Legislative Assembly of the Northern Territory

Legislative Scrutiny Committee

Inquiry into the Territory Coordinator Bill 2025

March 2025

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Legislative Assembly of the Northern Territory

Parliament House
State Square
Darwin NT 0800

Web: www.parliament.nt.gov.au

Contents

Chair's Preface

This report details the Committee's findings regarding its examination of the Territory Coordinator Bill 2025. The Bill establishes the Territory Coordinator and grants the Territory Coordinator and the responsible Minister a range of powers to coordinate and consolidate regulatory processes for projects and developments of economic significance to the Territory.

The Committee received 302 submissions to its inquiry with the majority of submissions either opposing the Bill entirely or opposing the Bill as introduced, with only two submissions supporting passage of the Bill as introduced. While there was general support for streamlining regulatory processes and developing the Territory's economy, there was significant opposition to the nature and extent of the powers the Bill confers on the Territory Coordinator and responsible Minister.

Following its examination of the Bill and consideration of the evidence received, the majority view of the Committee is that the Assembly should pass the Bill with the proposed amendments as set out in recommendations 1 – 8, 10 – 22, 24 and 25. The amendments proposed by the Committee seek to address concerns regarding transparency and accountability and ensure the Bill is unambiguous and drafted in a sufficiently clear and precise way.

For example, recommendations 4 and 5 propose amendments to the appointment provisions for the Territory Coordinator to align them with those pertaining to other statutory officers in the Northern Territory. Recommendation 15 proposes that clause 73(2) be amended to clarify the intended operation of the Bill with regards to the making of a statutory decision under a step-in notice.

In relation to ensuring the Bill has sufficient regard to the institution of Parliament, the Committee formed the view that prescribing Acts as 'relevant laws' for the purposes of the Territory Coordinator Act should be via notice of motion to amend the Act in the Legislative Assembly, rather than by regulation, and has proposed an amendment to the definition of Scheduled law in clause 3 at recommendation 18 accordingly.

Recognising Local Government as a distinct and essential sphere of government, at recommendation 24 the Committee has proposed that the *Local Government Act 2019* is removed from the Schedule of Acts that are currently nominated as Scheduled laws, in favour of a partnership approach between the two spheres of government.

The Committee has also proposed a number of minor amendments relating to consultation provisions within the Bill. Given the concerns raised regarding consultation processes, and noting that the Bill provides that public consultation is to be undertaken in accordance with the regulations, at recommendation 23 the Committee has proposed that a number of factors that were raised in submissions be taken into consideration when developing the associated regulations.

On behalf of the Committee, I would like to thank all those that provided submissions or appeared before the Committee. The Committee also thanks Professor Aughterson for his advice. I also thank my fellow Committee members for their bipartisan commitment to the legislative review process.

Mrs Oly Carlson MLA
Chair

Committee Members

Chair:	Mrs Oly Carlson MLA Member for Wanguri
Deputy Chair:	Mr Andrew Mackay MLA Member for Goyder
Members:	Justine Davis MLA Member for Johnston
	Mr Clinton Howe MLA Member for Drysdale
	Mr Chanston Paech MLA Member for Gwoja

Committee Secretariat

Committee Secretary:	Ms Julia Knight
Senior Research Officer:	Ms Georgia Eagleton
Administration/Research Officer:	Mr Caelan Ikin
Administration Assistant:	Ms Kim Cowcher
Contact Details:	GPO Box 3721 DARWIN NT 0801 Tel: +61 08 8946 1485
	Email: LA.Committees@nt.gov.au

Acknowledgments

The Committee acknowledges all those that provided written submissions or oral evidence at public hearings.

Acronyms and Abbreviations

CLC	Central Land Council
ECNT	Environment Centre NT
EDO	Environmental Defenders Office
ICA	Infrastructure Coordination Area
ICP	Infrastructure Coordination Plan
NLC	Northern Land Council
LGANT	Local Government Association of the NT
TC	Territory Coordinator
TDA	Territory Development Area

Terms of Reference

Sessional Order 14

Establishment of Legislative Scrutiny Committee

(1) The Assembly appoints a Legislative Scrutiny Committee

(2) The membership of the scrutiny committee will comprise three Government Members, one Opposition Member and one crossbench Member.

(3) The functions of the scrutiny committee shall be to inquire into and report on:

(a) any bill referred to it by the Assembly;

(b) in relation to any bill referred by the Assembly:

(i) whether the Assembly should pass the bill;

(ii) whether the Assembly should amend the bill;

(iii) whether the bill has sufficient regard to the rights and liberties of individuals, including whether the bill:

(A) makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review; and

(B) is consistent with principles of natural justice; and

(C) allows the delegation of administrative power only in appropriate cases and to appropriate persons; and

(D) does not reverse the onus of proof in criminal proceedings without adequate justification; and

(E) confers power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer; and

(F) provides appropriate protection against self-incrimination; and

(G) does not adversely affect rights and liberties, or impose obligations, retrospectively; and

(H) does not confer immunity from proceeding or prosecution without adequate justification; and

(I) provides for the compulsory acquisition of property only with fair compensation; and

(J) has sufficient regard to Aboriginal and Torres Strait Islander tradition; and

(K) is unambiguous and drafted in a sufficiently clear and precise way.

(iv) whether the bill has sufficient regard to the institution of Parliament, including whether a bill:

(A) allows the delegation of legislative power only in appropriate cases and to appropriate persons; and

(B) sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly; and

(C) authorises the amendment of an Act only by another Act.

(4) The committee will provide an annual report of its activities to the Assembly.

Adopted 15 October 2024

Recommendations

Recommendation 1

The Committee recommends that the Legislative Assembly pass the Territory Coordinator Bill 2025 with the proposed amendments set out in recommendations 1-8, 10-22, 24 and 25.

Recommendation 2

The Committee recommends that clause 3 be amended to include a definition of 'economic development'.

Recommendation 3

The Committee recommends that clause 4 be amended to include:

(e) public sector investment.

Recommendation 4

The Committee recommends that the Bill be amended to provide that:

1. The Administrator may appoint an eligible person to be the Territory Coordinator.
2. The appointment may be made only after receiving a recommendation of the Legislative Assembly.
3. The Minister must table a copy of the appointment in the Legislative Assembly within 6 sitting days after the appointment is made.

Recommendation 5

The Committee recommends that the Bill be amended to incorporate the 'Eligibility for appointment' criteria as set out in clause 79 of the consultation draft of the Bill.

Recommendation 6

The Committee recommends that clause 18 be amended to include that:

1. Delegations must be in writing; and
2. The Territory Coordinator must not delegate a power or function to an employee in an Agency who is made available to the Coordinator unless the Coordinator has consulted the Chief Executive Officer of the Agency.

Recommendation 7

The Committee recommends that clause 20(2)(c) be amended by omitting all words after the word 'consultation'.

Recommendation 8

The Committee recommends that the Explanatory Statement be amended to remove the definition of *'native title rights and interests.'*

Recommendation 9

The Committee recommends that the Government ensure relevant officers are made aware of the legislative limitations associated with the Bilateral Agreement made under section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) and the provisions of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) and the *Native Title Act 1993* (Cth)

Recommendation 10

The Committee recommends that clause 30(1) be amended to provide that:

(1) The Territory Coordinator must give the proposed ICP, including copies of all submissions received during the public consultation period and a summary of the submissions, to the Minister for approval.

Recommendation 11

The Committee recommends that clauses 32(2)(b) and 55(2)(b) be amended by inserting the words 'or Minister' after the word Coordinator.

Recommendation 12

The Committee recommends that clauses 33(b), 49(b) and 56(b) be amended to provide that the Territory Coordinator must give the Minister copies of all submissions, and a summary of the submissions, received during any public consultation required.

Recommendation 13

The Committee recommends that clause 50 be amended by omitting the words 'a summary of' and inserting the word 'all'.

Recommendation 14

The Committee recommends that clause 65(2)(b) be amended by omitting the words 'have regard to' and inserting the word 'consider'.

Recommendation 15

The Committee recommends that clause 73(2) be amended to clarify that unless an exemption notice has been issued in relation to the making of a statutory decision, the Territory Coordinator may only impose conditions the Coordinator considers necessary or desirable to promote the primary principle if they are consistent with the law under which the Coordinator is making a statutory decision.

Recommendation 16

The Committee recommends that clause 78(1) be amended to provide that:

(1) The only grounds for giving an exemption notice are:

Recommendation 17

The Committee recommends that clauses 79(2)(b) and 80(2)(b) be amended by omitting the first instance of the word 'may' and inserting the word 'must'.

Recommendation 18

The Committee recommends that clause 3 be amended to provide that:

Scheduled law means:

(a) an Act listed in the Schedule; or

(b) subordinate legislation made under an Act referred to in paragraph (a).

Recommendation 19

The Committee recommends that clause 88 be amended by omitting the words 'As soon as practicable' and inserting the words 'Within 5 business days'

Recommendation 20

The Committee recommends that clause 94(1) be amended to provide that the amount of compensation, if any, for damage caused to land in the performance of a person's work under section 93, is to be determined by the Minister or an independent third party.

Recommendation 21

The Committee recommends that clause 100 be amended to provide that reviews of any matter the Minister considers is one with which the Coordinator should be concerned in the general operation of the Coordinator's functions are to be undertaken by an independent entity.

Recommendation 22

The Committee recommends that the Bill be amended to provide for an independent review of the Act's operation after 5 years of commencement, to assess the implementation, performance and outcomes of the legislation.

Recommendation 23

The Committee recommends that in prescribing the manner in which public consultations are to be conducted in the Regulations, consideration be given to inclusion of the following:

1. minimum consultation periods;
2. a requirement that materials be provided in First Nations languages;
3. where practicable, holding in-person information sessions; and
4. a requirement that submissions to public consultations are published on the Territory Coordinator website.

Recommendation 24

The Committee recommends that the Bill be amended to remove the *Local Government Act 2019* from the Schedule of Acts that are Scheduled laws.

Recommendation 25

The Committee recommends that Clause 27 be amended to address a typographical error in line two by omitting the word 'of' following the word 'does'.

1 Introduction

Introduction of the Bill

1.1 The Territory Coordinator Bill 2025 (the Bill) was introduced into the Legislative Assembly by the Chief Minister, the Hon Lia Finocchiaro, MLA, on 12 February 2025. The Assembly subsequently referred the Bill to the Legislative Scrutiny Committee for inquiry and report by 12 March 2025.[1]

Conduct of the Inquiry

1.2 On 12 February 2025 the Committee called for submissions by 19 February 2025. The call for submissions was advertised via the Legislative Assembly website, Facebook, and email subscription service. In addition, the Committee directly contacted a number of individuals and organisations.

1.3 The Bill and associated explanatory materials were referred to the Committee's independent legal counsel, Professor Ned Aughterson, for review of fundamental legislative principles under Sessional Order 14(3)(b).

1.4 The Committee received 302 submissions to its inquiry (see Appendix 1) and held public hearings with 41 witnesses in Darwin on Wednesday 26 and Thursday 27 February 2025 (see Appendix 2).

Outcome of Committee's Consideration

1.5 Sessional Order 14 requires that the Committee after examining the Bill determine:

(i) whether the Assembly should pass the bill;

(ii) whether the Assembly should amend the bill;

(iii) whether the bill has sufficient regard to the rights and liberties of individuals; and

(iv) whether the bill has sufficient regard to the institution of Parliament.

1.6 Following examination of the Bill, and consideration of the evidence received, the Committee is of the view that the Legislative Assembly should pass Bill with the proposed amendments set out in Recommendations 1-8, 10-22, 24 and 25.

Recommendation 1

The Committee recommends that the Legislative Assembly pass the Territory Coordinator Bill 2025 with the proposed amendments set out in recommendations 1-8, 10-22, 24 and 25.

Report Structure

1.7 Chapter 2 provides an overview of the policy objectives of the Bill and the purpose of the Bill as contained in the Explanatory Statement.

1.8 Chapter 3 provides an overview of the main themes raised in submissions.

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[1] Hon Lia Finocchiaro MLA, Chief Minister, *Draft Daily Hansard, Day 2 – 12 February 2025*, https://territorystories.nt.gov.au/10070/988469, p. 4

1.9 Chapter 4 considers issues raised in submissions regarding specific clauses in the Bill.

2 Overview of the Bill

Background to the Bill

2.1 'Rebuilding the Economy' has been established as one of the NT Government's key priorities. As noted in the *Territory Coordinator Consultation Paper:*

> The contemporary investment and development context is characterised by increasingly complex, multi-purpose and multi-proponent projects, with significant intersecting regulatory and procedural requirements. This reality requires a new approach to consolidate and coordinate processes, in order to mitigate delays and associated costs.
>
> Under current frameworks, individualised regulatory processes offer limited capacity for strategic and proactive planning and direction-setting across government. This can lead to inefficiencies and lack of consistency in dealing with the processes required to progress projects that offer significant economic benefit.[2]

2.2 Establishment of the statutory role of the Territory Coordinator is a central element of the Government's economic reform agenda. The primary purpose of the Territory Coordinator is to:

> Act as a strategic intermediary between government agencies and project proponents, providing a single touchpoint across government for complex projects of economic significance for the Territory and geographic areas particularly suited to industry development.[3]

2.3 Informed by Queensland's Coordinator-General model and other models under development in South Australia, New South Wales and Western Australia:

> The overriding intention is that the Territory Coordinator will reinvigorate the way important and complex projects and significant private investments are handled in the Territory, by driving economically focused strategic coordination and addressing hurdles to development.[4]

An interim Territory Coordinator, Stuart Knowles, was appointed by the Government in November 2024.[5]

2.4 Prior to introducing the Bill in the Assembly, the Government conducted a two phase consultation process:

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[2] Department of the Chief Minister and Cabinet, *Territory Coordinator Consultation Paper*, Northern Territory Government, Darwin, October 2024, https://cmc.nt.gov.au/__data/assets/pdf_file/0011/1456679/territory-coordinator-consultation-paper.pdf, p. 6

[3] Department of the Chief Minister and Cabinet, *Territory Coordinator Consultation Paper*, Northern Territory Government, Darwin, October 2024, https://cmc.nt.gov.au/__data/assets/pdf_file/0011/1456679/territory-coordinator-consultation-paper.pdf, p. 5

[4] Department of the Chief Minister and Cabinet, *Territory Coordinator Consultation Paper*, Northern Territory Government, Darwin, October 2024, https://cmc.nt.gov.au/__data/assets/pdf_file/0011/1456679/territory-coordinator-consultation-paper.pdf, p. 5

[5] Department of the Chief Minister and Cabinet, *The Territory Coordinator*, https://cmc.nt.gov.au/advancing-industry/the-territory-coordinator#:~:text=The%20work%20of%20the%20Territory,Territory%20Coordinator%20in%20November%202024.

> **Phase 1:** On 11 October 2024 a consultation paper was released to government regulators, stakeholders and industry peak bodies as a basis to test key provisions and proposed powers being considered for inclusion in the draft Bill. On 24 October 2024, the consultation paper was released publicly.
>
> **Phase 2:** On 14 November 2024, a draft Bill and Guide were released to the public, seeking feedback that will inform a revised Bill. Public engagement on the draft Bill closed on 17 January 2025.[6]

2.5 The second phase of the consultation process included a series of Community Information Forums hosted by the interim Territory Coordinator in Palmerston, Katherine, Tennant Creek, Alice Springs and Nhulunbuy along with an online forum. Additional stakeholder meetings were also held with government agencies, industry peak bodies and other stakeholder groups.[7]

Feedback on the Draft Bill

2.6 As noted in the *Consultation Report Draft Territory Coordinator Bill*, there was a mixed response to the intent of the draft Bill and the primary principle:

> Industry stakeholders welcomed the establishment of the Territory Coordinator, viewing it as a commitment to facilitating investment and removing obstacles to large-scale projects. Most supported the draft Bill's goal of enhancing efficiency and certainty in approvals … Some industry representatives also emphasised the importance of social licence, cultural values and environmental safeguards.[8]

2.7 While many industry stakeholders noted that 'aligning decisions with the Primary Principle could attract investment, foster innovation and deliver economic benefits to the Territory', other stakeholders raised concerns that 'an emphasis on economic prosperity might lead to decisions that neglect broader sustainability goals or fail to account for community, ecological and cultural impacts.'[9]

2.8 The need for safeguards, transparency and accountability with regards to the exercise of powers by the Territory Coordinator and the Minister for Territory Coordinator was raised as an issue of concern for many respondents:

> This included a range of suggestions for increased transparency of key decisions. Several stakeholders articulated a need for periodic reviews of the Territory Coordinator's effectiveness, including suggestions that legislation should be adapted based on outcomes and community feedback. Some

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[6] Department of the Chief Minister and Cabinet, *Consultation Report Draft Territory Coordinator Bill*, Northern Territory Government, Darwin, February 2025, https://cmc.nt.gov.au/__data/assets/pdf_file/0010/1481932/tc-consultation-report.pdf, p.3

[7] Department of the Chief Minister and Cabinet, *Consultation Report Draft Territory Coordinator Bill*, Northern Territory Government, Darwin, February 2025, https://cmc.nt.gov.au/__data/assets/pdf_file/0010/1481932/tc-consultation-report.pdf, pp.4-5

[8] Department of the Chief Minister and Cabinet, *Consultation Report Draft Territory Coordinator Bill*, Northern Territory Government, Darwin, February 2025, https://cmc.nt.gov.au/__data/assets/pdf_file/0010/1481932/tc-consultation-report.pdf, p.6

[9] Department of the Chief Minister and Cabinet, *Consultation Report Draft Territory Coordinator Bill*, Northern Territory Government, Darwin, February 2025, https://cmc.nt.gov.au/__data/assets/pdf_file/0010/1481932/tc-consultation-report.pdf, p.6

stakeholders also saw the implementation phase as an opportunity to refine operational guidelines and address unforeseen challenges.[10]

