



Department of Chief Minister and Cabinet
Northern Territory Government
Parliament House
Darwin NT 0810

17 January 2025

Submission: Re Territory Coordinator Bill 2024

To the Department of the Chief Minister and Cabinet from the Independent and Peaceful Australia Network (IPAN)

To whom it may concern

The Independent and Peaceful Australia Network (IPAN) provides this submission on behalf of its 50 organisational and 200 individual members. IPAN is a national body comprised of peace organisations, faith organisations, trade unions and environmental and anti-nuclear groups. IPAN campaigns for an Australia that acts independently of foreign influences and alliances in the best interests of the Australian people, seeking and promoting peaceful and mutually beneficial relations with all countries.

IPAN, as a national organisation, is governed by a Coordinating Committee which has up to two representatives from each state and territory; and has an Executive Officer, who is based in the Northern Territory, in Mparntwe/Alice Springs.

IPAN and many of its member organisations are deeply concerned about the draft Territory Coordinator Bill 2024. In addition to general concerns about the bill and its broader implication, we are alarmed at the implications of the scheduling of the Nuclear Waste Transport, Storage and Disposal (Prohibition) Act 2004 in the in the list of laws that can be exempted under proposed powers in the Territory Coordinator Act 2024.

Taken at face value, the intention of the legislation to fast-track 'major projects' for big corporations represents an enormous and unprecedented threat to the Territory's environment and to the legal rights of Territorians. Given that many of the Act's provisions are extremely broad and vague, decisions will be left to the interpretation and discretion of the Chief Minister and Territory Coordinator.

IPAN strongly opposes the bill in its current form and asserts that the legislation should be withdrawn and reconsidered.

The recommendations that IPAN puts forward below are based on the premise that withdrawal and review of the Act will occur

1. Broad concerns regarding the draft Territory Coordinator Bill 2024

IPAN is extremely concerned about the extent of the power vested in the hands of the single, non-elected government official of the Territory Coordinator. IPAN has particular concerns about the insufficiency of checks and balances related to the powers vested in the role.

Environmental, cultural, social and other considerations

IPAN opposes a model in which economic considerations are given precedence over the environmental, cultural, social and other considerations which exist in current regulatory schemes. IPAN supports 'economic prosperity for the Territory', however maintains this must be informed by other objectives and considerations which must where necessary be given due weight, and precedence. IPAN therefore objects to Section 8, Clause (2)

(2) When exercising a power or performing a function under any other Act as mentioned in subsection (1), the Territory Coordinator or Minister must also have regard to the relevant objects, principles or considerations under the other Act but, to the extent of any inconsistency with the considerations mentioned in subsection (1), those considerations prevail.

IPAN does not support automatic precedence being given to decisions that allegedly drive economic prosperity. On the contrary, we argue that such decisions must always be very carefully balanced against environmental, cultural, social, public health and other considerations.

Recommendation 1: IPAN recommends that a 'provision for equal weight given any other Northern Territory Act' rather than automatic precedence for the Territory Coordinator Act' be incorporated into the Territory Coordination Act 2024

Intervention powers

IPAN reads the Bill as giving the Chief Minister and Territory Coordinator the power to intervene to assess and make decisions about projects. This would override provisions in current legislation. For example, on matters of the environment, the NT has an Environmental Protection Agency whose role it is to make such assessments and decisions. Legislation that effectively renders the rights of that entity null and void is inappropriate, undermines Agency and community confidence and is inconsistent with best practise project assessment and approval processes.

IPAN believes that this power to intervene could result in the Chief Minister and Territory Coordinator exempting projects from approvals altogether. One example might be overriding the powers of the NT Environment Minister regarding the necessity for a project to require a water licence.

Lack of Checks and Balances

While any exemption notice must be tabled by the Minister in the Legislative Assembly, which permits the public to access the notice while also technically empowering Parliament to 'disallow' an exemption, there is an extremely small likelihood of any problematic notice being disallowed. The NT does not have a Senate (or similar second house of Parliament) making an exemption possible only by a majority vote of Legislative Assembly members. The Country Liberal Party currently holds 17 of the Chamber's 25 seats. It is almost impossible to imagine a scenario in which these 17 government members will vote down a notice put forward by their own Chief Minister. This is not a credible check or balance.

Concerningly, the proposed model excludes any review of decisions made by the TC or Chief Minister except through judicial review in the Northern Territory Supreme Court. **This is a deeply concerning and unacceptable reduction in the scope of legal scrutiny and community recourse.** Court proceedings are time-consuming, risky and expensive. Success requires there be an arguable legal error with the

decision. The fact that the legislation gives decision-makers huge discretion concerning how and when their powers can be exercised, establishing legal error will be extremely difficult, if not impossible.

