



## **Nuclear Waste Transport, Storage and Disposal (Prohibition) Amendment Bill 2018 Social Policy Scrutiny Committee: ALEC and ECNT Submission**

The Arid Lands Environment Centre (ALEC) is central Australia's peak environmental organisation that has been advocating for the protection of nature and ecologically sustainable development of the arid lands since 1980.

The Environment Centre NT (ECNT) is the peak community sector environment organisation for the Top End of the Northern Territory, raising awareness amongst community, government, business and industry about environmental issues and assisting people to reduce their environmental impact and supporting community members to participate in decision making processes and action.

### **Storage of NORMs**

Despite the insistence to the contrary from the Department, these reforms are more than simply administrative in nature. Removing this exemption could have significant environmental implications by transporting and storing NORM waste on land that would otherwise have been protected from such storage as well as facilitating the development of an industry that is otherwise beyond the authority of this amendment.

There are specific regulatory uncertainties that are created by the amendments. This amendment should not be passed until there is full certainty around how nuclear waste will be regulated:

1. There should be a published inventory of NORM wastes and current storage or disposal sites in the NT.
2. Uncertainty over the project volumes and concentrations of wastes arising because of the amendment.
3. The expected regulatory controls on the production, processing and storage of these wastes considering the ongoing environmental regulatory reform agenda.
4. There should be an activity concentration limit included to clarify the level of risk posed by this exemption.

There are significant potential environmental implications by removing the exemptions in this Act. It is not clear why these exemptions are being removed at this time when offshore gas processing has been operating for many years.

This change could facilitate large scale development of the petroleum industry without adequately considering the legal ramifications of that possibility. Without having an accurate understanding of the expected operation of the amendments it is possible that facilitating the development of the petroleum industry could have far reaching consequences for the rights, duties and obligations under other pieces of environmental law.

## **Compatibility with human rights**

The Statement of Compatibility with Human Rights states that the Bill ‘is compatible with human rights as it does not raise any human rights issues. This empty assertion is not necessarily compatible with existing human rights protections and obligations, most notably Article 29 (2) of the UN Declaration on the Rights of Indigenous People’s which requires that:

*“States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.”*

This amendment has profound implications for the land rights of Indigenous people in the NT. While Indigenous land is currently protected from the storage of nuclear waste, this amendment drastically alters that situation. There has been inadequate regard in the Bill to the possibility of storing Nuclear waste on Indigenous land. Specifically, there are concerns that this Act could lead to waste being stored at the Chandler Hazardous Waste Storage Facility.

The Chandler facility has been approved for the storage of NORMs so there is a clear link between off-shore operations and land-based transport of NORMS for disposal at Chandler. The proposed legislative change would streamline this disposal option.

Traditional owners and Native Title Holders in that area have not consented to the possible storage of NORM materials. The Central Land Council, in their EIS submission to the Chandler EIS documents stated that NORMs should not be accepted on the site, consistent with the prohibition of the establishment of a nuclear waste storage facility.

This Bill would unreasonably interfere with rights by legitimizing a nuclear waste storage facility. This is otherwise prohibited by the Act and goes against the purpose of the reforms.

This amendment can ultimately create a situation where NORMs are produced and disposed of according to a process that has not been consented to by people whose land could be affected. Without the free, prior and informed consent of the land owners in question, these amendments could breach international law.

## **Conclusion**

Ultimately there are significant questions that remain about how these exemptions will affect the movement, processing and storage of radioactive waste in the Northern Territory. Significant regulatory uncertainties have not been addressed during the public briefing or the explanatory statement. Until the implications of these amendments are accurately understood the Bill is potentially in conflict with our human rights obligations under international law and pose environmental risk by facilitating the poorly regulated storage of nuclear wastes.

These amendments should not be passed until there is proactive and informed engagement with all relevant stakeholders on the full implications of the reform.