

## Frackmail?

***Scott Morrison rushed through a \$260 million payment to the Northern Territory in a matter of days at the same time the NT Government overturned the moratorium on gas fracking. Morrison committed to the funding just three days after the fracking decision, in a letter of offer to the NT that also refers to that decision. The Federal Government holds many documents referring to both fracking and federal funding to NT, but refuses to release them under FOI, because their decisions or deliberations are not already disclosed.***

**Tom Swann**

**September 2018**

On 23 April, Treasurer Scott Morrison announced two large payments to the NT. The payments included \$260 million to “deliver essential services, including to remote communities”, described as a ‘GST top-up’.<sup>1</sup>

Just one week earlier, on 16 April 2018 the Northern Territory government announced it would overturn the moratorium on fracking for unconventional gas.

The payments, and fracking decision, came after a year of sustained public pressure from the Commonwealth Government on the NT Government to allow fracking. Treasurer Morrison threatened NT with a GST formula linked to fracking, which would penalise governments with a moratorium and reward those without.

A former NT Labor MP suggested the timing of the new payments “may not be a coincidence”, suggesting it may have been part of the ongoing political pressure.<sup>2</sup> Both parties denied the payments had anything to do with fracking.

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<sup>1</sup> Treasurer Scott Morrison et al (2018) *New funding to boost services in the NT*  
<http://sjm.ministers.treasury.gov.au/media-release/040-2018/>

So what really happened?

New evidence shows the Scott Morrison's \$260 million payment to NT was not a longstanding policy. A week before the NT's fracking decision, Morrison had not even received a Treasury briefing on the funding. Morrison first 'committed' to the payment three days after the NT's fracking decision, in a letter to the NT offering the funding and acknowledging the fracking decision.

This was not the only large payment conceived and offered in that fortnight. In the same week that Prime Minister Malcolm Turnbull conceived and offered unprecedented funds to the Great Barrier Reef Foundation, a payment that has rightly attracted significant scrutiny.

The haste in allocating substantial public funds raises concerns and leaves a number of questions. Why did it all happen so quickly, in the same fortnight as the fracking decision? Why did it need to? Unanswered, such questions fuel the suggestion that the payments were part of political pressure on the NT.

Attempts to get to the bottom of things using Freedom of Information have been blocked. FOI requests have revealed Treasury has numerous documents referring to both NT fracking and federal funding to the NT. But it has blocked access to all of these documents, including the letter to the NT offering the money.

This briefing note first presents a timeline summarizing events as they are now known. It then presents the context around the NT Government's fracking moratorium and the pressure they sustained. It then outlines the rushed process around the payments outlined in Treasury's evidence to Senate Estimates, and the FOI requests that Treasury is now blocking. It concludes with some unanswered questions.

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<sup>2</sup> Karp (2018) *Morrison denies Northern Territory's extra \$260m is for lifting fracking ban*, <https://www.theguardian.com/australia-news/2018/apr/23/morrison-denies-northern-territorys-extra-260m-is-for-lifting-fracking-ban>

## Summary Timeline

Date	Events
<b>2016</b>	The incoming NT Labor Government puts a moratorium on fracking for gas, a widely popular decision in the NT, and sets up an Inquiry into risks from fracking.
<b>2017</b>	The Commonwealth Coalition Government repeatedly and publicly pressures NT government to overturn its fracking moratorium.  Treasurer Scott Morrison threatens to change the GST allocation formula to penalise the NT government if it does not allow fracking.  Separately, under the existing GST formula, NT government faces a cut to its GST allocation in the next year, raising concerns about its budget.
<b>2018</b> <b>27 March</b>	The Fracking Inquiry issues its Final Report, saying risks from fracking are acceptable if 135 recommendations are met.
<b>6 April</b>	Following talks with the NT Government, Scott Morrison links impending GST cuts to “some significant decisions [they must] make in relation to resources and gas in the Northern Territory”.
<b>10 April</b>	<b>INTERNAL:</b> Treasury sends the first Ministerial briefing to the Treasurer about a payment of \$260 million, calculated as an offset to GST cuts.
<b>16 April</b>	The NT Government overturns the moratorium on fracking.
<b>19 April</b>	<b>INTERNAL:</b> Treasurer Morrison first commits to the payment, in a letter of offer to the NT Government. The letter refers to the NT fracking decision.
<b>20 April</b>	<b>INTERNAL:</b> Treasurer Scott Morrison sends another letter to the NT government offering funding – possibly relating to remote indigenous housing.
<b>21 April</b>	<b>INTERNAL:</b> The NT government accepts the Commonwealth funding.
<b>23 April</b>	Scott Morrison publicly announces the new Commonwealth payments to the NT.  Morrison denies these payments are conditional on fracking. Treasury later also says the same.
<b>July</b>	In answers through Senate Estimates, Treasury reveals the internal dates.
<b>August</b>	Under FOI Treasury refuses to release Scott Morrison’s letters, along with other documents referring to both NT gas fracking and Commonwealth payments to the NT.