The natural justice principle of fairness in administrative decision-making includes the requirement of an ‘opportunity to respond’. The absence of any non-legal review process in relation to decisions made by the TC or Chief Minister in terms of the proposed legislation accordingly reflects a clear lack of natural justice. IPAN emphasises that mounting a judicial review in the Northern Territory Supreme Court is simply not a viable option for the vast majority of Territorians.

Recommendation 2: IPAN recommends that ‘review process’ for decisions made by the TC or Chief Minister be incorporated into the Territory Coordination Act 2024

Lack of ‘no go zones’

While some other jurisdictions are developing proposals with various similarities to the NT legislation, the South Australian model, for example, incorporates ‘no go zones.’ These are areas where the proposed powers cannot be exercised. There are no such safeguards in the Territory model.

Recommendation 3: IPAN recommends ‘no go zones’ be incorporated into the Territory Coordination Act 2024

Any other action reasonably required

Under Clause 31, Powers on Entry, government or company employees can be given the power by the Territory Coordinator to enter private land to carry out work required to develop a proposed TDA plan. In terms of Section 1 (e) of Clause 31, these individuals have the authority to:

take any other action reasonably required for the development of the plan.

This is a very significant concern to IPAN. Quite apart from the issue of who defines ‘reasonably,’ any additional actions required in terms of developing a TDA must be specifically spelt out for consideration by the public. It is not appropriate or good process to have what is effectively an ‘anything goes’ clause with no parameters or review provisions.

Recommendation 4: IPAN recommends that Clause 31 ‘(e) take any other action reasonably required for the development of the plan, be removed from the Territory Coordination Act 2024.

Land Acquisitions Act 1978

IPAN has concerns that the Territory Coordinator could intervene in, or fast track, decisions made under the Land Acquisitions Act 1978 relating to the compulsory acquisition of land. This includes decisions made under the Pastoral Lands Act which deals with access to pastoral lands.

While IPAN welcomes that, according to the Consultation Paper, the TC’s powers will not apply to the NT Aboriginal Sacred Sites Act 1989 (NT) relating to Aboriginal sacred sites protection, or the Heritage Act 2011 (NT), which protects both Aboriginal and non-Aboriginal heritage sites, our overall concern regarding the sweeping acquisition powers proposed remains.

Recommendation 5: IPAN recommends that provision to ‘step-in or fast track decisions under the Land Acquisitions Act 1978’, be removed from the Territory Coordination Act 2024.

IPAN expresses strong objection to Clauses 64-69 of the proposed legislation which effectively allow for corporations to be ‘exempted’ from many laws or legal requirements particularly as these relate to the environment. Such an ‘exemption’ could result in projects proceeding in the absence, for example, of an adequate Environmental Management Plan or a Water Extraction Licence. One outcome could be the failure (legally sanctioned, according to the proposed Act) to disclose chemicals or other toxic substances in use. Territorians have a right to access information of this nature and to know that current basic, fundamental environmental safeguards will continue to apply.

Recommendation 6: IPAN recommends that provision to ‘allow for companies to be ‘exempted’ from many laws or legal requirements, be removed from the Territory Coordination Act 2024.

2. Specific concerns relating to Nuclear Waste Transport, Storage and Disposal (Prohibition) Act 2004

IPAN and its members contribute submissions to national inquiries and consultations related to peace, defence and foreign policy. This includes raising concerns relating to nuclear energy and nuclear weapons. In the past year, IPAN has made submissions to, or relating to, the following:

- The Senate Standing Committee on Foreign Affairs Defence and Trade Re: Australian Naval Nuclear Power Safety Bill 2023 (and gave evidence at a public hearing for the Inquiry)
- The Australian Submarine Agency Licence Application to Site a Prescribed Radiation Facility known as the ‘Controlled Industrial Facility’
- The Federal House of Representatives Select Committee Inquiry into Nuclear Power

In 2022, furthermore, IPAN released the findings of its own *People’s Inquiry: Exploring the case for an Independent and Peaceful Australia*ⁱ. Submissions to the Inquiry resulted from extensive public consultations and discussions involving several thousands of people (questionnaire responses; public meetings; group discussions and zoom meetings and webinars) from a wide range of civil society organisations. An *Inquiry Request for Submissions* was also circulated on social media. A large number of the submissions received (282 in total) raised concerns around both storage of nuclear waste and the need for the Australian Government to sign and ratify the Treaty on the Prohibition of Nuclear Weapons (TPNW).

