



CENTRAL LAND COUNCIL

**Submission to the Northern Territory Environmental Protection Agency (NTEPA) for the
Tellus Holdings Limited, Chandler Facility Environmental Impact Statement**

March 2017

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Recommendations

The CLC make the following recommendations:

1. That further sacred site clearance and archaeological work is required prior to any works commencing on the Chandler Project Mineral Lease and access authorities.
2. Consultation with native title claimants regarding archaeological sites and material including management is required.
3. Aboriginal employment targets should be set higher than 10% given the proximity of the Project to Titjikala and Alice Springs.
4. The CLC identifies enormous risk to community members and others travelling on the road to Titjikala during the construction of the Project when the road will be shared with heavy vehicles at a high usage rate. The safest option is to upgrade the road with bitumen.
5. Groundwater monitoring and baseline data is required in relation to the Project including regional and local drawdown affects.
6. Monitoring bores near Titjikala be established to provide data in support of the contention that there is a lack of connectivity between the community water supply and the Project area.
7. Monitoring bores be established some distance from the Project area to monitor regional drawdown and in particular to provide data to support the lack of connectivity between ground water and surface water, especially in relation to springs along the Finke River to the south of the Project area.
8. Consideration of the NT regulatory framework and capacity to manage a geological hazardous waste repository is essential.
9. Consideration that NORMs (naturally occurring radioactive material) not be accepted at the Facility in support of a no radioactive waste policy.
10. Consideration be given to the likelihood of future political pressure on the Project once established, to accept and store radioactive and nuclear waste.
11. The scope of the EIS be broadened to consider transport of hazardous waste to the project site and the risks around accidents and spills especially given the Project will have national and possible international waste sources.
12. More work is required regarding long-term stability of the repository regarding project design with respect to decommissioning and closure.

Introduction and context

The Central Land Council ('CLC') welcomes this opportunity to provide a submission to the Northern Territory Environmental Protection Agency ('NTEPA') for the proposed Chandler Facility Environmental Impact Statement ('EIS').

The CLC is a Commonwealth corporate entity established under the *Aboriginal Land Rights (Northern Territory) Act 1976* ('ALRA'). Amongst other functions, it has statutory responsibilities for Aboriginal land acquisition and land management in the southern half of the Northern Territory. The CLC is also a Native Title Representative Body established under the *Native Title Act 1993* ('NTA'). The CLC region covers approximately 780,000 km² of land, and 417,318 km² is Aboriginal land under the ALRA. Given existing pastoral land was not able to be claimed, Aboriginal land tends to be very arid and remote. Rights have been asserted and recognised under the *Native Title Act 1993*. In addition, traditional owners unable to claim land under the ALRA have succeeded in obtaining rights to small areas known as Community Living Areas, under NT legislation.

Through its elected representative Council of 90 community delegates, the CLC continues to represent the aspirations and interests of approximately 17,500 traditional landowners and other Aboriginal people resident in its region, on a wide range of land-based and socio-political issues.

The CLC aims to improve the lives and futures of its Aboriginal constituents through sustainable development and change. The CLC's development approach is based on an integrated and strengths-based strategy of building economic, social and cultural capital. Significant work is being done under the various functions of the CLC in each of these related areas through initiatives in: natural and cultural resource management; the development of remote enterprise and employment pathways; innovative community development work, ensuring land owners use income generated from land use agreements for broad community benefit; and land administration and land use agreements for third parties and traditional owners.

The CLC's primary concerns in submitting the following comments on the draft EIS are to highlight native title claimants' connection to the affected land and to ensure the protection of significant sacred sites and cultural interests on the land affected by the project. The protection of the environment is integral to Aboriginal attachment to country. Furthermore, the CLC wishes to ensure that social and economic benefits from the project are distributed for the benefit of native title claimants and local communities.

