

**Protect Big Rivers Inc.**

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Via email: [LA.Committees@nt.gov.au](mailto:LA.Committees@nt.gov.au)

Dear Scrutiny Committee,

### **Territory Coordinator Legislation**

1. Protect Big Rivers (PBR) is a volunteer community-based incorporation in the Big Rivers Region of the Northern Territory. Our members are Territorians concerned about the future of our region, its people, its culture, its long-term economy, and its natural and man-made environments. Protecting our beautiful region and our people, protects our 'young future'.
2. Protect Big Rivers thanks you for the ability to contribute to the Territory Coordinator Bill via this submission. The timeframes related to this submission period are extremely disappointing, given the vastness of the region we represent and the cross-cultural nature of our membership.
3. We have conducted brief phone consultations with some of our remote Aboriginal membership in the time permitted. People do not understand the legislation, are angry that no formal remote bilingual consultation process has been entered into by the Government and are deeply concerned about the most recent Land Rights and Native Title amendments in the Bill.
4. It is clear this Bill is designed to expedite development, and it is equally clear that the Big Rivers Region is front and centre of many of the 'major projects' planned for the NT. Broad acre land clearing, NT Landcorp development, irrigated agriculture including cotton, deep shale fracking, potential solar developments, sand mining for fracking, and other general mining mean our region is likely to have many 'Territory Development Areas' within it. As such this legislation may disproportionately affect the people and environment of the Big Rivers Region.
5. The far-reaching applications of this proposed legislation for our region are clearly defined by part 7; *Expediting Statutory Processes Section 63 (1) This Part, and any request or notice given under it, applies despite any other law of the Territory to the contrary, other than the Interpretation Act 1978*. Essentially Territory Law can be overridden by a single appointed bureaucrat in a way that will threaten current safeguards across many aspects of our society. PBR views this as unacceptable.
6. The step in powers 68 (2) *'The Territory Coordinator may give the responsible entity and the applicant for the statutory decision or statutory process a written notice (a **step-in notice**) advising that the coordinator will step-in to make the statutory decision or*

*undertake the statutory process in place of the responsible entity'* represent a dangerous overreach in terms of basic democracy and therefore threaten the long-term environmental and economic sustainability of our region.

7. Section 77 Exemption Notices (1b), states that, *for the purposes of the decision being made or the process being undertaken, the application of the relevant law, or a provision of the relevant law, is modified or excluded in the manner specified in the notice*, effectively giving an unelected bureaucrat the ability to modify Territory Law, again entirely unacceptable.
8. Laws and regulatory processes exist to safeguard the community, our environment, and our future economies from unchecked development. To allow Territory legislation to be circumvented or altered in such a discretionary way, for the purposes of fast-tracking development, is extremely dangerous and may result in very poor planning. Many of the decisions may have far reaching consequences for future generations.
9. Territorians elect their Ministers because they trust them. Those Ministers are given port folios for which they are responsible. The step in and exemption powers remove basic democratic processes, hand all power to a non-elected individual, who can modify and overrule Territory Law. PBR views this as unacceptable.
10. The Territory sadly has a long history of non-transparent collusion between industry and Government. The number of failed development projects from prawn farms to rice paddies, the legacy mines and the contaminated rivers all bear testament to non-transparent wheeling and dealing. The gifting of legislative powers to a single individual, with the ability to overrule existing Territory Law, opens yet another door of potential collusion and corruption in relation to the economic development of the Northern Territory. Legislation should be working towards stopping backdoor deals rather than legislating for more back doors.
11. Protect Big Rivers hold grave practical concerns regarding this bill and how it may be implemented across our region. The Territory Coordinator position effectively allows decisions to be made about our community, our land, and our water, without our community; and without usual democratic processes.
12. Many of the existing Acts, that the TC position can overrule, are designed to protect and create a long-term sustainable Territory. Overriding these laws threatens our region in many ways.
13. In real life terms, examples of potential for significant problems to develop because of this proposed legislation in our region are discussed below. Given the timeframes available this is a very non exhaustive list of concerns from our members.