Purpose of the Bill

2.9 As noted in the Explanatory Statement, the Bill:

> Establishes the Territory Coordinator and grants the Territory Coordinator and the Minister a range of powers to coordinate and consolidate regulatory processes for projects and developments of economic significance to the Territory. In particular, the Bill:
>
> - Establishes the statutory role of the Territory Coordinator and provides eligibility criteria for appointment to the role, grounds for termination, the functions and powers of the role, and powers to delegate the Territory Coordinator's functions and powers.
> - Grants the Minister the power to designate a significant project, declare an infrastructure coordination area (ICA) in relation to a significant project, and approve an infrastructure coordination plan (ICP) in relation to a significant project.
> - Grants the Minister the power to approve a program of works.
> - Grants the Minister the power to designate a Territory development area (TDA), and to approve a proposed TDA plan in relation to the area.
> - Establishes powers for the Territory Coordinator to authorise a person to enter land that is within an ICA or a TDA.
> - Establishes powers for the Territory Coordinator and Minister to give a prioritisation, progression-related, or decision request to a responsible entity of a statutory process or decision in a Scheduled law (a law listed in the Schedule to the Act or by regulation).
> - Establishes the power for the Territory Coordinator and Minister to give a step-in notice to a responsible entity, informing them that the Territory Coordinator or Minister will step in to act as the decision maker for the specified statutory process or decision.
> - Establishes the power for the Minister to give an exemption notice to modify or exclude the application of a Scheduled law on specific grounds.
> - Establishes the power of the Territory Coordinator to give a condition variation notice to a responsible entity and a proponent, to modify or revoke a condition of a statutory approval under a Scheduled law.[11]

2.10 In presenting the Bill, the Chief Minister advised the Assembly that a number of amendments were made to the exposure draft of the Bill in response to feedback:

> We have increased transparency around the exercise of powers under the Act by providing the statements of reasons be published for key decisions, mandating that all notices be published online, allowing a longer notice period

[10] Department of the Chief Minister and Cabinet, *Consultation Report Draft Territory Coordinator Bill*, Northern Territory Government, Darwin, February 2025, https://cmc.nt.gov.au/__data/assets/pdf_file/0010/1481932/tc-consultation-report.pdf,, p.6

[11] Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025, p. 1

prior to entering land and allowing more time for a notice of motion tabled in the Legislative Assembly to disallow an exemption notice.[12]

2.11 The Chief Minister further advised that, in response to feedback, the Schedule of Acts to which the powers in the Bill can be exercised has been amended. The *Nuclear Waste Transport, Storage and Disposal (Prohibition) Act 2004* and the *Offshore Waters (Application of Territory Laws) Act 1995* have both been removed. The *Electricity Reform Act 2000* has now been added as has the *Heritage Act 2011*, 'given its role in the regulatory framework applying to significant projects and development.'[13]

[12] Hon Lia Finocchiaro MLA, Chief Minister, *Draft Daily Hansard, Day 2 – 12 February 2025*, https://territorystories.nt.gov.au/10070/988469, p. 3
[13] Hon Lia Finocchiaro MLA, Chief Minister, *Draft Daily Hansard, Day 2 – 12 February 2025*, https://territorystories.nt.gov.au/10070/988469, p. 3

3 Themes Raised in Submissions

Introduction

3.1 The Committee received 302 submissions to its inquiry (see Appendix 1), including 25 proforma submissions. There were two types of proforma submissions with 14 and 11 people submitting against each respectively. Of the 302 submissions received, 285 submissions either opposed the Bill outright or opposed the Bill as currently drafted. 10 submissions supported the Bill but only two supported passage of the Bill as introduced. Seven submissions neither supported nor opposed the Bill.

3.2 A number of submissions, including submissions that were unsupportive of the Bill as introduced, acknowledged the need for, and benefits of, economic development in the NT. Submissions also acknowledged that streamlining of regulation and approval processes could be beneficial to achieving economic development, but that such development should not be prioritised over environmental, social and cultural outcomes.

3.3 The following discussion considers the main themes raised in submissions.

Theme 1: Environmental factors

3.4 227 submissions raised concerns about the potential for the Bill to have a long-term negative impact on the environment including water resources and the climate. The Environment Centre NT (ECNT) outlined concerns that many other submissions also raised:

> ... the ultimate consequence of the Territory Coordinator office will be to put the water, nature, environment, climate, health, and culture of the NT at risk. The NT already faces enormous risks and impacts to our environment, from the overextraction of water to the expansion of the fossil fuel industry and its associated greenhouse gas emissions. This legislation would weaken the little existing oversight or scrutiny of these projects, potentially removing in certain instances the need for public consultation or environmental assessment processes that often represent the only chance communities have to engage with these projects and their potential risks.[14]

3.5 The following scheduled Acts were highlighted in submissions as of particular concern in relation to potential negative environmental impacts if they were to be subject to the powers outlined in the Bill:

- Energy Pipelines Act 1981
- Environment Protection Act 2019
- Fisheries Act 1988
- Geothermal Energy Act 2009
- Mineral Titles Act 2010
- Pastoral Land Act 1992

[14] Environment Centre NT, Submission 208, pp. 6-7

- Petroleum Act 1984
- Petroleum (Submerged Lands) Act 1981
- Planning Act 1999
- Radiation Protection Act 2004
- Radioactive Ores and Concentrates (Packaging and Transport) Act 1980
- Territory Parks and Wildlife Conservation Act 1976
- Transport of Dangerous Goods by Road and Rail (National Uniform Legislation)
- Waste Management and Pollution Control Act 1998
- Water Act 1992
- Weeds Management Act 2001[15]

3.6 Various submissions suggested that the primary principle of economic development should not be elevated above non-economic considerations including environmental outcomes.[16] The Environmental Defenders Office (EDO) noted that the comparable South Australian model gives equal consideration to economic, social and environmental outcomes:

> The Primary Principle … even goes beyond the Primary Principle contained in the proposed South Australian model which requires that: the Minister or CGO (Coordinator General's Office) must have regard to the economic, social and environmental outcomes of the project (for the State as a whole and in the locality of the project), in addition to any relevant objects or principles under the other Act.[17]

3.7 Five submissions noted that the principles of ecologically sustainable development are not adequately considered by the Bill.[18] As Jesuit Social Services pointed out:

> The principles of Ecologically Sustainable Development i.e. balancing social, environmental, and economic concerns have informed policy around the globe since the Rio Earth Summit in 1992. We urge the Northern Territory Government not to abandon this critically important global principle, which was enshrined to prevent the deliberate prioritisation of the economy over the wellbeing of our society and the environment.[19]

3.8 Many submissions emphasised the potential negative environmental impact of fracking and/or fossil fuel extraction if related projects are fast tracked under the Bill. A number of submissions referred to the findings of the Scientific Inquiry into Hydraulic Fracturing (commonly known as the Pepper Inquiry),[20] raising concerns about how the recommendations of the inquiry will be implemented or continue to be followed with implementation of the Bill.[21]

3.9 Frack Free NT expressed the view that:

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[15] See for example Submissions 200, 208 and 230
[16] See for example Submissions 58, 115, 120, 137, 231
[17] Environmental Defenders Office, Submission 231, p. 14
[18] See Submissions 66, 190, 217, 220 and 231
[19] Jesuit Social Services, Submission 66, pp. 1-2
[20] See for example Submissions 90, 179, 208 and 217
[21] See for example Submissions 223, 230, 249, 279 and 288

> If fracking is to go ahead in the Northern Territory, government and industry must (at a minimum) fully implement and adhere to the 135 recommendations made by the Scientific Inquiry into Hydraulic Fracturing (known as the Pepper Inquiry). We are concerned that the Territory Coordinator Act paves the way for many of these recommendations to be removed, watered down or bypassed.[22]

3.10 Many submissions noted the importance of environmental resources and the eco-tourism industry in supporting the NT's economy. Submissions argued that implementation of the Bill could lead to poor outcomes for such industries and loss of potential income if the environment were to be damaged. Keep Top End Coasts Healthy highlighted the economic value of the NT's coastal waters:

> Top End Coasts are at the heart of our Top End lifestyle. They are critical to our collective opportunity and prosperity, contributing $2 billion to the Territory economy each year and supporting more than 6,000 jobs … We must protect the unique Territory brand which makes our tourism economy and industries like aquaculture, pearling and fishing, so successful. This is what is at risk if we fail to protect the health of our Top End coasts.[23]

Theme 2: Perceived overreach of power, threat to democracy and concerns about good governance

3.11 187 submissions raised concerns that the Bill concentrates extensive powers with the Territory Coordinator and the Minister to make decisions affecting a broad range of sectors and enables existing legislation to be bypassed.

3.12 159 submissions expressed concern that providing an unelected official, the Territory Coordinator, powers as outlined in the Bill threatens democratic principles, and 103 submissions expressed concern that the Bill threatens good governance processes including accountability and transparency.

3.13 The ECNT submitted that:

> If passed, the Bill would represent a threat to democratic processes and institutions in the Northern Territory. Taking decision-making power away from independent statutory decision makers and centralising this power with an unelected bureaucrat and a single Minister is anti-democratic overreach …
>
> The overreach of powers represented in the Bill and the inclusion of powers not included in other jurisdictions threatens to undermine the social license of decisions made by the Territory Coordinator.[24]

3.14 Regarding the power of the Territory Coordinator and the Minister to override existing legislation and regulatory processes through the step-in, condition variation and exemption powers, submissions suggested that:

- One or two individuals will not have the specialised expertise of each of the sectors the Bill covers given the broad range of scheduled laws.[25]
- There is a lack of comprehensive criteria to guide or justify decisions in relation to these powers.[26]

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[22] Frack Free NT, Submission 217, p. 1
[23] Keep Top End Coasts Healthy, Submissions 203, p. 1
[24] Environment Centre NT, Submission 208, p. 6
[25] See for example Submissions 194, 208 and 232 and 235
[26] See for example Submissions 231, 232 and 235

- The checks and balances in the Bill are not adequate given the powers conferred on the Territory Coordinator and Minister.[27]
- Given the unicameral nature of the Legislative Assembly with a majority government, it is highly unlikely that exemption notices will be disallowed.[28] The potential for a lengthy gap between tabling of an exemption notice and parliamentary sitting days when a disallowance motion can be moved was also raised as a concern.[29]

3.15 As outlined in the Central Land Council's (CLC) submission:

> No one person will have the necessary expertise to make decisions or undertake processes over the breadth of legislation encompassed within the Territory Coordinator's powers. The Scheduled Acts cover an enormous range of topics ... It is important to ensure that decisions are made and processes undertaken by statutory bodies with the necessary expertise and knowledge …
>
> Even if the Territory Coordinator does seek advice, she or he is not required to actually "consider" the advice of the responsible entity. Nor does the TC Bill specify any criteria pursuant to which the Territory Coordinator could refuse to follow that advice. Without such criteria, the Territory Coordinator could ignore important scientific, environmental or cultural advice or approve under-considered and inappropriate applications simply by relying on a subjective interpretation of the primary principal …
>
> The draft TC Bill is so devoid of objective criteria for issuing an exemption notice that it would come down to a Minister's subjective view of how the primary principle should be interpreted …
>
> The supposed "check" on exemption notices is negligible when any government in power has a majority in the unicameral Legislative Assembly and is unlikely to pass a disallowance motion stopping the Minister from issuing the exemption notice. The Minister is also unlikely to override a recommendation of the Territory Coordinator when the Minister has worked closely with the Territory Coordinator on it.
>
> Depending on the timing of a notice and parliamentary sitting dates, there may also be a lengthy lag between the notice and the opportunity for a disallowance motion. That lag means substantial work could be done pursuant to an exemption notice prior to it being disallowed or even the public becoming aware that an exemption notice has been issued.[30]

3.16 56 submissions were of the view that the power of the Territory Coordinator to authorise entry onto private property without a warrant or without a landowner's permission is an overreach of power. Sam Wilks outlined the following specific concerns:

- Infringement on private property rights and lack of respect for individual consent.
- Potential to cause financial distress to residents of the land due to inadequate compensation for damage.
- Potential for damage to property.

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[27] See for example Submissions 13, 52, 122, 187, 203, 208 and 217
[28] See for example Submissions 208, 217, 232 and 235
[29] Matthew Giakoumatos, Submission 58, p. 1 and Central Land Council, Submission 235, p. 20
[30] Central Land Council, Submission 235, pp. 17 and 19-20

- Historical instances of displacement of Aboriginal people from traditional lands and undermining Aboriginal people's land rights.
- Potential for prolonged legal disputes.[31]

3.17 32 submissions raised concerns about the potential for the Bill to lead to perceived or actual corruption, or undue influence due to the argued concentration of power, subjective decision-making, and lack of checks and balances on power as outlined above.[32] Several submissions also raised the risk of state/industry/regulatory capture.[33]

3.18 Various submissions discussed the potential for the Bill to undermine Parliamentary authority. They argued that the Bill allows for significant changes to be made to existing laws without full parliamentary oversight which undermines the role of the Legislative Assembly and could lead to decisions that are not in the best interests of the broader community.[34]

Theme 3: Concerns about lack of public consultation, review and publication requirements

3.19 75 submissions outlined concerns that the Bill has limited requirements for public consultation and information dissemination, as well as limited avenues for public review or appeal of decisions. Keep Top End Coasts Healthy noted that:

> Public participation is essential to fostering trust, ensuring equity, and upholding the rights of communities, particularly Traditional Owners.[35]

3.20 A number of submissions suggested that decisions under the Bill can be made without adequate input from affected communities, particularly Aboriginal groups, undermining the principles of Free, Prior, and Informed Consent, and could lead to decisions that negatively impact communities without their knowledge or agreement.[36] Nurrdalinji Native Title Aboriginal Corporation outlined these concerns:

> Suggesting that critical consultation processes could be streamlined by applying "consolidated consultation processes" to replace the current requirements that exist through various legislative mechanisms as well as the ability to exempt projects from these processes altogether cuts communities out of the process and does not include the principles of Free Prior and Informed Consent (FPIC).
>
> We need to make sure that we get new development projects right in the Northern Territory and that communities fully understand the impacts of them. There are many examples of where environmental assessments and approvals have been rushed, and communities have been required to deal with the significant negative consequences of these decisions.[37]

3.21 Submissions also raised concerns that the Bill restricts review options to judicial review in the Northern Territory Supreme Court, which can be a prohibitively costly and time-consuming process. They argued this would limit community

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[31] Sam Wilks, Submission 246
[32] See for example Submissions 57, 230, 235, 237 and 246
[33] See for example Submissions 46, 98, 212, 217, 219, 246 and 250
[34] See for example 223, 230 and 235
[35] Keep Top End Coasts Healthy, Submissions 203, p 2
[36] See for example Submissions 65, 180, 215, 225, 223, 228 and 235
[37] Nurrdalinji Native Title Aboriginal Corporation, Submission 279, p. 2

members' and other stakeholders' ability to challenge decisions.[38] Numerous submissions emphasised that merit review processes available under the scheduled laws should not be able to be overridden and that a stand-alone merit review process should be included in the Bill.[39]

> The TC model should not further limit review rights. It is imperative that current review rights under other Territory laws, like merits review under the Petroleum Environment Regulations, are not displaced under the draft Bill. In addition, merits review should extend to other foundational decisions under the TC Bill, such as to declare a TDA or declare a project as one of economic significance, being pre-conditions to the exercise of wide-ranging powers under the Bill.[40]

3.22 The clauses of the Bill outlining what information is required to be published and where it is required to be published were mentioned as areas of concern in several submissions.[41] Elsabe Bott outlined that:

> There is no longer a requirement under the new draft of the Bill for the Office of the Territory Coordinator to publish on their website prioritisation, progression or decision-making requests. These are now apparently to be published on a public register, although no details are given as to where this register will be held or how the community access it. As with the details around changes to rights of appeal, referred to earlier, this step also disempowers the community. It also appears that decisions are almost being hidden from the community, who in the end, are the ones who are going to have to bear the brunt of any decision that impacts negatively.[42]

3.23 Suggestions included requiring publication of notices designating certain projects or development areas as 'significant' in an easily accessible online location,[43] requiring publication of detailed rationales for decisions made under the Bill,[44] and mandating public reporting on impact assessments and consultation outcomes.[45]

Theme 4: Social and public health outcomes

3.24 103 submissions highlighted the potential negative impact of the Bill on social and public health outcomes, particularly for local Aboriginal communities. Submissions discussed the environmental factors that impact on individuals' quality of life and community wellbeing including air quality,[46] water contamination[47] and loss of natural resources.[48]

3.25 Various submissions suggested that to ensure positive social and public health outcomes are driven forward under the Bill, the primary principle of economic development should not be elevated above non-economic considerations.[49] The Australian Institute of Architects noted that:

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[38] See for example Submissions 52, 231, 237 and 240
[39] See for example Submissions 208, 220, 231 and 234
[40] Environmental Defenders Office, Submission 231, p. 18
[41] See for example Submissions 52, 187, 208, 223, 229, 231 and 235
[42] Elsabe Bott, Submission 52, p. 3
[43] Environment Centre NT, Submission 208, p. 2
[44] See Justin Tutty, Submission 223, p. 22 and Aboriginal Peak Organisations NT, Submission 229, p. 2
[45] Aboriginal Peak Organisations NT, Submission 229, p. 2
[46] See for example Submissions 135, 192 and 249
[47] See for example Submissions 87, 121, 155, 200 and 230
[48] See for example Submissions 46, 187, 203 and 252
[49] See for example Submissions 208, 220, 235 and 263

> We fully support the idea of growing prosperity in the NT through major projects and the other undertakings of the Territory Coordinator … We want to enjoy the successes of the concept not only for the benefits to be reaped in the coming years, but also to celebrate good decisions made that are supported by the NT communities, for the long term health and wellbeing of our land and people …
>
> We understand the point of the Territory Coordinator is to make the Territory a more prosperous, financially viable and better place to live. However, simply looking after financially driven solutions in the short term will not make the Northern Territory a better place to live and therefore, focusing on the narrow lens of money is not enough. To this end we believe that parallel investment must be made by the NT Government to improve social equity and the liveability of the NT; making it a safer and more progressive place as well as prosperous …
>
> Creating more even levels of wealth and access to healthcare and education is the underlying focus of successful communities **…**
>
> Looking after our most vulnerable, investing in education and creating a great health care system will make attractive prospects to attract and retain long term NT residents to staff the growing community.[50]

3.26 The City of Palmerston also noted that they understood the potential benefits for their community in relation to the Territory Coordinator's role in supporting infrastructure development but outlined their concerns regarding the potential impacts on the social health of their region. They also suggested the need to balance the drive for development with environmental and social factors.[51]

Theme 5: Impact on Aboriginal people's culture and rights

3.27 60 submissions raised concerns about potential risks to the culture, rights and interests of Aboriginal Territorians. Submissions advised that the Bill could undermine Aboriginal people's ability to protect their land, water, and cultural heritage.[52]

3.28 Submissions argued that Aboriginal people will not be adequately involved in, or consulted on decisions that affect their land and waters.[53] The Northern Land Council (NLC) submitted that:

> Most of the Northern Territory's land and seas are either Aboriginal Land or land affected by native title. Without mandatory consultation requirements, the Northern Territory Government….is likely to prioritise expediency over processes that are optional. There is a risk to the land rights of Traditional Owners, which could lead to irreversible damage of their economic, social and spiritual wellbeing. We are particularly concerned that Aboriginal Land and Exclusive Native Title Land is able to be declared a TDA or ICA without any prior consent or even consultation.[54]

3.29 Submissions also explored how the Bill may interact with laws that aim to protect Aboriginal culture, rights and interests including the *Heritage Act 2011*, the *Northern Territory Aboriginal Sacred Sites Act 1989* and the *Aboriginal Land Act 1978*.

