Policy provides for the consistent and transparent use of GHG offsets under the EP Act, with a view to:

- transitioning the Territory to a low carbon economy; and
- supporting achievement of the Territory’s net zero emissions target.⁷¹

4.80 The NT Government approved the Offsets Policy in August 2022. Under the policy, emissions offsets must make a ‘material and meaningful contribution’ towards achieving the Territory’s target of net zero GHG by 2050. Offsets must also contribute to any additional or interim targets established by the government to achieve the 2050 target. Additionally, offsets might be required under the Commonwealth’s Safeguard Mechanism.⁷²

4.81 In the 46th Parliament, several stakeholders expressed concerns about the draft Offsets Policy, which distinguished between ‘direct emissions offsets’ and ‘indirect emissions offsets’. As explained in the draft document released for public consultation:

Direct emissions offsets are offsets delivered through activities that reduce, remove or capture emissions. The amount of emissions abatement achieved is represented by emissions offset units. Direct emissions offsets must be delivered using emissions offset units that are recognised as legitimate by the Australian Government. This includes Australian Carbon Credit Units administered and regulated by Commonwealth legislation, or eligible offset units listed under Commonwealth Climate Active Neutral Standards (alternative emissions offset units). Under these frameworks, one emissions offset unit represents the abatement of one tCO₂-e.

Indirect emissions offsets are offsets delivered by contributing funding towards research and development (R&D) that will support emissions abatement in the Territory and contribute to the 2050 net zero target.

⁷⁰ DEPWS, [‘Northern Territory Offsets Framework’](#) (accessed 9 March 2023).

⁷¹ NT Government, DEPWS, [‘Greenhouse Gas Emissions Offsets Policy’](#) (accessed 9 March 2023).

⁷² NT Government, DEPWS, [‘Greenhouse Gas Emissions Offsets Policy’](#), pp. 6 and 9 (accessed 9 March 2023).

For example, this could include research that results in new carbon abatement methodologies that apply in the Territory context.⁷³

- 4.82 The Australia Institute commented that this aspect of the draft Offsets Policy is ‘entirely novel, not done elsewhere and opens the NT Government to criticism of the lengths it will go to accommodate the gas industry’. The Wilderness Society agreed, adding in respect of ‘indirect emissions offsets’, that ‘decision-makers only need to have “reasonable confidence” that the new technology or practice will actually work’.⁷⁴
- 4.83 The committee notes that ‘indirect emissions offsets’ have been removed from the final version of the Offsets Policy.

GHG Management for New and Expanding Large Emitters Policy

- 4.84 In September 2021, the Large Emitters Policy came into operation. This policy outlines the NT Government’s emissions management and abatement expectations for activity proponents:

[The policy] includes emissions production thresholds that establish when these NT Government expectations apply to a development proposal. Where a development exceeds the emissions thresholds, and requires assessment under the EP Act or Petroleum (Environment) Regulations 2016, the Large Emitters Policy requires proponents to provide a Greenhouse Gas Abatement Plan (a GGAP) with the development proposal. The GGAP must outline how the proponent will use avoidance, mitigation, and then offsets, to achieve net zero emissions by 2050, or justify why an alternative target is appropriate.⁷⁵

Application and scope of the Large Emitters Policy

- 4.85 The Large Emitters Policy applies to new projects and the expansion of existing projects that are considered to be ‘large emitters’. ‘Large emitters’ are defined as projects that meet or exceed emissions thresholds. The industrial project threshold is 100 000 tonnes carbon dioxide equivalent (tCO₂-e) (Scope 1) in any financial year over the life cycle of a project.⁷⁶
- 4.86 In the 46th Parliament, submitters and witnesses expressed concerns about the scope and application of the Large Emitters Policy. For example, the Arid Lands Environment Centre (ALEC) submitted that the industrial project

⁷³ NT Government, [‘Greenhouse Gas Emissions Offsets Policy and Technical Guidelines, Northern Territory Offsets Framework’](#), September 2021, pp. 8 and 10 (accessed 9 March 2023).

⁷⁴ The Australia Institute, *Submission to NT Government, Greenhouse Gas Emissions Offsets Policy*, p. 16; The Wilderness Society, *Submission to NT Government, Greenhouse Gas Emissions Offsets Policy*, p. 4, depws.nt.gov.au/environment-information/northern-territory-offsets-framework/greenhouse-gas-emissions-offsets-policy (both accessed 1 March 2022).

⁷⁵ NT Government, ‘Greenhouse Gas Emissions Offsets Policy and Technical Guidelines, Northern Territory Offsets Framework’, September 2021, p. 6.

⁷⁶ NT Government, DEPWS, [‘Large Emitters Policy’](#) (accessed 9 March 2023).

threshold fails to fully implement Pepper Inquiry Recommendation 9.8, as it does not encompass all lifecycle GHG emission, only Scope 1 GHG emissions.⁷⁷

- 4.87 The ECNT and Dr Timothy Neale queried whether the policy would require gas companies to offset their emissions, due to the high industrial project threshold, and, like the ALEC, commented on the ‘arbitrary’ exclusion of Scope 2 and 3 GHG emissions:

The industry that will have the greatest Scope 3 emissions is, of course, the gas industry: it extracts gas for the primary purpose of that gas being combusted by consumers, releasing greenhouse gases. While it may be useful for accounting processes to separate emissions into Scope 1, Scope 2 and Scope 3, these definitions do not reflect the actual pollution caused by fossil fuel extraction projects. Further, the Pepper Inquiry found that the residual lifecycle emissions from fracked gas (essentially Scope 3 emissions) posed unacceptably high risks to the environment, recommending that these risks could be reduced by fully offsetting the lifecycle emissions from fracked gas.⁷⁸

- 4.88 The Indigenous Carbon Industry Network submitted that the Large Emitters Policy has ‘extremely high caps on greenhouse gas pollution’, adding:

We are very concerned that this is already generating perverse outcomes... It appears that the large emitters policy essentially incentivises greenhouse gas pollution by unintentionally giving false licence to new developments below the caps (up to 100,000t)...with little regard for cumulative impacts. These caps render the [policy] mostly meaningless and limit its application unless it is for a single, extremely large development application.⁷⁹

- 4.89 The Large Emitters Policy applies more broadly across the Northern Territory, rather than specifically to the Beetaloo resource. The committee understands that the Large Emitters Policy does not capture all lifecycle GHG emissions, as recommended by the Pepper Inquiry, nor does it apply to all emitters. Noting earlier evidence concerning the difficulty and expense involved in developing the Beetaloo resource and getting it to market,⁸⁰ the committee is of the view that only ‘large emitters’ would be operating in the Beetaloo and should therefore be subject to the policy.

⁷⁷ Arid Lands Environment Centre, *Submission 24*, p. 4.

⁷⁸ Environment Centre of the NT and Dr Timothy Neale, *Submission 19*, Attachment 2, pp. 2–3 and *Submission 19*, pp. 4–5. Also see: Dr Kirsty Howey, Co-Director, Environment Centre NT Inc., *Committee Hansard*, 22 March 2022, pp. 59–60, who argued that the NT Government is currently not imposing offset conditions on exploration activities in the Beetaloo.

⁷⁹ Indigenous Carbon Industry Network, [‘NT Draft Greenhouse Gas Emissions Offsets Policy’](#) (accessed 28 February 2022).

⁸⁰ Interim Report, paragraphs 3.21–3.22.

Recommendation 8

4.90 The committee recommends that the Northern Territory Government reconsider the industrial project threshold set out in the Greenhouse Gas Emissions Management for New and Expanding Large Emitters policy, to ensure that the policy captures large emitters which establish shale gas production facilities in the Beetaloo.

Chapter 5

First Nations and pastoralist perspectives

5.1 In its Interim Report, the committee examined a range of First Nations people's views on fracking in the Beetaloo.¹ Subsequently, the committee received further information from First Nations representatives as well as pastoralists with significant investments and leaseholds in the region.

5.2 This chapter discusses the following three topics:

- concerns expressed in relation to gas activities in the Beetaloo;
- consultations with First Nations people and pastoralists; and
- the protection and preservation of cultural heritage.

Concerns expressed in relation to gas activities in the Beetaloo

5.3 In Chapter 4 of the Interim Report, First Nations people voiced concerns about the impacts of fracking on Country. Pastoralists also provided their perspective on the proposed development of a gas industry in the Beetaloo.

Destruction of culture and Country

5.4 Traditional Owners and Native Title holders in the Territory travelled from remote and regional communities to ensure that the committee heard and understood their views about what is occurring, and what might happen, on Country.

5.5 Ms Nancy McDinny, a prominent Indigenous artist and a Traditional Owner from Borroloola, stated:

[W]e don't want no fracking, no mining in our land. We want to protect our country and our children. Our future. Water is very important. I'm not going to live in a big city like this [Darwin]. This is not my feeling, here.²

5.6 Similarly, Mr Johnny Wilson of the NurrDALINJI Native Title Aboriginal Corporation (NurrDALINJI Corporation) stated that, even if fracking could be undertaken in a safe manner:

We do not want fracking on our country, full stop. We have seen photos of places where fracking has done so much damage to country. Our cultural heritage and our sacred sites are so important to us—our songlines, our dreaming and our water. Our water is our life; when that is

¹ Also see: Pompey and Rosemary Raymond, *Submission 13*, which highlighted that not all Traditional Owners and Native Title holders in the Beetaloo are opposed to exploration and production of gas in the Beetaloo.

² Ms Nancy McDinny, Traditional Owner, Borroloola, *Committee Hansard*, 23 March 2022, p. 10.

contaminated, we are nothing. Where is our future? Where is every generation's future for the Beetaloo basin?³

- 5.7 Several First Nations witnesses gave evidence of the changes they have observed on Country arising from mining activities (although not necessarily connected with fracking operations) and broader climatic changes. For example, Ms Joni Wilson, a Traditional Owner from Borrooloola, referred to the McArthur River Mine site in the Beetaloo:

I've been seeing change at the McArthur mine, where my parents used to take me to collect berries. I can't take my kids there now to collect those same berries. It's damaged; it's gone... [W]e're seeing changes. The fish are going, the birds are disappearing—everything is changing.⁴

- 5.8 Mr Asman Rory, also from Borrooloola, spoke of his concerns about mining operations throughout the Territory:

I drive on our Carpentaria Highway and I see a flame coming out. This was the first time in my life, and I've grown up on this country. I looked and I said: 'What's this here? It's a scary thing! There's a flame burning in the bush.' That was from the Carpentaria Highway, after all this fracking and mining.⁵

- 5.9 Mr Gadrian Hoosan, a Traditional Owner from Borrooloola, described changes to his Country:

We're watching the land just going away. We're seeing that. We're the ones experiencing that. We can see that. Our groundwater is not even filling up anymore through the big wet season that we used to have. We used to get running water; when we used to have a big, massive wet in the gulf, we used to get all this groundwater coming up from the ground—spring water. It used to overflow from underground, but you don't see that anymore. The ground is dry.⁶

- 5.10 The committee acknowledges the importance of First Nations people's connection to Country, including in the Beetaloo, and agrees that impacts from fracking should be avoided or mitigated to the greatest extent possible. This includes upholding the principle of free, prior and informed consent (FPIC).

Pastoralists' views

- 5.11 Various witnesses had different views on how gas activities in the Beetaloo might affect the land holdings and livelihoods of pastoralists. Mr Will Evans of the NT Cattlemen's Association said, for example:

³ Mr Johnny Wilson, Chairperson, Nurrudalini Native Title Aboriginal Corporation, *Committee Hansard*, 22 March 2022, p. 30.

⁴ Ms Joni Wilson, Traditional Owner, Borrooloola, *Committee Hansard*, 23 March 2022, p. 9.

⁵ Mr Asman Rory, Traditional Owner, Borrooloola, *Committee Hansard*, 23 March 2022, p. 17.

⁶ Mr Gadrian Hoosan, Traditional Owner, Borrooloola, *Committee Hansard*, 23 March 2022, p. 9.

We have some members in the Beetaloo region who are quite openly opposed to it, and other members who are not. There's a distinction that needs to be made between members who are currently going through a process of negotiating land access agreements or have established gas interests on their properties, and those who do not... [O]f the members that I'm aware of who have gas on their property, there is probably an even split between those who are supportive and not supportive.⁷

5.12 Mr Evans added that the legal process must protect pastoralists and 'insofar as possible, or certainly to the fullest extent of the law [that their land] is protected'.⁸

5.13 Mr Rohan Sullivan, part owner of Birdum Creek Station in the Beetaloo, described his positive experiences with the gas industry, including in negotiations with Empire Energy Group Ltd (Empire Energy) for a land access and compensation agreement:

I believe there's recognition of the rights of the different parties to operate on the land and the need to coexist and cooperate, provided that certain conditions are met. The types of issues we're negotiating about include: assurances about water usage, monitoring, trigger points and 'make good' provisions; usage and maintenance of existing station infrastructure, such as roads; environmental considerations, such as weeds and erosion; prevention and management of fires; protocols to minimise disturbance of cattle and station activities, such as mustering; and retaining infrastructure that is no longer required for gas exploration, such as gravelled access roads, cleared lines for firebreaks, water bores and pipelines, for the benefit of the pastoralist.⁹

5.14 However, Mr Sullivan noted that his support was subject to safeguards being in place for fracking operations, as well as benefits being provided to local communities:

So, what do we want to see from the gas industry in our region? We want to see no adverse impacts on our operations or the resources we rely on; benefits to the local community in the form of quality long-term infrastructure, employment and business opportunities; diversification and growth of the Northern Territory economy...and a contribution to the future security and prosperity of the country.¹⁰

5.15 Conversely, Mr Pierre Langenhoven, Director of Rallen Australia Pty Ltd (Rallen), which runs a 'four-stage pastoral station' in the Beetaloo, stated:

We do not think gas exploration in the Beetaloo Basin should be pursued at all, let alone receive public subsidy. There is an almost certain likelihood

⁷ Mr Will Evans, Chief Executive Officer, Northern Territory Cattlemen's Association, *Committee Hansard*, 22 March 2022, p. 38.

