



Environmental
Defenders Office

Submission on the Environment Legislation Amendment (Safe Air) Bill 2026

7 September 2026

About EDO

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 40 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

www.edo.org.au

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Submitted to:

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Acknowledgement of Country

The EDO recognises and pays respect to the First Nations peoples of the lands, seas and rivers of Australia. We pay our respects to the First Nations Elders past, present and emerging, and aspire to learn from traditional knowledges and customs that exist from and within First Laws so that together, we can protect our environment and First Nations cultural heritage through both First and Western laws. We recognise that First Nations Countries were never ceded and express our remorse for the injustices and inequities that have been and continue to be endured by the First Nations of Australia and the Torres Strait Islands since the beginning of colonisation.

EDO recognises self-determination as a person's right to freely determine their own political status and freely pursue their economic, social and cultural development. EDO respects all First Nations' right to be self-determined, which extends to recognising the many different First Nations within Australia and the Torres Strait Islands, as well as the multitude of languages, cultures, protocols and First Laws.

First Laws are the laws that existed prior to colonisation and continue to exist today within all First Nations. It refers to the learning and transmission of customs, traditions, kinship and heritage. First Laws are a way of living and interacting with Country that balances human needs and environmental needs to ensure the environment and ecosystems that nurture, support, and sustain human life are also nurtured, supported, and sustained. Country is sacred and spiritual, with culture, First Laws, spirituality, social obligations and kinship all stemming from relationships to and with the land.

Executive Summary

The Environmental Defenders Office (**EDO**) welcomes the opportunity to make a submission to the Legislative Scrutiny Committee (the **Committee**) on the Environment Legislation Amendment (Safe Air) Bill 2026 (the **Safe Air Bill**).

While EDO supports improved air quality monitoring as well as ensuring that the industries whose activities give rise to environmental monitoring requirements contribute to the cost associated with monitoring, we submit the Safe Air Bill should be significantly amended.

Despite what the title suggests, the Safe Air Bill does not protect or safeguard the quality of the air we breathe. The Safe Air Bill creates a power to establish environmental monitoring schemes and provides for industry's contributions towards the costs of those schemes.

The Safe Air Bill does not include what industrial pollutants must be monitored; nor does it include health-based trigger thresholds, public reporting requirements or a mechanism for reviewing the effectiveness of a monitoring scheme.

In the wake of the October 2025 announcement that Inpex significantly underreported their emissions of volatile organic compounds, including benzene, a known carcinogen, at their Ichthys facility, this Bill should seek to address these issues and deliver meaningful reform.

The Safe Air Bill, in its current form, is a missed opportunity for the NT to become a leader on air toxics monitoring *and* regulation and to implement the Air Toxics National Environment Protection Measure, committed to by the NT in 2004.

The Safe Air Bill should be substantially amended to establish minimum requirements for any environmental air-monitoring scheme, with regulations being used to provide technical and operational detail rather than to determine the fundamental elements of the regulatory framework.

Recommendations:

- 1.** Hold a public hearing into the Safe Air Bill;
- 2.** Recommend the Safe Air Bill is amended to:
 - i.** implement the Air Toxics National Environment Protection Measure;
 - ii.** require public disclosure of environmental monitoring data;
 - iii.** set minimum requirements for an environmental air-monitoring scheme, including:
 - a)** industrial pollutants that must be monitored (including BTEX);
 - b)** public health-based threshold levels for ambient air and point source concentration levels of those pollutants;
 - c)** notification, investigation and enforcement requirements where threshold levels are exceeded;
 - iv.** strengthen the polluter-pays principle by making it mandatory for industries that create environmental or public health risks to bear the full costs of monitoring;
 - v.** introduce an independent review mechanism of environmental monitoring schemes; and
 - vi.** require genuine community consultation for the development of environmental monitoring schemes.

Introduction

The Safe Air Bill was referred to the Legislative Scrutiny Committee on 26 August 2026 with a report due to the Legislative Assembly by 7 October 2026. To assist the Committee's inquiry, public submissions were called for, addressing:¹

1. whether the Assembly should pass or amend the bill;
2. whether the bill has sufficient regard to the rights and liberties of individuals; and
3. whether the bill has sufficient regard to the institution of Parliament.