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[50] Australian Institute of Architects, Submission 263, p. 9
[51] City of Palmerston, Submission 220
[52] See for example Submissions 225, 235, 279
[53] See for example Submissions 232, 235 and 279
[54] Northern Land Council, Submission 232, p. 4

3.30 Several submissions argued the *Heritage Act* should not be subject to the Territory Coordinator's and Minister's powers under the Bill.[55] The Heritage Council stated that:

> In order for Aboriginal rights and interests to be protected, all provisions of the *Heritage Act* must be exempted from the TC's powers …
>
> Heritage places and objects can embody intertwined cultural and natural values and at least 25 percent of declared places and objects on the NT Heritage Register have both historical and Aboriginal heritage values.[56]

3.31 Several submissions stated that the removal of clause 14 'Limitation on exercise of powers' from the Bill as introduced seriously erodes protections for Aboriginal culture, in particular those rights and interests protected by the *Northern Territory Aboriginal Sacred Sites Act* and the *Aboriginal Land Act*.[57] The NLC submitted that:

> It has been said that section 14 of the Draft Bill is not necessary, because the TC can only exercise its powers over Scheduled Acts, which means legislation such as the *Sacred Sites Act 1989* (NT) cannot be impacted. However, this analysis is incorrect.
>
> Firstly, legislation listed in the Schedule can be updated by Regulation. While the *Sacred Sites Act* is not listed in the Schedule … the Government can simply create Regulations adding the *Sacred Sites Act* into the Schedule at a future date. This means, legislation like the *Sacred Sites Act* is still at risk of being interfered with by the TC. Protection of the *Sacred Sites Act* and the *Aboriginal Land Act 1978* need to be enshrined in legislation through an equivalent clause to Section 14 of the Draft Bill.
>
> Secondly, section 14 protects the impact of the TC on Traditional Owner rights. For example, section 14(1)(b)(v) protected the "recognition and protection of native title rights and interests under a law of the Territory" … Without the protective effect of section 14, the rights of Traditional Owners can be easily eroded.[58]

3.32 Nurrdalinji Native Title Aboriginal Corporation also suggested the potential for the Bill to provide exemptions to the requirement to obtain a permit to enter Aboriginal land could result in interference with the land rights of Traditional Owners.[59]

Theme 6: Uncertainty and complexity for industry

3.33 Numerous submissions suggested that the Bill is likely to create an uncertain and unpredictable regulatory environment for industry stakeholders, potentially discouraging investment in the NT.[60] It was argued that the lack of objective criteria for the Territory Coordinator and Minister to make decisions,[61] the potential for protracted legal challenges,[62] and unpredictable changes to the application of scheduled laws may well deter rather than attract investors.[63]

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[55] See for example Submissions 226, 232 and 235
[56] Heritage Council, Submission 226, p. 3
[57] See for example Submissions 232, 235 and 279
[58] Northern Land Council, Submission 232, p. 5
[59] Nurrdalinji Native Title Aboriginal Corporation, Submission 279, p. 3
[60] See for example Submissions 208, 223, 233 and 242
[61] Justin Tutty, Submission 223, p. 34 and Local Government Association of the NT, Submission 233, p. 4
[62] Environment Centre NT, Submission 208, p. 4 and Justin Tutty, Submission 223, p. 8
[63] Environment Centre NT, Submission 208, p. 4

> Frequent changes in regulatory frameworks can create an environment of uncertainty, making it difficult for businesses to plan long-term investments. This unpredictability can deter investment, as companies may fear sudden policy shifts that could adversely affect their operations …
>
> Perceived regulatory weaknesses can lead to systemic issues within industries, resulting in loss of consumer trust and increased scrutiny. The subsequent regulatory backlash can create an uncertain business environment, affecting confidence …
>
> In fact, there are several ways that the Draft Bill could paradoxically undermine investor confidence, despite its stated aim of fast-tracking development. While the Draft Bill aims to streamline project approvals, it risks creating a highly uncertain and contentious investment environment, making NT less attractive to both domestic and international investors.
>
> Despite the limitation of third party review, the broad, discretionary powers granted under the Draft Bill remain likely to face legal challenge. If these powers are exercised in ways perceived as undermining environmental or cultural protections, projects may face significant delays or cancellations due to litigation. The risk of protracted legal battles increases the uncertainty surrounding project approvals and timelines …
>
> If exemption notices are used inconsistently or perceived as favouring certain proponents, it may lead to disputes within industry. Companies denied exemptions may challenge the equity and legitimacy of NT's decision-making framework. Proponents may feel NT has created an uneven playing field, further deterring investment. They may be left uncertain what support the Coordinator powers might grant their project, and whether competitors will enjoy the same. Investors seek jurisdictions where decisions are applied uniformly and predictably.[64]

3.34 Two submissions also raised concern could that actions under the Bill may interfere with or contravene the NT's bilateral agreements with the Australian Government. They suggested that approval processes may become confused and complicated where uncertainty exists regarding the application of requirements under the agreements which may compound regulatory duplication.[65] The ECNT noted that:

> The Draft of the Bill included provisions that the TC may not exercise a power in a way that would interfere with an agreement between the Territory and the Commonwealth …
>
> The fact that these provisions have been removed risks breaching the Northern Territory's obligations under the Bilateral Agreement. Because of the way different approval and assessment processes overlap and intersect, it will be difficult for agencies and the TC to understand exactly where the risks will arise. Legal advice may frequently be required in relation to decisions that could potentially be in breach of the Bilateral Agreement. This will add to the regulatory burden. In attempting to cut corners, the Bill inadvertently creates more complexity.
>
> The Bill could also lead to duplication. It is not always clear at the outset whether an activity is a "controlled action" for the purposes of the EPBC Act. If that kind of activity were the subject of a step-in notice, and was approved using the overriding "primary principle", it might later be called in for assessment at the EPBC level. In that case, the Bilateral Agreement would

[64] Justin Tutty, Submission 223, pp. 8-9
[65] Environment Centre NT, Submission 208, p. 5 and Justin Tutty, Submission 233, p. 2

> start to apply, but the initial NT assessment would not have been done to the usual standard required. A detailed environmental assessment might then need to be done by the Commonwealth, because it had not been done properly the first time.[66]

Theme 7: Supporting economic growth

3.35 Several submissions expressed their support for the Bill and its overall intention to drive the NT's economic development.[67] It was argued that the Bill has the potential to streamline regulatory processes,[68] enable more efficient and coordinated decision making,[69] improve infrastructure planning and execution,[70] diversify the NT economy,[71] and attract investment.[72] Submissions indicated that combined these factors would facilitate more timely completion of major projects.

3.36 Master Builders NT highlighted these benefits in relation to the construction industry:

> … a key strategic priority for Master Builders NT is promoting the construction industry as a driving force for economic growth in the Territory. The Territory Coordinator legislation aligns with this goal by facilitating coordination between government and industry to accelerate major projects. This supports MBNT's broader efforts to advocate for infrastructure investment and advance the interests of the construction sector, particularly in key areas such as defence and commercial development. The Bill strikes a fair balance between regulatory management and community needs, ensuring a measured and practical approach.[73]

3.37 However, various submissions argued that large-scale industrial projects do not necessarily lead to majorly improved economic outcomes due to the current royalty system that exists in the NT and reliance on fly-in, fly-out (FIFO) workers.[74]

> ECNT rejects the premise that fast-tracking big projects like fracking and large-scale agribusiness will lead to better economic outcomes for the vast majority of Territorians. An inadequate royalty regime means that Territorians don't see a fair share of revenue from megaprojects, and the structure of these industries often relies on FIFO labour.[75]

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[66] Environment Centre NT, Submission 208, p. 5
[67] See for example Submissions 10, 239 and 291
[68] Automobile Association of the Northern Territory, Submission 10, p. 1
[69] Submissions 10, 63, 239 and 291
[70] Automobile Association of the Northern Territory, Submission 10, p. 1 and Nhulunbuy Corporation, Submission 63, p. 2
[71] Nhulunbuy Corporation, Submission 63, p. 2
[72] Nhulunbuy Corporation, Submission 63, p. 2 and Australian Energy Producers, Submission 224, p. 1
[73] Master Builders NT, Submission 291, p. 1
[74] See for example Submissions 127, 203, 208 and 263 and proforma submissions, see for example Submission 5.
[75] Environment Centre NT, Submission 208, p. 7

4 Examination of the Bill

Introduction

4.1 As highlighted in the previous chapter, the majority of submissions received either opposed the Bill entirely or opposed the Bill as currently drafted. Of the 302 submissions received only two supported its passage as introduced. While there was general support for streamlining regulatory processes and developing the Territory's economy, there was significant opposition to the nature and extent of the powers the Bill confers on the Territory Coordinator and responsible Minister.

4.2 Many submitters sought clarification regarding the intended operation of various provisions within the Bill, while others put forward suggestions as to how the Bill could be improved. The following discussion considers the main issues raised in the evidence received and puts forwards recommendations for amendments that seek to address concerns regarding transparency and accountability and ensure the Bill is unambiguous and drafted in a sufficiently clear and precise way.

Primary Principle of Act

4.3 Clause 8(1) provides that in exercising a key power under the Act, or when exercising or performing a function under any other Act in connection with the exercise of a key power, the Minister and the Territory Coordinator must have regard to:

(a) the primary objective of driving economic development for the Territory or a region of the Territory;

(b) the potential social and environmental outcomes for the Territory or a region of the Territory.

4.4 As reflected in the submissions received and the evidence presented at the public hearings, many people were concerned that the primary principle as currently drafted puts too much emphasis on economic development at the expense of social, cultural and environmental outcomes. That, similar to South Australia's State Development Coordination and Facilitation Bill 2025, economic, social and environmental outcomes should be given equal weighting.[76]

4.5 For example, a number of submissions suggested that the primary principle should adhere to the principles of ecologically sustainable development. As Frack Free NT pointed out:

> The principles of ecologically sustainable development (ESD) are widely accepted as governing principles for decision-making across Australia and much of the world, by placing economic, social and environmental outcomes on an equal footing.[77]

4.6 Similarly, City of Palmerston noted that:

> Our primary concern is that the Territory Coordinator Bill appears to prioritise economic development at the expense of ecologically sustainable development principles. These principles have long been enshrined both nationally and internationally to ensure that economic progress does not

[76] State Development Coordination and Facilitation Bill 2025, cl 3
[77] Frack Free NT, Submission 217, p. 2

> come at the cost of the environmental and social outcomes. The drive for a Territory Coordinator seems to override these longstanding principles, allowing for economic development without sufficient regard for the broader environmental and social consequences.[78]

4.7 The CLC advised the Committee that:

> What the CLC and traditional owners are concerned about is that the Territory Coordinator Bill in its current form will result in adverse social, environment and cultural outcomes. We consider that there is too much weight given to economic prosperity in the primary principle and that profits for private companies do not automatically equate to economic prosperity for Territorians. It cannot be an assumed outcome for major projects where profit may trump community benefit…[79]

4.8 Concern was also raised regarding the definition of 'economic development', with a number of submissions suggesting that the primary principle is ill-defined and fails to reflect the interests of Territorians. For example, ECNT expressed the view that:

> This Bill elevates this very vague, quite ill-defined notion of economic development as the primary principle. That is really risky. Anyone who is genuinely interested in sustainable long-term economic development for the Territory that will bring benefit to Territorians, not just big companies, cannot exclude social and environmental considerations from that conceptualisation of economic development. Those concepts are fundamentally tied together.[80]

4.9 The Committee sought clarification of the definition of 'economic development' from the Department of the Chief Minister and Cabinet and was advised as follows:

> The definition of economic development technically means what it generally means … Economic development is not defined in the Bill. It would be determined in the context of the Bill and its ordinary meaning. What I imagine will be done—but this is a matter for the Territory Coordinator—is guidance might be provided around a range of things including about factors that would be considered when determining what economic development is…
>
> it is not specifically defined, but the general meaning of economic development in terms of what is the return to the Territory, are we seeing a revenue return, are we seeing population growth, are we seeing job creation, are we seeing infrastructure being built; that is a return to the Territory.[81]

4.10 Associated to the concept of economic development is the notion of 'economic significance'. Clause 4 provides that a project or development is of economic significance to the Territory or a region of the Territory, if it facilitates private sector investment; job creation; population growth; development or advancement of an industry. It was suggested that this list should also include 'public sector investment, for example by a Local Government Council pursuant to s 194 of the *Local Government Act* or a public corporation.'[82]

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[78] City of Palmerston, Submission 220, p.1
[79] Committee Transcript, Public Hearing, Thursday 27 February 2025, p. 18
[80] Committee Transcript, Public Hearing, Wednesday 26 February 2025, p. 14
[81] Committee Transcript, Public Hearing, Thursday6 27 February 2025, p. 51
[82] Professor Ned Aughterson, *Legal Advice on the Territory Coordinator Bill 2025*, (unpublished), 23 February 2025, pp. 1-2

Committee's Comments

4.11 The Committee is not satisfied regarding the lack of a definition of economic development and considers that it would be beneficial if the term was specifically defined in the legislation. The Committee also agrees that the meaning of economic significance should be amended to incorporate the potential for public sector investment.

4.12 However, in relation to the primary principle, the majority view of the committee is that it should not be amended.

Recommendation 2

The Committee recommends that clause 3 be amended to include a definition of 'economic development'.

Recommendation 3

The Committee recommends that clause 4 be amended to include:

(e) public sector investment.

Appointment of Territory Coordinator

4.13 While clause 21 of the Bill provides that 'the Territory Coordinator must perform the functions and exercise the powers of the office impartially and independently, concern was raised that the requirement for impartiality and independence was not reflected in the provisions regarding appointment of the Territory Coordinator set out in clause 11.

4.14 Clause 11 provides that:

(1) The Administrator may, in writing, appoint an eligible person to be the Territory Coordinator.

(2) A person is an eligible person if the person has suitable qualifications or experience relating to the Territory Coordinator's functions.

(3) Notice of the appointment must be published in the *Gazette* as soon as practicable after it is made.

4.15 Concern was raised that the eligibility criteria in clause 79 of the consultation draft of the Bill have been removed from the Bill as introduced. Noting that these criteria set out a number of limitations on who could be appointed as the Territory Coordinator, Frack Free NT expressed the view that the absence of such 'allows for serious potential conflicts of interests which should be mitigated by this Bill.'[83] Catherine McLeish also expressed concern that under the Bill as introduced, 'the Territory Coordinator is effectively nominated by the government of the day without a transparent selection process or parliamentary oversight.'[84]

4.16 As ECNT stated:

> We need to bring back the eligibility conditions for holding the office of Territory Coordinator, which were in the draft. That is an important safeguard

[83] Frack Free NT, Submission No. 217, p. 6
[84] Catherine McLeish, Submission No. 216, p. 2

to make sure that this individual, who will have a significant amount of power, is appropriately nonpartisan and does not have vested interests.[85]

Committee's Comments

4.17 Given the functions and powers of the Territory Coordinator, the Committee is of the view that the appointment provisions in the Bill should mirror those for other statutory officers, such as the Auditor-General, Ombudsman, Electoral Commissioner, and the Independent Commissioner Against Corruption.[86]

4.18 Under current legislative provisions, the Committee notes that the appointment of an eligible person by the Administrator may only be made following receipt of a recommendation of the Legislative Assembly. As set out in clause 79 of the consultation draft of the Bill, the eligibility criteria for appointment of the aforementioned statutory officers precludes a person that is:

- a judicial officer; or
- a member of an Australian parliament; or
- a member of a local government council or of an equivalent body in a State or another Territory; or
- a member of a political party; or
- an officer of a Territory controlled entity; and
- the person does not have recent political affiliation.

4.19 In the interests of transparency and accountability and to ensure an appropriate level of parliamentary oversight, the Committee considers that the appointment provisions for the Territory Coordinator should align with the legislative requirements pertaining to other statutory officers in the Northern Territory.

Recommendation 4

The Committee recommends that the Bill be amended to provide that:

1. **The Administrator may appoint an eligible person to be the Territory Coordinator.**
2. **The appointment may be made only after receiving a recommendation of the Legislative Assembly.**
3. **The Minister must table a copy of the appointment in the Legislative Assembly within 6 sitting days after the appointment is made.**

Recommendation 5

The Committee recommends that the Bill be amended to incorporate the 'Eligibility for appointment' criteria as set out in clause 79 of the consultation draft of the Bill.