IPAN has a member mandate to express concerns related to nuclear energy and nuclear waste. IPAN supports the ‘objects of the Nuclear Waste Transport, Storage and Disposal (Prohibition) Act 2004’ which are ‘to protect the safety, health and welfare of the people of the Territory and the environment in which they live. This 2004 Act prohibits:

- (a) the construction or operation of a nuclear waste storage facility in the Territory; and
- (b) the transportation of nuclear waste into the Territory for storage at a nuclear waste storage facility in the Territory’

IPAN is therefore alarmed that, under the proposed provisions, Acts scheduled for possible exemption from an EPA include the Nuclear Waste Transport, Storage and Disposal (Prohibition) Act 2004 (hereafter referred to as the Prohibition Act). Our deep concerns are articulated below:

i. Following the September 2021 AUKUS announcement that Australia would procure nuclear-powered submarines from the USA, ‘both South Australia and the Northern Territory are confronted as likely primary targets for intended AUKUS High-Level nuclear waste storage sites’ⁱⁱ

ii. Given the above, the NT (and SA) are *‘thereby also in a target range for the Federal Opposition’s nuclear power reactor waste sites’*ⁱⁱⁱ

ii. Furthermore, given i. above, the NT (and SA) are *‘thereby also in a target range for the Federal Opposition’s nuclear power reactor waste sites.’*^{iv} The Federal Opposition leader, Peter Dutton, has spoken on the record about parallel joint AUKUS / nuclear power reactor waste storage.¹ In addition, the Shadow Minister for Climate Change and Energy, Ted O’Brien has publicly stated that (if elected) the Coalition plans to *‘temporarily store spent fuel on site of power plants, consistent with standard practice around the world, before being transported to a permanent waste repository, where spent fuel from AUKUS nuclear submarines will also be stored’*.²

iii. *There is the continued potential* for Federal Government Australian Radioactive Waste Agency (ARWA) / Australian Nuclear Science and Technology Organisation (ANSTO) ‘national’ radioactive waste storage siting in the NT^v

In the NT, the three nuclear-waste possibilities outlined above would be illegal under the existing Prohibition Act. Scheduling this as an Act for exemption, however, clearly indicates that the NT Government seeks the powers to by-pass existing NT legislation. In other words, there is potential for all or any of the three possibilities listed to be legally implemented. While none of these may currently be on the NT government agenda, IPAN argues the need to prevent even the potential for this to be the case in the future.

It also follows that Territory Controller exemption powers might apply to the Prohibition Act requirement for a ‘Public inquiry into impact of nuclear waste storage facility’ (Clause 14). Clause 14 states:

If a licence, exemption or other authority to construct or operate a nuclear waste storage facility is granted under a law of the Commonwealth, a Committee of the Legislative Assembly nominated by the Minister must inquire into, consider and report on the likely impact of the facility on the cultural, environmental and socio-economic wellbeing of the Territory’

IPAN strongly opposes the new powers written into in the Territory Coordinator Act that effectively authorise the Northern Territory Government to cooperate with, and limit scrutiny of, the dumping nuclear waste on land in the NT.

At a recent Public Consultation Session regarding the Territory Coordinator Act (Online Form, 8 January 2025), one reason provided by an NT Government official for including the Prohibition Act in the list of 32 acts in the Schedule of Acts, was that *‘some of the mining projects have had to interact’*, in the past, with the Prohibition Act.^{vi}

Any claim that *mining projects have had to interact* with the Nuclear Waste Transport, Storage and Disposal (Prohibition) Act 2004 must be challenged. **Since the Prohibition Act explicitly excludes uranium ores, and oil and gas exploration / pipelines**, IPAN does not accept that it is an obstacle to

¹In June 2024, Peter Dutton commented on the intermediate and high-level waste that will be produced by the seven nuclear reactors the Coalition plans to get up and running in Australia by 2050, by saying ‘It’s stored on site under our proposal, and then at the end of the life of that asset, it’s moved to a permanent home. ‘Our argument is that should be where the government decides for the waste from the submarines to be stored.’ [What happens to nuclear waste under Peter Dutton’s Coalition plan to build seven nuclear power reactors? - ABC News](#)

²Ted O’Brien was quoted in the Sydney Morning Herald, 12 January 2025, ‘There’s a gaping hole in Dutton’s nuclear plan. He says it’s Albanese’s problem to solve’, By Julia Carr-Catzel, January 12, 2025 <https://www.smh.com.au/environment/sustainability/there-s-a-gaping-hole-in-dutton-s-nuclear-plan-he-says-it-s-albanese-s-problem-to-solve-20241113-p5kqe4.html>

mining projects. The Section for prohibited actions only lists two items: 1. building and operating a nuclear waste dump, and 2. importing nuclear waste.