The Safe Air Bill's introduction follows the NT government's announcement in June this year that it would introduce legislation to "establish an industry-funded ambient air quality monitoring regime for the Darwin airshed" which would "enable the air quality monitoring network to measure for industrial pollutants for the first time", with the data to be publicly available online.²

When introducing the Safe Air Bill, Minister for the Environment, Joshua Burgoyne, stated "the key purpose of this Bill is to amend the *Environment Protection Act 2019* (NT) (**EP Act**) to lay the legislative foundation for industry funded environmental monitoring schemes" and that "this enabling framework is intended to support better environmental data in areas where monitoring is required, including the Darwin airshed", commenting that "environmental monitoring gives the community confidence that development is being conducted safely and responsibly".³

The Safe Air Bill does not actually establish the proposed air monitoring scheme under the EP Act. Instead, the bill creates a power to establish one or more "environmental monitoring schemes."

EDO submits the Safe Air Bill should be amended to lay a real *legislative foundation* that includes details of the proposed monitoring schemes.

This submission is structured as follows:

- Background
- How is air quality regulated?
- What does the Safe Air Bill actually do?
- Term of Reference (3)(b)(iii) – Insufficient regard to the rights and liberties of individuals
- Term of Reference (3)(b)(iv) - Insufficient regard to the institution of Parliament
- Conclusion

¹ Legislative Assembly of the Northern Territory, Legislative Scrutiny Committee, Terms of Reference.

² Joshua Burgoyne, Minister for Lands, Planning and Environment, '[Reforms to deliver air quality monitoring certainty for first time in the Territory](#)' (Media Release, 15 June 2026).

³ Northern Territory, *Parliamentary Debates*, Legislative Assembly, 26 August 2026, 18 (Joshua Burgoyne, Minister for Lands, Planning and Environment).

Background

Darwin currently supports significant industrial development including two liquified natural gas (**LNG**) processing facilities located on the Middle Arm Peninsula less than 4km from the closest residences in Palmerston.⁴

These facilities release industrial pollutants known as volatile organic compounds (**VOCs**) including benzene, toluene, ethylbenzene and xylene (**BTEX**). Both short term and long term exposure to BTEX has been associated with numerous adverse health conditions including impaired immune function, leukemia, adverse pregnancy outcomes and reproductive problems, kidney and liver damage and neurological disorders.⁵ A 2025 multi-country study found that there is no safe threshold for BTEX exposure, highlighting “the need for comprehensive air pollution mitigation policies, including stringent controls on BTEX emissions, to protect public health”.⁶

Despite these health risks related to BTEX, during the past 12 months:

1. In September 2025, the NT EPA acknowledged that the Darwin LNG facility leaked fugitive methane emissions resulting from a design fault in the construction of the facility commencing in 2006.⁷
2. In October 2025, Inpex publicly disclosed that they had been significantly underreporting emissions of VOCs from their Ichthys facility,⁸ and in particular by almost 2,000 tonnes in 2023-2024.⁹
3. In August 2026, the NT EPA commenced prosecution against Inpex’s underreporting for failure to comply with their licencing conditions between 2019-2024.¹⁰

We acknowledge that an intent of the Safe Air Bill is the monitoring of specific industrial pollutants like benzene for the first time.¹¹ Noting the potential health risks, combined with the regulatory failings seen over the past year, the Safe Air Bill should be strengthened to require the monitoring of VOCs including BTEX at both the point source as well as whole of airshed.

⁴ Ichthys LNG onshore facility is operated by Ichthys LNG Pty Ltd, part of the INPEX Group, and located at Bladin Point, NT, approximately 4km south-west from Palmerston and approximately 10km south-east from the Darwin CBD. Operations at Ichthys LNG began in November 2018. Darwin LNG onshore facility is operated by Santos NA Darwin Pipeline Pty Ltd and located at Wickham Point on the Middle Arm Peninsula, approximately 6km south-east of Darwin. Santos acquired Darwin LNG from ConocoPhillips Australia Pty Ltd in October 2019 (ConocoPhillips having commenced operations in 2006).