⁸ Mr Will Evans, Chief Executive Officer, Northern Territory Cattlemen's Association, *Committee Hansard*, 22 March 2022, p. 35.

⁹ Mr Rohan Sullivan, private capacity, *Committee Hansard*, 22 March 2022, p. 3.

¹⁰ Mr Rohan Sullivan, private capacity, *Committee Hansard*, 22 March 2022, p. 3.

of significant and permanent damage to existing and future land users for little, if any, public benefit... The track record of the interest holders [petroleum companies] shows that there is no chance that they will manage those risks responsibly, and there is no effective regulation to ensure that they do.¹¹

- 5.16 Mr Daniel Tapp, another pastoralist in the Beetaloo, agreed that the regulatory regime does not ensure that development risks are properly managed to mitigate the impacts on leaseholders:

Communities and stakeholders are getting a bit concerned about peak industries actually scrutinising this development process, because the failure of implementation of [the Independent Scientific Inquiry into Hydraulic Fracturing in the Territory (the Pepper Inquiry)] recommendations—it is not happening—and basically throwing all the risks and liabilities back into the court of the landholder or the stakeholder. And here we are, with gas companies knocking on the door wanting us to sign access agreements where we haven't got the information, water studies, environmental impact studies, to make a decision.¹²

- 5.17 Mr Paul Burke, Chief Executive Officer of the NT Farmers Association, advised that his organisation would support the development of the gas industry in the Territory but on the 'very big proviso' that all recommendations of the Pepper Inquiry are fully implemented.¹³

National Water Initiative

- 5.18 In 2004, the NT Government recognised and agreed the overarching goal of the National Water Initiative (NWI), that is:

...the continuing national imperative to increase the productivity and efficiency of Australia's water use, the need to service rural and urban communities, and to ensure the health of river and groundwater systems by establishing clear pathways to return all systems to environmentally sustainable levels of extraction.¹⁴

- 5.19 When achievement of this goal was assessed by the Productivity Commission (PC) in 2020, the PC found that, while the states and territories had made progress, the overarching goal should be modernised 'through reference to

¹¹ Mr Pierre Langenhoven, Director, Rallen Australia Pty Ltd, *Committee Hansard*, 22 March 2022, p. 34.

¹² Mr Daniel Tapp, private capacity, *Committee Hansard*, 22 March 2022, p. 34.

¹³ Mr Paul Burke, Chief Executive Officer, NT Farmers Association, *Committee Hansard*, 22 March 2022, p. 35. Also see: Chapter 4.

¹⁴ [Intergovernmental Agreement on a National Water Initiative](#), 2004, paragraph 23, (accessed 22 March 2023).

adaptation to climate change and recognition of the importance of water in the lives of Aboriginal and Torres Strait Islander people'.¹⁵

- 5.20 The Australian Government has not yet responded to the PC's 2020 inquiry report, however, the Department of Climate Change, Energy, the Environment and Water (DCCEEW) advised:

The Australian Government has committed to work with states and territories to renew the NWI. Renewing the NWI offers the opportunity to better reflect climate change, provide for increased First Nations influence in water resource management, ensure access to safe and secure drinking water and take a strategic approach to groundwater management.¹⁶

Committee view

- 5.21 The committee accepts that there is a diversity of opinion as to whether gas activities should occur in the Beetaloo. For some people, their support is contingent upon safeguards to protect property rights and interests or the protection of culture and Country. For others, the direct and indirect benefits are an important consideration, although these benefits are far from settled. One matter upon which most stakeholders agree is that the groundwater in the Beetaloo must not be adversely impacted by gas exploration and production.
- 5.22 The committee agrees with the PC that the nearly 20-year old NWI is outdated and notes that the initiative cannot possibly have anticipated large-scale water extractive industries in the Beetaloo. In the committee's view, renewal of the NWI must take into consideration the impact of such industries in Northern and Central Australia and other arid areas of the continent. To inform this renewal, the committee considers that it would be beneficial to examine how the NT Government has sought to achieve the overarching goal of the current NWI.

Recommendation 9

- 5.23 The committee recommends that the Australian Government, as part of its efforts to renew the National Water Initiative, obtain from the Northern Territory Government, a brief on actions undertaken by the Territory to give effect to its existing commitments under the Intergovernmental Agreement on the National Water Initiative.**

¹⁵ Productivity Commission, [National Water Reform 2020](#), Inquiry Report No. 96, 28 May 2021, p. 49, (accessed 22 March 2023).

¹⁶ Department of Climate Change, Energy, the Environment and Water (DCCEEW), [National Water Initiative](#) (accessed 22 March 2023).

Consultations with First Nations people and pastoralists

- 5.24 In its Interim Report, the committee noted that there are Commonwealth and Territory laws that protect First Nations people, their land and their culture. In particular, the *Aboriginal Land Rights (Northern Territory) Act 1976* (Aboriginal Land Rights Act) gives Traditional Owners the right to be consulted about, and to consent, or refuse to consent, to the grant of an Exploration Permit (EP) on Aboriginal land. These rights do not exist for Native Title holders under the *Native Title Act 1993* (Native Title Act).¹⁷
- 5.25 Chapter 4 of the Interim Report examined the concerns raised by First Nations people about consultations conducted by gas companies operating, or seeking to operate, in the Beetaloo, as well as the consultations conducted by the Northern Land Council (NLC).
- 5.26 The NLC is the ‘Land Council’ (as defined) charged with consulting with Traditional Owners or affected First Nations communities or groups about applications for consent to exploration licences on ‘Aboriginal land’ (as defined), under the Aboriginal Land Rights Act.
- 5.27 From time to time, members of the NLC Executive also hold positions in the Top End (Default PBC/CLA) Aboriginal Corporation (Top End PBC).¹⁸ The Top End PBC is the ‘prescribed body corporate’ (as defined) under the Native Title Act, and is responsible for consulting and obtaining consent from Traditional Owners in relation to decisions that surrender or affect Native Title rights and interests.

Issues of consent

- 5.28 At the public hearing in Darwin on 22 March 2022, witnesses gave further evidence about First Nations people’s consent to gas exploration on Country. Mr Andrew McConville, former Chief Executive of the Australian Petroleum Production and Exploration Association (APPEA), stated:
- ...no exploration and no production of oil and gas can commence on any traditional owners’ land or any pastoralists’ land without their consent.¹⁹
- 5.29 As noted earlier, Native Title holders’ consent to exploration activities must be negotiated with gas companies or failing that, enter into arbitrated agreements for land access. The Environmental Defenders Office (EDO) contended that this effective lack of veto creates an inherent power imbalance:

¹⁷ The Scientific Inquiry into Hydraulic Fracturing in the Northern Territory, [‘Final Report’](#), April 2018, pp. 272–278 (accessed 10 March 2023). Also see: Interim Report, paragraphs 4.14–4.15.

¹⁸ Northern Land Council, [‘Annual Report 2018–19’](#) (accessed 23 March 2023), p. 54.

¹⁹ Mr Andrew McConville, Chief Executive, Australian Petroleum Production and Exploration Association, *Committee Hansard*, 22 March 2022, p. 9.

Meaningful free, prior and informed consent must be premised on the right to say no to resource development on their land and uphold Native Title recognitions such that the power in any negotiations with First Nations is not sitting with the resource company and government only.²⁰

- 5.30 Similarly, pastoralists cannot withhold consent to gas activities on their properties: the law requires them to grant access to their land and water.²¹

Consultations with shale gas proponents

- 5.31 Mr Tim O’Grady, the General Manager of Government Engagement at Origin Energy Ltd (Origin), stated that ‘all [its] activities in the Beetaloo have consent from the native title holders, as well as any future activities’.²²

- 5.32 In 2021, Origin published a report about its past and ongoing engagement with Native Title holders and how its activities are guided by the principles of FPIC.²³ Mr Simon Nish, Lead Negotiator of Indigenous Land Use Agreements for Origin, clarified the company’s interpretation of these principles:

...there's no universal definition, so you have to land on something and agree to something operational... [O]ne important thing about free, prior and informed consent is that it doesn't amount to unanimity, so there may be dissenting voices. But, provided that the traditional decision-making process has been applied, it's that process that informs consent. There may well be dissenting voices. That doesn't necessarily mean that there isn't consent under the rules of free, prior and informed consent.²⁴

- 5.33 Ms Larissa Baldwin from GetUp suggested that it is difficult for Traditional Owners and Native Title holders to initiate consultations when they consider it necessary:

We've been to many different AGMs—I think it's three or four consecutive Origin AGMs—where we've asked Origin to come out and meet traditional owners. Each time the chair has promised to do it, but there has been no follow-through. Uncle Ray came down to Sydney one time—and Auntie May was part of that as well—and presented a petition from 280 native title holders in the Beetaloo region under Origin's licence who said, 'Please come out and meet with us.' The chair said that he would. He met them afterwards and said that they would, but there has been no

²⁰ Environmental Defenders Office, *Submission 46*, p. 14.

²¹ In this regard, also see: Mr Pierre Langenhoven, Director, Rallen Australia Pty Ltd, *Committee Hansard*, 22 March 2022, p. 39.

²² Mr Tim O’Grady, General Manager, Government Engagement, Origin Energy Ltd, *Committee Hansard*, 25 March 2022, p. 7.

²³ Origin Energy Ltd, [Beetaloo Native Title Holder Engagement](#), August 2021 (accessed 10 March 2023).

²⁴ Mr Simon Nish, Lead Negotiator, Indigenous Land Use Agreements, Beetaloo and Growth Assets, Origin Energy Ltd, *Committee Hansard*, 25 March 2022, pp. 7–8.

correspondence and no response to the emails sent by traditional owners to the executive at Origin.²⁵

- 5.34 While Ms Baldwin referred specifically to Origin, another witness—Mr Langenhoven—expressed identical concerns more broadly:

We've got three interest holders wanting to come on one property. That's a huge inconvenience. We've got Santos [Ltd] (Santos), Tamboran...and Origin. We took Santos to court in January [2022] for no stakeholder engagement. A month later Tamboran put in an EMP [Environment Management Plan] with no stakeholder engagement; we asked them to withdraw that because there was no stakeholder engagement, and they agreed to withdraw it. That's what you're dealing with. Even though you go through the whole process to try and get them to do stakeholder engagement, a month later they will do exactly the same thing.²⁶

- 5.35 Santos representative, Ms Tracey Winters, Acting Executive Vice President of Environment, Sustainability and Governance, advised that Santos operates within a 'regulatory framework that protects and recognises the interests of a wide range of stakeholders, with whom we aim to consult openly and transparently'.²⁷

- 5.36 In relation to the Beetaloo, Ms Winters indicated that consent had been obtained appropriately from the relevant Traditional Owners:

...Santos respects the decisions of the Federal Court in relation to who the traditional owners are for various parts of Australia. While we consult with all traditional owner groups who want to do so, we do respect the decision of the court. And we do have agreements in place with 21 traditional owner groups across Australia, including for our operations in the Beetaloo.²⁸

Consultation by the NLC

- 5.37 In the 46th Parliament, Native Title holders and Traditional Owners questioned the extent, timeliness and quality of consultations conducted by the NLC.²⁹ The Nurrdalindi Corporation submitted, for example, that 'the NLC continues

²⁵ Ms Larissa Baldwin, Director, First Nations Justice, GetUp, *Committee Hansard*, 22 March 2022, p. 26.

²⁶ Mr Pierre Langenhoven, Director, Rallen Australia Pty Ltd, *Committee Hansard*, 22 March 2022, p. 41.

²⁷ Ms Tracey Winters, Acting Executive Vice President, Environment, Sustainability and Governance, Santos Ltd, *Committee Hansard*, 25 March 2022, p. 2.

²⁸ Ms Tracey Winters, Acting Executive Vice President, Environment, Sustainability and Governance, Santos Ltd, *Committee Hansard*, 25 March 2022, p. 8. Note: the issue of consent was examined in the Interim Report, paragraphs 4.35–4.38 (Empire Energy Pty Ltd) and at paragraphs 2.10–2.11 (Tamboran Resources Ltd).