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[85] Committee Transcript, Public Hearing, Wednesday 26 "February 2025, p. 15

[86] *Audit Act 1995*, ss 4, 4A; *Ombudsman Act 2009*, ss 132, 133; *Electoral Act 2004*, ss 314, 3314A and the *Independent Commissioner Against Corruption Act 2017*, ss 113, 114

Delegation

4.20 The Explanatory Statement notes that clause 17 provides that administrative support for the Territory Coordinator will be provided by the Department of the Chief Minister and cabinet with staff consisting of:

> public sector employees who are employed for the purposes of carrying out the Coordinator's functions, or persons employed in an Agency who are made available to the Coordinator through an arrangement between their Chief Executive Officer and the Coordinator.[87]

4.21 Clause 18 then provides that the Territory Coordinator may delegate any of their powers and functions under the Act, except those contained in Part 7 of the Act relating to expediting statutory processes and decisions, to any person who the Coordinator is satisfied has the appropriate qualifications or experience to exercise the power or perform the function.

4.22 However, as Professor Aughterson pointed out to the committee, the power of delegation to 'any person' is very broad given that section 17 of the *Interpretation Act 1978* provides that 'person includes a body politic and a body corporate.' It was also noted that there is no requirement for the delegation to be in writing.[88] While the Explanatory Statement notes that it is anticipated that any delegations will be made to the Territory Coordinator's staff, Professor Aughterson suggested that since the Coordinator's staff may include staff employed in another agency it might be appropriate to include a provision similar to that in section 11(2) of *Public Sector Employment and Management Act 1993* such that the Territory Coordinator must not delegate a power or function to an employee in another Agency unless they have first consulted with the Chief Executive Officer of the Agency.[89]

Committee's Comments

4.23 While noting that broad delegation powers to 'any person' exist in other Northern Territory legislation, the Committee agrees that the delegation should be in writing and should also require that where the delegation involves a person from another Agency, the Territory Coordinator must first consult the relevant Chief Executive Officer.

Recommendation 6

The Committee recommends that clause 18 be amended to include that:

1. **Delegations must be in writing; and**
2. **The Territory Coordinator must not delegate a power or function to an employee in an Agency who is made available to the Coordinator unless the Coordinator has consulted the Chief Executive Officer of the Agency.**

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[87] Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025, p.7

[88] Professor Ned Aughterson, *Legal Advice on the Territory Coordinator Bill 2025*, (unpublished), 23 February 2025, p.2; see also *Interpretation Act 1978*, s 17.

[89] Professor Ned Aughterson, *Legal Advice on the Territory Coordinator Bill 2025*, (unpublished), 23 February 2025, p.2; see also *Public Sector Management Act 1993*, s 11(2)

Powers of the Territory Coordinator

4.24 Clause 20 provides that the Territory Coordinator has the powers necessary to perform their functions. As noted in the Explanatory Statement:

> Subclause (2) provides several examples of those powers, including to request information, documents or assistance from a public entity, direct a public entity to coordinate actions or share information with another public entity or a proponent, and undertake public consultation. [90]

4.25 As qualified in the Bill, these powers only apply in relation to a significant project, an ICA, an IC activity, a program of works, a TDA or a TDA activity, any other project, works or area that the Coordinator considers may form part of a recommendation to the Minister as a significant project, a program of works or a TDA. The Bill further qualifies that the Territory Coordinator 'may undertake public consultation regarding a proposed ICP or a proposed TDA.'

Committee's Comments

4.26 To ensure the Territory Coordinator has the flexibility to undertake public consultation as and when required, the Committee is of the view that the Coordinator's consultation powers should not be limited to a proposed ICP or a proposed TDA.

Recommendation 7

The Committee recommends that clause 20(2)(c) be amended by omitting all words after the word 'consultation'.

Limitations on exercise of powers

4.27 As noted in Chapter 3, a number of submissions and witnesses appearing before the Committee expressed concern regarding the removal of clause 14, 'Limitation on exercise of powers', that was in the consultation draft from the Bill as introduced.[91] That clause provided that:

(1) Despite any other provision of this Act, the Territory Coordinator may not exercise a power under this Act in a manner that would:

(a) interfere with an agreement between the Territory and the Commonwealth; or

(b) interfere with or modify any of the following:

(i) the protection of sacred sites under *the Northern Territory Aboriginal Sacred Sites Act 1989*;

(ii) the protection of heritage places or heritage objects under the *Heritage Act 2011*;

(iii) the operation of the *Aboriginal Land Act 1978*;

(iv) the full and free exercise by Aboriginal persons of rights reserved in favour of those persons under a pastoral lease as mentioned in section 38(1)(n) of the *Pastoral Land Act 1992*;

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[90] Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025, p. 8

[91] See for example Submissions 228, 231, 237 and 285

(v) the recognition and protection of native title rights and interests under a law of the Territory.

(2) In this section:

Native title rights and interests, see section 223 of the *Native Title Act 1993* (Cth)

4.28 The CLC, NLC and Nurrdalinji Native Title Aboriginal Corporation argued that removal of clause 14 erodes protections for Aboriginal people's culture, rights and interests; specifically those rights and interests safeguarded by the *Northern Territory Aboriginal Sacred Sites Act* and the *Aboriginal Land Act*.[92]

4.29 Nurrdalinji Native Title Aboriginal Corporation emphasised that:

> One recommendation would be to reinstate clause 14 in the Bill. As you are probably aware, [clause 14] provided the power could not be exercised in a manner which would interfere with or modify protection of sites under the Aboriginal Sacred Sites Act, protection under the Heritage Act, impacts upon the pastoral leases with reservations in favour of Aboriginal people or the recognition of native title and native title interests.
>
> In its previous form, that was a reassurance to Aboriginal groups and individuals within the Territory. That has been eliminated. It is said to be on the basis that those pieces of legislation are not in the schedules but that may not be set in stone either. We see now that the Heritage Act has been included in the schedule, which is a matter of particular concern.[93]

4.30 In response to the concerns raised, the Department of the Chief Minister and Cabinet pointed out that:

> There are two ways in which the Aboriginal rights and interests as enshrined in Commonwealth legislation are protected. One, the schedule of acts in the back does not allow the Territory Coordinator or Minister to exercise powers in relation to the key NT acts that relate to Aboriginal rights and interests that interact with Commonwealth legislation, particularly the NT Sacred Sites Act is not on the list of scheduled laws for that reason and nor is the NT Aboriginal Land Act for that very reason.
>
> The Bill does not allow the Territory Coordinator or Minister for the Territory Coordinator to exercise powers in regard to those acts but also the Bill cannot allow the Territory Coordinator or the Minister for the Territory Coordinator to exercise powers in a way that overrides those rights and interests enshrined in Commonwealth legislation because you cannot. That is the way our constitutional law works in the Territory. That is the way the Territory is established as a Territory.
>
> There are two lines of protection there, very fundamental lines of protection for Aboriginal rights and interests as enshrined in Commonwealth legislation. That is one of the key reasons that what was previously in section 14 of the previous consultation draft Bill is not there anymore. It is just simply not necessary because we have those other two layers of protection for Aboriginal rights and interests.

4.31 Similarly, in relation to qualifying the Territory Coordinator's exercise of powers consistent with the terms of the Commonwealth *Aboriginal Land Rights (Northern Territory) Act* and *Native Title Act*, Professor Aughterson noted that:

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[92] Committee Transcript, Public Hearing, Thursday 27 February, p. 18, p. 27 and p. 24
[93] Committee Transcript, Public Hearing, Thursday 27 February 2025, p.24

> Strictly, such an express qualification is not necessary. That is because ss. 74 and 8, respectively, of those Acts preserve any Northern Territory law providing that it 'is capable of operating concurrently with' the Commonwealth Acts. To some extent, that is recognised in the note at cl 92 of the Explanatory Statement. It does not appear that there is anything on the face of the present Bill that would prevent it from operating concurrently with the Commonwealth Acts.
>
> However, of course, any administrative step taken by the TC must be consistent with any protections or processes arising under the Commonwealth Acts. Any contrary actions will be subject to judicial review before the Supreme Court. It is noted that judicial review is appropriately preserved at cl 95(2) of the Bill.
>
> Presumably, any earlier inclusion of a qualification in relation to Commonwealth legislation was inserted for the purpose of emphasizing the limitations. While it is not essential, it might be useful to highlight the need for relevant officers to be conscious of the legislative limitations.[94]

Committee's Comments

4.32 Following consideration of the advice provided by the Department of the Chief Minister and Cabinet and Professor Aughterson, the majority view of the Committee is that there is no need to reinstate clause 14 from the exposure draft into the Bill.

4.33 However, the Committee notes that while the phrase *'native title rights and interests'* no longer appears in the Bill as introduced, it is still included in the Definitions within the Explanatory Statement. Given it is now redundant, the Committee recommends that it be removed.

4.34 The Committee also acknowledges the importance of ensuring that implementation of the Bill takes into account any legislative limitations associated with the Bilateral Agreement made under section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) and the provisions of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth)*, and the Native Title Act 1993* (Cth).

Recommendation 8

The Committee recommends that the Explanatory Statement be amended to remove the definition of *'native title rights and interests.'*

Recommendation 9

The Committee recommends that the Government ensure relevant officers are made aware of the legislative limitations associated with the Bilateral Agreement made under section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) and the provisions of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) and the *Native Title Act 1993* (Cth)

No-go Zones

4.35 Similar to the State Development Coordination and Facilitation Bill 2025 (SA), several organisations advocated for the inclusion of a provision in the Bill that

[94] Professor Ned Aughterson, *Legal Advice on the Territory Coordinator Bill 2025*, (unpublished), 23 February 2025, p.1

designates areas of environmental or cultural significance as exempt from the powers of the Bill; thereby establishing them as no-development zones. It was proposed that these areas should include marine parks, conservation areas, Indigenous protected areas, sacred sites and heritage sites.

4.36 As Keep Top End Coasts Healthy pointed out:

> The Bill does not exclude any areas from being potential development zones; everything is on the line—for example, marine parks and other conservation areas such as Cobourg Marine Park, which was established by the CLP Chief Minister Paul Everingham, and the Limmen Bight Marine Park, established by Minister Moss in 2020. None of these areas are excluded.
>
> The South Australian model is taking a different approach and has the ability to exclude areas which are too special to put on the line. I argue that in the Territory some places are too special, such as our protected areas, and they should not be infringed upon. There needs to be clear parameters and areas excluded…
>
> I would argue that all the Territory's protected areas that are listed under IUCN [International Union for Conservation of Nature] – that is, our marine parks, Indigenous protected areas and other conservation zones. They are recognised internationally as protected areas, and they should be excluded.[95]

4.37 The CLC also expressed the view that:

> In addition to the exclusion of Aboriginal freehold title and exclusive native title, we think it should be extended to parks and other high-conservation areas and protected areas. It should not be just limited to those concerns. We focused on them because of the Central Land Council's specific interest. Parks, too, are covered by joint management arrangements with Aboriginal people, so all these things potentially transgress those rights and interests if they are not upheld.[96]

4.38 The Committee also heard that ensuring protected areas are exempt from the operation of the Bill is, in itself, an important factor when it comes to economic development, in particular as it applies to the Tourism industry:

> We know that it is our natural environment, our fishing and our cultural experiences which attract most people to the Northern Territory. That is what we should be looking after and that is what is at risk with this Bill.[97]

Indeed, it was further suggested that to not exempt protected areas from the operation of the Bill could potentially be quite 'detrimental to the tourism brand of the Northern Territory.'[98]

4.39 The Committee understands that the State Development Coordination and Facilitation Bill provides that 'The Minister may not make a recommendation that a specified area of land be established as a State development area if any part of the area of land is within a protected area.'[99]

Committee's Comments

4.40 While noting the concerns raised regarding exempting protected areas from the operation of the Bill, the majority of the Committee does not support inclusion of

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[95] Committee Transcript, Public Hearing, Wednesday 26 February 2025, pp. 6-7
[96] Committee Transcript, Public Hearing, Thursday 27 February 2025, p. 21
[97] Committee Transcript, Public Hearing, Thursday 27 February 2025, p. 7
[98] Committee Transcript, Public Hearing, Thursday 27 February 2025, p. 7
[99] State Development Coordination and Facilitation Bill 2025 (SA), cl. 23(3); see also cl. 19(1)

a provision in the Bill to exempt protected areas from the operation of the legislation.

Functions of the Territory Coordinator

4.41 The Explanatory Statement notes that clause 19:

> sets out the functions of the Territory Coordinator, which enable the Coordinator to work with public entities and proponents, to support the efficient and coordinated delivery of projects and developments of economic significance within the Territory.[100]

4.42 Clause 22 then provides that 'public entities have a duty to cooperate, including sharing information and documents, with the Territory Coordinator to the extent that it is reasonable and within the scope of the entity's functions.[101] Noting concerns raised in relation to ensuring that confidentiality safeguards are in place for information sharing,[102] the Committee notes that subsection (2) of the Bill as introduced now clarifies that:

> public entities will not be required to provide information or documents to the Territory Coordinator where it would constitute an offence against a law of the Territory or the Commonwealth, or breach a term of a contract.[103]

4.43 The following discussion regarding the Territory Coordinator's functions, focuses on the committee's consideration of the Bill taking into account a number of concerns raised in relation to consultation, transparency and accountability.

Submission of ICP Plan to Minister

4.44 After preparing a proposed Infrastructure Coordination Plan (ICP), clause 29 provides that the Territory Coordinator must undertake public consultation on the proposed plan. Clause 30 then provides that following consultation the Territory Coordinator must give the proposed ICP to the Minister for approval.'

4.45 However, the Committee notes that there is no requirement for the Territory Coordinator to give the Minister copies of submissions received or a summary of the submissions.

Committee's Comments

4.46 Taking into consideration concerns raised regarding ensuring that the Minister is made aware of the views of those consulted when making decisions, the Committee considers that in addition to the proposed ICP, the Territory Coordinator should provide the Minister with copies of all submissions received during the consultation along with a summary of the submissions.

Recommendation 10

The Committee recommends that clause 30(1) be amended to provide that:

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[100] Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025, p. 8

[101] Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025, p. 9

[102] Australian Energy Producers, Submission 224, p.1

[103] Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025, p. 9

(1) The Territory Coordinator must give the proposed ICP, including copies of all submissions received during the public consultation period and a summary of the submissions, to the Minister for approval.

Variation of ICPs and TDA plans

4.47 Clauses 32(1) and 55(1) provide that 'the Territory Coordinator must, if directed by the Minister, or may, on the Coordinator's own initiative, prepare a proposed variation of an ICP or TDA plan. Clauses 32(2)(b) and 55(2)9b) then provide that if the Coordinator is of the opinion that the proposed variation would effect a material change to the ICP or TDA plan, they must undertake a public consultation on the proposed variation in accordance with the regulations.

Committee's Comments

4.48 The Committee is of the view that determining whether the proposed variation would effect a material change to the ICP or TDA plan, and therefore be subject to public consultation, should not be based solely on the opinion of the Territory Coordinator. Rather, the Committee is of the view that clauses 32 and 55 should be amended to provide that public consultation must also be undertaken where the Territory Coordinator or the Minister is of the opinion that the proposed variation would effect a material change to the ICP or TDA plan.

Recommendation 11

The Committee recommends that clauses 32(2)(b) and 55(2)(b) be amended by inserting the words 'or Minister' after the word Coordinator.

Recommendation to Minister: ICPs and TDAs

4.49 Clauses 33(b), 49(b) and 56(b) provide that in making recommendations to the Minister regarding variations of an ICP, a proposed TDA plan or variations to a TDA plan, the Territory coordinator must give the Minister a summary of the submissions received during the associated public consultation process.

4.50 However, as noted in many of the submissions received by the Committee and in the evidence received during the public hearings, there is concern regarding the extent to which summaries of public consultation processes will be a fair representation of the views of those consulted and the issues that are raised:

> The proposed mechanisms for consultation for the declaration of a TDA in the current Bill are very worrying. We would welcome any attempts to strengthen that process. I believe, if I am not mistaken, that in the current Bill there is a requirement for the Chief Minister to be provided with a summary of consultation that occurs on the declaration of a TDA. As we saw with the consultation summary paper, which came out of the first round of consultation on this very Bill, there is great opportunity for community sentiment to be mischaracterised in a non-transparent summary document which seeks to represent, in an opaque way, what a consultation process has resulted in.[104]

Committee's Comments

4.51 As a check against any potential or perceived bias, the Committee agrees that in addition to a summary of submissions, the Territory Coordinator should also be

[104] Committee Transcript, Public Hearing, Wednesday 26 February 2025, p. 16

required to give the Minister copies of all submissions received during the consultation period.

Recommendation 12

The Committee recommends that clauses 33(b), 49(b) and 56(b) be amended to provide that the Territory Coordinator must give the Minister copies of all submissions, and a summary of the submissions, received during any public consultation required.

Minister's decision

4.52 Clause 50 provides that after receiving a recommendation in relation to a proposed TDA plan and considering the summary of submissions received during the required public consultation, the Minister may decide to approve the proposed plan, refer it back to the Territory Coordinator for amendment, or refuse to approve the proposed plan.

Committees Comments

4.53 Here again, the Committee is of the view that, as a safeguard against any potential or perceived bias, in making their decision the Minister should consider all submissions received during the public consultation.

Recommendation 13

The Committee recommends that clause 50 be amended by omitting the words 'a summary of' and inserting the word 'all'.