#### **14. The Waste Management and Pollution Control Act 1998 Waste Management and Pollution Control (Administration) Regulations 1998**

- i. This Act is designed to protect the public from the ill effects of chemical contamination by ensuring appropriate protections are in place before licences for these premises are issued.
- ii. Any individual bureaucratic, or political interference with this Act, as would be possible via the proposed TC legislation, is enormously concerning to PBR.
- iii. Should onshore gas development occur in our region, fracking wastewater and drill cuttings that require long term effective management will increase exponentially. When fracking wastewater leaves a petroleum lease, it no longer has a legislative link to the code of practice or the Petroleum Act. It is then managed under the *Waste Management and Pollution Control Act 1998 Waste Management and Pollution Control (Administration) Regulations 1998*. This Act will likely govern tens if not hundreds of billions of litres of highly toxic wastewater should the industry develop.
- iv. Fracking wastewater and drilling mud waste is extremely toxic, often radioactive, and typically contains large amounts of heavy metals.
- v. Managing this toxic waste is costly for gas companies and risky for waterways.
- vi. Pepper Inquiry Recommendation 5.5 was designed to mitigate some of this risk.

*5.5 That prior to the grant of any further exploration approvals, in consultation with the gas industry and the community, the Government develops a wastewater management framework for any onshore shale gas industry. Consideration must be given to the likely volumes and nature of wastewaters that will be produced by the industry during the exploration and production phases.*

*That the framework for managing wastewater includes an auditable chain of custody system for the transport of wastewater (including by pipelines) that enables source-to-delivery tracking of wastewater.*

*That the absence of any treatment and disposal facilities in the NT for wastewater and brines produced by the gas industry be addressed as a matter of priority.*

- vii. Expediting the removal and storage of this highly toxic waste has already proved problematic in our region. Gas company Tamboran was fined for illegal dumping of nearly 400,000 litres of contaminated water in 2022. Millions of litres of toxic waste now held in open tanks only 3 kms from the creek of Tennant Creek itself, governed by the Waste Management Act
- viii. Members of the Big Rivers region are already very familiar with the effects of chemically contaminated water. We live with ongoing PFAS contamination of our children, our aquifer, our swimming holes, our rivers, and our wild caught food supplies. We have the highest PFAS levels in Australia in our bloodstreams. We live with the knowledge that it is unlikely we will be able to prove that our autoimmune diseases, diabetes, high cholesterol, renal cancers, testicular cancers, low birth weight babies, or thyroid problems are directly attributable to our PFAS ingestion, despite peer reviewed medical data that now attributing all these diseases to PFAS.
- ix. The economic impact of water contamination continues to be felt across the Katherine Region, and the ongoing remediation cost is in the hundreds of millions of taxpayer dollars.
- x. PBR does not want to see the potential watering down or by-passing of the *Waste Management and Pollution Control Act 1998 Waste Management and Pollution Control (Administration) Regulations 1998* to expedite development in our region. It is simply too dangerous.

## **15. Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Regulations 2011.**

- i. The proposed TC will have the ability to overrule current transport and licensing requirements for dangerous goods transport within our region.
- ii. From a practical perspective in 2024 the Tamboran EMP noted that for every 3 wells there would be approximately 1.5 million litres of chemicals stored on site. This chemical must be transported via road and rail to the fracking sites.<sup>1</sup>
- iii. Post fracking the toxic wastewater also requires transportation. Considering these potential risks Pepper Inquiry Recommendation 7.4 read

***That the Government, having regard to the measures detailed in Recommendation 5.5, undertakes a review to determine whether:***

- a. restrictions need to be placed on the transport of hydraulic fracturing chemicals and wastewater during the wet season, particularly on unsealed roads, to avoid the risk of spills; and***
  - b. rail transport of some or all of the hydraulic fracturing chemicals and other consumables required, be used to avoid the risk of spills.***
- iv. Again, permitting a single bureaucrat, with a development remit, to be able to overrule regulations and transport licensing requirements, is dancing with real danger.

## **16. Environment Protection Act 2019, Environment Protection Regulations 2020**

- i. No environmental impact assessment has been conducted for Beetaloo Fracking. This proposed legislation provides for the TC position to determine what projects get referred to the Environmental Protection Agency for assessment. The impossibility of a single unelected bureaucrat holding both a development agenda and an environmental/public health protection agenda is apparent to almost everyone in our region.
- ii. The public health consequences of deep shale fracking are now well documented and are summarised in 'The Haswell Report'.<sup>2</sup> It is critical that an overarching Environmental Impact Assessment is conducted prior to further permits being granted.
- iii. Under this proposed legislation the TC position will have the ability to 'step in' and calculate the security bond for a mine. PBR submits the conflict between fast tracking development and obtaining adequate security bonds under this legislation jeopardises our rivers.