## Morrison and others pressure NT to frack

Whether or not to allow fracking for gas was a major issue in the 2016 NT election. The NT has large unconventional gas resources. Extracting these reserves requires hydraulic fracturing or fracking, which carries environmental risks.

After winning the election, the incoming NT Labor Government put in place a moratorium on fracking, and initiated a 'Scientific Inquiry into Hydraulic Fracturing' to investigate risks.

During 2017, the NT Government came under sustained public pressure from the Commonwealth Coalition Government to overturn the moratorium.

As Treasurer, Scott Morrison was particularly vocal. In June 2017 Morrison threatened to penalise states and territories who have a moratorium on gas, by reducing their GST allocation.<sup>3</sup> Morrison specifically singled out the NT moratorium as especially unjustified as the NT receives a high per capita share of the GST funding.

NT's GST allocation is higher than other states and territories because it has large indigenous and remote population, and has significant socio-economic needs.<sup>4</sup> Activists described Morrison's threat as "blackmail".

In 2017, the NT faced a substantial reduction funding from the GST allocation for 2018. This was scheduled to occur under current rules. Nonetheless, Scott Morrison himself repeatedly linked the GST issue with NT's fracking decision.<sup>5</sup>

NT also faced public pressure from Federal Environment and Energy Minister Josh Frydenberg, Finance Minister Matias Cormann, and Prime Minister Malcolm Turnbull.

In September 2017 at a public event, following NT Chief Minister Michael Gunner, Turnbull put Gunner on the spot:

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<sup>3</sup> Hutchens (2017) *Scott Morrison threatens to cut states' GST share if they oppose fracking*  
<https://www.theguardian.com/australia-news/2017/jun/29/scott-morrison-threatens-to-cut-states-gst-share-if-they-oppose-fracking>

<sup>4</sup> GST allocations are calculated independently by the Commonwealth Grants Commission. Staff at the Commission said penalising jurisdictions who decide to have a moratorium on new gas production would result in changes to GST allocation that would be so small as to be "immaterial". The Commission is nonetheless considering the issue in a formal review of the allocation formula.<https://www.afr.com/business/energy/gas/coalseam-gas-immaterial-for-states-share-of-the-gst-pie-20171004-gyu9ue>

<sup>5</sup> ABC (2018) *Northern Territory's share of GST to fall by \$136m, dealing 'devastating blow' to economy*  
[http://www.abc.net.au/news/2018-04-05/northern-territory-gst-share-to-fall-by-\\$136m/9623028](http://www.abc.net.au/news/2018-04-05/northern-territory-gst-share-to-fall-by-$136m/9623028)

There's a lot of gas in the North, Michael... Pull the trigger, Gunner. Pull the trigger.<sup>6</sup>

NT Deputy Chief Minister Nicole Manison pushed back:

I'm a bit sick of Canberra parliamentarians coming in and telling us what to do... Territorians want to have a say in the process of whether or not we frack.<sup>7</sup>

## Fracking is unpopular and will bring few benefits

Fracking is not popular in the NT. Polls show consistently that the overwhelming majority of Territorians wanted to maintain the moratorium. Formal resolutions against fracking have been passed by Alice Springs, Katherine, Roper Gulf and Coomalie local governments. Even in Darwin, where support for fracking is highest, a March 2018 poll found a majority supported keeping the moratorium.<sup>8</sup>

Proponents of fracking have emphasised economic benefits.<sup>9</sup> Some have claimed it will make the NT less reliant on 'Canberra' for revenue. Fracking revenue is likely to be modest: the gas industry has a record of paying little in the way of taxes and royalties while claiming substantial assistance from the taxpayer. Moreover, fracking in the Territory is unlikely to provide many jobs: gas is highly capital intensive, not job intensive.