The CLC has had a working relationship with Tellus Holdings Limited (Tellus) since 2012 with the negotiation of an exploration agreement. Several consultation meetings have been held with native title claimants, as well as sacred site clearances conducted in relation to exploration activities. Most recently, the CLC organised a section 29 Native Title Act meeting (March 2015) in response to the application for a Mineral Lease (30612) by Tellus. A native title claim is in process for Maryvale Pastoral Lease where the Chandler Project is situated.

General Comments

The EIS is a very lengthy document of around 4,500 pages reflecting the dual nature of the Project involving salt mining and deep geological hazardous waste repository. The length of the EIS document makes it difficult to navigate. It is repetitive in places and requires a high level of cross checking between the report and the various appendices.

The Executive Summary is useful but many of the figures are too small to be understood eg Figure ES-9. Thus, a quick overview using the Executive Summary is not possible as the accompanying figures need to be located and viewed in the body of the report. In some cases, the figures are not easy to find eg unlabelled figure and the relevant page not numbered (see Report II, Chapter 8, p 390). The company provided a series of Fact Sheets for an easy overview as well which are helpful but only provide a summary.

In terms of the public comment period for the EIS, it has been challenging for the CLC to meet the timeframe due to the complexity of the information provided about the Project, particularly the geological waste repository proposal, and the sheer volume of information to review, at the same time managing the usual busy workload of the CLC. An extra 2 weeks was provided to the CLC to complete the assessment of the EIS.

A meeting of native title claimants is planned to discuss the findings of the EIS but the above factors have not supported the holding of a meeting within the public comment period.

The CLC notes that Tellus recently held information forums in Titjikala and elsewhere, which may provide the company some feedback about Aboriginal and community concerns, but such forums are very different to native title claimant meetings and meetings with communities organised by the CLC. The CLC meetings are in the context of the right to negotiate process and focus on protecting Aboriginal interests and facilitating a fair and supportive environment for group discussion and decision-making.

Although any mining agreement negotiated is expected to have provision for protecting Aboriginal interests and the environment, feedback from native title claimants on the EIS is crucial and including that feedback at the public comment phase is important so comments can be addressed by the company in a systematic, transparent and accountable way as part of the EIS process. The CLC can offer general comment on native title claimant issues and concerns in this submission, gathered by the CLC through the native title process so far, but not with the benefit of the claimant group discussing the information just released in the EIS document.

Planning a meeting to consult native title claimants requires setting a date in advance, at a time when resources are available, with reasonable notification of the meeting (usually a minimum of 4 weeks). In the case of this EIS, there was not sufficient time to organise a meeting and review the EIS, and prepare comments, while still attending to day to day CLC matters.

The CLC points out that developing understanding about the Project is a learning process for native title claimants as more and more information becomes available. The first meeting in 2012 talked about the project at the exploration phase as a concept, and the amount of information and detail about the Project, particularly the waste disposal

proposal, has grown over time since that first meeting. As pointed out, native title claimants as a group have not had the benefit of meeting together to listen to the details of the Project set out in the EIS. A meeting and site visit are planned by the CLC for this purpose in the middle of 2017.

History, government policy and legislation have influenced land tenure for the Maryvale area with recognition of Aboriginal association and identity with the land through the significantly weaker NTA rather than ALRA. Native title claimants have the same association to the land as their traditional Aboriginal owner counterparts for Aboriginal freehold land in terms of cultural responsibility, obligations and attachment but they do not have the same decision making power. The starting point for native title claimants with respect to the Chandler Project is the right to negotiate only and not to say no to the Project. This then forms the basis for the relationship of native title claimants with the company and the Project.

As with any major project there are a range of views within the native title claimant and community groups. This is more so where the Project is a new idea, untested in Australia and involves hazardous waste. Some people support the project and the promise of employment and economic benefits, others are opposed to the waste storage aspect of the Project.

Native title claimants have consistently expressed concern to the CLC about dangerous, poisonous and toxic waste being destined for permanent storage on their country and the issue of radioactive and nuclear waste has been raised at every meeting with the company. The company has repeatedly and consistently dealt with this concern confirming that radioactive and nuclear waste will not be accepted at the repository.