²⁹ Interim Report, paragraphs 4.14–4.34.

to facilitate fracking in our country without proper consultation, with no genuine mandate and against the wishes of the majority'.³⁰

- 5.38 Mr Hoosan argued that the NLC did not understand his people and Country, and as such could not appropriately represent either:

...Dreamtime story travels... I hold a songline for my mother's father. I'm junggayi for my mother-father gudjagara. And I sing that gudjagara too back home. It's not the Northern Land Council, not the mining company and not the government. We do that... I'm talking about the ones who don't understand. Do you know what I mean? They don't understand us. They will never understand us. They don't feel the pain that we feel for the land. That's what they don't feel.³¹

- 5.39 Mr Bradley Farrar, a Traditional Owner from Hodgson Downs, similarly questioned the NLC's processes in conducting consultation and obtaining consent:

I don't like the NLC either, because they tell lies every time. There is NLC on your own land that is trying to get you back and destroy what is ours, you know. What is left on the land is ours. Our Dreamtime, our songline—it doesn't stop at one place; it travels. It travels from place to place. It travels far and wide. That's why we're all connected. The NLC don't come to the right people. They go to the wrong people.³²

- 5.40 Aunty Naomi Wilfred, an Alawa Traditional Owner from Minyerri, expressed her view that local decision-making is critical, rather than the decision-making that occurs through the NLC:

What I am about is that local decision-making. It should be on the ground. It should be coming through the right channel, the right TO [Traditional Owner], the right junggayi, right minggirringi. It doesn't matter where we sit; through our land connection, we are connected. Through our songline connection, we are connected... Local decision-making should come through the TO. Here we've got Bradley [Farrar]; he's like TO for Minyerri. I'm like junggayi and darlnyin. There are three that look after that land. When the TO make decisions, it's got to come through us, whether we're going to agree or whether we're going to knock that back. That's why we're worrying about NLC. They should have come and consulted people. But they went out and did their own local decision-making.³³

- 5.41 Mr Fitzpatrick suggested that there are ways in which Traditional Owners can work effectively with the NLC to ensure appropriate representation in negotiations:

If we can fix that top process—for example, if we have a proper vote where we can put our own members in there to make decisions and to go back

³⁰ Nurrdalindi Native Title Aboriginal Corporation, *Submission 18*, p. 3.

³¹ Mr Gadrian Hoosan, Traditional Owner, Borroloola, *Committee Hansard*, 23 March 2022, p. 3.

³² Mr Bradley Farrar, Traditional Owner, Hodgson Downs, *Committee Hansard*, 23 March 2022, p. 2.

³³ Aunty Naomi Wilfred, Traditional Owner, Minyerri, *Committee Hansard*, 23 March 2022, pp. 7–8.

and talk to the right people or the families. There is a way where we can still work with the NLC, if we do it properly and get it back to the way it was originally—the way it was supposed to be.³⁴

- 5.42 The NLC has previously responded to this evidence and representatives reaffirmed the Land Council's commitment to fulfilling its statutory obligations under relevant legislation:

We are confident that we perform our statutory functions and duties in accordance with the requirements under the legislation of both the Native Title Act and the Aboriginal Land Rights Act.³⁵

- 5.43 The NLC explained its process of consultation, including the initial step of:

...identifying the relevant traditional Aboriginal owners or native title holders for that area. This process involves the anthropological team undertaking a review of relevant Federal Court native title determinations, reports of the Aboriginal Land Commissioner and other NLC records.

This is a time-consuming process because the area of interest for consultation purposes may not correspond to the boundaries of an Aboriginal Land Trust or native title determination. Further, while the native title determinations identify the native title holders for the entire determination area, they do not identify the native title holders for specific parts of a determination area.³⁶

- 5.44 In relation to FPIC, Mr Greg McDonald, the NLC's Branch Manager for Resources and Energy, emphatically stated:

We want traditional owners to make decisions based on good information following the principle of free, prior and informed consent... We make it clear that we're here to give traditional owners information and, on the basis of that information, decisions can be made by traditional owners without coercion or influence. They have the right to withhold consent; they have the right to refuse consent.³⁷

Top End (Default PBC/CLA) Aboriginal Corporation

- 5.45 In the 46th Parliament, Traditional Owners and Native Title holders also raised concerns about the representation provided by the Top End PBC. The Nurrdalini Corporation, for example, expressed strong opposition to representation under the Top End PBC framework:

The Top End (Default) Prescribed Body Corporate (TED PBC) is not able to adequately represent anyone. There is no effective PBC (or other regional

³⁴ Mr Nicholas Fitzpatrick, Traditional Owner, Borroloola, *Committee Hansard*, 23 March 2022, p. 15.

³⁵ Mr Greg McDonald, Branch Manager, Resources and Energy, Northern Land Council, *Committee Hansard*, 22 March 2022, p. 17.

³⁶ Northern Land Council, answers to questions on notice, 22 March 2022 (received 1 April 2022), pp. 2–3.

³⁷ Mr Greg McDonald, Branch Manager, Resources and Energy, Northern Land Council, *Committee Hansard*, 23 March 2022, p. 19.

governance forum) in our region or anywhere in the Top End. We have no say in or control over the TED PBC, yet the NLC still claims it speaks on behalf of our people and country.

The TED PBC is just the NLC Executive Council with another name... Native title holders cannot requisition a meeting of the TED PBC or exercise any of the other protections that PBC members elsewhere in Australia have under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*. An arrangement like this is not tolerated anywhere else in Australia, and it is doubtful it is even lawful.³⁸

- 5.46 Mr Joe Martin-Jard, then Chief Executive Officer of the NLC, stated that the NLC would respect and support any Federal Court of Australia determination of an alternative 'prescribed body corporate'.³⁹
- 5.47 The Nurrdalindi Corporation contended, however, that its efforts to be appointed as the 'prescribed body corporate' for Native Title holders in the Beetaloo had been obstructed by the NLC:

For months, Beetaloo Sub-basin native title holders requested the NLC to meet and discuss our concerns. The NLC chose not to respond at all. When we then began organising our own meeting, we asked the NLC for help, in order to make sure it was as fully notified as possible, and we invited them to come and speak to the meeting. They chose not to respond to these requests and invitations as well. So we went ahead with our meeting, and at the meeting we believed we properly decided, to set up Nurrdalindi and to have it replace the NLC/TED PBC arrangement.

The NLC's initial response was a rude and disrespectful letter. Then when we started the proceedings, we were met with claims from the NLC's lawyers that the meeting had been insufficiently notified, that it was not well attended enough and that we had not used a correct traditional decision-making process (without any indication of how they thought we should have made the decisions). The NLC told us that unless we discontinued the proceedings they would seek orders that "costs incurred up to 4:00 pm (AEDT) on Monday, 15 February 2021, be paid on the usual basis but costs incurred thereafter be paid on an indemnity basis". Against that pressure, one of the applicants wrote to our lawyer (copying in the NLC's lawyer) saying he wanted to withdraw and also resign from Nurrdalindi. The remaining applicants felt they had no choice but to discontinue at that point, even though we didn't agree with the arguments the NLC had raised.

This means Beetaloo Sub-basin native title holders remain stuck with the NLC/TED PBC arrangement, under which we have no ability to manage

³⁸ Nurrdalindi Aboriginal Corporation, answers to questions on notice, 22 March 2022 (received 31 March 2022), pp. 5–6.

³⁹ Mr Joe Martin-Jard, Chief Executive Officer, Northern Land Council, *Committee Hansard*, 22 March 2022, p. 12.

our own business, and the NLC continues to make no efforts that we are aware of to help us replace it.⁴⁰

Committee view

- 5.48 In both the 46th and 47th Parliaments, the committee heard that legislated consultation processes are either failing, or perceived to be failing, some of the Traditional Owners and Native Title holders in the Beetaloo. The committee acknowledges the complexity in identifying who must be consulted for consent purposes. However, in the committee's view, this appears to be a long-standing, deeply-rooted and highly contentious issue that must be more fully investigated and resolved.
- 5.49 The committee also heard that the tensions noted above have been replicated in the operations of the Top End PBC, where, as at the time of writing, several members of the NLC hold membership.⁴¹
- 5.50 Given the concerns expressed by the Nurrdalindi Corporation, the committee is of the view that the NLC and the Top End PBC must work more constructively with the Traditional Owners and Native Title holders in the Beetaloo, to ensure that there is a common understanding of who must be consulted in relation to proposed gas activities and to ensure that the principles of FPIC are properly recognised and implemented.
- 5.51 In the committee's view, this will involve region-wide, on Country consultations with all potentially affected groups and the provision of timely, up-to-date and accessible information about proposals affecting 'Aboriginal Lands' and native title rights and interests. It should also include respectful discussions concerning the ongoing suitability of the Top End PBC as the 'prescribed representative body' for the Beetaloo.

Recommendation 10

- 5.52 **The committee recommends that the Northern Land Council and the Top End (Default PBC/CLA) Aboriginal Corporation RNTBC collaborate with Native Title holders and Traditional Owners in the Beetaloo:**
- **to implement the principles of Free, Prior and Informed Consent in all decisions relating to gas exploration and production in the Beetaloo; and**
 - **if requested, to formulate a plan to establish a new prescribed body corporate for Traditional Owners with native title interests and rights in the Beetaloo.**

⁴⁰ Nurrdalindi Native Title Aboriginal Corporation, answers to questions on notice, 22 March 2022 (received 31 March 2022).

⁴¹ Northern Land Council, ['Our Council'](#) (accessed 23 March 2023); PBC, ['Top End \(Default PBC/CLA\) Aboriginal Corporation RNTBC'](#) (accessed 23 March 2023).

NT Government's level of engagement

5.53 First Nations people and pastoralists continued to voice concerns about the NT Government's level of engagement with them with respect to development of the gas industry in the Beetaloo. A key concern was the lack of information provided to Traditional Owners and Native Title holders to enable them to assess activity proposals and make informed decisions, including about consent.⁴² The Nurrdalinji Corporation submitted, for example:

Neither the Federal or NT government, the NLC or any gas companies have attempted to give us information about the combined or cumulative impact of fracking proposed for the Beetaloo Sub-basin.⁴³

5.54 Ms McDinny said:

We've never seen the Northern Territory government coming to the community and talking to us. We never see any of them coming... We've never seen any of the government coming out to talk to people. We could have talked to them then. We don't see any of them. They go to other communities, but not to Borrooloola.⁴⁴

5.55 Rallen's Mr Langenhoven also reflected on the NT Government and gas industry's lack of engagement, indicating that neither truly understands pastoralists' concerns about fracking in the Beetaloo:

Millions of dollars have been spent by the government and the industry to justify why they can coexist, but no money has been spent on going to the pastoralists to find out what needs to be done to coexist. No-one's come to any of the properties, so how can they coexist? It's just been assumed, and reports have been written to say that they can. No-one has come and asked that question directly.⁴⁵

5.56 To illustrate his point, Mr Langenhoven gave evidence that Rallen, a multi-million-dollar company, had written to the then NT Minister for the Environment, the Hon Eva Lawler MLA, eight or nine times in relation to breaches of an Environment Management Plan by oil and gas companies operating on his property. Minister Lawler's responses did not begin to address his grievances: 'the same reply: no commitment, no looking into it, no trying to do something. It's up to us to make sure that we regulate it'.⁴⁶

⁴² Note: these comments were also levelled at gas companies, see, for example: Mr Nicholas Fitzpatrick, Traditional Owner, Borrooloola, *Committee Hansard*, 23 March 2022, p. 6.

⁴³ Nurrdalinji Native Title Aboriginal Corporation, answers to questions on notice, 22 March 2022 (received 31 March 2022), pp. 5-6.

⁴⁴ Ms Nancy McDinny, Traditional Owner, Borrooloola, *Committee Hansard*, 23 March 2022, p. 14.

⁴⁵ Mr Pierre Langenhoven, Director, Rallen Australia Pty Ltd, *Committee Hansard*, 22 March 2022, p. 35.

⁴⁶ Mr Pierre Langenhoven, Director, Rallen Australia Pty Ltd, *Committee Hansard*, 22 March 2022, p. 42. Also see: Rallen Australia Pty Ltd, answers to questions on notice, 22 March 2022 (received 24 March 2022).

- 5.57 Mr Langenhoven also questioned the Morrison Government's approach to consultation with key pastoral stakeholders:

I actually personally wrote a letter to [the then Minister for Resources and Water] Mr Keith Pitt to ask if it was possible that I could air my views with him. I got a reply back three weeks later saying he's too busy with ministerial activities to have a meeting with me, but two weeks later [Minister Pitt and the then Minister for Industry, Energy and Emissions Reduction, the Hon. Angus Taylor] were on a jet to Empire [Energy]'s well site to have a look. So [Minister Pitt] was in the territory. He could have spoken to us. He flew back to Darwin, had dinner and went back to Canberra. Pastoralists are big stakeholders in the Beetaloo basin, but it's not, 'Yes, I'll make an appointment, I'll try and see you,' just, 'Too busy'.⁴⁷

NT departmental response

- 5.58 Mr Paul Purdon, the Executive Director of Environmental Assessment and Policy at the NT Department of Environment, Parks and Water Security (DEPWS), outlined the measures taken by the NT Government to ensure appropriate engagement and consultation with relevant stakeholders:

A range of measures exist or have been implemented to ensure community and stakeholders are appropriately informed of onshore gas activities and their regulation and engage in decision-making processes...such as the consultation requirements under the Aboriginal Land Rights Act and the 'right to negotiate' provisions under the Native Title Act. I've mentioned the mandate that [the Aboriginal Areas Protection Authority] certificates are required, which means that custodians must be consulted in relation to the development. There's also the right that pastoralists have to enter into a land access agreement with gas companies, which is being put into place under new petroleum regulations.