⁵ Zhou, L, et al, ‘[Associations of ambient exposure to benzene, toluene, ethylbenzene, and xylene with daily mortality: a multicountry time-series study in 757 global locations](#)’ (2025) 9(9) *The Lancet Planetary Health*.

⁶ Ibid.

⁷ Northern Territory Environment Protection Authority, ‘[NT EPA Chair - Methane Emissions at Darwin LNG Facility](#)’ (Media Release, 2 September 2025).

⁸ Northern Territory Environment Protection Authority, ‘[Emissions reporting from Ichthys LNG facility](#)’ (Media Release, 23 October 2025).

⁹ INPEX, [INPEX LNG emissions reporting](#) (Media Release, 23 October 2025).

¹⁰ Northern Territory Environment Protection Authority, ‘[Ichthys LNG Pty Ltd Prosecution – INPEX operations](#)’ (Media Release, 5 August 2026).

¹¹ Northern Territory, *Parliamentary Debates*, Legislative Assembly, 26 August 2026, 18 (Joshua Burgoyne, Minister for Lands, Planning and Environment).

How is air quality regulated?

Air quality in the NT is regulated through a combination of Commonwealth national standards, NT environmental legislation and project licences. The NT does not have a single piece of legislation that legislates air quality standards or protections; we do not have a Safe Air Act.

Northern Territory

In the Northern Territory, an environment protection licence, issued under the *Waste Management and Pollution Control Act 1998* (NT) (**WMPC Act**), is required to operate an LNG facility.¹² Environment protection licences are subject to conditions the NT EPA thinks fit (as specified in the licence).¹³ Accordingly, whether operators of LNG facilities in the NT are required to ensure point source (otherwise known as “stack”) emissions are kept below a certain concentration limit/mass emission rate or to monitor ambient air quality depends on specific conditions in the applicable environment protection licence.

This Committee heard from representatives from the Department of Lands Planning and Environment, Environmental Regulation Division (the **Department**), during their public briefing that the current ambient air quality monitoring regime is operating well.¹⁴ Currently, the NT EPA monitors ambient air quality at monitoring stations in Palmerston, Winnellie and Stokes Hill for carbon monoxide, nitrogen dioxide, photochemical oxidants (as ozone), sulfur dioxide, particles as PM_{2.5} and particles as PM₁₀ (and meteorological data) only – it does not monitor air toxics such as BTEX in the air.¹⁵

According to the NT EPA’s *Regulatory Statement: Regulation of LNG and other emissions* (18 April 2024), “[a]ir toxics concentrations were monitored at three NT Government air quality monitoring stations for two years following commissioning of the Inpex plant (2019-2020)” and “levels of air toxics were consistently well below safe health levels in all samples and in most cases below the limit of detection,”¹⁶ however, it is not clear what parameters were used for this assessment (including what levels the monitored data was compared against) and this data is not publicly available.

As the last 10 months have shown – Inpex’s significant underreporting of VOC emissions (including benzene) from the Ichthys facility leading to the NT EPA’s decision to prosecute Inpex – the

¹² *Waste Management and Pollution Control Act 1998* (NT) s 30.

¹³ *Ibid* s 35(1).

¹⁴ Legislative Assembly of the Northern Territory, Legislative Scrutiny Committee, *Public Briefing Transcript: Inquiry into the Environment Legislation Amendment (Safe-Air) Bill 2026* (31 August 2026), 5.

¹⁵ Note the NT EPA Air Quality Network website publishes real-time and historical air pollutant concentrations for carbon monoxide, nitrogen dioxide, photochemical oxidants (as ozone), sulfur dioxide, particles as PM_{2.5} and particles as PM₁₀ (and meteorological data). Northern Territory Environment Protection Authority, ‘All Available Air Quality Category Values’, *NTEPA* (Web Page) < [Air Quality Network website](#)>. For further detail see [NT EPA, Northern Territory Ambient Air Quality Monitoring Report 2023: Compliance with the National Environment Protection \(Ambient Air Quality\) Measure \(dated 30 September 2024, approved 19 February 2025\)](#).