The issue of nuclear waste management is more topical than ever in the Titjikala area, which was in the spotlight in 2016 with the Aridgold Date Farm approximately 30km north of Titjikala nominated by its owner for a national nuclear waste repository. There was overwhelming opposition by the community and traditional owners to this proposal who demanded that keeping country strong, safe and clean was their priority for now and into the future. It is therefore crucial that the native title claimants and the local community are fully informed about what is proposed and that they can be satisfied that their lives, their land and their future are not placed at risk by the project.

Specific Comments

1. Sacred Site Protection

The CLC's functions include protecting the interests of native title claimants and traditional Aboriginal owners including sacred sites. Cultural information needs to be treated with sensitivity and is subject to confidentiality. The CLC requested that the Aboriginal cultural material be handled carefully in the EIS. There is always concern about showing exclusion zones advised to the company by the CLC on maps (in this case in the archaeology section) when this is confidential information. Including this information highlights culturally sensitive areas in a public document that may have the opposite affect to what is intended and encourage visitation rather than protection.

The CLC has undertaken sacred site clearance work across the Chandler Facility Project for Tellus since 2012. Sacred Site Clearance Certificates were issued for exploration activities on EL29018 and a number of sacred sites protected. Further Sacred site clearance work is required across the entire final project footprint for the Mineral Lease and associated access authorities

Relevant Commonwealth Acts are presented in the EIS as important for protecting Aboriginal cultural interests, but the CLC notes that Chapter 4 discussing the NT Approvals Pathway does not include the *Northern Territory Aboriginal Sacred Sites Act 1989*. The Act is key legislation for protecting sacred sites in the NT and the Project will need an Authority Certificate under that Act to proceed. The CLC notes that sacred site clearances are required for the mining project and that the CLC will work in collaboration with AAPA to ensure the necessary protections are in place should the Project proceed.

The unique and current nature of Aboriginal connection to country is not dealt with in the EIS. The cultural context in chapter 10.3.2 is framed in a way that suggests Aboriginal connection is historic rather than acknowledging the fact that Aboriginal culture, language and ceremony in the region is still active.

2. Archaeological Material

The archaeological work in the EIS is defined as preliminary and provisional, as some elements of the Project were not defined at the time the Archaeological Report was published. Further archaeological work needs to be undertaken prior to any on ground disturbance. The CLC notes that the findings of the Archaeological Report discussed with native title claimants, including management of sites and material.

3. Social Impact Assessment

The social impact management plan (SIMP) (Appendix U) identifies a number of impacts and opportunities for native title claimants and community residents in Titjikala and other local communities in relation to the Project. Key findings are identified in section 4, as well as possible management and mitigation strategies. The CLC notes that many of the issues will be addressed in the future mining agreement with the CLC but it will be crucial for Tellus, the CLC, community and government to work together if the Project proceeds.

Section 4.1 refers the reader to view a matrix at Appendix 3 of the Social Impact Assessment for initial ratings and more detail. However, this reference could not be located and is probably incorrect. The reference is probably to the Risk Matrix in Appendix N (discussed later in this submission). The point made is that 'the significance of negative impacts may seem high' and is related to the scale of change and disturbance arising from such a project. The rating reflects the likelihood of significant impacts on the local community and native title claimants.

Table 10.6 sets out risk assessment in relation to socio-economics (page 6-270). The CLC would like clarification around why the case for 'not mining salt' is only considered when the economics of the Project depend on the waste repository proposal, which is the more controversial aspect of the Project.

The CLC notes that there has been strong interest expressed by some Aboriginal people regarding possible income (royalties) from the project and opportunities such as employment and contracting. Such comments are in response to meetings with the company and media reports optimistically suggesting project start-up is soon, resulting in a need for the CLC to manage expectations.

The EIS refers to Indigenous employment opportunities with a target of 10% suggested. Given the location of the Project near Alice Springs and around 20 kilometres from Titjikala it would be appropriate to strive toward a higher percentage.

