



# LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

13<sup>th</sup> Assembly

## SOCIAL POLICY SCRUTINY COMMITTEE

### Public Briefing Transcript

#### Nuclear Waste Transport, Storage and Disposal (Prohibition) Amendment Bill 2018

11.00 am, Monday, 10 September 2018  
Litchfield Room, Level 3, Parliament House, Darwin

**Members:** Ms Ngaree Ah Kit MLA, Chair, Member for Karama  
Mrs Robyn Lambley MLA, Deputy Chair, Member for Araluen  
Ms Sandra Nelson MLA, Member for Katherine

**Witnesses:** **Department of Environment and Natural Resources**  
Joanne Townsend: Chief Executive Officer  
Kathleen Davis: Director Environment Policy

**Department of Trade, Business and Innovation**  
Michael Tennant: Chief Executive Officer  
Nicky D'Antoine: director, Project Facilitation, Strategic Infrastructure  
and Projects  
Joseph Kuhn: Director, Strategic Policy and Research

**Department of Health**  
Bradley Feldtman: Manager, Radiation Protection

**NUCLEAR WASTE TRANSPORT, STORAGE AND DISPOSAL  
(PROHIBITION) AMENDMENT BILL 2018**

**DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
DEPARTMENT OF TRADE, BUSINESS AND INNOVATION  
DEPARTMENT OF HEALTH**

**Madam CHAIR:** Good morning, everyone. Thank you for joining us. I am Ngaree Ah Kit. I am the Member for Karama and Chair of the Social Policy Scrutiny Committee.

On behalf of the committee, I welcome everyone to this public briefing into the Nuclear Waste Transport, Storage and Disposal (Prohibition) Amendment Bill 2018.

I welcome to the table to give evidence to the committee, from the Department of Environment and Natural Resources: Joanne Townsend, Chief Executive Officer and Kathleen Davis, Director Environment Policy; from the Department of Trade, Business and Innovation: Michael Tennant, Chief Executive Officer; Nicky D'Antoine, Director, Project Facilitation, Strategic Infrastructure and Projects and Joseph Kuhn, Director, Strategic Policy and Research; and from the Department of Health: Bradley Feldtman, Manager, Radiation Protection.

Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public briefing and is being webcast through the Assembly's website. A transcript will be made for use by the committee and may be put on the committee's website.

If, at any time during the briefing, you are concerned that what you will say should not be made public, you may ask that the committee go into a closed session and take your evidence in private.

I will ask each witness to state their name for the record, and the capacity in which they appear. I will then invite Ms Townsend to make a brief opening statement before proceeding to the committee's questions. Could each of you now please state your name and the capacity in which you appear this morning?

**Mr FELDTMAN:** Bradley Feldtman, Manager, Radiation Protection, Department of Health.

**Ms DAVIS:** Kathleen Davis, Director Environment Policy, Department of Environment and Natural Resources.

**Ms TOWNSEND:** Jo Townsend, CEO, Department of Environment and Natural Resources.

**Mr TENNANT:** Michael Tennant, CEO, Department of Trade, Business and Innovation.

**Ms D'ANTOINE:** Nicky D'Antoine, Director, Project Facilitation, Department of Trade, Business and Innovation.

**Mr KUHN:** Joseph Kuhn, Director, Strategic Policy and Research, Department of Trade, Business and Innovation.

**Madam CHAIR:** Thank you very much. Ms Townsend, would you like to make an opening statement?

**Ms TOWNSEND:** Thank you, Madam Chair and members of the committee. Thank you for inviting me to speak to you today on behalf of the Department of Environment and Natural Resources.

Today, I am joined—as the introduction attested—by my colleague, Mr Michael Tennant, who is the Chief Executive Officer from the Department of Trade, Business and Innovation, or DTBI.

This amendment bill is an example of collaboration across both departments to improve legislation and its application in the Territory. Mr Tennant will be talking later about some of the particular application of this legislation to industry.

I will provide some detail in the specific changes to the Act and their affect. We are also joined by Mr Bradley Feldtman from the Department of Health, who will speak to the transport, storage and disposal of waste under the *Radiation Protection Act* and the Radiation Protection Regulations.

What does the Act govern? The Nuclear Waste, Transport, Storage and Disposal (Prohibition) Amendment Bill introduces amendments to the *Nuclear Waste Transport, Storage and Disposal (Prohibition) Act*, which was introduced in 2004. It was introduced at a time when there was significant local and national debate about nuclear waste facilities and their location, including debate and discussion about establishing a facility on Commonwealth land in the Northern Territory.

The purpose of the Act was to protect the Northern Territory environment and the health of Territorians by preventing the Northern Territory from becoming a dumping ground for Australia's nuclear waste. Both South Australian and Western Australia have similar legislation in effect, from around the same time.