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<sup>6</sup> Damjanovic (2017) *Prime Minister Malcolm Turnbull puts more pressure on Gunner to lift fracking ban* <http://www.abc.net.au/news/2017-09-14/malcolm-turnbull-again-puts-pressure-nt-lify-gas-moratorium/8944028>

<sup>7</sup> Zillman (2017) *NT Treasurer tells Canberra to back off in fracking fight as Turnbull and Frydenberg turn up the heat* <http://www.abc.net.au/news/2017-10-02/nt-canberra-back-off-fracking-fight-as-turnbull-turns-up-heat/9008644>

<sup>8</sup> The Australia Institute (2018) *28 March Solomon Fracking Poll – ReachTEL* <http://www.tai.org.au/sites/default/files/TAI-28March18-Solomon%20-%20Fracking%20Poll%20ReachTEL.pdf>

<sup>9</sup> Campbell (2018) *Briefing Note – NT Gas* <http://www.tai.org.au/sites/default/files/Campbell%202017%20Briefing%20Note%20NT%20gas%20FI%20NAL.pdf>

## Morrison's \$260m to NT “may not be a coincidence”

On 27 March 2018 the Fracking Inquiry handed down its Final Report, with 135 recommendations. The Report said the risks of fracking could be made acceptable if all recommendations were implemented.<sup>10</sup>

On 6 April 2018, Morrison spoke about the GST cut to the NT, linking it to the fracking moratorium:

I've already had discussions with the NT Treasurer about my concerns about that outcome and we will be holding further discussions ...

They have some significant decisions to make in relation to resources and gas in the Northern Territory, as well as other revenue issues, and we'll continue to have I think very positive and good faith discussions with the Northern Territory.<sup>11</sup>

The Northern Territory Country Liberal Opposition also linked the GST issue to fracking. Insisting they opposed cuts to NT's GST funds, they nonetheless called for fracking.<sup>12</sup>

On 16 April, the NT government announced it would be overturning the moratorium on fracking, adopting all 135 recommendations from the Inquiry.

Just one week later, on 23 April, the Commonwealth government announced a \$260 million 'GST top-up' payment, and \$550 million for five years of remote indigenous housing.

The timing of the announcement drew immediate criticism. Former NT Labor MP Ken Parish suggested:

If it's got feathers, a bill and webbed feet – it's probably a duck ...

It might well not be a coincidence that Morrison has announced this funding only a few days after the NT government decided to lift the moratorium.<sup>13</sup>

Scott Morrison denied the suggestion the payment was linked to fracking:

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<sup>10</sup> NT Government (2018) *Scientific Inquiry into Hydraulic Fracturing in the Northern Territory*  
<https://frackinginquiry.nt.gov.au/>

<sup>11</sup> ABC (2018) *Northern Territory's share of GST to fall by \$136m, dealing 'devastating blow' to economy*  
[http://www.abc.net.au/news/2018-04-05/northern-territory-gst-share-to-fall-by-\\$136m/9623028](http://www.abc.net.au/news/2018-04-05/northern-territory-gst-share-to-fall-by-$136m/9623028)

<sup>12</sup> ABC (2018) *Northern Territory's share of GST to fall by \$136m, dealing 'devastating blow' to economy*

<sup>13</sup> Karp (2018) *Morrison denies Northern Territory's extra \$260m is for lifting fracking ban*  
<https://www.theguardian.com/australia-news/2018/apr/23/morrison-denies-northern-territorys-extra-260m-is-for-lifting-fracking-ban>

I think you should pay the Northern Territory government a bit more respect ... You're suggesting they've been so weak-kneed they've just rolled over – I don't think they've done that at all.<sup>14</sup>

Nicole Manison also insisted the decision was based entirely on the Inquiry recommendations, not on federal funding.<sup>15</sup>

So what really happened?

## Treasury reveals it all happened in days

New evidence shows the 'GST top-up' payment was not a longstanding policy but formalised days before the NT fracking decision and offered to the NT days after.

Through the Senate Estimates process, Treasury officials were asked to provide detailed information about the payment, including the dates on which various events occurred.<sup>16</sup>

Treasury said it "was not involved in the decision to announce the funding" and so could not provide information about the announcement. However it revealed the following details.

Treasury first briefed the Treasurer "about a potential payment for this purpose" on 10 April 2018. This brief was for a payment of \$260 million. It was calculated as the amount required to offset the reduction in GST funding to NT.<sup>17</sup> The funding was 'untied' with no conditions on what it would fund.

The Treasurer first committed "to a payment for this purpose" on 19 and 20 April 2018. This was in a letter to the NT Treasurer to offer this funding. The letter came just three days after the NT's fracking decision. The offer was for \$260 million. Treasury also noted that

The Treasurer's letter of 19 April 2018 noted that the NT had announced it would accept the recommendations of the Final Report on the Scientific Inquiry into Hydraulic Fracking in the Northern Territory.

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<sup>14</sup> Karp (2018) *Morrison denies Northern Territory's extra \$260m is for lifting fracking ban*

<sup>15</sup> Karp (2018) *Morrison denies Northern Territory's extra \$260m is for lifting fracking ban*

<sup>16</sup> Senate Economics Legislation Committee (2018) *Answers to Questions on Notice – Treasury*  
<https://www.aph.gov.au/api/qon/downloadattachment?attachmentId=44db3ac9-99a4-44e6-a85d-e5e94f268d84>

<sup>17</sup> Treasury estimated this offset by assuming no change to the NT's GST relativity.