Section 5, Stakeholder Engagement, table 5.2 has a category “Traditional owners” and names The Kenny Family. It is not appropriate for Tellus to attempt to identify traditional owners in the EIS, which is the role of the CLC.

4. Titjikala Road

During the construction phase of the Project the company intends using the Maryvale Road for access to the Project area. The road is the main access to Titjikala and Finke. The road is not in a suitable condition to support heavy traffic for a large-scale construction project and would be dangerous for residents of the community and wider region as well as tourists. The road is highly corrugated, dusty and narrow in places with numerous rises and blind bends. The long-standing request to upgrade the road to bitumen by local road users would be the only safe way for supporting the use of the road for the Project.

5. Water

5.1 Surface water

Careful consideration needs to be given around mine site planning with respect to surface water flows and Halfway Creek. The creek diversion around rock salt stockpiles risks contamination in rare flood events and high sheet flow from the Maryvale Hills. The spread of saline water could contaminate soil and affect vegetation in the surrounding area.

5.2 Groundwater

Community residents of Titjikala, native title claimants and other Aboriginal people in the area have expressed concern about any threat to their potable water supplies resulting from the Project, including impacts from drawdown and contamination. The EIS provides statements based on scientific knowledge and modelling about the lack of connectivity of the Project area groundwater and the community water supply at Titjikala. The risk matrix (Appendix N) indicates that the risk of drawdown and contamination is ‘eliminated’ and there is no pathway to enable such affects.

Even though scientific modelling may suggest impact is unlikely, community residents require certainty, and concern will remain given the proximity of the project to the community and because potable water supplies in the desert environment are a rare and finite resources.

Chapter 8.34-6 refers to a 0.2 metre drawdown within a 1 kilometre radius. In fact, the figure used in the Groundwater Assessment and the Water Management Plan is 0.4 m

drawdown (Appendix P, p79. No timeline is given and it is not clear if this is for the life of the Project. The time-line should be addressed by Tellus.

The report does not identify any connectivity between groundwater and surface water in areas along the Finke River and springs to the south and southeast of the Chandler facility. Further work is needed to give more certainty.

There is confusion in the report in relation to cross sections discussing groundwater systems. Cross section transect labelled F-F¹ in Figure 8.13 in Report Part II is labelled as D-D¹ in the diagram on the following page (p8-388). The same figure presented as 8.2 in appendices P-Q shows the cross sections labelled with section E in a different orientation and the second cross section labelled D-D¹.

5.3 Groundwater Assessment

All monitoring bores appear to be inside the tenement within a 2km radius. It might be desirable to have purpose built monitoring bores built downstream (both east and southeast) at 5-10km distance from extraction points to pick up any potential longer term drawdown impacts. It is unclear if the proposed water extraction will be continuous and over a longer period for dust suppression purposes, whereby it may be desirable for RN10082 and RN14584 to be monitored to confirm or otherwise, if there are any impacts on these nearby bores.

5.4 Water Management Plan

The Plan in Appendix Q is a high-level document that provides no practical insight into the specifics of proposed borefield management or water use during the construction or operational phases of the project.

Section 7.4.1 calls for surface water monitoring after rainfall events of 72 hours. In fact, the Flood and Hydrology component of the Surface Water Assessment notes that a 100 year surface water events could be triggered by intense storms of 6-12 hours duration and that rainfall can precede peak flows by 2-3 days. The trigger for surface water monitoring in the Water Management Plan should be adjusted accordingly.

6. Hazardous Waste Management

Project plans for a geological hazardous waste management and storage facility on the surface and underground are new and challenging concepts to comprehend. The proposal will not only house NT generated waste but will become a national repository for waste from across Australian land and waters. Further, Section 3.2.6 states 'Approval to import international wastes under the Basel Convention forms part of the Proposal' (page 88). There needs to be clearer understanding about how much waste could potentially be stored from international sources.

The EIS notes that Australian legislation does not explicitly deal with the unique characteristics of deep geological disposal facilities for hazardous waste as there are currently no such facilities within Australia. There are questions around the legislative framework for the project and the capacity of the NT government to regulate a waste repository.