Part 7 Expediting statutory processes and decisions

4.54 The Explanatory Statement notes that:

> This Part provides a suite of powers available to the Territory Coordinator and the Minister to help coordinate and streamline approvals for projects and developments of economic significance to the Territory.'[105]

4.55 These key powers include three request powers: prioritisation request, progression-related request and decision request; and three notice powers: step-in notices, exemption notices and condition variation notices. Importantly, the Department of the Chief Minister and Cabinet advised the Committee that these key powers can only be used:

> when an area has been designated as a significant project, a program of work or a Territory development area. They cannot be used generally on anything; they can only be used once a designation has been made.[106]

4.56 The Explanatory Statement further notes that:

> While the requests and notices can be used in relation to any statutory decision or statutory process within the Scheduled laws, it is not intended that the Minister or Territory Coordinator would exercise the powers:
>
> - in relation to compliance and enforcement provisions within the Scheduled laws, as the role of the Territory Coordinator is to assist in

[105] Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025, p. 18

[106] Committee Transcript, Public Hearing, Thursday 27 February 2025, p. 43

streamlining and coordinating approvals not take on the role of enforcement or compliance; or

- that would be inconsistent with agreements between the Territory and the Commonwealth Government or a State or Territory Government; or
- interfere with national uniform legislation arrangements.

The Territory Coordinator must not give a request or notice in relation to a statutory decision or a statutory process unless the Coordinator has consulted the responsible entity for the decision or process. This will allow the responsible entity to identify issues such as those outlined above, and enable the Territory Coordinator to work with the responsible entity to identify and alternative solution.[107]

4.57 As highlighted in submissions and evidence received during the public hearings, Part 7 of the Bill 'Expediting statutory processes and decisions' is clearly seen as the most contentious aspect of the proposed legislation with many people expressing concern with the level of power the Bill confers on the Territory Coordinator and the Minister.

Requests

4.58 Clauses 64 – 66 provide for the three types of request that the Territory Coordinator may issue to a responsible entity: prioritisation requests, progression-related requests and decisions requests. As summarised by the Department of the Chief Minister and Cabinet:

> The prioritisation request is to request a public entity to prioritise a specific statutory process. The progression-related request relates to requesting a public entity to start or complete a specific process within a specified period, or to pause or to restart. A decision request is a request to a public entity to make a statutory decision within a specified period, so putting a real time limit on it.[108]

Importantly, the Territory Coordinator must consult with the entity prior to issuing any requests, and in each case the clause makes it clear that the relevant law for the decision continues to apply.

4.59 Concerns regarding these clauses tended to focus primarily on the power conferred on the Territory Coordinator to issue requests rather than any specific issues with the concept of 'Requests' per se. For example, in commenting on the Draft Bill, the Northern Territory Planning Commission argued that:

> The directive powers to be conferred on the Territory Coordinator under Part … Part 5 of the Draft Bill do not sit comfortably with the accountability matrix governing the distribution of power and accountability from parliament to the public service.
>
> The directive approach contemplated in the Draft Bill may alter the risk profile in unintended ways. The approach most likely to deliver shortest timeframes and also ensure that the critical issues necessary for a sound decision are dealt with, would be to collaborate with Chief Executives of the entities involved.
>
> It is recommended that Division 2 of the Draft Bill be amended so that the Minister (rather than the Territory Coordinator) remains the decision-making

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[107] Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025, p. 19

[108] Committee Transcript, Public Hearing, Thursday 27 February 2025, p. 43

> authority for issuing "Requests" under s.52, s.53 and s.54 The role of the Territory Coordinator would be, to recommend to the Minister that a Request (under Division 2) be issued.[109]

4.60 In a similar vein, the Australian Institute of Architects noted that:

> The NT Chapter of the AIA is broadly supportive of the idea of coordination and clarity of pathways for development in the government system. We acknowledge that the system is currently overburdened, erratic and slow. However, we are uncomfortable with the scale of this proposal and the decision-making powers proposed for the Territory Coordinator. We do not believe that the current slowness in the system is caused by protest from the public or the various anti-development interests from either within or without government. It is simply an issue of capacity in the public service.
>
> When I started working in the NT there were one-stop-shop authority coordination meetings and easily contractible-wise heads in department's who could be called to unravel traffic jams. These meetings and people no longer exist. The old pathways that kept projects moving did not circumnavigate expert advice or public comment and scrutiny but a commonsense solution that supported the existing systems to work better.[110]

Committee's Comments

4.61 In relation to clause 65 'Progression requests', the Committee notes that sub clause (2)(b) provides that before giving the progression-related request, the Territory Coordinator must 'have regard to the requirements and timeframes, if any, under the relevant law for the undertaking of the process.' The Committee is of the view that the Territory Coordinator must 'consider' requirements and timeframes as opposed to simply having regard to them.

Recommendation 14

The Committee recommends that clause 65(2)(b) be amended by omitting the words 'have regard to' and inserting the word 'consider'.

Step-in Notices

4.62 Clause 68 provides that in relation to a significant project, a works project, an IC activity or a TDA activity, the Territory Coordinator may issue a step-in notice to a responsible entity and an applicant for a statutory decision or statutory process advising that the Coordinator will step-in in place of the responsible entity, such that the Territory Coordinator is the responsible entity for that decision or process from the time the notice is given until the decision is made or the process is undertaken.

4.63 Clause 69 then provides that if the Territory Coordinator is the applicant for a statutory decision or process the step-in notice must be issued by the Minister. Similarly, if the responsible entity for a statutory decision or process is a Minister, the Territory Coordinator cannot issue a step-in notice, but may recommend that the Minister for Territory Coordinator does so.

4.64 The only limitation on the Territory Coordinator's powers to issue a step-in notice are that, pursuant to clause 70, they must first consult the responsible entity for the decision or process about the proposed notice. Clause 71 details the effects

[109] Northern Territory Planning Commission, Submission 185, p. 1
[110] Committee Transcript, Public Hearing, Thursday 27 February 2025, p. 32

of a step-in notice and clause 72 provides that the original entity must provide the Territory Coordinator all reasonable assistance and materials, other than material that is subject to client legal privilege, the Coordinator requires to act under this Division, including all relevant information and documents relating to the statutory decision or process.

4.65 A significant number of submissions received by the Committee considered that the step-in powers should be removed from the Bill. The primary reasons put forward by submitters was that 'they concentrate far too much power in the hands of the Territory Coordinator and the Minister for the Territory Coordinator'[111]; that they are 'excessive, far-reaching and do not contain necessary safeguards'[112]; and that 'the authority of the Territory Coordinator to decide unilaterally to take over decision-making from a responsible entity should be limited.'[113]

4.66 With regards to the latter point, the EDO advised the Committee that their principal concerns with the Bill relate to:

> its concentration of power and its extraordinary scope of the powers. This Bill concentrates the exercise of extraordinary powers over existing regulatory processes in the Territory. For example, the Territory Coordinator has the power to issue requests; to prioritise and progress activities; as well as requests to make a decision. They also have the power to issue a step in notice and then step into the shoes of the original decision maker and act as the responsible entity for that decision. It is only in relation to the exemption power that the Territory Coordinator's power is limited to recommending its use to the minister.[114]

Committee's Comments

4.67 The majority view of the Committee is that as a key power, step-in notices are integral to achieving the policy objectives of the Bill and should therefore not be removed from the Bill.

Making the Statutory Decision

4.68 Clause 73 provides that:

(1) When making a statutory decision under a step-in notice, in addition to applying the relevant law, the Territory Coordinator must have regard to the primary principle.

(2) For subsection (1), in imposing any conditions permissible under the relevant law in making a statutory decision under a step-in notice, the Territory Coordinator may also impose any conditions the Coordinator considers necessary or desirable to promote the primary principle.

4.69 Frack Free NT expressed the view that, as currently drafted, clause 73(2) is highly ambiguous:

> The drafting of this section makes it unclear whether or not conditions imposed by the Coordinator to promote the primary principle must also be "permissible under the relevant law." The use of the word "also" here implies

[111] See for example: Frack Free NT, Submission 217, p. 4
[112] See for example: Central Australian Aboriginal Congress, Submission 222, p. 3
[113] See for example: INPEX, Submission 238, p. 5
[114] Committee Transcript, Public Hearing, Wednesday 26 February 2025, p. 53

> that the Territory Coordinator would be able to impose conditions outside of the law which they are exercising their step-in powers over, so long as those conditions promote an extremely broad and subjective definition of economic development.[115]

4.70 Similarly, Professor Aughterson pointed out that while clause 71(b) provides that the Territory Coordinator has all the powers of the responsible entity:

> There is a question of the extent to which the TC is bound to follow, for example prescribed processes under the enabling legislation of that entity. Clause 73 provides that when making a statutory decision under a step-in notice, 'in addition to applying the relevant law', the TC must have regard to the primary principle under cl 8 of the Bill. That provision is not framed in terms of an express obligation to follow the relevant law. Compare clauses 64(5), cl 65(5) and cl 66(6) in relation to the requests made by the TC to another entity to take specified steps. For example, in relation to requests to make a specified decision. Cl 66(6) provides: 'Subject to this section, the relevant law for the statutory decision continues to apply to the making of the decision.' It is presumed that, subject to the issue of an 'exemption notice' (referred to below), that is intended in relation to the powers under a step-in notice. Though the absence of clear words as in clauses 64(5), cl 65(5) and cl 66(6) might suggest otherwise.[116]

Committee's Comments

4.71 To avoid any doubt as to the intended operation of this clause, the Committee is of the view that it should be amended to clarify that the relevant law for the statutory decision still applies unless an exemption notice has been issued.

Recommendation 15

The Committee recommends that clause 73(2) be amended to clarify that unless an exemption notice has been issued in relation to the making of a statutory decision, the Territory Coordinator may only impose conditions the Coordinator considers necessary or desirable to promote the primary principle if they are consistent with the law under which the Coordinator is making a statutory decision.

Exemption Notices

4.72 Under the Bill, the Minister may issue an exemption notice to the responsible entity and the applicant for a statutory decision or statutory process as specified in the notice on the recommendation of the Territory Coordinator or on the Minister's own initiative. The framework for giving exemption notices is set out in clauses 77-82. As noted in the Explanatory Statement, exemption notices:

> modify or exclude the application of a relevant law or provision of the relevant law for the purposes of a statutory decision being made or a statutory process being undertaken in relation to a significant project, works project, IC Activity or TDA activity.[117]

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[115] Frack Free NT, Submission 217, p. 4
[116] Professor Ned Aughterson, *Legal Advice on the Territory Coordinator Bill 2025*, (unpublished), 23 February 2025, p. 3
[117] Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025, p. 23

However, clause 77(2) provides that an exemption notice 'cannot be given in relation to a statutory decision or statutory process that involves a matter prescribed by regulation.'

4.73 The Explanatory Statement suggests that situations where an exemption notice could be used include:

- To modify the length of time that a non-pastoral use permit is valid from 30 years to 70 years to respond to provide certainty for financial decisions.
- To exempt multiple consultation processes under different statutory processes where the Minister is satisfied that undertaking one comprehensive consultation process will meet the objective of consultation under other Acts. [118]

4.74 Clause 78 sets out the following grounds for giving an exemption notice and notes that an exemption notice must state the ground on which it is being made:

(a) Having regard to the primary principle and the purpose and objective of the relevant law, the application of the law, or part of the law, is not necessary for achieving effective or efficient regulation of the significant project, works project, IC activity or TDA activity;

(b) Modifying or excluding the law, or part of the law, would achieve efficient and effective regulation because the law substantially duplicates a statutory process or part of a statutory process that is completed or will be completed in relation to the relevant project or activity.

4.75 As set out in clauses 79 and 80 before an exemption notice can be issued, the Minister must be satisfied that one of the grounds for issuing an exemption notice exists. There is also a requirement for the Territory Coordinator or Minister, as the case may be, to consult with the responsible entity, the applicant for the statutory decision of process and any other person that may be affected by the proposed exemption notice.

4.76 Clause 82 then provides that the Minister must table a copy of the exemption notice in the Legislative Assembly on the next sitting day after it is made. The Legislative Assembly may then pass a resolution disallowing the exemption notice, or a specified provision of the notice. Notice of a resolution to disallow must be given within six sitting days of the exemption notice being tabled.

4.77 If the resolution to disallow is successful, it has the same effect as a revocation of the notice or provisions. However, the disallowance of an exemption notice or provisions of it does not affect anything done before the disallowance under the relevant law in relation to the significant project, works project, IC activity or TDA activity to which the exemption notice relates.

4.78 As with step-in notices, and for similar reasons, the majority of submissions were of the view that exemption notices should either be removed from the Bill entirely or be subject to much stricter conditions regarding the circumstances in which they can be used and a more appropriate level of parliamentary oversight.

4.79 Frack Free NT noted that:

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[118] Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025, pp. 23-4

> We have laws and regulations for good reason, including to place checks and balances on the power of any individual arm of government, and protect the rights of communities and individuals. It is fundamentally undemocratic to enable the bypassing or circumventing of 32 pieces of legislation and their associated regulations, and we have seen little justification for why the Territory Coordinator would need this level of power.
>
> Despite this being arguably the most contentious element of the bill, fiercely disputed during the consultation period, exemption power appear to have become even more broad and sweeping in the tabled version of the bill. For example:
>
> - Grounds for giving an exemption notice are extraordinarily broad, i.e. Clause 78(1(a) states that an exemption notice can be given simply if the law 'is not necessary for achieving effective or efficient regulation.' Who determines what is 'necessary' and how do they determine that? There is also no clarity as to what 'effective or efficient regulation' means – this is entirely subjective. If the government is concerned about existing regulations in the NT not being effective or efficient, good governance would necessitate amending specific clauses in the relevant legislation to improve the efficacy of that legislation, not providing sweeping powers to bypass the entire Act or regulation.
> - Step-in notices are no longer required as a precursor to an exemption notice.
> - The draft bill prevented exemption notices that involved a requirement under the *Environmental Protection Act 2019* and associated regulations, or bilateral Commonwealth Agreements – these do not appear in the revised legislation.
>
> During the initial public consultation period for this bill, the interim Territory Coordinator stated that the intention of the government was that these exemption powers would be used rarely. There is little, however, in the legislation to prevent frequent and significant use of these powers. The primary check on the use of these powers seems to be their tabling in the Legislative Assembly, which given the unicameral nature of government in the NT is unlikely to prevent these exemption notices from being passed.[119]

4.80 Similarly, the EDO expressed the view that:

> The checks and balances proposed for the exemption power are far from sufficient. The Consultation Paper states an exemption notice may only be used in certain circumstances. However, no particular circumstances are included in the Bill. Instead, the Bill contains very broad criteria that must be satisfied. Because the TC or Chief Minister only need to satisfy themselves one of the criteria is present as they see the circumstances, there is very little rigor to the process. The NT Legislative Assembly has the power to disallow an exemption notice, however noting the Legislative Assembly is majority-controlled by the NT Government, this is not an independent check on the exemption power.[120]

4.81 While strongly recommending that the exemption notice power be removed from the Bill, the CLC suggested that:

> if it is pursued, then:

[119] Frack Free NT, Submission217, pp. 2-3
[120] Environmental Defenders Office, Submission 231, p.10

A. Section 14 of the 2024 Draft Bill must be re-inserted and amended to include the Minister.

B. The Territory Coordinator must be required to consult with and consider the view of interested parties, those affected by a proposed exemption notice and the public generally prior to it being issued.

C. Both the Territory Coordinator and the Minister must be required to seek and consider the advice of the responsible entity, and provide public, contemporaneous reasons if that advice is not followed. Include criteria on which the Territory Coordinator or Minister can refuse to follow the responsible entity's advice.

D. Grounds on which an exemption notice may be recommended by the Territory Coordinator and issued by the Minister should be made specific, objective and not left to subjective interpretation of the primary principle.

E. Any notice ought to be made public immediately and no work should commence in respect of a notice until the matter has been brought before parliament.[121]

Committee's Comments

4.82 While noting the concerns raised in submissions, the majority view of the Committee is that, as a key power, exemption notices are integral to achieving the policy objective of the Bill and should therefore not be removed from the Bill.

Grounds for giving exemption notice

4.83 As Professor Aughterson pointed out, whereas the Explanatory Statement indicates that clause 78 'sets out the only two grounds for giving an exemption notice',[122] 'it is not expressly stated in the Bill that the grounds at clause 78 are the only ground for giving an exemption notice.'[123] Rather, in the Bill clause 78(1) provides that 'Each of the following is a ground for giving an exemption notice.'

Committee's Comments

4.84 To ensure the Bill is unambiguous and drafted in a sufficiently clear and precise way, the Committee considers that the Bill should be amended to clarify that grounds for giving exemption notices as set out in clause 78(1) are the only grounds for such.

Recommendation 16

The Committee recommends that clause 78(1) be amended to provide that:

(1) The only grounds for giving an exemption notice are:

Recommendation to Minister – Exemption Notice

4.85 As noted previously, clause 79 provides that the Territory Coordinator may recommend that the Minister issues an exemption notice if satisfied a ground mentioned in section 78(1) exists. However, before making the recommendation subsection (2) provides that the Territory Coordinator must (a) consult with the

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[121] Central Land Council, Submission 234, pp. 6-7

[122] Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025, p. 23

[123] Professor Ned Aughterson, *Legal Advice on the Territory Coordinator Bill 2025*, (unpublished), 23 February 2025, p.5

responsible entity, and the applicant for the statutory decision or statutory process; and (b) may consult with any other person the Coordinator considers may be affected by the proposed exemption notice. A similar provision appears in clause 80(2)(b) 'Minister may give exemption notice'

Committee's Comments

4.86 Given the potential impact of an exemption notice on the rights of individuals, such as the requirement to give notice to and obtain the consent of landowners prior to conducting preliminary exploration on land under sections 21 and 22 of the *Mineral Titles Act 2010* which is a Scheduled law under the Bill, the Committee is of the view that consulting with any other person the Coordinator or Minister considers may be affected by the proposed exemption notice should not be optional.

Recommendation 17

The Committee recommends that clauses 79(2)(b) and 80(2)(b) be amended by omitting the first instance of the word 'may' and inserting the word 'must'.

Regard to the Institution of Parliament

4.87 As set out in its Terms of Reference, in addition to considering whether the Bill has sufficient regard to the rights and liberties of individuals, the Committee is required to consider whether the Bill has sufficient regard to the institution of Parliament, including whether the Bill:

(A) allows the delegation of legislative power only in appropriate cases and to appropriate persons; and

(B) sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly; and

(C) authorises the amendment of an Act only by another Act.