¹⁶ Northern Territory Environment Protection Authority, [‘Regulatory Statement: Regulation of LNG and other emissions’](#), (18 April 2024), 2.

regulatory system in the Territory is failing to protect the public and ensure safe air quality. Firstly, the ambient air quality monitoring stations do not monitor for the air toxics that were underreported and so there is no transparency on what the baseline levels of air toxics in the Darwin airshed actually are. Secondly, ambient air quality monitoring does not enable responsibility for exceedances of health protective levels to be attributed to an operator of a facility. For that kind of accountability, point-source emissions monitoring is required.

National standards

The National Environment Protection Measures (**NEPMs**) are a set of national objectives made by the National Environment Protection Council (**NEPC**) to protect or manage particular aspects of the environment (like air quality). Although NEPMs aim to create a consistent national framework, their implementation rests with individual jurisdictions.

The National Environment Protection (Ambient Air Quality) Measure

The Air Quality NEPM is a national framework that establishes air quality standards, monitoring requirements and reporting obligations for pollutants such as carbon monoxide, nitrogen dioxide, photochemical oxidants (such as ozone), sulfur dioxide, lead, PM_{2.5} and PM₁₀.¹⁷ The national environment protection standards set out the maximum concentration standard for each of the abovementioned pollutants.¹⁸

In the NT, the Air Quality NEPM is implemented generally under the *WMPC Act* which includes an objective “to facilitate the implementation of national environment protection measures made under the *National Environment Protection Council (Northern Territory) Act 1994*.”¹⁹

The NT currently monitors the above pollutants and reports compliance with exceedance levels as required. However, the Air Quality NEPM pollutants list and exceedance levels have not been incorporated into NT legislation or project-level statutory air quality assessment criteria.

The National Environment Protection (Air Toxics) Measure

The Air Toxics NEPM is also a national framework, but it does not establish ambient air standards. The goal of the Air Toxics NEPM “is to improve the information base regarding ambient air toxics within the Australian environment in order to facilitate the development of standards following a review of the Measure within eight years of its making.”²⁰ To achieve this goal and outcome, the Air Toxics NEPM establishes monitoring investigation levels for pollutants like benzene, toluene and xylene that, if exceeded, may trigger further investigation.

The Air Toxics NEPM requires jurisdictions to identify locations where there is a significant potential for population exposure to air toxics. In the NT, a desktop assessment was undertaken in 2005 and no sites were identified at that time. A subsequent study which undertook a nine-month monitoring

¹⁷ *National Environment Protection (Ambient Air Quality) Measure* (Cth) (**Ambient Air NEPM**), cl 3 and Schedule 1. Note no monitoring with respect to lead is undertaken in the Northern Territory.

¹⁸ *Ambient Air NEPM* Sch 2, Tables 1, 1A and 2.

¹⁹ *Waste Management and Pollution Control Act 1998* (NT), s 5(c).

²⁰ *National Environment Protection (Air Toxics) Measure* (Cth), s 5.

program in Darwin, completed in February 2006, found levels for benzene, toluene and xylenes were well below the NEPM investigation levels.

The LNG facilities operating in Darwin could not have been considered, noting the Darwin LNG facility started production in February 2006 and Ichthys LNG facility in 2012. We understand there has not been a re-assessment of sites under the Air Toxics NEPM despite the commencement of substantial industry in Darwin.

The NT has not implemented the Air Toxics NEPM despite committing to it in 2004. The Safe Air Bill is an opportunity for the NT to, at the very least, legislate the pollutants to be monitored and the exceedance levels that trigger investigation as detailed in the Air Toxics NEPM. As a bare minimum, an expanded ambient air quality monitoring scheme, including VOCs/air toxics such as BTEX, should be established and monitoring data reported over a minimum of a 12 month period to ascertain what the baseline levels are, given current industry, in the Darwin airshed before any future developments, which would augment cumulative impacts by emitting further air toxics, are considered by the NT EPA for approval.

What does the Safe Air Bill actually do?

During his Explanatory Speech, Minister Burgoyne stated: “By delivering monitoring and public reporting of specific industrial pollutants, we are giving Territorians the transparency they deserve about the air they breathe.”²¹ The Safe Air Bill amends the EP Act by creating a power to establish “environmental monitoring schemes” only. It does not include any further detail about the monitoring schemes including the *monitoring and public reporting of specific industrial pollutants*.