On-going concern exists with some native title claimants and residents in nearby communities about radioactive waste at the repository, and criteria to accept NORMs in the waste acceptance policy leaves the situation murky. Given the history of search for a national nuclear waste repository in the NT with several sites nominated over the years including most recently, the Aridgold date Farm some 30 km north of Titjikala, suspicion exists about the hazardous waste disposal aspect of the Project. There are concerns that a review of the waste acceptance policy, could result in low level radioactive or nuclear waste that meets the acceptance criteria but is not a NORM, being accepted. There is also the risk that once a geological hazardous waste repository is in operation there could be significant political pressure to broaden the acceptance criteria policy. The EIS points out that the waste acceptance policy will be in operation at the Project facility so is there risk that waste could be sent to the facility, but not accepted?

The way in which information is presented in 12.2 (Waste Acceptance Policy) about radiological acceptance criteria and exempt levels is not easy to understand and requires the reader to search other documents referenced (Radiation Protection Series Publication No. 6) to better understand the proposal.

The EIS refers to the development of a NORM Management Plan consisting of a Radiation Management Plan (RMP) and Radioactive Waste Management Plan (RWMP), and other project specific management arrangements as agreed with the Authority.' A plan should have been included in the EIS for clarity.

The Waste Management Plan section of the EIS discusses issues and guidelines but is at a high level and is not an operational plan which will provide clarity on how waste will be managed at the Facility.

The EIS states that 'using the baseline information collected, the safety concept and the several different assessments performed, in particular the geo-mechanical/geo-technical assessment, proof of long-term safety can be established'(page 3-149). After reviewing the information in the EIS the basis for this statement is not clear. More detail is needed to support this statement or better referencing around where to locate the assessments and evaluation to support the assertion.

The CLC is concerned that the scope of this EIS in relation to the geological waste repository is limited only to the Chandler and Apirnta facilities. The scope should in fact be set much broader to enable systems and process assessment across jurisdictional boundaries to capture movement of hazardous materials and to assess the capacity of emergency response. For example there is no detail in the EIS about NT border waste receipts processes, jurisdictional tracking mechanisms, and local emergency management capabilities. This is crucial in light of the report findings that contamination of groundwater has the greatest potential during road and rail transportation of hazardous waste to the Project facilities.

7. Closure

The section on Closure and Rehabilitation discusses the Chandler Halite formation in terms of its properties as a geological barrier in relation to room, shaft or decline seal failure and notes that the assessment of the geo-mechanical conditions of the Facility is preliminary at this stage and needs further consideration to ensure more certainty around long-term stability. It is proposed that some of this work be carried out when operations commence which results in uncertainty during construction. Reference is made to base the long-term stability solutions on learnings from sealing evaporate mines in other parts of the world (page 621) which highlights that much more work is required around planning for decommissioning and closure.

8. Risk Matrix

The risk matrix presented in Appendix N is difficult to understand. It needed to be viewed as a spreadsheet. The table in the top right hand side of the first page of the matrix is cut-off, as is the text in the box labelled likelihood/ description (red arrows point to these examples). The rest of the table appears several pages later in the matrix, as does the text. It is time consuming to move back and forth through the pages to understand the information in the table.

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Northstar No: 16.1012
 Project: Chandler Facility
 Scenario: Option 3
 Client: Telius Holdings

Register Ref: 16.1012 Risk Register OPTION 3
 Date Completed: 2/02/2017
 Completed By: RP and GCG