In particular, under the environment regulations, all environment management plans in relation to drilling and fracking are published online for public comment for 28 days... And there will be further public consultation requirements should environmental assessment be required under the Environment Protection Act.

Broad community engagement is also being pursued through a community engagement and information program, to be delivered by CSIRO's land and water division, based in Darwin.⁴⁸

- 5.59 When legislative and operational concerns about the consultation process were put to DEPWS representatives, Ms Amy Dennison, Executive Director of Environmental Regulations, replied that the NT Government had neither reviewed the process, nor did it intend to:

⁴⁷ Mr Pierre Langenhoven, Director, Rallen Australia Pty Ltd, *Committee Hansard*, 22 March 2022, p. 42.

⁴⁸ Mr Paul Purdon, Executive Director, Environmental Assessment and Policy, Department of Environment, Parks and Water Security (DEPWS), *Committee Hansard*, 22 March 2022, p. 71.

The position of the Northern Territory government is that we don't think there needs to be further inquiries into this matter. The extent of stakeholder engagement [under the current law is already] extensive.⁴⁹

Committee view

5.60 The committee heard that the NT Government is not sufficiently engaging with Traditional Owners, Native Title holders and pastoralists in relation to proposed gas developments in the Beetaloo. Those activities will directly impact these stakeholders and more broadly, communities within the region. In the committee's view, the government should be setting a respectful and exemplary standard, which will also have the benefit of better informing government policy.

Recommendation 11

5.61 The committee recommends that the Northern Territory Government takes steps to ensure that the perspectives and interests of people working and living in the Beetaloo, including First Nations people and pastoral interests, are respected and upheld throughout the decision-making frameworks for petroleum and environmental approvals.

Protection and preservation of cultural heritage

5.62 As noted in Chapter 3, the Australian Government is partially responsible for cultural heritage protection in the Territory. The NT Government also has responsibilities under the *Aboriginal Sacred Sites Act 1989* (NT) (Sacred Sites Act) and the *Heritage Act 2011* (NT).

5.63 Several stakeholders raised the issue of cultural heritage protection in the Beetaloo.⁵⁰ For example, Ms Baldwin from GetUp commented:

There are a lot of issues with the Native Title Act that have been raised over many, many years, particularly the issue of cultural heritage... We have such a unique cultural heritage here. Protection of cultural heritage shouldn't be part of the mining corporation funding agreements. We should be able to do that as a standard first and then talk about whatever business, industrialisation or mining people want to get on with.⁵¹

5.64 The Sacred Sites Act establishes the Aboriginal Areas Protection Authority (the Authority), one of whose key functions is:

⁴⁹ Ms Amy Dennison, Executive Director, Environmental Regulations, DEPWS, *Committee Hansard*, 22 March 2022, p. 77. Also see: Interim Report, Recommendation 4.

⁵⁰ See, for example: Mr Johnny Wilson, Chairperson, Nurrdalindi Native Title Aboriginal Corporation, *Committee Hansard*, 22 March 2022, pp. 22 and 29, respectively.

⁵¹ Ms Larissa Baldwin, Director, First Nations Justice, GetUp, *Committee Hansard*, 22 March 2022, p. 22.

...to facilitate discussions between custodians of sacred sites and persons performing or proposing to perform work on or use land comprised in or in the vicinity of a sacred site, with a view to their agreeing on an appropriate means of sites avoidance and protection of sacred sites.⁵²

5.65 Dr Benedict Scambary, Chief Executive Officer of the Authority, presented a statement from the Authority's Chairman, Mr Bobby Nunggumbjarr:

We are concerned about onshore gas development in the Beetaloo but the munanga sacred sites law is strong and we work with custodians to make sure their sacred sites are protected. We worry about water. One third of the 15,000 sacred sites we have recorded in the Northern Territory are sacred water places [surface and groundwater]. We worry about access to sacred sites and that lack of access will interrupt our culture. We worry about resources. We are a small organisation and the task of sacred site protection in the Beetaloo basin is a big job. We want the gas industry to continue to walk with us and do the right thing. We want the government to make strong decisions that respect our rights and that respect our sacred sites. Our country, this country, deserves nothing less.⁵³

5.66 Dr Scambary highlighted resourcing issues that he indicated detract from the Authority's ability to appropriately assess areas within the Beetaloo: 'bit by bit we are gaining coverage of areas of prospectivity in the Beetaloo, but we don't have the resources *per se* to go and map the entire area'.⁵⁴

5.67 Regarding the extent of known sites in the Beetaloo, the Authority advised:

Within the Beetaloo Sub-Basin, the Authority has records of 80 sacred sites, of which 45 are known to be water-related... [T]here are likely to be many additional sacred sites in the Beetaloo Basin...but as the area has not been completely surveyed, some sacred sites are not yet recorded by the Authority.⁵⁵

5.68 Dr Scambary highlighted also that 'there are water places in the Beetaloo basin that are both surface-water and groundwater related'.⁵⁶

5.69 The EDO raised concerns specifically about sub-surface features of sacred sites. Its submission noted Pepper Inquiry Recommendation 11.3: 'that the Sacred

⁵² Northern Territory Aboriginal Sacred Sites Act 1989 (NT), paragraph 10(a).

⁵³ Dr Benedict Scambary, Chief Executive Officer, Aboriginal Areas Protection Authority, *Committee Hansard*, 22 March 2022, p. 44.

⁵⁴ Dr Benedict Scambary, Chief Executive Officer, Aboriginal Areas Protection Authority, *Committee Hansard*, 22 March 2022, p. 44.

⁵⁵ Aboriginal Areas Protection Authority, answer to questions on notice, 22 March 2022 (received 1 April 2022), p. 2. Also see: The Scientific Inquiry into Hydraulic Fracturing in the Northern Territory, 'Final Report', April 2018, p. 281, which noted that the records held by the Authority 'represent a fraction of sacred sites in the NT [and the Beetaloo], with vast numbers yet to be documented'.

⁵⁶ Dr Benedict Scambary, Chief Executive Officer, Aboriginal Areas Protection Authority, *Committee Hansard*, 22 March 2022, p. 45.

Sites Act be amended to protect all sub-surface features of a sacred site'.⁵⁷ The EDO did not accept the Authority's legal advice that no legislative amendments are required. In the EDO's view, 'the government has opted not to implement this recommendation', despite the Pepper Inquiry considering that the matter should be put beyond doubt.⁵⁸

5.70 The Pepper Inquiry also supported 'a thorough assessment of cultural impacts...prior to the granting of any production approvals'. The inquiry recommended:

That a comprehensive assessment of the cultural impacts of any onshore shale gas industry must be completed prior to the grant of any production approvals. The cultural assessment must:

- be designed in consultation with Land Councils and [the Authority];
- engage traditional Aboriginal owners, native title holders and the affected Aboriginal communities, and be conducted in accordance with world-leading practice; and
- be resourced by the gas industry.⁵⁹

5.71 According to the NT Government, this recommendation is 75 per cent complete and completion had been expected by the end of 2022, as part of the Strategic Regional Environmental and Baseline Assessment work program.⁶⁰

5.72 In October 2021, following the destruction of the Juukan Gorge, the Joint Standing Committee on Northern Australia handed down its final report, *A Way Forward*.⁶¹ This report contained eight recommendations, including a new legislative framework for cultural heritage protection at a national level. The government has committed to implementing seven of these recommendations, the only recommendation that the government has not committed to implementing is Recommendation 1. The implementation of all the recommendations in this report will be significant in protecting cultural heritage, not only in the Beetaloo, but right across the country.

⁵⁷ The Scientific Inquiry into Hydraulic Fracturing in the Northern Territory, 'Final Report', April 2018, Recommendation 11.3, p. 39.

⁵⁸ Environmental Defenders Office, *Analysis of the NT Government's implementation of the Fracking Inquiry Recommendations*, p. 30 (tabled 22 March 2022).

⁵⁹ The Scientific Inquiry into Hydraulic Fracturing in the Northern Territory, 'Final Report', Recommendation 11.8, April 2018, p. 293.

⁶⁰ NT Government, '[Action items](#)' (accessed 13 March 2023).

⁶¹ Joint Standing Committee on Northern Australia, *A Way Forward: Final report into the destruction of Indigenous heritage sites at Juukan Gorge*, October 2021.

Committee view

5.73 The committee understands that the extent and nature of sacred sites in the Beetaloo has not been comprehensively mapped. These knowledge gaps could lead to inadvertent and irreparable damage to the sites by shale gas developments, and ultimately operations, in the region. In particular, the committee notes that there are sacred sites—or in the words of Dr Scambary ‘water places’—that are related to groundwater. The committee agrees with Pepper Inquiry Recommendation 11.3 and expresses its concern that there might be inadequate protection of these sub-surface sites.

Recommendation 12

5.74 The committee recommends that the Northern Territory Government increase funding for the Aboriginal Areas Protection Authority, to enhance the identification, management and protection of sacred sites (including their sub-surface features) within the Beetaloo Sub-basin.

Recommendation 13

5.75 The committee recommends that the Northern Territory Government strengthen the *Northern Territory Aboriginal Sacred Sites Act 1989* (NT) to enable stop work orders where sacred sites are at risk of damage or destruction.

5.76 Throughout the 46th and 47th Parliaments, the committee heard that the development of a gas industry in the Beetaloo will create enormous economic opportunities for the NT and Australian economies. The committee also heard that some of this financial benefit should be returned to the Beetaloo and its communities. In the committee’s view, one way by which this could be achieved would be to invest in the protection of cultural heritage.

Australian Government partnerships with First Nations people

5.77 For nearly 30 years, multiple stakeholders have argued that there is a need to strengthen Australian cultural heritage protection laws.⁶² In October 2020, Professor Graeme Samuel, in the second statutory review of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) (the Samuel Review), reported:

The EPBC Act is not fulfilling its objectives as they relate to the role of Indigenous Australians in protecting and conserving biodiversity, working in partnership with and promoting the respectful use of their knowledge.⁶³

⁶² See, for example: Hon Elizabeth Evatt AC, [Review of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984](#), Minister for Aboriginal and Torres Strait Islander Affairs, 1996, (accessed 13 March 2023).

⁶³ Professor Graeme Samuel, [Independent Review of the EPBC Act, Final Report](#), Department of Agriculture, Water and the Environment, October 2020, p. 6 (accessed 13 March 2023).

5.78 Professor Samuel found that one key reason why the EPBC Act is not fulfilling these objectives is:

There is a culture of tokenism and symbolism. Indigenous knowledge or views are not fully valued in decision-making. The Act prioritises the views of western science, and Indigenous knowledge and views are diluted in the formal provision of advice to decision-makers.⁶⁴

5.79 In late 2021, the former Australian Government announced an ‘historic partnership with the First Nations Heritage Protection Alliance to strengthen safeguards for Aboriginal and Torres Strait Islander heritage’ (the Partnership Agreement). The purpose of the Partnership Agreement is:

...to establish a Joint Working Group to develop advice on options to implement changes for modernising Aboriginal and Torres Strait Islander cultural heritage protections.⁶⁵

5.80 In late 2022, following the Albanese Government’s response to the Samuel Review, as well as its response to the destruction of Juukan Gorge,⁶⁶ the Partnership Agreement was extended to restate its purpose and outcomes, including:

5(i) continue the current consultation process undertaken through the Partnership with a view to finalising by 30 May 2023 a recommendation to the Minister for comprehensive stand-alone legislation to better manage and protect First Nations cultural heritage.

(ii) plan and conduct further consultation on policy and implementation detail from April to December 2023.⁶⁷

Committee view

5.81 The committee welcomes steps to strengthen cultural heritage protections and most especially, the development of those laws in partnership with First Nations people, who have lived on and cared for the lands and waters for tens of thousands of years. The committee looks forward to the introduction of the first tranche of reforms, as announced, in mid-2023.

⁶⁴ Professor Graeme Samuel, *Independent Review of the EPBC Act, Final Report*, Department of Agriculture, Water and the Environment, October 2020, p. 57.

⁶⁵ Australian Government and First Nations Heritage Protection Alliance, [Partnership Agreement with Australian Government and First Nations Heritage Protections Alliance on Indigenous Cultural Heritage](#), 29 November 2021 (accessed 13 March 2023). Also see: Hon Sussan Ley MP, Minister for the Environment, and the Hon Ken Wyatt AM MP, Minister for Indigenous Australians, ‘Government signs First Nations Alliance Partnership’, *Media release*, 29 November 2021.