An environmental monitoring scheme is defined broadly under the Safe Air Bill as “*a program for monitoring environmental quality or the impacts on the environment or human health of actions, including substances or other matters resulting from those actions,*”²² meaning a scheme can include air, soil, water, noise, odour and contaminants.²³ However, the details including the actions, the region/area to which a scheme applies as well as the toxics or pollutants that will be monitored are not included in the Safe Air Bill and instead could be detailed in regulations.²⁴

The Safe Air Bill does not create any new duties or obligations for industry to safeguard air quality in line with public health guidelines, National Environment Protection Measures, standards or limits. While the Bill sets out that the regulations may provide for enforcement in relation to the monitoring scheme, it does not create any offence provisions in relation to safeguarding air quality.

²¹ Joshua Burgoyne, Minister for Lands, Planning and Environment, [Northern Territory breathes a sigh of relief as Safe Air Act introduced](#), (Media Release, 26 August 2026).

²² *Environment Legislation Amendment (Safe Air) Bill* cl 126A.

²³ [Explanatory Statement, Environment Legislation Amendment \(Safe Air\) Bil 2026](#), 2.

²⁴ Northern Territory, *Parliamentary Debates*, Legislative Assembly, 26 August 2026, 19 (Joshua Burgoyne, Minister for Lands, Planning and Environment).

Although in Minister Burgoyne's Explanatory Speech he states that "environmental monitoring gives the community confidence that development is being conducted safely and responsibly,"²⁵ the Bill does not contain any protective measures or prescriptive limits that could result in safer air.

While Minister Burgoyne states that the government is "delivering monitoring and public reporting of specific industrial pollutants", the Safe Air Bill does not specify what pollutants are going to be included in a monitoring scheme. During the public briefing, when representatives from the Department were asked whether the regulations would include details of what monitoring would look like, this Committee was advised that the head of power the Bill establishes is broad however the current focus is on cost recovery for the monitoring scheme.²⁶

The Safe Air Bill does not tell this Committee, the Legislative Assembly or the public what an effective air-monitoring scheme requires, what the proposed scheme/s will do, how they will operate and what outcomes are sought.

Terms of Reference - Insufficient regard to the rights and liberties of individuals

The Committee is required to consider whether the Safe Air Bill has sufficient regard to the rights and liberties of individuals.²⁷ This means considering whether the Safe Air Bill creates powers which operate consistently with the rights which individuals expect to be able to enjoy, such as the right to natural justice.

Lack of natural justice for affected communities

The Committee is required to inquire into and report on whether the Safe Air Bill has sufficient regard to the rights and liberties of individuals including whether the bill "is consistent with principles of natural justice."²⁸

The principles of natural justice require affected persons to have a meaningful opportunity to participate in decision-making processes, this could include via public consultation.

The Safe Air Bill was not subject to a public consultation process. Although the Bill was referred to this Committee which has called for public submissions, an 11 day period is not a sufficient time within which to comment on a bill. Although the Safe Air Bill is narrow in its scope, it will lay the groundwork for the first legislated environmental monitoring scheme in the Territory. The public should be provided with an opportunity to comment on the scope of the bill as well as the proposed environmental monitoring schemes including how public engagement will be built into the schemes.

²⁵ Ibid, 18.

²⁶ Legislative Assembly of the Northern Territory, Legislative Scrutiny Committee, *Public Briefing Transcript: Inquiry into the Environment Legislation Amendment (Safe-Air) Bill 2026* (31 August 2026), 4-5.

²⁷ Legislative Assembly of the Northern Territory, Legislative Scrutiny Committee, Terms of Reference, cl 3(b)(iii).

²⁸ Ibid, cl (3)(b)(iii)(B).

The proposed regulations should also be subject to public consultation. Although Minister Burgoyne stated “this scheme is being devised in consultation with industry experts, health authorities and community stakeholders,”²⁹ Department representatives advised this Committee during the public briefing that consultation has only occurred and is planned with industry.³⁰

In our submission, the public should be consulted on proposed monitoring schemes, including the pollutants that will be monitored, locations of monitoring stations and reporting requirements.