In fact, the messaging from the from the NT Government on this matter is completely confused, inconsistent and incorrect. Chief Minister Lia Finnochiaro was quoted on ABC's PM program stating that *'the reason that Act has to be in there is because of medical isotopes that we're dealing with through our hospital network'* even though low level medical waste storage (such as that related to medical isotopes) is not what the nuclear waste act covers.³

The inclusion of this Act of scheduled exemptions to existing legislation (regardless of the current government's intentions) ultimately give the three concerns outlined above the green light at any time in the future should an incumbent administration so desire.

The Department of Defence is currently *'working to identify potential waste disposal sites for AUKUS radioactive waste on defence land, or considering acquiring lands to reclassify as defence land for a high-level waste repository.'*^{vii} However, Political leaders in WA, Qld and Victoria have already all rejected a High-Level nuclear waste disposal site for their states, with the SA Premier so far only saying *'it should go to a 'remote' location in the national interest'*.^{viii}

Repeated reference to *'geopolitical context'* by the Interim Territory Coordinator at the 18 December 2024 public consultation session held in Darwin serves merely to reinforce IPAN's concerns that the NT Government seeks the power to exempt certain actions from existing prohibitions on nuclear waste in order to accept nuclear waste from AUKUS submarines.

IPAN further notes the existence of the Tellus Chandler waste project near Titjikala, south of Alice Springs. This project also involves radioactive materials and Amentum UK, a company that has been active in several national waste repository programmes internationally, including the UK's Low level Waste Repository and the US based nuclear Waste Isolation Pilot Plant. The advance of this project is reason to strengthen, not reduce, scrutiny to nuclear waste projects and management. With such a significant inter-generational material Territorians have a fundamental right to know and to collectively decide.

Recommendation 7: IPAN recommends that the Nuclear Waste Transport, Storage and Disposal (Prohibition) Act not be on a list of Scheduled Acts in the Territory Coordination Act 2024.

Nuclear Waste and Australia's poor history of nuclear waste management

A 2024 submission by Joint Environment Groups highlighted that:

'One of the key areas of concern under the AUKUS agreement is that Australia has committed to manage all radioactive waste generated from the nuclear-powered submarine program within Australia. The waste that Australia will be left to deal with includes high-level radioactive waste, which requires another level of management, security, and political support'.^{ix}

The submission further points out that *'Currently, Australia neither creates nor has storage suitable for high-level radioactive waste.'*^x Under the AUKUS arrangements Australia will be responsible for managing high-level radioactive waste in the form of spent fuel along with intermediate-and low-level radioactive

³ ABC PM, 16 January 2025 <https://www.abc.net.au/listen/programs/pm/concern-over-new-territory-coordinator-law/104826942>, 'Concern over new Territory Coordinator law', Reporter Jane Bardon

waste streams arising from the operation and decommissioning of nuclear-powered submarines. This will include both new submarines built for Australia's use and second-hand US submarines to be acquired under AUKUS.^{xi}

IPAN is extremely apprehensive about Australia's capacity to manage AUKUS-related nuclear waste. The country has an abysmal history of nuclear waste management over a long period of time. This is apparent from the inability to remediate atomic bomb test sites, especially Maralinga, and the repeated failure over nearly three decades to 'establish a national radioactive waste "facility" comprising a repository for low-level waste and a store for long-lived intermediate-level waste'.^{xii}

In addition, it is important to point out that there have been many unsolved challenges globally relating to the storage and disposal of nuclear waste. At present, '[n]o country has an operating repository for high-level nuclear waste'.^{xiii}

Communities in the NT and other places around Australia have consistently protested government attempts to locate nuclear waste facilities in or close to their communities. This has occurred in the NT (Muckaty, 2005-2014) as well as sites in SA such as Woomera (1998-2004), Flinders Ranges (2016-19) and Kimba (2017-23).^{xiv} The violation of the rights of First Nations Peoples has been a constant theme with this issue, given that *'the risks and harms of waste impact disproportionately on Indigenous Peoples and marginalised communities.'*^{xv}

First Nations communities have successfully resisted *'the imposition of nuclear waste facilities on their traditional lands through effective community campaigning and legal challenges'*.^{xvi} There will be continued resistance if and when the authorities and/or a private concern attempt to establish radioactive waste facilities. Opposition will come not merely from affected communities but from broader civil society groups. The latter have also been involved in campaigns against nuclear power. The lack of support for nuclear power among scientists and an increasing number of unions has become increasingly evident following the announcement by the Coalition of its nuclear plans.^{xvii}