4.88 As indicated previously, a number of submissions suggested that the powers under Part 7 of the Bill are undemocratic and fail to respect the institution of parliament. As Mr Greg McIntyre SC (Legal Representative, Native Title and Aboriginal Heritage: Nurrdalinji Native Title Aboriginal Corporation) pointed out:

> Generally, this is an extraordinary piece of legislation which gives unprecedented powers to a public servant, in the shape of the Territory Coordinator, to effectively override legislation which the Legislative Assembly passed both at the time when that coordinator chooses and also to do it with retrospective effect in relation to decisions which will be made pursuant to legislation by authorised ministers under a whole range of legislation. It is a very unusual piece of legislation to have before any parliament. It has extraordinary powers of allowing this Territory Coordinator to step into the place of existing decision-makers to vary conditions which they previously placed upon approvals pursuant to legislative provisions to exempt the activities in areas which the coordinator identifies and to allow the coordinator to enter on to private land held by any private owner, but particularly for the purpose of the group I am representing, Aboriginal land under the Aboriginal Land Rights Act and native title under the *Native Title Act*.[124]

[124] Committee Transcript, Public Hearing, Thursday 27 February 2025, p. 23

4.89 In response to the Committee's questions regarding the potential for legal challenge to the Bill, Mr McIntyre noted that:

> This Bill vests with the Territory Coordinator the capacity to override legislation which this parliament has legislated. The environmental protection legislation, for example, sets out particular procedures by which environmental approvals take place.
>
> The Territory Coordinator, under this legislation, has vested in him or her the power to change what the parliament has legislated in relation to that sort of legislation; to backdate the application of the law; and to change conditions which might have been imposed pursuant to the legislative process retrospectively. It is quite an extraordinary piece of legislation.
>
> The argument is that it is contrary to the legislative power of the legislature, pursuant to the Self Government Act. I recognise that there is a counter argument that if the legislature chooses to pass this legislation, they are making a voluntary decision to delegate all of their power to legislate in relation to the range of legislation which the Territory Coordinator can impact on when the Territory Coordinator decides to declare a development area. It is quite extraordinary.
>
> There is some level of oversight by the Chief Minister. Some matters need to be approved by the Chief Minister, but it is effectively creating a two man band to run the Territory…
>
> The arguments are there that it is a reversal of the separation of powers. It is divesting the parliament of its powers to make laws and vesting them in the Territory Coordinator with some limited supervision by the Chief Minister, who is acting as part of the Executive. It is a challenge to the separation of powers between the Legislature and the Executive in the Territory.[125]

4.90 Given the nature of the Bill and the powers it confers on the Territory Coordinator and Minister, the Committee sought advice from its independent legal counsel, Professor Ned Aughterson. With regards to exemption notices, Professor Aughterson noted that:

> Part 7 Division 4 of the Bill gives unusual powers to the Minister, in that it allows the Minister, through the issuing of exemption notices, to modify or exclude provisions of other laws, including Acts of the Legislative Assembly, for the purposes of the making of a statutory decision or undertaking a process in relation to a significant project, a works project etc. under the Bill. Such provisions are colloquially referred to as Henry VIII clauses, reflective of the 1539 Statue of Proclamations, which allowed the King to effectively bypass parliament and assign power to himself through issuing proclamations.
>
> While highly unusual in the sense that it allows an amendment to be made to an Act of the Legislative Assembly without its prior approval, in principle they have been considered to be valid providing the Legislative Assembly retains the power to repeal or amend any authority given. This has been achieved in the present case by cl 82 of the Bill, which requires the Minister to table a copy of any exemption notice in the Legislative Assembly and which provides that it may be disallowed by the Assembly. …
>
> In relation to the present Bill, while cl 82 requires the Minister to table a copy of the exemption notice in the Legislative Assembly 'on the next sitting day after is made' and the Legislative Assembly may pass a resolution disallowing

[125] Committee Transcript, Public Hearing, Thursday 27 February 2025, p. 25

> an exemption notice, by cl 82(5) any disallowance 'does not affect anything done before the disallowance'.
>
> In other words, there can be no legislative correction of steps already taken as a consequence of the exemption notice. It is also noted that there may be several weeks between sitting days and hence considerable delays before the Legislative Assembly can determine matters for the future.[126]

4.91 Professor Aughterson also noted that, given the broad terms used in the Bill as to when an exemption notice may be issued, the potential breadth and range of exemption notices under the present Bill could be interpreted very broadly. For example:

> Clause 77(1) provides that an exemption notice is a notice that 'relates' to a decision or process to be undertaken in relation to a significant project etc. Almost anything might 'relate' to a decision or process.[127]

Similarly, in relation to the grounds for giving a notice:

> What is or is not necessary for achieving effective or efficient regulation of a project or activity is open to question … it is not clear how necessity is to be measured relative to the primary principle, purpose and objectives of the relevant law.[128]

4.92 The Committee was further advised that:

> It is possible that there could be a challenge to the validity, in particular, of the exemption notice clauses in the Bill, which raises the question of whether the courts would have the appetite to review the validity of the long-standing Henry VIII clauses, or at least the circumstances in which they should arise….
>
> However, given past expressions of concern in relation to such clauses and the potentially wide scope of the delegated power under the Bill (including its extension to so many pieces of legislation and potentially to many NT Acts), and in the context of the assigned powers of the legislature and the executive under the *Northern Territory (Self-Government) Act* (which in itself is an exercise in the delegation of power), it might be that an argument could be made that there should be a judicial reframing of the distinction between what constitutes, on the one hand, a valid delegation of powers and, on the other hand, an invalid abdication of powers by a legislature….
>
> With a view to reducing the potential for challenges to the Bill and applications for judicial review of decisions made under the Bill, consideration might be given to more clearly delineating the scope of and qualifications to the powers given to the executive.[129]

Committee's Comments

4.93 Acknowledging the potential impact on the rights and liberties of individuals where relevant laws are subject to exemption notices, and noting that prescribing further Acts as relevant laws under the Bill by regulation is subject to limited parliamentary oversight, the Committee is of the view that classification of any

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[126] Professor Ned Aughterson, *Legal Advice on the Territory Coordinator Bill 2025*, (unpublished), 23 February 2025, p. 4

[127] Professor Ned Aughterson, *Legal Advice on the Territory Coordinator Bill 2025*, (unpublished), 23 February 2025, p. 5

[128] Professor Ned Aughterson, *Legal Advice on the Territory Coordinator Bill 2025*, (unpublished), 23 February 2025, p. 5

[129] Professor Ned Aughterson, *Legal Advice on the Territory Coordinator Bill 2025*, (unpublished), 23 February 2025, pp. 7-8

further Acts as relevant laws for the purposes of the Territory Coordinator Act should be by notice of motion to amend the legislation in the Legislative Assembly rather than by regulation.

4.94 The Committee therefore agreed that the definition of Scheduled law in clause 3 of the Bill should be amended accordingly by removing the existing paragraph (b).

Recommendation 18

The Committee recommends that clause 3 be amended to provide that:

Scheduled law means:

(a) an Act listed in the Schedule; or

(b) subordinate legislation made under an Act referred to in paragraph (a).

Publication of requests and notices

4.95 Clause 88 establishes the requirement for step-in, exemption and condition variation notices given under this Part, and associated statements of reasons, to be published online 'as soon as practicable after they are given'. By contrast, clauses 89 and 90 regarding reports about requests and notices, provide that the Territory Coordinator must give these to the Minister within 5 business days of giving the request or notice.

4.96 The Department of the Chief Minister and Cabinet further advised that pursuant to clause 91:

> All reports on step-in, condition variation and exemption notices have to be presented to the Legislative Assembly, so none of those notice powers can go unexamined.[130]

Committee's Comments

4.97 Noting that 'as soon as practicable' is open to interpretation, the Committee is of the view that the Bill should be amended to provide that the Territory Coordinator must publish requests or notices and associated statements of reasons within 5 business days after giving the request or notice.

Recommendation 19

The Committee recommends that clause 88 be amended by omitting the words 'As soon as practicable' and inserting the words 'Within 5 business days'

Entry to land without warrant

4.98 Part 8 of the Bill empowers the Territory Coordinator to authorise a person to enter land that is within an ICA or a TDA for the purpose of carrying out work that is required to develop a proposed ICP or proposed TDA plan. While clause 92 provides that land can be entered without the owner or occupier's consent, it is required to enter non-residential and residential premises. Prior to entry, the authorised person is required to provide the owner or occupier 14 days' notice which must specify the land proposed to be entered, the name and address of those who will be entering the land, details of the work the person is authorised

[130] Committee Transcript, Public Hearing, Thursday 27 February 2025, p. 43

to undertake on the land, as provided for under clause 93, and any other matters prescribed by regulations.[131]

4.99 Importantly, the Explanatory Statement clarifies that:

> These powers cannot override the Commonwealth's *Aboriginal Land Rights (Northern Territory) Act 1976* (the Land Rights Act). The *Land Rights Act* provides that a person shall not enter or remain upon Aboriginal land, unless they hold certain positions or are doing allowed activities as set out in the Land Rights Act, or have permission to enter granted under Northern Territory reciprocal legislation, such as the Territory's *Aboriginal Land Act 1978*.[132]

4.100 The EDO and others submitted that the powers to enter land contained in the Bill have the potential to impact the rights and liberties of individuals:

> While there is a limit on entry to residential premises without consent, the Bill allows a person authorised by the Territory Coordinator to enter land without a warrant for a broad range of purposes. This risks substantially interfering with an owner or occupier's privacy and liberty as well as the enjoyment of their land.
>
> EDO recommends that the intrusive powers of entry be removed from the Bill to protect rights over land and privacy. If the powers of entry are retained the compensation amount should be determined independently.[133]

4.101 Frack Free NT also raised concern that 'there seems to be no right for landholders to challenge this access to their properties.'[134]

Compensation for damage

4.102 As noted above, clause 93 provides that authorised persons may enter land in an ICA or TDA and do any of the following in relation to the development of an ICP or TDA plan:

(a) inspect the land and anything on the land;

(b) bring vehicles, equipment, machinery and materials onto the land and install and maintain any equipment, machinery or materials;

(c) take photographs and make sketches or other records of the land;

(d) measure anything, or take samples of anything, on the land;

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

4.103 In undertaking the above, the person is required to ensure that any work done has a minimal impact on the land. Clause 94 then provides that if, in the performance of a person's work under section 93, damage is caused to the land the owner or occupier of the land may be eligible to receive compensation.

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[131] Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025, p. 27

[132] Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025, p.27

[133] Environmental Defenders Office, Submission 231, p.3

[134] Frack Free NT, Submission 217, p.5

4.104 Concern was raised that, as drafted, the Bill provides that the amount of compensation, if any, is to be determined by the Territory Coordinator. Given the potential conflict of interest that this may give rise to, the EDO noted that:

> the compensation for damage being determined by the Territory Coordinator is not an appropriate level of scrutiny for potentially significant financial burden borne by a landowner. You would see in other schemes potentially an independent third party making the decision regarding compensation....
>
> At the very least, rather than the Territory Coordinator reviewing compensation to a landowner themselves, it would be in keeping with the other kinds of powers in the scheme for the Chief Minister, for example, to provide that. We would suggest you could probably go a lot further in terms of having an independent body, separate to the scheme, which is reviewing compensation. It could be an application to a court or a tribunal.[135]

Committee's Comments

4.105 Following consideration of the evidence, the Committee agrees that it is not appropriate for the Territory Coordinator to determine the amount of compensation, if any, for any damage caused to land as a result of work undertaken pursuant to clause 93. As set out in the recommendation below, the Committee is of the view that compensation should be determined by the Minister or an independent third party.

Recommendation 20

The Committee recommends that clause 94(1) be amended to provide that the amount of compensation, if any, for damage caused to land in the performance of a person's work under section 93, is to be determined by the Minister or an independent third party.

General Matters

Limitation on review or appeal

4.106 Clause 95 removes any right to review or appeal against any decision under the Act or any other law of the Territory that is authorised or required by or under this Act. As noted in the Explanatory Statement, this applies to decisions by the Minister, the Territory Coordinator, and other entities as authorised or required under the Act.[136] However, the Committee notes that this clause does not affect a person's right to seek judicial review of a decision.

4.107 This limitation on review or appeal was noted as particularly concerning by a number of people and organisations that provided submissions or appeared before the Committee at public hearings. As the Nurrdalinji Native Title Aboriginal Corporation pointed out:

> the previous version of the Bill had a right of merits review. That has been eliminated in the current version of the Bill. If these decisions are really about proper government decision-making about economic development in the Territory, then they need to be open to proper public scrutiny and challenged to overreach by this legislation.

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[135] Committee Transcript, Public Hearing, Wednesday 26 February 2025, p.55

[136] Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025, p. 28

> The most efficient way for that challenge to occur is by a broad administrative review process, which applies to most other government decision-making. That was in the previous Bill. It is now not in the Bill, which means that any concerns of the public about decision-making which oversteps the boundaries is limited which means that any concerns of the public about decision-making which oversteps the boundaries is limited to judicial review, which is based on quite technical ground as to decision making rather than addressing the real issues.[137]

4.108 City of Palmerston expressed similar sentiments noting that:

> The proposal that judicial review would be the sole means of challenging TC decisions is also concerning. Without merit-based assessments, there is a risk that decisions may be made without sufficient evidence or scrutiny, making judicial review an inadequate safeguard. We ask that merit reviews are still available for decisions of the TC, although with reduced standing to genuine stakeholders, to allow projects to proceed without unnecessary delays from groups far removed from the decision.[138]

4.109 It was further suggested that the absence of a merit review process 'shows insufficient regard to the rights of individuals'.[139] Moreover, as EDO pointed out 'judicial review in the Northern Territory Supreme Court is a lengthy and costly process, and often a barrier for community members.'[140]

Committee's Comments

4.110 While acknowledging the concerns raised, the majority view of the Committee is that there is no need to amend the Bill to provide for a merit review process.

Review into matters relevant to Territory Coordinator's functions

4.111 As noted in the Explanatory Statement, clause 100 provides:

> for the Territory Coordinator to undertake reviews into matters relevant to the Coordinator's functions, on the Minister's direction or on the Territory Coordinator's own initiative.[141]

4.112 A number of submissions raised concerns that a self-review mechanism of this nature was inappropriate and promoted bad governance.[142] The Environmental Defenders Office recommended that:

> the Bill should be amended to require any review of the conduct of the Territory Coordinator to be completed by an external and independent agency[143]

4.113 The Member for Mulka, Yingiya Mark Guyula MLA, was of the same view recommending that:

> the provisions allowing the Territory Coordinator to self-review matters relevant to the proper performance of their functions, and report to the

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[137] Committee Transcript, Public Hearing, Thursday 27 February 2025, p.24
[138] City of Palmerston, Submission 220, pp. 1-2
[139] Doctors for the Environment Australia, Submission 196, p.3
[140] Environmental Defenders Office, Submission 231, p.1
[141] Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025, p. 29
[142] Northern Land Council, Submission 232, p. 6
[143] Committee Transcript, Public Hearing, Wednesday 26 February, p. 56

> Minister (clause 100) be amended to require review and reporting by an independent entity.[144]

Committee's Comments

4.114 Given the powers and functions of the Territory Coordinator, the Committee agrees that self-review does not afford an appropriate level of scrutiny. The Committee also acknowledges the importance of ensuring any reviews of matters relevant to the Coordinator's function are conducted in an open, independent and transparent manner.

Recommendation 21

The Committee recommends that clause 100 be amended to provide that reviews of any matter the Minister considers is one with which the Coordinator should be concerned in the general operation of the Coordinator's functions are to be undertaken by an independent entity.

Review of legislation

4.115 Given the nature of the proposed legislation and the concerns raised regarding its implementation and potential outcomes, a number of submissions noted that the Bill should include a review mechanism. For example, the Member for Mulka, Yingiya Mark Guyula MLA, recommended that:

> The Bill be amended to require an independent review of the operation of the Act within 2 years of commencing operation to allow for parliamentary oversight.[145]

4.116 Similarly, EDO suggested the Bill include a provision for:

> an independent review of the Act's operation after two years of it being in effect. It is an opportunity essentially for the Assembly to go back and see whether the scheme as passed is working.

Committee's Comments

4.117 The Committee is of the view that it would be beneficial to incorporate a provision requiring a review of the Act's operation to assess the implementation, performance and outcomes of the legislation. However, the majority view of the Committee is that the suggested two year timeframe is too short to enable a comprehensive evaluation of the operation of the legislation. The Committee therefore proposes that the Bill be amended to provide for an independent review of the legislation after 5 years of commencement.

Recommendation 22

The Committee recommends that the Bill be amended to provide for an independent review of the Act's operation after 5 years of commencement, to assess the implementation, performance and outcomes of the legislation.

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[144] Yingiya Mark Guyula MLA, Submission 228, p. 2
[145] Yingiya Mark Guyula MLA, Submission 228, p. 2

Regulations – Consultation provisions

4.118 A number of concerns were raised in submissions and by witnesses that appeared before the committee regarding the adequacy of the consultation provisions within the Bill. For example, the Committee heard that:

> There are significant concerns about this Bill overriding people's ability to have a say, issues with transparency and information not being made public or having the ability for people to have a say through rigorous consultation processes with individuals and stakeholders.[146]

4.119 More specifically, concerns were raised about the absence of minimum timeframes for consultation processes and the fact that in many clauses the Bill provides that public consultation is to be undertaken in accordance with yet to be developed regulations. Noting the importance of consultation in the planning and development of significant projects, the Local Government Association Northern Territory (LGANT) pointed out that:

> The Bill is scant in terms of describing consultation requirements except to say that the Territory Coordinator may exempt consultation requirements defined in other Acts. We also note the advice provided on 5 December provided on 5 December 2024: that consultation requirements would be developed in the Regulations which would describe public consultation requirements as part of the proposed Territory Development Area plans. Without having an understanding of what is proposed to be in the Regulations, we don't have a strong degree of confidence that the minimum requirements for consultation will be sufficient.[147]

4.120 By way of comparison, LGANT noted that the State Development Coordination and Facilitation Bill 2025 which was introduced in the South Australian House of Assembly on 6 February 2025 incorporates timeframes for each of the various consultation processes required under the Bill. For example, minimum timeframes range from 10 business days for consultation on a disallowable notice to 30 business days for consultation on a proposed State Development Area.[148]

Committee's Comments

4.121 While the South Australian legislation includes timeframes, the Committee notes that it is not unusual for such to be dealt with in the associated regulations. Similarly, as is the case with the Territory Coordinator Bill and, indeed, many other pieces of legislation, the Committee notes that the South Australian consultation provisions are also subject to any requirements prescribed by regulation.