⁶⁶ Australian Government, [Australian Government response to the Joint Standing Committee on Northern Australia](#), November 2022 (accessed 13 March 2023).

⁶⁷ Commonwealth of Australia and the First Nations Heritage Protection Alliance, [Agreement between the First Nations Heritage Protection Alliance and the Commonwealth of Australia to establish a co-design partnership on cultural heritage reform](#), 2022 (accessed 13 March 2023).

Recommendation 14

5.82 The committee recommends that the Australian Government, in collaboration with the First Nations Heritage Protection Alliance and the Northern Territory Government, as part of the modernisation of Aboriginal and Torres Strait Islander cultural heritage protections, develop a requirement for activity proponents to provide a comprehensive cultural impact assessment for proposed gas production activities.

Concluding comments

- 5.83 Over the course of nearly two years, the committee received considerable information and heard a range of views concerning the development of a shale gas industry in the Beetaloo.
- 5.84 After multiple announcements and funding commitments, the Australian Government's plan to 'unlock' the vast gas reserves in the Beetaloo has not lost momentum.
- 5.85 For some committee members, it is difficult to reconcile this position with the Albanese Government's recent actions to protect and conserve Australia's environment.
- 5.86 The committee acknowledges that those actions—intended to turn around Australia's lost decade of adverse environmental outcomes—are long overdue and signal that the Australian Government is now prepared to acknowledge and address environmental issues in a significant and meaningful way.
- 5.87 On this point, the committee draws attention to the volume of greenhouse gases that are predicted to be emitted from gas production in the Beetaloo, in addition to GHGs that are and would be emitted from other gas projects around Australia. On most assessments, the volumes are staggering.
- 5.88 In the committee's view, it would seem a natural corollary of the *Climate Change Act 2022* and Australia's recent international commitments under the Paris Agreement, to ensure that lifecycle GHG emissions generated by shale gas development in the Beetaloo are fully addressed.
- 5.89 In addition, in the 46th and 47th Parliaments, stakeholders emphasised their concerns about the multiple potential impacts of gas exploration and production, including in relation to precious water resources. In the driest continent on Earth, this is not a trivial concern. It raises very serious questions concerning the sustainability of life and livelihoods in the territorial centre, as well as risking irreversible damage to the culture and identity of First Nations people. These are concerns that merit the utmost attention.
- 5.90 In addition to these environmental concerns, there is a deeply human element to 'unlocking' gas reserves in the Beetaloo. While certain corporations and local interests, the wider Territory, and the nation as a whole might benefit economically from gas extraction, many local communities in and around the

Beetaloo are bearing, and will continue to bear, the brunt of exploration and production activities. From increased road usage to damage of personal property and to Country, it is not clear that the broader benefits will outweigh these disadvantages. The committee believes it is incumbent on development proponents to clearly identify and articulate the benefits, and ensure they are shared more broadly across the region.

5.91 The committee commends its report to the Senate.

Senator Sarah Hanson-Young
Chair

Coalition Senators' dissenting report

- 1.1 It is disappointing that the Australian Greens, through the Chair, have decided to continue to wage an ideological crusade against the development of the Beetaloo Sub-basin. This has the potential to provide thousands of jobs and billions in economic benefit to the Northern Territory (NT) as well as the rest of Australia.
- 1.2 New gas supply, including from the Beetaloo, is critical to improving Australia's energy security, potentially remedying long-term gas shortages across the east coast, and supporting the delivery of affordable and reliable energy for Australians. Gas is also critical to Australia's—and the world's—decarbonisation efforts. Prejudicial barriers to gas development in Australia will drive investment and jobs overseas, offshoring projects to higher-emitting markets, and perversely impacting global emissions reduction efforts while Australians miss out on opportunities.
- 1.3 Coalition Senators remain unable to support the majority report, which offers no substantially new evidence or perspectives since the August 2021 Interim Report, and continues to be 'characterised by overtly political and ideological selection of evidence, resulting in biased conclusions and recommendations being made on the basis of unfounded imputations'.¹
- 1.4 Coalition Senators reaffirm their support for the original 'Dissenting Report by Coalition Senators' in the August 2021 Interim Report.

Ideological Nature of Inquiry

- 1.5 It is clear from the Australian Greens' comments made publicly while this inquiry was still underway that its ultimate goal is to halt any development in the Beetaloo, which will prevent the realisation of the jobs and economic benefit that go with it.
- 1.6 On 28 March 2023, Senator Larissa Waters said:

We've derailed the proposed Beetaloo basin gasfield, which I just referred to. We've derailed that mass fracking of that carbon bomb. The reason for that is that the project will now face an extra cost of an estimated \$1 billion a year... This is a huge financial barrier in the way of a project proceeding, by forcing them to be net zero from day one, and it brings its viability into serious question, which we celebrate.²

¹ Senate Environment and Communications References Committee, *Inquiry into oil and gas exploration and production in the Beetaloo Sub-basin, Interim Report*, August 2021, Dissenting report by Coalition Senators, p. 95.

² Senator Larissa Waters, *Senate Hansard*, 28 March 2023, p. 95.

- 1.7 The following day, on 29 March 2023, Senator David Shoebridge added: ‘And here's a big reason to celebrate: we have derailed the Beetaloo and Barossa gasfields’.³
- 1.8 These sorts of comments undermine the credibility of the majority report’s attempt to paint itself as impartial and balanced when dealing with the evidence presented to it.
- 1.9 For example, the majority report chose to air unsubstantiated claims by the Environmental Defenders Office—a legal outfit with a history of attempting to prevent the development of resources projects—that analysis by the appointed independent officer, Dr David Richie, on the progress of the Pepper Inquiry recommendations, was incorrect and that the majority of recommendations allegedly remain incomplete. It did not however expand on the evidence for this claim, or assess its veracity.
- 1.10 As the Australian Petroleum Production and Exploration Association (APPEA) previously pointed out in response to similar claims by the Australia Institute:
- The implementation of the Pepper Inquiry recommendations included the appointment of an independent officer, Dr David Richie. The role of the Independent Officer is to provide the Chief Minister and government with independent advice on how the implementation is progressing and being managed.
- 1.11 The Northern Territory Government reports that 75 per cent of the Pepper Inquiry recommendations have been completed, 25 per cent have commenced, and none are yet to commence. Coalition Senators also note the conclusions of the Pepper Inquiry and support the implementation of its recommendations.
- 1.12 Moral grandstanding about Australia’s gas resources may make the Australian Greens feel better, but shutting down our industries will have the opposite effect they may have hoped for. Were we to shut down our gas production, or refuse to step up to meet demand around the world, those countries that need our resources would just turn to lower-quality, higher-emitting resources from other countries. If Australia withdraws from exporting our gas, the energy security of our allies will be compromised and global emissions will rise.

Economic benefit of the Beetaloo

- 1.13 The economic benefit of unlocking the Beetaloo, as independently assessed, is significant. The Beetaloo Basin is one of our most prospective gas basins and has the potential to be a new world-class gas province. Natural gas provides about a quarter of global primary energy consumption and demand is increasing especially among our trading partners in Asia. As recent international events have shown, gas is an integral part of secure energy supplies and national security.

³ Senator David Shoebridge, *Senate Hansard*, 29 March 2023, p. 102.

- 1.14 As the Minister for Resources and Northern Australia, Madeleine King, said in her speech at the Northern Territory Resources Week Conference in August 2022:

The considerable gas resources of the Beetaloo Sub-basin can deliver reliable gas to Australian businesses and households, and to our regional partners – this is a great opportunity. It is estimated that the development of the Beetaloo will generate thousands of jobs and billions in economic activity over the coming decades.⁴

- 1.15 It is estimated that there are over 200 000 petajoules of shale gas-in-place in the Beetaloo sub-basin, which is a significant resource for Australia and the world. If even a portion of this gas is recoverable, it could supply our entire domestic and export markets for decades. The Commonwealth Government's submission also extols the virtues of developing the Beetaloo:

Developing the Beetaloo presents a tremendous opportunity to drive job creation, stimulate economic growth and increase gas supply, to the benefit of Northern Territory and Australia. The Australian Government's actions in the Beetaloo, including administering the Beetaloo Cooperative Drilling Program [the BCD Program], will help to harness this opportunity, and ensure the benefits associated with development are realised as soon as possible.⁵

- 1.16 Development will support a range of new industries in the NT, including refining and petrochemicals, methanol production and hydrogen production. The Northern Territory Government has been clear in its support for the development of the basin:

Globally significant gas reserves in the Beetaloo Sub-basin could propel advanced manufacturing, domestic supply security and cleaner energy production in Australia, while accelerating multibillion dollar growth in the Territory economy, with long-term global gas supply potentials of international significance.

The Beetaloo Sub-basin, 500km south east of Darwin, covers 28,000 square kilometres and is estimated to contain 500 Trillion cubic feet of gas (P50 gas-in-place resource as estimated by industry). Resource estimations are equivalent to more than 1,000 times the current annual domestic consumption in Australia, or the amount of energy required to drive a car 483 million kilometres.⁶

- 1.17 The Centre for Independent Studies argues that 'the economic opportunity that oil and gas exploration in the Beetaloo Basin will create would enormously benefit Indigenous communities in the area as well as the

⁴ Hon Madeleine King MP, Minister for Resources and Minister for Northern Australia, '[Speech to NT Resources Week conference](#)', 24 August 2022, accessed 19 April 2023.

⁵ Department of Industry, Science, Energy and Resources and Geoscience Australia, *Submission 46*, p. 16.

⁶ Our Territory Gas Strategy, '[Beetaloo Sub-basin](#)', accessed 19 April 2023.

Territory economy as a whole'.⁷ However, any evidence from the Centre for Independent Studies about the benefits and potential to address economic disadvantage in the NT was notably absent from the majority report. Another submission that supports the development of the Beetaloo Basin's gas resources, which was notably absent from the majority report, came from the Australian Workers' Union (AWU):

The AWU supports the development of the Beetaloo Basin's gas resource. The basin has been assessed independently by the Australian Government and Geoscience Australia as highly prospective – with preliminary estimates that there are over 200,000 petajoules of gas in place in the region, equivalent to 100 years of Australia's domestic gas consumption in 2021. Development of the NT's gas resources has potential to create up to 6300 new long-term jobs and provide an additional billion dollars in revenue to the Northern Territory Government over the next 20 years.⁸

1.18 ACIL Allen's report, prepared for the Northern Territory Government, stated:

ACIL Allen projects a shale gas industry development could result in a net real income (a measure of the overall wealth impact of the industry's development) increase of between \$937.2 million (BREEZE), \$2.8 billion (WIND) and \$5.8 billion (GALE) for the Northern Territory over the modelling period, or between \$36 million, \$108.4 million and \$222.2 million per annum.⁹

1.19 APPEA noted that 'the Australian oil and gas industry is already a key component of the Northern Territory economy', with 'related service and supply work for Territorian businesses...worth an estimated total \$100 million per annum to the Territory, with room to expand this further'.¹⁰ The submission also presented analysis by Deloitte Access Economics, which stated:

...Deloitte Access Economics research found that developing the Territory's substantial shale gas resources could create up to 6,300 new long-term jobs and generate up to \$1 billion in additional NT Government revenue over the next 20 years. The report also states that by 2040, the NT's Gross State Product could be between \$5.1 billion and \$7.5 billion higher than the 2012-13 base case in real terms. This represents an increase of between 26 percent and 37 percent on current estimates for the NT economy.¹¹

1.20 The NT's Beetaloo Sub-basin is one of the largest undeveloped onshore gas resources in the world. Development of this resource has the potential to

⁷ Centre for Independent Studies, *Submission 15*, p. 3.

⁸ Australian Workers' Union, *Submission 11*, p. 1.

⁹ See: <https://frackinginquiry.nt.gov.au/news?a=456788> (accessed 19 April 2023).

¹⁰ Australian Petroleum Production and Exploration Association, *Submission 44*, p. 19.

¹¹ Australian Petroleum Production and Exploration Association, *Submission 44*, p. 2.

transform the NT's economy. Northern Territory Labor Minister for Small Business, Paul Kirby, stated:

I know that for the territory to progress — for us to be able to put roads into remote communities, to have schools, to have health centres, to have the right amount of police in the Northern Territory — we need to find more avenues towards our own own-source revenue... The gas industry is certainly one of [those avenues].¹²

- 1.21 Short sighted bans on developing unconventional onshore gas in some other states are coming home to roost. The last thing we need is more onshore gas locked up in the NT. The AWU pointed out that every public scientific inquiry into unconventional gas has concluded it can be safely managed:

Some critics of gas development in the Beetaloo Basin take aim at hydraulic fracturing, or 'fracking', as an industrial process, and have called for a complete ban on this process in any gas developments in Australia. However, every state and territory that has conducted a public scientific inquiry into the safety of fracking — including the Pepper Inquiry in the Northern Territory — has found that all safety environmental risks can be managed effectively.¹³

- 1.22 The Coalition invested over \$305 million in developing the Strategic Basin Plans program, with \$225 million of that investment going towards the Beetaloo Strategic Basin Plan, affirming our commitment to developing and ensuring affordable gas supply for Australia.
- 1.23 The AWU contended that the Beetaloo holds the potential to be treated as a part of the east coast gas market if a meaningful pipeline plan were to be developed. It is disappointing to note then that pipeline funding under the National Gas Infrastructure Plan was cut in the October 2022 Budget by the Labor Government. The AWU also offered public support to the then Coalition Government's BCD Program:

Given the substantial economic gains on offer for the Territory and the country, the Commonwealth Government has sensibly supported explorers in finding prospective projects through the Beetaloo Cooperative Development Program, providing grants of up to \$50 million over 2 years. The AWU submits that this should be expanded to pipeline development to the basin.¹⁴

Beetaloo Cooperative Drilling Program

- 1.24 The BCD Program was a \$50 million grants program designed to boost exploration and development of the Beetaloo sub-basin. The program

¹² J. Breen, J. Hislop and J. Laverty, '[Northern Territory government denies Beetaloo Basin gas plans in doubt despite no federal support for offsets](#)', ABC, 1 March 2023 (accessed 18 April 2023).