At its core, the Act has two primary functions. The first is to prevent certain waste from being imported into the Territory, and the second is to prevent someone from constructing and operating a nuclear waste facility.

The Act does not and is not intended to regulate the transport, storage or disposal of nuclear waste that may be generated or present already within the Northern Territory. This is the function of other legislation, primarily the *Radiation Protection Act* and its regulations.

The amendments before you do not change the intent of the Act or its primary functions. What the amendments are designed to do is make it clearer that Northern Territory industries that may generate nuclear waste, including naturally occurring radioactive materials, or NORMs, incidentally as part of its ordinary business are not captured by that Act.

The Act already contains a range of exemptions that were intended to allow Northern Territory industries to continue to operate in compliance with the law, however whilst undertaking legal due diligence the offshore oil and gas industry raised with the Northern Territory Government that these exemptions were potentially ambiguous and they have sought greater clarity on the regulatory arrangements.

Our own legal advice confirmed these ambiguities, and this bill has been prepared in order to redraft the exemptions in the Act in order to provide greater certainty for both industry and the Northern Territory community. What are the specific amendments? The bill repeals and replaces subsection 5(2) of the Act in order to more clearly state the circumstances in which the Act does not apply, and the interaction between those exempted activities in other legislation that may have a role in managing waste from those activities.

That legislation includes the *Radiation Protection Act* and its regulations, the *Mining Management Act* and the *Radioactive Ores and Concentrates (Packaging and Transport) Act*. There is quite a range of regulations in effect in the Northern Territory that regulates waste produced in the Northern Territory.

I quickly want to address each of the elements of the changes in section 5 of the Act and explain how they relate to the current exemptions. We have a new subsection (2), which is simply included to provide certainty that the Act is intended to apply to all nuclear waste generated inside or outside of the Territory, unless one of the exemptions identified in subsections (3) and (4) apply. This is currently included out of subsection (2)(a) of the Act.

Subsection (3) deals with any waste that may be generated within the Northern Territory, including within the Northern Territory's marine waters. It covers the same matters that are currently covered by the existing subsections 5(2)(b) and 5(2)(c). Subsection (4) deals with any waste that may be generated by the oil and gas industry off-shore. By 'off-shore' I mean outside of the Northern Territory's marine waters. This subsection covers the same matters currently covered by the existing subsections 5(2)(c)(i) and (iii).

Although it is intended that these two existing sections would apply to both activities within and outside of the Northern Territory marine waters. This is one of the areas of ambiguity I mentioned earlier. As such, in rewriting the exemptions, we have made a clear separation between those activities that occur within the Territory, and those that occur off-shore.

The new subsections specifies exemptions for two types of activities that may be required by offshore oil and gas projects. Subsection (a) is designed to deal with waste that may be generated through the operations and maintenance of pipelines that might start in a gas field but land in the Territory. Subsection (b) deals with waste that might be brought into the Territory by some other means, which would usually be by ship. It covers waste that might be associated with equipment that needs cleaning or maintenance and waste that might be produced through some other aspects of the exploitation of a gas field.

It establishes a two-pronged test that requires the project to be delivering significant social and economic benefit for the Territory, and to be located within 800 kilometres of the Territory. This section considerably strengthens the previous exemption by being much clearer about the nature of the required relationship between the project and the Northern Territory for the exemption to apply.

These amendments make the application of the Act much clearer to industry, and of course to regulators. The amendments do not extend the reach of the Act or change its intent, as I stated earlier. I would like to re-iterate that the bill does not introduce new exemptions or broaden the existing exemptions, rather—as I have explained—they are reframed in order to provide greater certainty to industry and the Northern Territory community.

Furthermore, these exemptions do not mean that waste from these industries are not managed or regulated, they are through the legislation described earlier. These amendments do, however, mean that waste produced in the Northern Territory or off-shore as part of Northern Territory projects are not inadvertently prohibited through the Act—as I said, inadvertently prohibited through an act, which was intended to prevent the operation or establishment of a nuclear waste facility in the Northern Territory.

In summary, there is no change in policy intent arising from these amendments and no extension or limitation of the Act's application.

I will now ask Mr Tennant to speak to you about the impact of these changes on industry and the drivers that led to the amendments being proposed before you.

**Madam CHAIR:** Thank you very much, Ms Townsend. Mr Tennant.

**Mr TENNANT:** Thank you very much, Madam Chair and members of the committee.

The Northern Territory is strategically located near globally significant offshore energy resources, with an estimate that the Northern Territory has access to more than 30 trillion cubic feet of gas reserves in offshore waters.