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<sup>1</sup> Removed from DME website, see chemical risk assessment appendix

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[https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.sydney.edu.au/content/dam/corporate/documents/about-us/values-and-visions/aboriginal-and-torres-straight-islander-community/risks\\_of\\_og\\_development.pdf&ved=2ahUKewjz\\_7asgs-LAXUv9jgGHUawI98QFnoECBoQAQ&usg=AOvVaw2ELFFeuK0zTKuB0IZEzzFr](https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.sydney.edu.au/content/dam/corporate/documents/about-us/values-and-visions/aboriginal-and-torres-straight-islander-community/risks_of_og_development.pdf&ved=2ahUKewjz_7asgs-LAXUv9jgGHUawI98QFnoECBoQAQ&usg=AOvVaw2ELFFeuK0zTKuB0IZEzzFr)

- iv. Our region is already dotted with leaching legacy mines. Health warnings exist for cadmium contamination from Mt Todd at the Daly River mouth, copper at Redback, lead in the Mc Arthur River to name a few. These are due to improper mine clean ups, and now affect how much food people can source from once pristine rivers.

**17. Petroleum Act 1984 Petroleum (Environment) Regulations 2016 Petroleum (Prospecting and Mining) Regulations 2001 Petroleum (Transitional) Regulations 2023 Petroleum Regulations 20**

- i. The appointment of an ex-gas executive to the current acting Territory Coordinator position speaks to the Government's current focus on gas sector development.
- ii. Fracking exploration permits, renewal notices, production permits, well operating plans and infrastructure, and all variations, are contained within this legislation. As fracking exploration continues, gas companies will be hoping to fast track to licences, a move widely recognised as jeopardising environmental safeguards.
- iii. This legislation potentially places the power to place exploration and production licences and processes into the hands of a single unelected bureaucrat, currently one from the gas industry. In this instance the parting words of the overseer of the implementation of the Pepper Inquiry should sound alarm bells,

*“To ensure that the gas industry continues to operate in accordance with acceptable standards requires that the Government maintains both the capability and systems to enforce them. Fundamental to this will be a system to monitor and review how well laws are being complied with, and how well they are being enforced. This system will provide critical information for periodic reassessment of risks generated by the gas industry.*

*This will be a major task for leaders from the highest levels of government down. It requires an understanding that the gas industry will relentlessly exert its influence to change laws that increase their operating costs and, more generally, to shape the social and political environment in its favour.”<sup>3</sup>*

- iv. The impacts of fast tracking any processes related to the gas industry exposes our region to significant potential harm. As a result of the Pepper Inquiry, legislation was specifically created to assist in mitigating these many inherent risks. The notion that the legislation created because of the Pepper Inquiry could be by-passed by a single bureaucrat is a dangerous folly for our region's pastoral industry, climate, water, culture, and long-term economic security.

**18.** Additionally, the TC position will have the power to stay court proceedings for companies that have contravened the Petroleum Act. It is quite simply unacceptable that an unelected bureaucrat could have such power.

**19. Energy Pipelines Act 1981 Energy Pipelines Regulations 2001**

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<sup>3</sup> Page 21 [https://hydraulicfracturing.nt.gov.au/\\_\\_data/assets/pdf\\_file/0016/1221181/dr-ritchies-final-letter-may2023.pdf](https://hydraulicfracturing.nt.gov.au/__data/assets/pdf_file/0016/1221181/dr-ritchies-final-letter-may2023.pdf)

- i. In our region this legislation speaks to the potential development of the infrastructure corridor from near Tennant Creek to Darwin as well as interconnecting pipelines.
- ii. High pressure gas pipelines are inherently dangerous, made more so by extreme heat. Pipeline accidents with subsequent explosions occur frequently in a global context.
- iii. The infrastructure corridor may also contain pylons for the proposed Suncable Project. These pylons are 40-60 metre high, triangular concrete structures placed every 100 metres.
- iv. The infrastructure corridor will impact the safety and amenity of our region significantly, and its development requires extensive consideration, consultation, negotiation.
- v. This proposed TC Bill provides for step in powers, to design and approve the corridor and approve and create management plans for all high-pressure gas pipelines. This power, with far reaching consequences, should not lie in the hands of a single unelected bureaucrat.