4.122 Although a number of the Committee's preceding recommendations seek to strengthen the consultation provisions in the Bill, the Committee acknowledges concerns raised in relation to establishing minimum consultation periods, ensuring materials are provided in First Nations languages as required, ensuring that in-person information sessions are held where practicable, and including a requirement that submissions to public consultations are made publicly available.

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[146] Committee Transcript, Public Hearing, Wednesday 26 February 2025, p. 9
[147] Local Government Association NT, Submission 233, p. 4
[148] State Development Coordination and Facilitation Bill 2025 (SA), cls 4, 29, 35, 41, 43

Recommendation 23

The Committee recommends that in prescribing the manner in which public consultations are to be conducted in the Regulations, consideration be given to inclusion of the following:

1. **minimum consultation periods;**
2. **a requirement that materials be provided in First Nations languages;**
3. **where practicable, holding in-person information sessions; and**
4. **a requirement that submissions to public consultations are published on the Territory Coordinator website.**

Schedule: Acts that are Scheduled Laws

4.123 As noted in the Explanatory Statement, Acts included in the Schedule are considered to be 'relevant to the planning, authorisation and operations of projects and developments of economic significance.'[149] As indicated previously, Part 7 of the Bill (Expediting Statutory processes and decisions) only applies to the Acts listed in the schedule.

4.124 The Committee received three submissions from entities whose enabling legislation or legislation under which they have responsibility for statutory decisions and processes has been captured in the Schedule.

4.125 The Utilities Commissioner of the Northern Territory advised that he 'is responsible for a number of statutory decisions and processes relating to the *Electricity Reform Act 2000* (ER Act*), the Ports Management Act 2015* (PM Act) *and the Water Supply and Sewerage Services Act 2000* (WSSS Act)'[150]; all of which are listed in the Schedule to the Bill as introduced.

4.126 The Committee heard that in performing its functions under the *Utilities Commission Act 2000*, the Commission is:

> required to have regard to the need to facilitate entry into relevant markets, promote economic efficiency and facilitate maintenance of the financial viability of regulated industries, among other matters.[151]

As such, the Commission questioned the extent to which it would be beneficial for the aforementioned Acts to remain in the Schedule; in particular the *Electricity Reform Act* which the Committee notes was not included in the Schedule to the draft consultation Bill.

4.127 Noting that the Commission's work program relates primarily to the electricity supply industry, the Committee was advised that:

> The inclusion of the ER Act in the schedule has the potential to slow down or add unnecessary complexity to the Commission's decision-making process, which could lead to delays in licensing decision or important enabling of regulatory reforms.
>
> As an example, section 52(1) of the Bill indicates, in simplified terms, that the Commission must no approve an application for a statutory decision in relation to any activity being carried out on land in a Territory Development

[149] Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025, p. 30
[150] Utilities Commission of the Northern Territory, Submission 242, p. 1
[151] Utilities Commission of the Northern Territory, Submission 242, p. 1

> Area (TDA) unless the activity is consistent with the approved TDDA Plan or the Territory Coordinator gives consent. This could lead to uncertainty if it is unclear whether a proposed decision is consistent with an approved TDA plan, and it may strain the Commission's limited resources to require the Commission to review TDA plans for potential inconsistencies whenever considering a statutory decision. Seeking the Territory Coordinator's consent for the avoidance of doubt could also lead to unnecessary delays in decision-making….
>
> To avoid possible complexity, uncertainty, delay and duplication in the regulatory framework, the Commission's preference, based on its interpretation of the Bill, is that the Bill is amended to exclude the ER Act.[152]

4.128 LGANT raised significant concerns regarding inclusion of the *Local Government Act 2019* in the Schedule. While noting that LGANT and the local government sector are supportive of the policy intent of the Bill, they outlined their concerns to the Committee:

> If this Bill passes with the inclusion of the Local Government Act listed as a scheduled law, we see it as a potential blow to the financial sustainability of Territory councils. Under Division 2 of the Territory Coordinator Act, for example, the coordinator can identify infrastructure required to support a project.
>
> Part 5 of the Act enables the coordinator to direct a public entity to deliver certain works. Part 6 of the Act enables the coordinator to direct or coordinate investigations and studies for a Territory development area plan. We would like to know who wears the cost when the Territory Coordinator directs councils to deliver works and actions to support a development or plan. Will councils inherit the ownership and maintenance of infrastructure or works done without adequate and ongoing funding? Part 9 of the bill does not include local government councils as one of the bodies which would benefit from cost-recovery exercises. On the contrary, if identified as a project proponent, we would incur cost.[153]

4.129 Given the Territory Coordinator's powers in relation to prioritisation requests, LGANT further advised the Committee that:

> If councils must direct their limited resources to the priorities of the coordinator, there is no doubt they will have little to no resources available for the priorities of their communities. This then presents a risk to the Territory government, which will no doubt have to fill the gap or risk seeing Territory residents go without services. This is contrary to the goal of rebuilding the economy and the Territory lifestyle, as liveability in towns and communities will decline.[154]

4.130 LGANT also raised concerns regarding the Territory Coordinator's powers under clause 46 of the Bill regarding Territory development area plans:

> The other surprising part of this Bill is that the Territory Coordinator's powers can be used to declare a new authority over a TDA. The ambiguity of the purpose and scope of such an authority raises concerns that this authority could replace a local government council and put in place alternates. This is akin to, for example, the Darwin Waterfront Corporation authority. This

[152] Utilities Commission of the Northern Territory, Submission 242, pp. 1-2
[153] Committee Transcript, Public Hearing, Thursday 27 February 2025, p. 3
[154] Committee Transcript, Public Hearing, Thursday 27 February 2025, p. 3

> seems counterintuitive to the intentions of the Act in removing duplication and improving efficiencies. Who will fund these authorities?[155]

4.131 Noting that the Local Government Association of South Australia has negotiated with the South Australian Government to exclude the *Local Government Act 1999* (SA) from the State Development Coordination and Facilitation Bill 2025, in favour of a partnership approach between the two spheres of government,[156] LGANT suggested that:

> the Territory Coordinator Act be amended by removing the Local Government Act until a regulatory impact analysis can be undertaken and statement considered by this government. A key principle in policy-making is identifying a public policy problem that necessitates intervention. The problem with local government councils or their ownership of certain approvals processes that block economic development are yet to be identified in the development of this Bill. We have been asked by the Territory Coordinator's office and this government to try to see the benefits to the local government sector and get on board. Yes, local government councils could potentially work with the Territory Coordinator to progress initiatives, but such a partnership approach does not need the Local Government Act included in the Territory Coordinator Bill.
>
> I take this opportunity to remind you again that we share a common goal: we are all working for the prosperity of the Territory. Councils and the Territory government should continue to work hand in hand with recognition of local government as a distinct and essential sphere of government.[157]

4.132 Significant concern was also raised by a number of submitters regarding inclusion of the *Heritage Act 2011* in the Schedule. As indicated previously, in the consultation draft of the Bill, the *Heritage Act* was specifically exempted from the operation of the Act pursuant to clause 14 'Limitation on exercise of powers'. The Committee heard that the October 2024 *Territory Coordinator Consultation Paper* stated:

> Furthermore, it is proposed that the TC's powers will not apply to the *Northern Territory Aboriginal Sacred Sites Act 1989* (NTSSA), and the *Heritage Act 2011*, being Northern Territory legislation that seeks to protect Aboriginal rights and interests.[158]

4.133 However, as noted by the Heritage Council, a month later the November 2024 *Guide to the Territory Coordinator Bill*, stated that:

> While the limitation currently applies to the *Heritage Act 2011*, we would welcome your feedback on whether this should remain in the final Bill.[159]

Subsequent to the consultation on the draft Bill, the *Heritage Act* was added to the Schedule. The Committee heard that the Heritage Council was not consulted about the change, nor provided any details on specific feedback from the consultation process that had informed the government's decision to now include the Act in the Schedule.[160]

4.134 The NLC questioned the benefit of adding the *Heritage Act* to the Schedule:

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[155] Committee Transcript, Public Hearing, Thursday 27 February 2025, p. 3
[156] LGANT, Submission 233, p. 3
[157] Committee Transcript, Public Hearing, Thursday 27 February 2025, p. 4
[158] Heritage Council, Submission 226, p. 1
[159] Heritage Council, Submission 226, p. 1
[160] Heritage Council, Submission 226, p. 2

> The addition of the Heritage Act 2011 to the Schedule Acts adds little benefit to economic development, with there being immeasurable social and cultural values in keeping it excluded. While the Heritage Act may be a perceived barrier to economic activity, it does not impose significant burdens and serves as an important deterrent role signalling to proponents that cultural heritage is valued in the Territory.[161]

4.135 In recommending to the Committee that the functions and powers of the Territory Coordinator should not apply to the *Heritage Act*, the Heritage Council argued that:

> Where the functions and powers of the Territory Coordinator to extend over all or any aspect of the Heritage Act, the risk of irreversible damage to the diverse range of places significant to Aboriginal peoples in the Territory would be high.
>
> Following recent high profile national incidents such as the damage Gunlom Falls here in the Territory and the destruction of Juukan Gorge in Western Australia, the Council believes the application of the powers of the Territory Coordinator to the Heritage Act would expose the Territory to legal action which may create project delays and present an unacceptable risk to the Territory's reputation.
>
> Furthermore, it is important to reflect that the *Territory Coordinator Consultation Paper* excluded the Heritage Act because it was understood as being *'Northern Territory legislation that seeks to protect Aboriginal rights and interests.'* In this context, the Heritage Council notes that the functions of the Legislative Scrutiny Committee, as detailed in the Terms of Reference, considers whether a bill:
>
> - is consistent with principles of natural justice;
> - has sufficient regard to Aboriginal and Torres Strait Islander tradition;
> - does not adversely affect rights and liberties, or impose obligations retrospectively; and
> - does not confer immunity from proceeding or prosecution without adequate justification.
>
> Based on the government's original position that the Heritage Act will be exempt to protect Aboriginal rights and interests, serious consideration should be given to whether its recent inclusion creates any conflict with these principles.[162]

Committee's Comments

4.136 In relation to the submission from the Utilities Commission, the Committee notes that the *Electricity Reform Act* was not included in the Schedule to the consultation draft of the Bill. However, as indicated in the *Consultation Report* on the draft Bill, stakeholders recommended inclusion of the Act given that it:

> Regulates licensing for electricity generation, is relevant to electricity generating projects and reflects the inclusion of equivalent legislation in similar approaches in other jurisdictions. [163]

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[161] Committee Transcript, Public Hearing, Thursday 27 February 2025, p.27
[162] Heritage Council, Submission 226, pp. 3-4
[163] Department of the Chief Minister and Cabinet, Consultation Report Draft Territory Coordinator Bill, Northern Territory Government, Darwin, February 2025, https://cmc.nt.gov.au/__data/assets/pdf_file/0010/1481932/tc-consultation-report.pdf, p.7

4.137 As such, the Committee does not consider that the *Electricity Reform Act 2000*, or other legislation that the Utilities Commission has statutory decision making responsibilities under, should be removed from the Schedule.

4.138 Acknowledging the concerns outlined by LGANT, and in recognition of local government as a distinct and essential sphere of government, the Committee agrees that the *Local Government Act 2019* should be removed from the Schedule in favour of a partnership approach between the two spheres of government.

4.139 Following consideration of the recommendation from the Heritage Council that the *Heritage Act 2011* should be removed from the Schedule, the majority view of the Committee is that it should remain on the Schedule given its relevance to 'the planning, authorisation and operations of projects and developments of economic significance.'[164]

Recommendation 24

The Committee recommends that the Bill be amended to remove the *Local Government Act 2019* from the Schedule of Acts that are Scheduled laws.

Typographical Error

4.140 The Committee notes that the word 'of' in line two of clause 27 is extraneous and should be deleted.

Recommendation 25

The Committee recommends that Clause 27 be amended to address a typographical error in line two by omitting the word 'of' following the word 'does'.

[164] Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025, p. 30

Appendix 1: Submissions Received

1. Felix Arnold
2. Not for Publication
3. Not for Publication
4. Heidi Jennings
5. Alison Booth
6. Karen Montey
7. Marisa Fontes
8. Catherine Martel
9. Jen Robson
10. Automobile Association of the NT
11. Bernie Maloney
12. Ben Ross
13. Ian Redmond
14. Roisin Prunty
15. Eric Smith
16. Julie Hepburn
17. Sara Rowe
18. Madonna Tomes
19. Elizabeth Benson
20. Jan Mitchell
21. Dr David Yap
22. Daniel Campbell
23. Gary Saunders
24. Mikaila Mangohig
25. Robert E. Rutkowski
26. Anna; Harpley
27. Graeme Batterbury
28. Name Withheld on Request
29. Peter Colley
30. Deborah Hudson
31. Dr Jan Allen
32. Henry Smith
33. Nathan Marino
34. Grace Fuller
35. Michael Glikson
36. Horst Walter
37. James Richardson
38. Karl Tattersall
39. Jonathan Graham
40. Lisa Peters
41. Christine Hull
42. Duncan McNeil
43. Katena Valastro
44. Rachel Godley
45. Dr Sibella Hare Breidahl
46. Medical Association for Prevention of War
47. Jen Morillas
48. Shirley Crane
49. Elizabeth Roberts
50. Harriet Scandol
51. Shannon Bell
52. Elsabe Bott
53. Rob Wesley
54. Andrew Remington
55. Charlotte Pitts
56. Lana Howitt
57. Dick Clarke
58. Matthew Giakoumatos
59. Katrina Doody
60. Rupert Macgregor
61. Bri McKell
62. Not for Publication
63. Nhulunbuy Corporation
64. Ejulie Nowat
65. Dr Amanda Lilleyman
66. Jesuit Social Services
67. Daniel Tapp
68. Di Koser
69. Marni Heermeyer
70. Veronica Arbon
71. Steve Hodder Watt
72. Marlene Hodder
73. Jessica Wallace
74. Rodney Jones
75. Emma Smith
76. Cass Wiles
77. Cheri Williams
78. Not for Publication
79. Not for Publication
80. Not for Publication
81. Patricia Graham
82. Harshini Bhoola
83. Uta Grehn
84. Gayle Laidlaw
85. Patricia Brooks
86. Riley Farris
87. Anna Moegerlein
88. Margaret Opie
89. Carina James
90. Tina Bernardi Higgins
91. Chelsea Donoghue
92. Margaret McHugh
93. Mandy Webb
94. Emily Miller
95. Laurie Parry
96. Samuel Gibson
97. Monica Donohue

98. Richard Hosking
99. Simon Forsterling
100. Heather Martin
101. Thor F. Jensen
102. Kate Hagebols
103. Keren Leizerovitz
104. Sean Ryan
105. Holger Woyt
106. Melissa Ball
107. Gillan Abraham
108. Janette Thomas
109. Simon Riddell
110. Andrea Meehan
111. Steve Jackson
112. Territory Generation
113. Brigid Robertson
114. Joanna Parish
115. Dr Sam Wood
116. Elliat Rich
117. Peter Robertson
118. Not for Publication
119. Ailsa Leibrick
120. Dr Sophie Collins
121. Amanda Toeta
122. Adam Scriven
123. Bernadette Ryan
124. Extractive Industry Association NT
125. Jocelyn Tribe
126. Margot Eliason
127. Dr Amy Thwaites
128. Not For Publication
129. Dr Jonah Parenteau
130. Name Withheld on Request
131. Dr Sara Catto
132. Liz Howells
133. Diana Rickard
134. Jackson Bursill
135. David Alton
136. Tammy Abala
137. Allana Brown and Dr Scott Price
138. Robin Knox
139. Dr Karlie James
140. Megan Donaghy
141. Samantha Cotton
142. Ann smith
143. Nicole Chappell
144. Sophie Ladd
145. Eleanor Vallier
146. Dr Caitlin McGuire
147. Bodil Conroy
148. Elizabeth Gleeson
149. Jaemie Page
150. Ellen Ziegelaar
151. Astrid Joyce
152. Karina Georgie Middleton Sinclair
153. Dr Nishani Nithianandan
154. Mimi Catterns
155. Julia Martin
156. Andrew Charles McGlashan
157. John Bingham
158. Emily Tierney
159. Alice Cotton
160. Anna Kreij
161. Dianna Newham
162. Kate Fernyhough
163. Jesse-Lee Taylor
164. Casey Townsend
165. Nathan Townsend
166. Johanne Townsend
167. Angus
168. Dr Sara Martin
169. Deborah Hall
170. Climate Action Darwin
171. Alison Mapleson
172. Lee Harrop
173. Daniel Hart
174. Stephanie Harrison
175. Jake Jamieson
176. Graham Kirby
177. Erica Smith
178. Harold Dalywaters
179. Louise Harrison
180. BirdLife Top end
181. Therese
182. Coby Leone
183. Rowena Skinner
184. Jarom Leone
185. Northern Territory Planning Commission
186. Alastair Scott
187. Ian McBryde
188. Anna Thomson
189. Not for Publication
190. Name Withheld on Request
191. Pastoral Land Board
192. Louise Brown
193. Colton Perna
194. Imogen Stahel
195. Peter Nyhuis
196. Doctors for the Environment Australia
197. Martin Richardon
198. Barbara Laurie
199. Ann connelly
200. Stephen Enciso
201. Maria Grujicc