The Territory oil and gas sector has the potential to significantly increase its contribution to the Northern Territory economy and jobs and to the Australian economy. We have an important role to play in providing for Australia's national energy security, as well as that for our strategic partners, as well as using the derivatives of gas, offshore and onshore, for associated and industrial chemicals and processes.

The Northern Territory has developed significant local infrastructure, expertise and capability to support a number of world-class offshore oil and gas projects. These include: the US\$37bn INPEX Ichthys LNG project currently in the final stages of construction; the ConocoPhillips-led Darwin LNG project, which first shipped LNG in February 2006, which has now loaded more than 500 ships; and Darwin and the Territory will play significant roles in the supply chain for the \$14bn Shell Prelude floating LNG gas project through the company's Darwin supply base and its contractors who manage warehousing, maintenance and logistics.

Darwin is expected to be a substantial gas processing and supply and service hub as the onshore and offshore oil and gas industry further develops. The government's vision is to establish the Territory as a world-class hub for gas production, manufacturing and services by 2030.

The proposed amendments are the result of the government actively engaging with and listening to one of our priority industry sectors—specifically the offshore oil and gas industry. The amendments will improve clarity and certainty about the application of the Act. The current ambiguities in the Act are of concern to the industry, and were identified by industry proponents when undertaking their own due diligence. We sought advice from the Solicitor-General for the Northern Territory, who has confirmed that the legislative amendment was required to resolve these ambiguities.

The bill will provide clarity and certainty to the offshore oil and gas industry about the application of the Act to norms that may be incidentally generated from offshore oil and gas activities and subsequently brought into the Territory.

The minor amendments will clarify that norms deriving from pipelines and exploration and recovery activities in the offshore oil and gas industry will be exempt from the Act, provided that the relevant project has a relationship with the Territory and is providing a social and economic benefit to the Territory.

The proposed amendments do not change the original policy intent of the Act, which as Ms Townsend mentioned, was to prevent the establishment and development of a nuclear waste storage facility in the Territory.

The Legislative Assembly intended that the offshore oil and gas industry would be exempt when it originally passed the Act. The proposed amendments simply clarify the exemptions already in place for the offshore oil and gas industry. Targeted consultations will occur with affected offshore oil and gas operators in drafting regulations to ensure that existing projects are appropriately described before the regulations are introduced.

In closing, the bill is a clear indication of government working with a priority industry sector to grow our economy, investment and jobs in our Territory, without compromising the environmental protection and outcomes and the health and safety of our Territorians.

Madam Chair and members of the committee, the Departments of Environment and Natural Resources, Trade, Business and Innovation and Health are happy to receive further questions today, and also any further questions in writing from the committee.

**Madam CHAIR:** Thank you very much. I will now open up to committee members for any questions they may have. Member for Katherine, do you have any questions?

**Ms NELSON:** Not right now.

**Madam CHAIR:** Member for Araluen?

**Mrs LAMBLEY:** No.

**Madam CHAIR:** This could be a very quick briefing, which is awesome. One thing I wanted to ask you, Mr Tennant, is a bit more of an explanation about the test applied to assess if a company is providing a social and economic benefit to the NT, and has a relationship with the NT.

**Mr TENNANT:** Madam Chair, the proposed amendments will ensure that there is an ability to prescribe a project. That is then a test to ensure that project directly relates and benefits the Territory. It operates under section 4(b). Projects that meet certain criteria may be prescribed under the regulations and therefore be exempt from the Act. To be prescribed, projects must produce nuclear waste incidentally as part of exploration, recovery or exploitation of petroleum or other energy-producing hydrocarbons; be located within 800 kilometres of the Territory as measured from a territorial sea baseline; and deliver economic and social benefits to the Territory.

For example, the Territory has already developed supply, service and infrastructure capabilities to support three off-shore LNG projects that are also here in Darwin, which I mentioned. It is envisaged that those projects would be prescribed projects; they would meet that criteria. It is projects that there is a direct economic and social benefit to the Territory and within those 800 kilometres of the territorial sea baseline.

**Madam CHAIR:** Thank you very much. The only other question I had in regards to this legislation—would it be covered under the *Radiation Protection Act* that NORMs are currently managed safely by off-shore and gas industries?

**Mr FELDTMAN:** If they are within Territory borders or the territorial sea baseline then yes. If outside, they are outside of our jurisdiction.

**Madam CHAIR:** Very good. I have no further questions. I will check back with the committee for any questions? Are there any closing comments you would like to leave for the committee today?

**Mr TENNANT:** If I may, Madam Chair, we have taken the liberty of preparing some potential questions and answers we are more than happy to table and leave with the committee.

**Madam CHAIR:** Thank you. That would be fantastic. Thank you very much for taking the time to appear before us today.

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