¹³ Australian Workers' Union, *Submission 11*, p. 2.

¹⁴ Australian Workers' Union, *Submission 11*, p. 2.

provided grants up to \$7.5 million for companies seeking to conduct exploratory work in the basin.

- 1.25 The Northern Territory Government welcomed the former Commonwealth Government's investment in the BCD Program:

The Northern Territory Government welcomes the [former] Australian Government's recognition of the importance of the Territory to Australia's economic recovery and energy security through the Beetaloo Strategic Basin Plan. The Australian Government's investment in infrastructure and the Beetaloo Cooperative Drilling Program support the development of the Beetaloo Sub-basin for the benefit primarily of Territorians and for Australians.

- 1.26 The Coalition provided three grants totalling \$19.4 million to Imperial Oil and Gas (Imperial), and one grant of \$7.5 million to Sweetpea Petroleum, a subsidiary of Tamboran Resources Limited. A total of \$26.9 in grants was provided under the program. Empire Energy Group Limited, the parent company of Imperial, revealed in its submission that the grant provided an economic multiplier of four:

The grant funding to Imperial will generate economic activity of four times the grant amount in 2021 and 2022, with much of this investment directly benefiting local businesses and traditional owners who will gain employment (such as cultural heritage monitor work) and exploration payments akin to royalties under the exploration agreement between Imperial and the [Northern Land Council].¹⁵

- 1.27 In a speech to APPEA in 2021, then Shadow Minister for Resources, Madeleine King, told the industry that Labor supported the BCD program:

Labor agreed to support the Beetaloo Cooperative Drilling Program Instrument in the Northern Territory. It is important that people are aware that the Beetaloo is a world-class, low-carbon gas basin containing about 3 per cent carbon dioxide... We believe in the science.¹⁶

- 1.28 These grants were honoured by the government, however, the remaining \$23 million allocated towards the program was not extended. Minister King confirmed the budget cut in Parliament on 27 October 2022.¹⁷

- 1.29 The majority report makes mention of the BCD Program case which was before the Federal Court of Australia and in which the judgement was handed down on 23 December 2021. It does not, however, acknowledge that the court found that the legislative instrument that supports the BCD Program was

¹⁵ Empire Energy Pty Ltd, *Submission 26*, p. 6.

¹⁶ Madeleine King MP, Shadow Minister for Resources, '[Speech to APPEA 2021 National Conference](#)', 17 June 2021 (accessed 18 April 2023).

¹⁷ Madeleine King, MP, Minister for Resources and Northern Australia, *House Hansard*, 27 October 2022, p. 2240.

valid. It does not mention that the court also found that the decision to award grants to Imperial was valid.

- 1.30 The Federal Court of Australia also found that there was no basis to conclude that the Commonwealth had acted in bad faith with the intent of stymieing court processes. The court ultimately upheld that the program and the Minister's decision to award grants to Imperial were valid.
- 1.31 Further, while not addressed directly in the majority report, it is worth noting the effects of attempting to shut down the gas industry and the development of the Beetaloo.

Gas Supply and Investment Concerns

- 1.32 With the Australian Energy Market Operator recently triggering the gas supply guarantee for a second time this year in order to stave off a potential gas shortage in Victoria, forecasting shortfalls in our southern states as early as this winter, and larger supply gaps across the east coast market from 2026, it is clear that continued development of new domestic supplies is vital and remains at risk.
- 1.33 The Coalition understands the importance of bringing additional gas supply online, particularly at a time when prices are high and supply is disrupted globally.
- 1.34 Australia's LNG exports are expected to reach over \$90 billion in 2022-23, exporting roughly 83 million tonnes this year. Australian exports supply 21 per cent of the global LNG market and global LNG demand is expected to double by 2040, further highlighting the need to develop further gas supplies.
- 1.35 The International Energy Agency (IEA) *World Energy Outlook* projects that total global oil and gas demand will grow. The IEA confirms that gas will remain an important part of the world's energy mix decades into the future: this means that gas will play a vital role in Australia's energy mix for the foreseeable future.
- 1.36 Oil and gas is not just used for energy, but is critical in the production of a number of vital products in modern society. Gas plays a pivotal role in the production of fertilisers, like ammonia or urea, which in turn sustains the food security of billions of people around the world. Petroleum is also a vital component in the creation of plastics and pharmaceuticals. Our modern lifestyle would not exist without the oil and gas industry. From high-tech manufacturing to the food on our plates, the Australian Greens cannot tell us where they would source these vital inputs that support our way of life.
- 1.37 That is one of the reasons why, by 2040, global LNG demand will have doubled. The question will be whether Australia supplies these commodities to the world, or whether someone else does.

1.38 In the context of currently tight supply and price pressures for gas on the east coast, the ACIL Allen report to the Northern Territory Government identified the potential positive impact of bringing online new supply:

The increase in gas supply to eastern Australia as a result of imports of Northern Territory shale gas under the GALE Case assumptions results in significant and sustained downward pressure on wholesale delivered gas prices.¹⁸

1.39 The experience of the European Union, the United Kingdom and places like California recently demonstrates the wisdom of Coalition’s technology, not taxes, approach to lowering emissions while supporting the development of our rich resources.

1.40 As Japan and Korea demand more gas to fuel their transition, it is in everyone’s interests that our high-quality resources are the first choice for our partners around the world. Japan has publicly called on the Prime Minister to guarantee gas supply over the coming years—it would be both embarrassing and inexcusable if we were to let down our international partners who rely on our natural resources.

1.41 Gas from the NT is already one of the most significant sources of LNG for the Japanese. Recent comments from INPEX, a partly Japanese government owned corporation, by the President CEO, Mr Takayuki Ueda, should highlight the grave concerns our allies and partners have about Australia’s trend towards blocking necessary resources development based on ideology and politics:

The energy policy environment in Australia today appears to be driven almost by ideology and domestic concerns. This gives us great cause for concern... Australia is competing for global investment and the changes we are seeing to Australian policy settings will choke investment and strangle the expansion of LNG projects in this country. In a perverse way, the new policies intended to reduce the impact of climate change will most likely have the opposite outcome.¹⁹

1.42 INPEX’s investment in Australia is the largest ever overseas investment by a Japanese company and, by extension, the largest single Japanese investment in Australia.

1.43 Coalition Senators note with concern the deteriorating environment for investment in gas exploration and production in Australia, the increasing number of investors and allies who are sounding the warning bell, and raising concerns with the use of ideologically motivated inquiries designed primarily to seek the end of a gas industry that is vital to our way of life.

¹⁸ See: <https://frackinginquiry.nt.gov.au/news?a=456788> (accessed 18 April 2023).

¹⁹ J. Grebe, ‘[The very un-Japanese speech that burst Australia’s gas bubble](#)’, *Financial Review*, 6 April 2023 (accessed 19 April 2023).

Middle Arm Development

- 1.44 The committee heard evidence that gas from the 'Beetaloo will be necessary for a full range of industrial purposes at the Middle Arm Sustainable Development Precinct'.²⁰ The Coalition strongly supports economic development in the NT and the jobs and infrastructure investment this growth would bring across the Territory. Coalition Senators note the Northern Territory Government's goal of a \$40 billion economy by 2030 and that central to this ambition is the prospect of not just the development of Beetaloo but the development of the Middle Arm Precinct.
- 1.45 Through the \$7.1 billion Energy Security and Regional Development Plan, \$2.6 billion was set aside for infrastructure projects across the NT to help pave the way for private sector investment in Middle Arm, which the Northern Territory Government has estimated will be in excess of \$16 billion.
- 1.46 The Albanese Government subsequently retained the Commonwealth's commitment to develop Middle Arm. As Minister King said in her speech at the Northern Territory Resource week conference in August 2022:
- I am looking forward to continuing to work closely with the NT Government and with industry to make the Middle Arm Sustainable Development Precinct a reality. Middle Arm is an extraordinarily exciting project within my Northern Australia portfolio, and will be crucial to creating a more resilient supply chain at home while building trade ties with Asia. Together, the Beetaloo and Middle Arm projects will generate considerable economic benefits for Territorians.²¹
- 1.47 Whilst Coalition Senators hold concerns around the Albanese Government's reclassification of some of this expenditure as 'planned equity', the greater risk to the success of developing Middle Arm seems to be from sustained hostility of parliamentarians largely based outside the NT towards creating economic opportunities for Territorians.
- 1.48 Since coming to government, the Albanese Government has willingly given significant concessions to the Australian Greens to secure their support for the Government's legislative agenda. The Australian Greens have previously stated their opposition to the development, that it does not fit with the Government's climate commitments and have threatened to use their 'balance of power' in the Senate to stop this development going ahead.
- 1.49 The Coalition fears that it is a matter of when—not if—the development of Middle Arm becomes a bargaining chip in future negotiations with the

²⁰ Mr Joel Riddle, Managing Director and Chief Executive Officer, Tamboran Resources, *Committee Hansard*, 10 October 2022, p. 2.

²¹ Hon Madeleine King MP, Minister for Resources and Minister for Northern Australia, '[Speech to NT Resources Week conference](#)', 24 August 2022 (accessed 19 April 2023).

Australian Greens, to the detriment of future employment opportunities for Territorians.

Overreach on Safeguard Mechanism and Emissions

- 1.50 Coalition Senators strongly reject any imputation in the majority report that the previous Government did not successfully address emissions reduction or environmental issues in a significant and meaningful way. An honest assessment of the last decade will demonstrate a clear record of success through practical action, rather than just feverish rhetoric.
- 1.51 A successful emissions reduction policy achieves balance—between the environment and the economy, bringing emissions down and growing renewables while maintaining energy security and helping industry thrive. This is at the heart of the Coalition’s successful approach.
- 1.52 The last Coalition Government delivered lower emissions while protecting our economy, jobs and investment, including in critical new gas supplies. Australia’s emissions were reduced to a level 20 per cent lower than they were in 2005 (the baseline for the Paris Agreement) while the economy grew 45 per cent. That was a superior performance to any year under the Rudd and Gillard governments and left Australia’s emissions over 100 million tonnes lower than they would have been under Labor’s own projections about the proposed impact of its carbon tax.
- 1.53 At the time that we left office, we were on track to meet and beat our 2030 Paris target, with projections showing a 30 to 35 per cent reduction. In fact, between 2005 and 2019, Australia reduced our emissions more quickly than Canada, Japan, New Zealand and the United States. As a country, we also beat our 2020 Kyoto target by 459 million tonnes.
- 1.54 The Coalition’s technology-driven Long Term Emissions Reduction Plan set out a credible pathway to net zero by 2050, while preserving our existing industries like the gas sector, establishing Australia as a leader in low emissions technologies, and positioning our regions to prosper. At the time it left office, our government was on track to invest more than \$22 billion in low emissions technologies, driving over \$88 billion of total investment to reduce emissions while growing the economy and creating 160 000 jobs across Australia.
- 1.55 Under the last Coalition Government, Australia’s investment in renewable energy continued to break records with renewables ultimately making up almost one third of our energy mix. Australia also had the world’s highest uptake of rooftop solar, with one in four homes with rooftop solar panels.
- 1.56 More broadly, across governments and the private sector, over \$40 billion was invested in renewable energy in Australia between 2017 and 2021. In 2020

alone, Australia deployed more renewable energy than in the six years of the previous Labor government.