## **20. *Water Act 1992. Water Regulations 1992***

- i. Water is a public asset and ground zero for the people of our region. We are almost entirely dependent on underground water for survival. Our springs bring tourists. Our rivers deliver food security. For Aboriginal people the spiritual importance of underground water, spring and rivers is paramount.
- ii. Many of our rivers are braided systems fed by springs. Large lagoons, sanctuaries for fish breeding and development, form inside these channels. For the last 10 years Aboriginal people of the Roper River have noticed these braided channels and lagoons drying out completely. These systems are already collapsing. An integrated system of evidence-based water management, that includes traditional knowledge of rivers and underground water flows is imperative, if we are to avoid a Murray Darling catastrophe on our rivers.
- iii. The CSIRO predicts Northern territory River flows to decrease 20-40% by 2050 from climate change alone.<sup>4</sup>
- iv. Our rivers only flow during the dry season because of underground aquifers flowing out via springs, to form our dry season rivers. The notion that underground or surface water belongs to a 'Territory Development Area' denies the moving and interconnected nature of water flow completely. What happens upstream in a system affects all downstream users.
- v. As a warning example, between 1958 and 1960 the community of Ngukurr and all pastoral leases below Roper Bar, had to be evacuated because of a decrease in Roper River flow. Salt water came up the river, and the aquifer became too salty for people or stock to drink. People at Ngukurr are now noting saltwater fish are moving further upstream each dry season. PBR notes this, in attempt to help the scrutiny committee face the reality that our members are facing daily. Our rivers and water ways are in trouble.
- vi. The Water Act must be excluded from the TC remit if it the proposed Bill progresses.

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<sup>4</sup> <https://www.csiro.au/en/research/natural-environment/water/water-resource-assessment/roper-river-water-resource-assessment/roper-report>

- vii. By not creating and exemption for the Water Act and Water Regulations, this proposed Bill the legislation is permitting a single bureaucrat discretionary power, within a TDA, to
- Remove the requirement for industry to obtain a water licence
  - Grant or alter surface water and ground water licences
  - Permit individuals to build mega dams, filled by either pumping water from rivers or via blocking tributaries that feed our rivers.
  - Permit fracking companies to reinject fracking wastewater below potable aquifers
  - Transport water from one aquifer and pump it into another part of the aquifer (aquifer recharge licensing)
  - Overrule decisions made by the Water Controller
- v. The sharing of water must be a consultative process that provides for deep, cross community, local knowledge to be included. It is extremely dangerous to leave water sharing in the hands of a nominated bureaucrat who has the remit of development fast tracking.

## **21. Pastoral Land Act 1992 Pastoral Land Regulations 1992**

- i. Pastoral lease land in the Territory has two forms of tenure: pastoral leases and the traditional ownership via native title. 'Pastoralists', often large overseas corporations, wanting to diversify are currently seeking large land clearing permits to grow fodder crops for stock.
- ii. To grow a non-fodder crop, such as cotton, the pastoral lease holder is required to consult with the traditional owners of the country they are leasing. The pastoralist must obtain a non-pastoral use permit under the Pastoral Land Act.
- iii. The proposed TC legislation will place the issuing of such permits in the hands of a single bureaucrat, the TC. This may expose our region up to potentially devastating consequence of unbridled land clearing and ill-considered irrigated agricultural development, without due process. PBR members, and many residents across our region, are deeply concerned about this rapid push for broadacre cotton.
- iv. The proposed TC legislation will also permit the TC to oversee land clearing and mining on pastoral land, without the usual precautions.

## **22. Conclusion**

- vi. For the Government to have a development agenda is one thing. To actively legislate to overrule current protective legislation across many areas that impact of our region is entirely different.
- vii. The overreach contained within this Bill is extraordinary and fundamentally very dangerous for the ongoing sustainability of our region. If the Bill is to be progressed, and PBR submits it should not be, a significant diminution of the powers of the TC position is essential to avoid the potential for very significant harm to our region.