Public access to information

The Safe Air Bill, in its present form, does not have sufficient regard to the rights and liberties of individuals in relation to access to information concerning environmental pollutants.

The NT Government have represented that the Safe Air Bill will establish public monitoring and reporting of specific industrial pollutants for the first time, and that monitoring data will be publicly available online.³¹ In his Explanatory Speech, Minister Burgoyne described the Safe Air Bill as delivering transparency and public confidence.³²

However, the Safe Air Bill does not include a requirement to publish information. Proposed section 126B(2) identifies various matters that the regulations for a particular environmental monitoring scheme *may* address including reporting requirements. This provision does not require monitoring data to be published.

During the Departmental briefing on 31 August 2026, the Committee was advised monitoring data is currently published and it would be expected that this process continue. As previously explained, the NT EPA currently conduct ambient air quality monitoring at three locations and publish real time data on the [NT EPA website](#) of air pollutants including carbon monoxide, nitrogen dioxide, ozone, sulfur dioxide, PM₁₀ and PM_{2.5}.³³ As explained in the Departmental briefing, the publication of this information is a current Departmental process and not a legislated requirement.

Specific industrial pollutants, like BTEX, are not monitored and information is therefore not currently published. If public access to monitoring information is an intended and important feature of a monitoring scheme (which it should be), that intention should be reflected in the Safe Air Bill and not left to subsequent policy decisions or operational process.

²⁹ Northern Territory, *Parliamentary Debates*, Legislative Assembly, 26 August 2026, 19 (Joshua Burgoyne, Minister for Lands, Planning and Environment).

³⁰ Legislative Assembly of the Northern Territory, Legislative Scrutiny Committee, *Public Briefing Transcript: Inquiry into the Environment Legislation Amendment (Safe-Air) Bill 2026* (31 August 2026), 3.

³¹ Joshua Burgoyne, Minister for Lands, Planning and Environment, ‘[Reforms to deliver air quality monitoring certainty for first time in the Territory](#)’ (Media Release, 15 June 2026); Joshua Burgoyne, Minister for Lands, Planning and Environment, ‘[Northern Territory breathes a sigh of relief as Safe Air Act introduced](#)’ (Media Release, 26 August 2026).

³² Northern Territory, *Parliamentary Debates*, Legislative Assembly, 26 August 2026, 18-19 (Joshua Burgoyne, Minister for Lands, Planning and Environment).

³³ Northern Territory Environment Protection Authority, ‘All Available Air Quality Category Values’, *NTEPA* (Web Page) < [Air Quality Network website](#) > Northern Territory Environment Protection Authority, ‘[Northern Territory Ambient Air Quality Monitoring Report 2023](#)’, p 4.

Note NT EPA ambient air quality monitoring stations are situated at three locations: Palmerston, Winnellie and Stokes Hill.

In addition, in order to promote transparency and support community engagement, information generated through the environmental monitoring scheme should be published by the NT EPA in a publicly accessible form that is easy to understand and use. For example, the general public should be equipped with information informing them of what a normal concentration limit is, what constitutes an unusual event and whether an exceedance of the concentration limit will trigger an investigation or regulatory action.

Terms of Reference - Insufficient regard to the institution of Parliament

The Committee is required to consider whether the Safe Air Bill has sufficient regard to the institution of Parliament.³⁴ This means considering whether the Safe Air Bill creates powers which operate consistently with how Parliament must function.

Excessive delegation of legislative power and insufficient parliamentary scrutiny

The Safe Air Bill does not sufficiently subject the exercise of the powers under the Bill to the scrutiny of the Legislative Assembly. Clause 4 of the Bill proposes to delegate the *discretion*, not requirement, to establish an environmental monitoring scheme to be determined by the Executive through regulations.