Treasury also stated that negotiations about this budget items did not include negotiations about fracking and “provision of the funding was not linked to the NT Government’s decision in relation to fracking”.

Treasury also revealed the NT Treasurer accepted the funding on 21 April.

Asked why the government had made this payment outside of the independent GST process, Treasury said the cut to NT’s budget would otherwise have “would have had a significant impact on its fiscal position.” Treasury declined to answer whether such payments would or would not be offered in the future.

## **FOI requests blocked for documents about fracking and payments to NT**

To investigate the process around these payments, The Australia Institute made numerous FOI requests to both Treasury and the Treasurer’s officer about the payments to the NT and fracking in the NT.

The Treasurer’s office said all documents in scope were also held by Treasury, which processed the requests.

While Treasury holds many relevant documents that refer both to the payments and to fracking, or outline the key dates around these payments, it has refused to release these documents.

Treasury located 12 documents from the previous year that referred to both fracking in the NT and federal funding to the NT.

All were deemed exempt from release as cabinet documents. Treasury says releasing the cabinet material would reveal decisions or deliberations not already officially announced.

This is strange. It is unclear what deliberation or decision about NT fracking and payments to the NT these documents contain. The new payments to the NT were officially announced on 23 April 2018. Both the Treasurer and Treasury said that the payment was not conditional on NT decisions about fracking.

Treasury also deems two pieces of correspondence, and other documents, as exempt material relating to ‘Commonwealth-State relations’. Treasury says these documents “originated from or were informed by confidential information provided by the Northern Territory Government”.



At least one these documents must be the letter offering funding to the NT Government, which also referred to the repeal of the moratorium. This was disclosed by Treasury through Senate Estimates. It is unclear what confidential NT information would be contained in a letter from the Treasurer.

The only document outlining the NT government's decision to allow fracking was the NT government press release. "Decision" here may have been interpreted narrowly, as official decision as announced, rather than intention or plan.

Treasury informed that there was no correspondence from Treasury to the NT Government that referred to new gas production or fracking. There was also no Treasury correspondence relating to planning the announcement of the funding. Surprisingly, Scott Morrison's office also held no such documents.

## **Morrison's letter to NT redacted to hide deliberations**

The Australia Institute sought an internal review of three of the decisions. Treasury reviewed the documents and again blocked access to all of them, except one. This was the letter from Scott Morrison on 19 April in which he committed to the money and offered it to the NT. Nearly the entire letter was redacted, as seen on the next page.

The only part of the letter not redacted was Morrison noting the Territory had decided to overturn the moratorium. The rest of it was redacted on two grounds.

First, Treasury said releasing it would reveal cabinet decisions or deliberations that have not already been disclosed. This is surprising, given that the Treasury has already revealed the letter contained Morrison's first commitment to the money.

Second, the NT government had objected and Treasury found releasing the documents would damage relations with the Territory. Again it is surprising that the NT and Commonwealth governments would think their relations are better served by secrecy than transparency on this matter.

Figure 1: Letter from Treasurer Morrison offering money to NT



FOI 2340  
Document 1

TREASURER

The Hon Nicole Manison MLA  
Treasurer  
Parliament House  
Darwin NT 0800

Dear Treasurer

s34(3) and/or ss47B(a) and 47B(b)

I also note the Northern Territory has announced that it will accept the recommendations of the Final Report of the Scientific Inquiry into Hydraulic Fracturing in the Northern Territory.

s34(3) and/or ss47B(a) and 47B(b)

Parliament House Canberra ACT 2600 Australia  
Telephone: 61 2 6277 7340 | Facsimile: 61 2 6273 3420

s34(3) and/or ss47B(a) and 47B(b)

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Scott Morrison', written in a cursive style.

The Hon Scott Morrison MP

19 / 04 / 2018

## Conclusion

The details raised so far about this payment raise a number of further questions.

- Why was Morrison's first Treasury briefing on the payment just four days after a meeting with the NT Government when he linked GST and fracking?
- Why was Morrison's first Treasury briefing just six days before the NT announced its fracking decision?
- Why not in the year before, when the GST revenue decline had been clear?
- When was the payment first floated, and by who?
- Why did Morrison first commit to the funding just three days after the NT overturned the moratorium, in a letter of offer to the NT? Why did he not offer the funding in the six days prior the decision?
- Why did Morrison link Commonwealth funding to the NT to fracking in both public comments and the letter offering the funding?
- When did Morrison first hear the NT intended to overturn its moratorium?

While such questions remain unanswered, it will be difficult for Territorians to have confidence that these payments were not used to pressure the NT Government to overturn the moratorium and again allow fracking.