- 1.57 The Coalition Government's green bank also hit its \$10 billion investment milestone, supporting more than 26 000 emissions reduction and energy efficiency projects across Australia. We also made carefully considered and targeted investments in transmission projects to support new renewables coming online, including investing a further \$84 million in microgrids for remote communities.
- 1.58 The Coalition Government introduced the Safeguard Mechanism to limit the growth of emissions in the industrial sector by applying an emissions baseline on 215 of Australia's largest emitters. Emissions reductions were driven by the Emissions Reduction Fund (ERF), which supported voluntary action by landholders, businesses and communities.
- 1.59 The ERF auction in April 2022, saw 7.6 million tonnes of carbon dioxide equivalent (CO₂-e) abatement contracted across the agriculture, vegetation, landfill and water, and industrial sectors. This brought total contracted abatement to 217 million tonnes, at an average of \$17.35 per tonne.
- 1.60 The Coalition's achievements did not require the shutting down of industries or opportunities for Australians but encouraged industry and leveraged our nation's existing strengths.
- 1.61 Conversely, the Labor-Greens' approach to emissions reduction is punitive, and a significant risk to our industries, particularly the gas sector. Labor's changes to the Safeguard policy will force facilities to reduce their emissions by up to 4.9 per cent each year, regardless of whether the technology exists for them to do so. Failure to meet the government's emissions targets or purchase the necessary amount of offsets will see a business fined \$275 per tonne.
- 1.62 Labor's policy fails to factor in the challenges faced by industries, such as steel, lime and cement production, where emissions are produced in the manufacturing process and can't be abated in the timeframe set by the government.
- 1.63 The additional introduction of an emissions ceiling following this government's 11th hour backroom negotiations with the Greens, a cap of 1233m tonnes of CO₂ by 2030, effectively acts as a hard limit on any significant new projects to enter the market at a time when power bills are rising and cost-of-living pressures are being felt across the economy.
- 1.64 Labor's Safeguard deal with the Greens changes the goalposts for gas developments, including in the Beetaloo, despite new gas supplies being critical to Australia's energy security. The treatment of new gas fields supplying existing facilities as 'new facilities' with a net zero requirement puts additional hurdles in place for new gas development. At the least, it is a

disincentive to investment, at worst, it will make it economically impossible for proponents to expand existing projects.

- 1.65 The Government's Safeguard agreement with the Greens specifically targets the Beetaloo to offset Scope 3 emissions—a world-first imposition that the Grattan Institute's Tony Wood has described as 'the weirdest thing I have ever come across' which would 'have significant financial implications'.²²
- 1.66 As Greens Leader Adam Bandt told *The Guardian*, the deal 'puts 'significant hurdles' in the way of new projects including development of the vast Beetaloo gas basin in the Northern Territory, with up to \$1bn a year in costs to offset its emissions enough to 'derail' the business case for the project'.²³
- 1.67 The need for an ample supply of cheap, reliable gas projects has never been greater, but the Labor-Greens' Safeguard Mechanism hamstringing new entrants by limiting their ability to meet aggressive climate targets, ensure ample supply is made available for consumers, and to remain profitable.

Environmental Record

- 1.68 In the sphere of environment policy specifically, the majority report reflects a confused set of priorities, as well as a deeply partisan view of recent decision making and actions at the federal level in Australia.
- 1.69 In parts, it acknowledges that processes are already well underway to significantly alter national environmental and cultural heritage protection laws and it talks about the importance of these. Yet, in other parts, it proposes overriding and/or actively pre-empting these processes.
- 1.70 We do agree with the broad implication in the report that the response to the Samuel Review of the *Environment Protection and Biodiversity Conservation Act 1999*, and the support of the work of the First Nations Heritage Protection Alliance, are stalling badly under Labor. Nevertheless, they should still ideally be allowed to run their course rather than being supplanted by radical new policy directions in these areas.
- 1.71 Arguably most worryingly of all, the majority report raises the prospect of blocking economic activity in the Beetaloo on the basis that, at some unspecified time in the future, it is conceivable that further 'matters of national environmental significance' might be identified in the area. This is not a realistic or sound foundation on which to make and implement government policies and decisions. This approach also misunderstands that environmental

²² J. Greber and M. Ludlow, '[In 'world first', Beetaloo carbon emissions land on states, consumers'](#)', *Financial Review*, 28 March 2023 (accessed 19 April 2023).

²³ P. Karp, '[Labor agrees to absolute cap on emissions to secure Greens backing for safeguard mechanism climate bill'](#)', *The Guardian*, 26 March 2023 (accessed 19 April 2023).

protection and economic growth are not, by any means, always mutually exclusive objectives.

- 1.72 In short, this approach (which is referenced in paragraph 3.8 of the majority report) is seriously flawed and, if translated into policy and/or law, it would be economically and socially catastrophic. If it was ever to be applied on a uniform basis, it would wipe out most forms of economic development, wealth creation and job generation in Australia.
- 1.73 Likewise, it fails to take into account that the goals of dramatically raising their environmental consciousness, and practically improving the environments in which they operate, have long been central to the work of many companies across Australia.
- 1.74 Similarly, in government, the Coalition delivered a myriad of successful environmental policies, programs and outcomes, as well as unprecedented investments. Across the nation as a whole, the \$200 million Environment Restoration Fund protected, preserved and restored our iconic natural landscapes. In turn, the Morrison Government enhanced Australia's network of national parks in many different forms, including by investing over \$233 million in upgrades.
- 1.75 At a wider level, we also initiated the Samuel Review, having recognised the need to substantially improve the key piece of federal environmental legislation, the *Environment Protection and Biodiversity Conservation Act 1999*. Before leaving office, we had released a response to the Samuel Review, and developed comprehensive National Environmental Standards and legislation to implement the key components of that response. Regrettably, these were blocked by non-government parties.
- 1.76 Similarly, we instigated (and significantly funded, in the 2021-22 Budget) work on reviewing and modernising Indigenous cultural heritage laws.
- 1.77 Regrettably, in paragraph 5.86, the majority report (in defiance of the points above, and many others) makes a completely erroneous claim about the Coalition's years in government. Naturally, this is not backed by any practical evidence in the report.
- 1.78 Given that the majority report makes the Coalition's performance in the Environment portfolio a partisan issue, this invites us to make some reflections about the record—by contrast—of the Albanese Government since it came to power.
- 1.79 Accordingly, it should be observed that it is, to date, impossible to identify noteworthy national achievements from the Albanese Government in this portfolio. Furthermore, funding has been dramatically slashed in the Environment portfolio across a wide variety of fronts. Numerous important initiatives and funding measures that were in place under the Coalition for

environmental protection across Australia have been terminated and/or mismanaged.

- 1.80 In fact, as is revealed on pages 193-194 of Budget Paper 1 from this Labor Government's first Budget, the Environment Minister, Tanya Plibersek, has staggeringly presided over the cutting of net federal environment protection funding measures of around \$1 billion (from 2022-23 to 2025-26) since she was appointed to her role.²⁴

Water Trigger

- 1.81 Since it was included in the EPBC Act—at the instigation of the then Member for New England, Tony Windsor MP—during the years of the Rudd and Gillard governments—a range of problems and concerns have arisen in relation to the application and workability of the water trigger. In turn, there are a wide variety of views about the trigger and how it should (or should not) be used in the future.
- 1.82 Against this background, the majority report notes that the Albanese Government is currently considering its options on amending the operation of the water trigger as part of its response to the Samuel Review. It also notes that the Government has foreshadowed that it may make some far-reaching changes as part of that work, including expanding the remit of the existing water trigger to all forms of unconventional gas.
- 1.83 Coalition Senators are particularly concerned about Labor's potential changes to the water trigger. Indeed, in our time in government, we did not support the trigger's application to unconventional forms of gas. We also believe that less federal intervention and an increased role for the States and Territories in this policy area (and, accordingly, reduced duplication across different levels of government) is likely to deliver better results.
- 1.84 However, in the short term, we also believe it would be sensible to wait for Labor's processes to conclude and to then assess their proposed alterations—rather than supporting the majority's desire to make immediate changes and thereby generate further confusion.

Excerpts from the Samuel Review

- 1.85 In relation to the water trigger, it should also be noted that the majority report focuses on the findings of the Pepper Inquiry in this context, yet essentially ignores the findings of the Samuel Review. We have included below a number of excerpts from the Samuel Review that consistently make the point that the Commonwealth's role in this area should be reduced rather than increased, not

²⁴ Commonwealth of Australia, Budget Measures: Budget Paper No. 1 2022–23, October 2022, pp. 193–194.

least because it is the States and Territories themselves that are generally more sensibly vested with these responsibilities.

Recommendation 1: Matters of national environmental significance should be focused on Commonwealth responsibilities for the environment. a) The water MNES (section 24D/24E) should be amended to apply only to cross-border water resources. Any action that is likely to have a significant impact on cross-border water resources should be subject to the trigger. Restrictions should be removed where they prevent other parties from being accredited to undertake approvals of proposals assessed under the water trigger. This amendment should occur in the second tranche of reforms;

Recommendation 18: Commonwealth assessment pathways should be rationalised to enable a risk-based approach to assessments that is proportionate to the level of impact on matters protected by the EPBC Act;

Many of the suggestions about the Commonwealth taking on a broader role reflect a lack of trust that States and Territories will manage these elements well. The Review does not agree with suggestions that the environmental matters the EPBC Act deals with should be broadened. The remit of the Act should not be expanded to cover environmental matters that are State and Territory responsibilities. To do so would result in muddled responsibilities, further duplication and inefficiency. Unclear responsibilities mean that the community is less able to hold governments to account;

The States and Territories have constitutional responsibility for managing their water resources. This responsibility is reflected in the National Water Initiative, which is the intergovernmental agreement that sets out the respective roles of jurisdictions in water management and the water reform agenda they have collectively agreed to pursue;

Direct or indirect changes to water resources that have a potential to impact protected matters have always triggered the EPBC Act and should continue to do so;

In its leadership role, the Commonwealth should continue to transparently report on the progress made by jurisdictions in advancing commitments to manage water under the National Water Initiative;

To reduce the complexity of the regulatory process, the pathways for assessing proposals should be rationalised;

Reducing duplication in development assessment and approval is a sound ambition, and one that governments should continue to pursue. The Review recommends that the EPBC Act should enable the Commonwealth Government to recognise and accredit the regulatory processes and environmental management activities of other parties, including States and Territories and other Commonwealth agencies. This would streamline

decision-making by removing the obligation for a project to be assessed under multiple environmental assessment laws.²⁵

Traditional Owner consultation / Northern Land Council

- 1.86 Coalition Senators note that companies with acreage in the Beetaloo Basin have a considerable history in negotiating, interacting and co-operating with the Traditional Owners on the lands where wells are being drilled. Indeed, it is already a feature of NT land access requirements that companies must reach agreements with the relevant Traditional Owners before commencing exploration activities such as the drilling of wells.
- 1.87 Additionally, where ongoing development has been occurring in the Beetaloo Basin over recent years, it has been increasing the demand for the consultation and negotiation services of the Northern Land Council (NLC).
- 1.88 Coalition Senators note previous comments provided in the dissenting view to the August 2021 Interim Report regarding criticism of the NLC.
- 1.89 Coalition Senators note that the NLC is the legitimate and appropriate organisation for working within the laws of the Native Title Act and Aboriginal Land Rights Act to identify who are the correct Native Title holders and engaging them in the consultation process.
- 1.90 The NLC is one of the most experienced representative bodies in Australia, having been established in 1973, with the additional expertise of also discharging representation/consultation functions under the Aboriginal Land Rights (Northern Territory) Act. Between 1973 and today, the NLC has conducted considerable ethnographic work in the Beetaloo Basin that informs the identification of Native Title holders, the traditional decision-making processes, and information relating to sacred sites.
- 1.91 Coalition Senators note that the NLC has been diligent in its approach to identifying, consulting and decision making with Traditional Owners and that this has helped facilitate effective engagement by industry with recognised Traditional Owners.
- 1.92 Coalition Senators note again that current legislative requirements and subsequent practices support the principles of Free, Prior and Informed Consent (FPIC), which are being followed by oil and gas companies operating in the Beetaloo.
- 1.93 The former Coalition Government specifically provided \$2.2 million in dedicated funding in order to support improved engagement with Traditional

²⁵ Professor Graeme Samuel AC, [Final Report of the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999](#), October 2020, pp. 28–29, 34, 49–50, 112 and 117 (accessed 19 April 2023).

Owners and to extend the NLC's capacity to deliver informed and timely decisions.

- 1.94 Further, Coalition Senators note that the majority report has chosen to dedicate an entire chapter to the views of Indigenous Australians, but opted to bury dissenting views in footnotes—like Pompey and Rosemary Raymond—instead of providing them with equal prominence in the report with other witnesses.
- 1.95 Mr Raymond, who notably is a Native Title holder in seven of 10 determinations in the area, said:

Mr Raymond is satisfied that the consultation process has been conducted to the standard of obtaining the Raymond family free, prior and informed consent for the project to go ahead... Mr Raymond wants a prosperous future for his community through a gas operation that will protect country and power Australia with net zero emissions. He is confident that the education, career and infrastructure opportunities from the project would be very beneficial to his community and those surrounding the area.²⁶

- 1.96 The Centre for Independent Studies noted:

Indigenous Traditional Owners have expressed their desire for the economic stimulus of the oil and gas exploration to go ahead by giving their consent to the Northern Land Council and publishing their views in the Land Rights News: Northern Edition July 2022. Jingili Elder and Native Title Holder Pompey Raymond was interviewed about his beliefs that the debate around oil and gas exploration was being hijacked by those who should not be speaking for the region. On Warranangku Country, Mr Raymond said the voices who could rightfully speak for country were clear in their support. Mr Raymond sees careers for young people, education, community infrastructure and a pathway to protect his country. As the article outlines there are Traditional Owners that trust operators to conduct fracking safely.²⁷

- 1.97 However, any evidence provided by the Centre for Independent Studies in its submission was notably absent from the majority report.
- 1.98 This selection bias in choosing to only reflect opinions and views that suit the majority's predetermined ideological position undermines the credibility of the report. For example, at a hearing on 2 August 2021, the Chair suggested that the review, other reports and submissions to the inquiry all support the view 'that there is an overwhelmingly majority of traditional owners in the Beetaloo basin who are affected who are opposed to fracking'.²⁸ However, the NLC, when asked if this was their understanding, responded:

²⁶ Mr Pompey and Ms Rosemary Raymond, *Submission 13*, pp. 3–4.