The Safe Air Bill does not include any details regarding the proposed environmental monitoring schemes and instead leaves these details to regulations. For example, there are no details included in the Safe Air Bill with respect to what pollutants and toxics will be monitored, how often those pollutants will be monitored and any concentration thresholds or levels that will trigger investigation and/or enforcement proceedings. We have assumed that these details will be prescribed in the regulations, based on Minister Burgoyne's Explanatory Speech asserting "[t]he Bill allows for regulations to provide for the scope of the scheme and the establishment, operation and administration of the scheme."³⁵ However, during the public briefing to this Committee the Department was clear that they are focused on cost recovery measures and financial contributions to the scheme from industry.³⁶

Many of the most important decisions in the Safe Air Bill are not being made by the Legislative Assembly but instead are being deferred. There is an important distinction between delegating technical matters necessary to administer legislation and delegating the substantive content of a regulatory protection regime.

Determining which pollutants must be monitored, what constitutes an unacceptable level of pollution, what action follows an exceedance and what information must be provided to the public are fundamental components of an air-quality protection framework. They should not be left

³⁴ Legislative Assembly of the Northern Territory, Legislative Scrutiny Committee, Terms of Reference, cl 3(b)(iv).

³⁵ Northern Territory, *Parliamentary Debates*, Legislative Assembly, 26 August 2026, 19 (Joshua Burgoyne, Minister for Lands, Planning and Environment).

³⁶ Legislative Assembly of the Northern Territory, Legislative Scrutiny Committee, *Public Briefing Transcript: Inquiry into the Environment Legislation Amendment (Safe-Air) Bill 2026* (31 August 2026), 4-5.

entirely to regulation. Protection of public health should not be dependent on future decisions by the Executive government without the checks and balances of the Legislature.

Conclusion

The title of the Bill, "Safe Air", creates an expectation that the legislation will provide meaningful protection of air quality. However, as detailed above, the Safe Air Bill creates a regulatory ability to monitor air quality without establishing a comprehensive statutory framework for what monitoring must occur, what constitutes an unacceptable result, and what must happen when unacceptable pollution is detected.

Clearly, there is a regulatory gap with respect to air quality in the Northern Territory. VOCs/air toxics such as BTEX are emitted from LNG facilities situated within 5km and 10km from communities and pose known dangers to human health. Yet, air toxics are not included in the NT EPA ambient air quality monitoring scheme.

While the intent behind the Safe Air Bill, to establish a publicly available air quality monitoring scheme that incorporates pollutants such as benzene, is a step in the right direction, the bill itself falls short. It does not create a new air quality monitoring scheme. It establishes a power to create an environmental monitoring scheme/s. Details as to how an air-monitoring scheme would operate, including what pollutants will be monitored and how they will be monitored (in ambient air or at the point source), whether data will be made publicly available and whether there will be threshold limits set, the exceedance of which will trigger notification, investigation and enforcement, are deferred to the regulations. These details are crucial. Excluding them from the statutory framework is an unacceptable delegation of power to the Executive.

The government has promised that environmental monitoring will provide “community confidence that development is being conducted safely and responsibly”. Yet the Safe Air Bill will deliver nothing of the sort in its current form. There is a clear distinction between monitoring pollution and protecting people from that pollution. The community need and deserve proper regulation of VOCs/air toxics which holds industry to account. This can only be achieved by robust air quality monitoring (in ambient air and at the point source), where monitored results are evaluated against concentration thresholds, informed by best practice public health standards, and exceedances are subject to notification, investigation and enforcement. A legislative framework that sets out how the scheme operates and establishes notification, investigation and offence provisions in relation to exceedances of concentration thresholds is needed.

The Committee should:

1. Hold a public hearing into the Safe Air Bill;
2. Recommend the Safe Air Bill is amended to:
 - i. implement the Air Toxics National Environment Protection Measure;
 - ii. require public disclosure of environmental monitoring data;
 - iii. set minimum requirements for an environmental air-monitoring scheme, including:
 - a) industrial pollutants that must be monitored (including BTEX);
 - b) public health-based threshold levels for ambient air and point source concentration levels of those pollutants;
 - c) notification, investigation and enforcement requirements where threshold levels are exceeded;

- iv. strengthen the polluter-pays principle by making it mandatory for industries that create environmental or public health risks to bear the full costs of monitoring;
- v. introduce an independent review mechanism of environmental monitoring schemes; and
- vi. require genuine community consultation for the development of environmental monitoring schemes.