Recent History regarding attempts to establish a national radioactive waste management facility in the NT
Between 2005 to 2014, successive governments attempted to establish a national radioactive waste management facility in the NT under the *Commonwealth Radioactive Waste Management Act 2005 (CRWM Act)* and the *National Radioactive Waste Management Act 2012 (NRWM Act)*,

After initial consideration of three locations on Defence land, *'in 2007, the Northern Land Council nominated Muckaty Station, 110 km north of Tennant Creek'* which saw Muckaty become the Government's sole focus in terms of establishing a waste site. As noted above, however, this proposal was thwarted by a community unwilling to have the risks associated with such a facility foisted upon its residents.

The concerns outlined on the subject of nuclear waste management reinforce our previous recommendation made that the Nuclear Waste Transport, Storage and Disposal (Prohibition) Act not scheduled for exemption in the Territory Coordination Act 2024.

In summary, IPAN is gravely concerned that the proposed legislation would essentially provide the Chief Minister and The Territory Coordinator with sweeping and unprecedented powers to override and fast

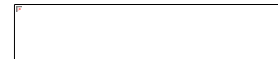
track approvals for projects with unacceptably high levels of risk to Territorians. We are alarmed at this prospect and strongly opposed to the proposed enabling legislation.

IPAN believes the contributions of civil society groups are critical to the consultation process relating to the Bill and restate our position that the proposed legislation should not proceed in its current form. The Bill should be withdrawn and reconsidered following extensive consultation with stakeholders from all sectors of Territory society. We await the outcome of this consultation process with hope and optimism. The very future of the Northern Territory and its environment depends on it.

Yours sincerely



Annette Brownlie
IPAN Chairperson
Coorparoo, Qld
M 0431 597 256



Jonathan Pilbrow
IPAN Executive Officer
Mparntwe/Alice Springs, NT
M 0403 611 815

ⁱ https://ipan.org.au/wp-content/uploads/CHARTING-OUR-OWN-COURSE_softcopylinks.pdf

ⁱⁱ Noonan, D 2024, Public input No.261 to Federal Parliamentary nuclear Inquiry, p. 2

ⁱⁱⁱ Noonan, D 2024, Public input No.261 to Federal Parliamentary nuclear Inquiry, p.2

^{iv} Noonan, D 2024, public input No.261 to Federal Parliamentary nuclear Inquiry, p.2

^v Noonan, D 2024, Email from Mr David J Noonan (B.Sc., M.Env.St. Independent Environment Campaigner) to IPAN on 7 December 2024

^v Northern Territory of Australia, Nuclear Waste Transport, Storage and Disposal (Prohibition) Act 2004, As in force at 1 July 2024, p.7

^{vi} This was the explanation provided by Rick Burgess, Senior Director, Office of Territory Coordinator, at 8 January 2024, Online Information Session

at an Online Information session regarding the Territory Coordinator Act, 8 January 2024, Online Information Session

^{vii} Green and Hawkins, 2024, The Politics of Nuclear Waste Disposal: Lessons from Australia, p.26

^{viii} Noonan, D 2024, public input No.261 to current Federal Parliamentary nuclear Inquiry, p.

^{ix} Joint Environment Groups, 2024, Submission to the House Select Committee on Nuclear Energy Inquiry into Nuclear Power Generation in Australia November 2024, p. 26

^x Joint Environment Groups, 2024, Submission to the House Select Committee on Nuclear Energy Inquiry into Nuclear Power Generation in Australia November 2024, p.26

^{xi} Joint Environment Groups, 2024, Submission to the House Select Committee on Nuclear Energy Inquiry into Nuclear Power Generation in Australia November 2024, p.26

^{xii} Joint Environment Groups, 2024, Submission to the House Select Committee on Nuclear Energy Inquiry into Nuclear Power Generation in Australia November 2024, p.26

^{xiii} Green and Hawkins, 2024, The Politics of Nuclear Waste Disposal: Lessons from Australia, p. 4.

^{xiv} Green and Hawkins, 2024, The Politics of Nuclear Waste Disposal: Lessons from Australia, p. 5

^{xv} Green and Hawkins, 2024, The Politics of Nuclear Waste Disposal: Lessons from Australia, p. 5

^{xvi} Green, J. and Hawkins, D., 2024, The Politics of Nuclear Waste Disposal: Lessons from Australia, p. 4.

^{xvii} Joint Environment Groups, 2024, Submission to the House Select Committee on Nuclear Energy Inquiry into Nuclear Power Generation in Australia November 2024, p.26