²⁷ Centre for Independent Studies, *Submission 15*, p. 3.

²⁸ Senator Sarah Hanson-Young, Chair, Senate Environment and Communications References Committee, *Committee Hansard*, 2 August 2021, p. 23.

We would have difficulty accepting necessarily the premise of that question – that the overwhelming majority of traditional owners are opposed to fracking... [T]hese matters are far more complex than just a question of who's opposed to fracking.²⁹

- 1.99 Coalition Senators remain convinced that the majority report is characterised by overtly political and ideological selection of evidence, resulting in biased conclusions and recommendations being made on the basis of unfounded imputations.

Conclusion

- 1.100 Ideological and politicised opposition to the development of the Beetaloo Sub-basin, using selective evidence and testimony to justify pre-conceived anti-development positions, is disappointing. Coalition Senators reaffirm the position of the original 'Dissenting Report by Coalition Senators' to this inquiry in August 2021 and express their strong support for the continued development of the Beetaloo.
- 1.101 Throughout this inquiry, where evidence has been based on science and fact, it is clear that the development of the gas resources in the Beetaloo can be managed responsibly and unlock jobs and economic prosperity for the Northern Territory and Australia more broadly. With over 200 000 petajoules of potential gas to unlock, 6300 long term jobs, over \$1 billion in additional revenue to the Northern Territory Government, and up to \$7.5 billion in additional economic value, this basin presents a significant opportunity for the people of the NT.
- 1.102 Unlocking significant new supplies of gas, including from the Beetaloo, is critical to improving Australia's energy security and affordability, at a time when gas supply on the east coast is tight and new investments are drying up. Placing barriers designed to derail gas development in Australia will only result in the offshoring of projects to higher-emitting markets, and perversely, undermining global emissions reduction efforts at the cost of Australian jobs and investment.

²⁹ Mr Daniel Wells, Legal Practice Manager (Native Title), Northern Land Council, *Committee Hansard*, 2 August 2021, p. 23.

Senator Hollie Hughes
Member

Senator Ross Cadell
Members

Senator Lidia Thorpe's additional comments

- 1.1 The underlying premise of a number of recommendations by the committee is that fracking activities will and should go ahead. This, in itself, is a wrong premise as it violates the right of First Nations people to Free, Prior and Informed Consent (FPIC), our right to maintain and protect our cultural heritage, our right to participate in decision-making processes through self-determined representation, and our right to our Country and resources, as per the United Nations Declaration on the Rights of Indigenous Peoples.
- 1.2 These and other underlying structural injustices are best addressed through a much-overdue Treaty between the Commonwealth and First Nations peoples in this country.

Recommendation 1

- 1.3 **That a national Treaty with the First Nations peoples of this country be pursued immediately, based on a First Nations self-determined framework and premise.**
- 1.4 Fracking companies do not have consent of Traditional Owners to frack the Beetaloo, and all fracking activity must halt immediately until and unless this is obtained.
- 1.5 Recommendation 10 of the majority report addresses the concern over consultation with Native Title holders and Traditional Owners in the Beetaloo. While the emphasis on FPIC is welcome, there are significant issues with the operation and functions of the Northern Land Council (NLC) in the way that it consults with and represents Traditional Owners. Despite stating that it adheres to the principles of FPIC in its consultations, widespread opposition from communities who feel they would not benefit from fracking activities is evidence that these processes are inadequate and must be improved.¹ In some cases, communities were not even consulted by the NLC, despite the NLC stating it represents Traditional Owners' opinions.
- 1.6 These concerns mirror those provided in evidence to the inquiry into the destruction of the Juukan Gorge, where, the Nurrdalindi Native Title Aboriginal Corporation stated:

Many native title holders of the Beetaloo Sub-basin region are deeply concerned that while we have achieved formal recognition of our native title, we have no governance structure to facilitate planning our future and

¹ B. Charles, '[Traditional Owners suspected they wouldn't benefit from fracking. A secret govt report has confirmed it](#)', NITV, 21 March 2023 (accessed 18 April 2023); National Indigenous Australians Agency, [Blueprint for Aboriginal benefits realisation in the Beetaloo Region](#), 2021 (accessed 18 April 2023).

making our own decisions, and virtually no control or say over what happens on our country. That is due in large part to current representation and agency arrangements involving the Northern Land Council (NLC) (the native title representative body for the Top End), and the [Top End Default Prescribed Body Corporate]... We are in urgent need of proper representation and agency arrangements, not the façade that is currently in place.²

1.7 Mr Johnny Wilson, Chair of the Nurrdalindi Native Title Aboriginal Corporation, further stated about the NLC:

...for so long there is no connection and no cooperation between the NLC and traditional owners with regard to mining or with regard to anything that happens on country. If there is communication, it is to the wrong people, the ones they can manipulate. The NLC also don't want to lose that power or to let somebody else take over what they think is rightfully theirs.³

1.8 The final report into the destruction of Indigenous heritage sites at Juukan Gorge noted:

...grassroots Elders and Traditional Owners in the Beetaloo Basin expressed concerns about the decisions of the Prescribed Body Corporate and in this instance attempted to establish an alternate PBC. They also questioned the adequacy of the consultation processes conducted by the Northern Land Council. This reiterates the urgent need for clear guidelines around best practice consultation processes and the importance of Free, Prior and Informed Consent, including the right to veto to ensure that Traditional Owners' voices are heard and they have the authority to protect Country and cultural heritage.⁴

1.9 Ms Larissa Baldwin, former Director of First Nations Justice at GetUp, also pointed out that proponents have continuously refused to meet with Traditional Owners despite repeated requests to address their concerns.⁵ There must be greater regulation to improve stakeholder engagement prior to any project approval, and governments and government agencies, including the NLC, who provide approvals to projects that have not conducted stakeholder engagement, must be held to account for their complicity in failing to consult with Traditional Owners and obtain their consent.

² Nurrdalindi Native Title Aboriginal Corporation, Joint Standing Committee on Northern Australia, Inquiry into the destruction of 46,000 year old caves at the Juukan Gorge in the Pilbara Region of Western Australia, *Submission 156*, pp. 2–4.

³ Mr Johnny Wilson, Chair, Nurrdalindi Native Title Aboriginal Corporation, *House Committee Hansard*, 18 June 2021, p. 40.

⁴ Joint Standing Committee on Northern Australia, *A Way Forward: Final report into the destruction of Indigenous heritage sites at Juukan Gorge*, October 2021, p. 230.

⁵ Ms Larissa Baldwin, Director, First Nations Justice, GetUp, *Committee Hansard*, 22 March 2022, p. 26.

Recommendation 2

1.10 All fracking activity in the Beetaloo must halt until and unless the Free, Prior and Informed Consent of Traditional Owners in the region, whose sacred lands and waters will be devastated by fracking, is obtained.

Recommendation 3

1.11 Proponents must consult with Traditional Owner communities (not limited to Native Title holders and corporations) themselves and prove that they have obtained Free, Prior and Informed Consent, rather than simply operating through the Northern Land Council. Greater transparency and accountability are required to address the ongoing issues of manufactured consent that have allowed project approvals despite widespread opposition from Traditional Owners.

Implementation of the Pepper Inquiry

1.12 Recommendation 4 of the majority report calls on the Northern Territory Government to expedite full implementation of all outstanding recommendations from the Scientific Inquiry into Hydraulic Fracturing in the Northern Territory (the Pepper Inquiry).

1.13 In the recent Safeguard Mechanism reform debate, the federal government supported a second reading amendment that emphasised its commitment to ensuring adherence to all recommendations of the Pepper Inquiry. Moved by Senator Thorpe, it read:

The Senate calls on the Government to, in line with its commitment to implementing Recommendation 9.8 of the final report of the Pepper Scientific Inquiry into Hydraulic Fracturing in the Northern Territory, ensure the gas industry in the Northern Territory's Beetaloo Basin is required to offset all Scope 2 and 3 emissions by referring this matter to the Energy and Climate Change Ministerial Council and working with the Northern Territory Government to achieve this.⁶

Cultural heritage

1.14 Concerns from First Nations communities over the fracking plans did not just include environmental and climate change issues and the lack of benefits to our communities, but also included concerns over the impacts to our cultural heritage. During the inquiry into the destruction of the Juukan Gorge, it became clear that cultural heritage protection laws and practices are inadequate to address these risks and that heritage legislation at all levels of government require a whole new framework to become effective.

⁶ *Journals of the Senate*, No. 44—29 March 2023, pp. 1256–1257.

Recommendation 4

1.15 That the federal government expedite the implementation of all eight recommendations of 'A Way Forward', the final report into the destruction of Indigenous heritage sites at Juukan Gorge.

Recommendation 5

1.16 That the Northern Territory Government expedite the amendment of the *Aboriginal Sacred Sites Act 1989* (NT) to protect all sub-surface features of a sacred site as per Pepper Inquiry Recommendation 11.3.

**Senator Lidia Thorpe
Participating member**

Appendix 1

Submissions and additional information

- 1 Mr John Bushell
- 2 GetUp!
- 3 Nurrdalinji Aboriginal Corporation
 - Attachment 1
- 4 Mr Benjamin Cronshaw
- 5 Dr Andrew Norton
 - Attachment 1
 - Attachment 2
 - Attachment 3
- 6 Wide Bay Burnett Environment Council
- 7 Lock the Gate Alliance
 - Attachment 1
 - Attachment 2
 - Attachment 3
- 8 Protect Country Alliance
- 9 Professors Melissa Haswell and David Shearman
- 10 Central Australian Frack Free Alliance
- 11 Australian Workers' Union
- 12 Protect Big Rivers
- 13 Mr Pompey and Ms Rosemary Raymond
 - Attachment 1
 - Attachment 2
- 14 *Name Withheld*
- 15 Centre for Independent Studies
- 16 GetUp!, Environment Centre NT, Seed Indigenous Youth Climate Network, Arid Lands Environment Centre and 350.org Australia
- 17 Environment Centre NT
 - Attachment 1
 - Attachment 2

Answer to Question on Notice

- 1 Department of Foreign Affairs and Trade, Answers to questions taken on notice, public hearing, Canberra, 25 March 2022 (received 28 July 2022) 1 to 13
- 2 Tamboran Resources Limited, Answers to questions taken on notice, public hearing, Canberra, 10 October 2022 (received 24 October 2022)

Correspondence

- 1 Letter from Lock the Gate Alliance and 350.org Australia dated 30 November 2022
- 2 Letter from Empire Energy dated 31 January 2023

Appendix 2

Public hearings and witnesses

Monday, 10 October 2022

Committee Room 2S3

Parliament House

Canberra

Tamboran Resources

- Mr Joel Riddle, Managing Director and Chief Executive Officer
- Ms Jo Morbey, Company Secretary
- Mr David Close, Vice President: Operations and External Affairs
- Mr Scott Crabtree, Sustainability and Climate Change Advisor

Appendix 3

Recommendations from the Interim Report

Recommendation 1

The committee recommends that the Department of Industry, Science, Energy and Resources immediately instigate a review of the Beetaloo Cooperative Drilling Program applicants' perceived conflicts of interests with the Liberal Party, the Minister for Energy and Emissions Reduction, and the Minister for Resources and Water.

Recommendation 2

The committee recommends that the Australian Government explore options to institute higher standards of transparency and accountability in the oil and gas industry, including regular financial reporting obligations.

Recommendation 3

The committee recommends that, if the Industry Research and Development (Beetaloo Cooperative Drilling Program) Instrument 2021 proceeds, the Australian Government require repayment of any grant funding if grant recipients discover and produce commercial quantities of shale gas in the Beetaloo.

Recommendation 4

The committee recommends, consistent with the Pepper Inquiry, that the Australian and Northern Territory Governments, in collaboration with all relevant stakeholders and First Nations people, review the consultation processes used to obtain Free, Prior and Informed Consent from Traditional Owners and Native Title holders in relation to activity proposals on Country, with specific consideration of the need to conduct on Country meetings and to provide translators.

Recommendation 5

The committee recommends that the *Environment Protection and Biodiversity Conservation Act 1999* be amended to include a water trigger for onshore shale gas developments, to ensure that the Pepper Inquiry recommendations will be implemented in full, as promised.

Recommendation 6

The committee recommends that the Australian Government expedite its negotiations with the Northern Territory Government for a bilateral emissions reduction agreement, with a view to implementing the Pepper Inquiry recommendation to ensure no net increase in Australia's lifecycle greenhouse gas emissions which must be borne by the shale gas industry in the Beetaloo.