Hazard Identification		Risk Pre-Mitigation					Likelihood / Description	
ID	Aspect / Descriptor	Likelihood	Consequence	CRI Pre-M	Nature	Duration	Likelihood	Description
versity	Loss of habitat and/or mortality of threatened fauna species	Possible	Major	High	Adverse	Long term	Biodiversity Mgmt Plan	
versity	Removal of vegetation	Almost certain	Moderate	High	Adverse	Long term	Biodiversity Mgmt Plan	
versity	Loss of fauna habitat from removal of vegetation	Almost certain	Moderate	High	Adverse	Long term	Biodiversity Mgmt Plan	
versity	Habitat fragmentation from removal of vegetation	Almost certain	Moderate	High	Adverse	Temporary	Biodiversity Mgmt Plan	
versity	Fauna displacement injury or mortality from removal of vegetation	Possible	Moderate	Medium	Adverse	Temporary	Biodiversity Mgmt Plan	
versity	Fauna strike (vehicle)	Possible	Catastrophic	High	Adverse	Temporary	Traffic Mgmt Plan	
versity	Removal of vegetation resulting in edge effects	Almost certain	Minor	High	Adverse	Temporary	Biodiversity Mgmt Plan	
versity	Altered hydrology leading to flora mortality and loss of habitat	Possible	Minor	Medium	Adverse	Long term	Water Mgmt Plan	
versity	Groundwater abstraction (at 50 m below ground level) impacting vegetation	Remote	Minor	Low	Neutral	Long term	Water Mgmt Plan	
versity	Contamination of soil and water	Possible	Minor	Medium	Adverse	Temporary	Sediment and Erosion Mgmt Plan	
versity	Erosion and sedimentation of soils	Likely	Major	High	Adverse	Temporary	Sediment and Erosion Mgmt Plan	
versity	Dust deposition from vehicle traffic and earthworks	Almost certain	Minor	High	Adverse	Short term	Air Quality Mgmt Plan	
versity	Construction light, noise and vibration	Almost certain	Minor	High	Adverse	Temporary	Noise Mgmt Plan	
versity	Operational light, noise and vibration	Almost certain	Minor	High	Adverse	Long term	Noise Mgmt Plan	
versity	Introduction and spread of weeds and invasive species	Likely	Minor	Medium	Adverse	Short term	Weed Mgmt Plan	
versity	Increased predator species	Likely	Minor	Medium	Adverse	Short term	Pest Mgmt Plan	
versity	Increased introduced fauna	Likely	Minor	Medium	Adverse	Short term	Pest Mgmt Plan	
versity	Bushfire	Possible	Catastrophic	High	Adverse	Short term	Bushfire Mgmt Plan	
versity	Salt erosion and spoil erosion	Likely	Catastrophic	Extreme	Adverse	Temporary	Sediment and Erosion Mgmt Plan	
versity	Soil compaction and topsoil loss	Possible	Minor	Medium	Adverse	Short term	Sediment and Erosion Mgmt Plan	
ndwater	Changes to groundwater levels	Almost certain	Minor	High	Adverse	Long term	Water Mgmt Plan	
ndwater	Changes to groundwater chemistry	Possible	Minor	Medium	Adverse	Short term	Water Mgmt Plan	
ndwater	Changes to groundwater flow (direction)	Possible	Moderate	Medium	Adverse	Long term	Water Mgmt Plan	
ndwater	Contamination of Horseshoe Bend Shale aquatards from drilling activities	Remote	Major	Medium	Adverse	Temporary	Design of decline and shafts in line with best practice techn	
ndwater	Contamination of Langra aquifer from drilling activities	Remote	Major	Medium	Adverse	Temporary	Design of decline and shafts in line with best practice techn	
ndwater	Contamination of Hermannsberg Formation groundwater from drilling activ	Remote	Major	Medium	Adverse	Temporary	Design of decline and shafts in line with best practice techn	
ndwater	Contamination of Stairway Sandstone groundwater from drilling activities	Remote	Minor	Low	Adverse	Temporary	Design of decline and shafts in line with best practice techn	
ndwater	Contamination of Jay Creek Limestone groundwater from drilling activities	Remote	Minor	Low	Adverse	Temporary	Design of decline and shafts in line with best practice techn	
ndwater	Contamination of Tijkala water supply through loss of containment	Eliminated	Catastrophic	Eliminated	Neutral	Not applicable	No pathway	
ndwater	Contamination of Ales Springs aquifer through loss of containment	Eliminated	Catastrophic	Eliminated	Neutral	Not applicable	No pathway	

End of submission