202. Dr Mathew Stephen
203. Keep Top End Coasts Healthy
204. Andy Peart
205. Kris Keogh
206. Dr Tanya Manolis
207. Anthony Young
208. Environment Centre NT
209. Jessica Mithen
210. Gabrielle Smith
211. Sara Scrutton
212. Greg Chapman
213. Ewan Nicholl
214. Name Withheld on Request
215. Larrakia Nation Aboriginal Corporation
216. Catherine McLeish
217. Frack Free NT
218. Australia's First Treaty
219. Arid Lands Environment Centre
220. City of Palmerston
221. Not for Publication
222. Central Australian Aboriginal Congress
223. Justin Tutty
224. Australian Energy Producers
225. Larrakia Development Corporation
226. Heritage Council Northern Territory
227. Planning action Network Inc.
228. Yingiya Mark Guyula MLA
229. Aboriginal Peak Organisations NT
230. Protect Big Rivers
231. Environmental Defenders Office
232. Northern Land Council
233. Local Government Association of the Northern Territory
234. Minerals Council of Australia NT
235. Central Land Council
236. Australian Education Union NT
237. Adrian Tomlinson
238. INPEX Australia
239. Department of Mining and Energy
240. Independent and Peaceful Australia Network
241. Elsa Adshead
242. Utilities Commission of the Northern Territory
243. Anna McCauley
244. Eric Fejo
245. Olivia Conan-Davies
246. Sam Wilks
247. Angelina Trnka
248. Name Withheld on Request
249. Heather Ferguson
250. Jacqui Taylor
251. Lia Gill
252. Emma Kelly
253. Andrew Szabo
254. Dr Maud Mussared
255. Kaye Pedersen
256. Carl Stephens
257. Sandra Kendell
258. Cathryn Hutton
259. Christine Cox
260. Dr Righard Fejo
261. Name Withheld on Request
262. Stella Healey
263. Australian Institute of Architects NT
264. Grusha Leeman
265. Joe Horner
266. Andris Bergs
267. Name Withheld on Request
268. Ruth Canty
269. Lyndall Heather
270. Max Paez
271. Donna Schakelaar
272. Nicole Blyth
273. Steven Bird
274. Monika Doepgen
275. Claire Salter Parry
276. Margie Cotter
277. Beryl Brugmans
278. Tali White
279. Nurrdalinji Native Title Aboriginal Corporation
280. Lucinda Roper
281. Kate Brodie
282. Jennifer Scott
283. Shona Forsberg
284. Alana James
285. Isak
286. Amy Fairall
287. Jacqueline Arnold
288. Celia Cox
289. Sandy May
290. Karen Edyvane
291. Master Builders NT
292. Kate Stephens
293. Carlo Ansaldo
294. Britt Guy
295. Dr Penny Wurm
296. Vanessa Harris
297. Thomas Young
298. Eliza Palmer
299. Lesly Piper

300. Dr Amy Reid
301. Sabine Gonelli
302. Margaret Clinch

Note: Copies of submissions are available at: https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025

Appendix 2: Public Hearings

Darwin – 26 February 2025

Nhulunbuy Corporation

- Shane Whitten: Chief Executive Officer

Keep Top End Coasts Healthy

- Adele Pedder: Protected Areas Manager

Environment Centre NT

- Bree Ahrens: Acting Co-Executive Director
- Naish Gawen: Policy and Research Lead

Frack Free NT

- Peter Callender: Community Organiser
- Louis Boyle-Bryant: Top End Regional Campaigner

Arid Lands Environment Centre

- Alex Vaughan: Policy Advocacy Coordinator
- Hannah Ekin: Frack Free Campaign Coordinator

City of Palmerston

- Athina Pascoe-Bell: Mayor
- Nadine Nilon: Interim Chief Executive Officer

Private Citizen

- Justin Tutty

Australian Energy Producers

- David Slama: Director Northern Territory & South Australia
- Aaron Heugh: Senior Policy Advisor

Heritage Council

- Randle Walker: Chairperson

Private Citizen

- Catherine McLeish

Environmental Defenders Office

- Elanor Fenge: Managing Lawyer NT/SA Region
- Rufus Coffield-Feith: Senior Solicitor
- Natalie Czpaski, Senior Solicitor

Protect Big Rivers

- Dr Samantha Phelan: Member
- Cecelia Lake: Member
- Miliwanga Wurrben: Elder Big Rivers Region

Darwin – 27 February 2025

Local Government Association of the NT

- Mary Watson: Chief Executive Officer

- Sarah Zaharie: Director Public Affairs

Minerals Council of Australia

- Cathyrn Tilmouth: Executive Director Northern Australia
- Dr Amber Jarrett: Principal Policy Advisor NT

Larrakia Nation Aboriginal Corporation

- Michael Rotumah: Chief Executive Officer

Central Land Council

- Barbara Shaw: Deputy Chair
- Georgia Stewart: Policy Manager
- Su Sze Ting: Senior Lawyer

Nurrdalinji Native Title Aboriginal Corporation

- Samuel Janama Sandy: Chairperson
- Greg McIntyre SC: Legal Representative, Native Title and Aboriginal Heritage

Northern Land Council

- Yuseph Deen: Chief Executive Officer
- David Astalosh: General Manager Governance, Strategy and Communication

Australian Institute of Architects

- Miriam Wallace: President NT Chapter
- Karen Relph: Manager NT Chapter
- Jo Rees: Ajar Architects

Department of Mining and Energy

- Alister Trier: Chief Executive
- James Pratt: Senior Executive Director Energy Development
- Brett Easton: Director Policy and Reform

Department of the Chief Minister and Cabinet

- Tom Leeming: Deputy Chief Executive Officer Policy, Reform and Regions
- Margaret Close: Senior Executive Director Strategic Policy and Delivery
- Stuart Knowles: Interim Territory Coordinator

Note: Copies of hearing transcripts are available at: https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025

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Department of the Chief Minister and Cabinet, *Territory Coordinator Consultation Paper*, Northern Territory Government, Darwin, October 2024, https://cmc.nt.gov.au/__data/assets/pdf_file/0011/1456679/territory-coordinator-consultation-paper.pdf

Department of the Chief Minister and Cabinet, The Territory Coordinator, https://cmc.nt.gov.au/advancing-industry/the-territory-coordinator#:~:text=The%20work%20of%20the%20Territory,Territory%20Coordinator%20in%20November%202024.

Explanatory Statement, *Territory Coordinator Bill 2025 (Serial 17)*, https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/17-2025

Hon Lia Finocchiaro MLA, Chief Minister, *Draft Daily Hansard*, *Day 2 – 12 February 2025*, https://territorystories.nt.gov.au/10070/988469

Professor Ned Aughterson, *Legal Advice on the Territory Coordinator Bill 2025*, (unpublished), 23 February 2025

State Development Coordination and Facilitation Bill 2025 (SA), https://www.legislation.sa.gov.au/lz?path=/b/current/state%20development%20coordination%20and%20facilitation%20bill%202025

Dissenting Repot – Mr Chanston Paech MLA

Secretariat
Legislative Scrutiny Committee
Northern Territory Legislative Assembly
Darwin, NT 0800

CHANSEY PAECH MLA
UNIT 2/51 TODD MALL
PO BOX 4592,
ALICE SPRINGS NT 0871
P: 8951 5561 | electorate.gwoja@nt.gov.au

Dear Secretariat,

Dissenting Report on the Territory Coordinator Bill

Firstly, I would like to acknowledge the committee members and secretariat staff for their efforts in organising the inquiry and subsequent hearing into the Territory Coordinator Bill.

The committee thoroughly examined the Bill, along with the submissions and evidence presented during the hearing. As a result, several significant recommendations have been made to the Northern Territory Government to improve the Bill before seeking its passage in the Legislative Assembly.

While I am broadly supportive of the committee's recommendations, I am submitting this dissenting report to ensure that additional concerns and recommendations I have raised are duly noted and considered.

It became evident during the Scrutiny Committee hearings that many Territorians remain deeply concerned about, or have not been adequately consulted on, the Territory Coordinator Bill. As it stands, the Bill raises significant questions about its broad application of powers and its potential impact on the Territory's communities, environment, and legal framework.

Key Issues Identified

The Committee heard from 23 witnesses, including industry leaders, land councils, traditional owners, environmental groups, and members of the public. Concerns raised during the hearings highlight that the Bill is fundamentally flawed, rushed through without sufficient consultation, and lacks broad community support. Additionally, the consultation process did not include remote communities or engage Aboriginal Territorians meaningfully.

Concerns regarding the Bill include:

1. **Inadequate Consultation:** Despite claims of extensive community engagement, it is clear the Government failed to consult adequately with remote communities. Furthermore, no evidence was provided that communication materials were translated into languages other than English, raising concerns about accessibility for all Territorians.
2. **Legal Uncertainty:** It remains unclear whether the Government sought advice from the Solicitor-General regarding the legal robustness of the coordinator's sweeping powers. Questions persist about whether these powers could hinder development rather than expedite it, potentially causing delays and increasing judicial reviews.
3. **Lack of Evidence-Based Justifications:** Witnesses were unable to clearly articulate the specific barriers the Bill aims to address. The sole example provided referred to a project outside the Northern Territory Government's jurisdiction, highlighting the lack of relevance and clarity.
4. **No Independent Economic Analysis:** To date, no independent economic modelling has been released to demonstrate that the Bill will achieve its stated goals of boosting investment and job creation. This lack of transparency is deeply troubling.

Key Recommendations

Whilst I support many of the committee's recommendations, I believe additional essential amendments must be made to ensure the Territory Coordinator Bill is effective, equitable, and just:

1. **Establish "No-Go Zones":** Explicitly exclude Aboriginal land, Native Title areas, parks and reserves, sacred sites, marine parks, and protected areas from being designated as Territory Development Areas or Infrastructure Coordination Areas.
2. **Exemption powers be removed:** Remove the authority to issue exemption notices from the bill.
3. **Enhance Transparency:** Mandate real-time, publicly accessible reporting on the Territory Coordinator's website. Reports should be indexed by project, industry, and type of exemption or variation, including justifications supported by economic and environmental impact assessments. Additionally, amend the "Tabling and Disallowance" provisions to require exemption notices to be tabled in the Assembly before implementation, ensuring Parliament and the public can provide input before works commence.
4. **Introduce Merits Reviews:** Include a process for merits reviews in the Bill to enhance public confidence in government transparency and accountability. This would also reduce pressure on the judicial review system.

5. **Address Conflicts of Interest:** Require measures for the Territory Coordinator to publicly declare all financial and corporate interests and prohibit lobbying for private industry for five years after leaving office. Meetings with private companies must be disclosed, and exemption notices that benefit only private corporations should be prohibited.
6. **Heritage Act removal from bill:** The Northern Territory Heritage act be removed from the schedule of the Territory Coordinator Bill 2025.
7. **Legislative review period:** The Territory Coordinator be subject to a review period of no later than three years after commencement.

Conclusion

The Territory Coordinator Bill, in its current form, lacks the community support and robust legal and economic foundations necessary for effective implementation. Addressing the concerns raised during the inquiry and incorporating these recommendations would ensure the Bill aligns with the principles of transparency, equity, and public trust.

As previously stated, I am supportive of a majority of the recommendations made by the committee and particularly want to highlight the willingness and support to recommend the Northern Territory Government consider amending the bill to ensure further Acts deemed relevant laws for the purposes of the Territory Coordinator Act should be added through a notice of motion to amend the legislation in the Legislative Assembly, rather than by regulation.

This Bill is not in line with community expectations when it comes to environmental protections, regulations and community's expectation of transparency and accountably from the Territory Government.

.

Recommend that the Bill not pass.

Yours Sincerely,

Chansey Paech MLA
Member for Gwoja
10/03/2025

Dissenting Report – Justine Davis MLA

Legislative Scrutiny Committee

Inquiry into the Territory Coordinator Bill 2025

March 2025

Dissenting Report
Justine Davis, Independent Member for Johnston

JUSTINE DAVIS
INDEPENDENT MEMBER FOR JOHNSTON
integrity | action | community

Contents

Introduction

The Northern Territory Environment Government introduced the Territory Coordinator Bill 2025 (Bill) on 12 February 2025 to the Legislative Assembly.

The Legislative Assembly referred the Bill to the Legislative Scrutiny Committee for inquiry and report in accordance with clause (3)(c) of the Committee Terms of Reference with the report due 12 March 2025.[1]

The Committee considered the Bill, the more than 300 submissions to the Inquiry and evidence for 23 witnesses and made several recommendations to the Government to improve the Bill.

The submissions to the Scrutiny Committee make clear that many civil society organisations, Aboriginal peak bodies, and hundreds of individuals in the Territory are deeply concerned about the negative impacts this Bill could have on our community, our environment, and our long-term economic prosperity. The scrutiny committee heard repeatedly that this Bill erodes the integrity of our democratic processes, removes fundamental rights from individuals, threatens the rights of traditional owners and Aboriginal communities, poses unprecedented threats to our environment, and creates unacceptable legal uncertainty for governments bodies, investors and community.

Like the majority of those who made submissions and appeared as witnesses, I cannot support the Bill in its current form, and I believe it is not in the best interests of the Northern Territory to proceed with it as is.

As noted, if the Bill is to be passed, I support the majority of the committee's recommendations, and I thank them for their work and their willingness to consider the Bill in light of our Terms of Reference.

I believe however that these recommendations fail to address the major problems with this Bill so have therefore prepared this dissenting report to ensure that the extensive concerns raised about this Bill through the Scrutiny Committee process are duly noted and considered.

In preparing material for inclusion in this dissenting report I have considered the Scrutiny Committee Terms of Reference.

I include for your consideration below, in the examination of the sequence of clauses of the Bill; recommendations, a rationale, and supporting references to evidence before the Committee.

I thank the LSC committee for their work, the Committee secretariat for their expert support, and the more than 300 people who took time and energy to share their views with the committee, and all those who appeared before the committee. I hope this report honours your commitment to building a strong, inclusive, Northern Territory which provides a thriving and sustainable future for all Territorians.

[1] Territory Coordinator Bill 2025 – Northern Territory Government – Legislative Assembly.

Process

Submissions and Witnesses expressed a high level of concern about the consultation process. This included:

a. Initial release of the Bill

The Department of the Chief Minister and Cabinet (Department) provided the Territory Coordinator Consultation Paper to select stakeholders for feedback. It was not until the Opposition tabled the Consultation Paper in Parliament on 24 October 2024 that it became public, with feedback being due 1 November 2024.

b. Public consultation process

- Inadequate and inappropriate time frames (over the Christmas new year period when many people were away, and organisations were in shut down);
- No consultation undertaken in remote areas;
- No consultation in languages other than English;
- No transparency in the initial consultation process;
    - The Department advised how many people provided submissions and participated in information sessions, but did not identify what issues were raised by which stakeholders, and their opinion on whether the Bill should proceed.
    - The Consultation Report did not include an indication of what recommendations were adopted based on the consultation process or an explanation of what changes were made between the Exposure Draft and the Bill.

"The NLC is disappointed that the vast majority of issues raised in the NLC's previous submission were either unaddressed or exacerbated by the Bill's amendments. The Bill in its current form is now less protective of Aboriginal Territorian's rights than the draft bill was." Submission 232, p. 3)

c. Scrutiny committee process

- Inadequate time frames for people to produce a submission;
- Inadequate notice for appearing before the inquiry;
- As a committee member; inadequate time to effectively consider more than 300 submissions, legal opinion and witness testimonies and produce a robust report.

Further, I note that this committee faced similar issues to those outlined by the member for Araluen in the PAC Inquiry into the Local Decision Making Framework May 2023 (pg.p. 100) "The PAC is not a Government committee. The PAC is an Independent Parliamentary committee. Political affiliations should play no part in any work of the PAC. The Chair and Deputy chair of the (PAC Committee) are Government members, The Government dominates the committee by holding three of the 5 positions on the committee... this stacking of a parliamentary Committee is not in the spirit of convention of a Parliamentary democracy and is not consistent with how Parliamentary Committees function in the global Commonwealth Westminster system, of which the NT Legislative Assembly is a member".

Examination of the Bill

a. General Comments

(i) whether the Assembly should pass the Bill

Recommendation: That the Legislative Assembly should *not* pass the Bill into law.

Rationale: With reference to the Committee's Terms of Reference, clause 3(b)(i), the opposition to the Bill from the NT community and significant risks posed by it becoming law justify the Bill being opposed.

Evidence before the Committee in support of this recommendation is:

- While the overwhelming majority of witnesses and submissions supported the need for increased coordination, for appropriate development and for building a sustainable NT economy, the vast majority of submissions received by the Committee were opposed to the Bill becoming law, or were opposed but suggested amendments if it were passed.

- A summary of concerns include:
  - The Bill concentrates a significant amount of power in the hands of the Territory Coordinator and the Chief Minister without appropriate checks and balances, and goes beyond models in place or proposed in other jurisdictions, such as Queensland and South Australia.
  - The Bill prioritises undefined 'economic development' over ecologically sustainable development principles.
  - The Bill increases rather than decreases the predictability of 'doing business in the Territory' due to unclear and undefined principles and powers.
  - There is very limited social licence for the Bill, creating a high risk environment for investors and community.
  - The Bill does not pay sufficient regard to the rights and liberties of individuals or the institution of Parliament.
  - The Bill does not pay sufficient regard to Aboriginal and Torres Strait Islander tradition; (Committee Terms of Reference J)
- Submission 185 by the Northern Territory Planning Commission showed concerns with the Bill that have not been addressed:
  - The concern that decisions by the Territory Coordinator, taken without an understanding of the critical issues, carries a higher level of risk for the government;
  - The use of directive powers by the Territory Coordinator will be a non-collaborative process that will impinge on agency CEO's duties and accountabilities under their governing Acts;
  - That, in fact, issues with statutory processes in the NT can be addressed with other interventions, such as the Planning Commission's recommendation that the Territory Coordinator (in whatever form it exists) be required to address the problem of proponents lodging applications incorrectly;
  - That the "Territory Coordinator solution" has arguably preceded a thorough analysis of the problem: "the relatively low number of projects realised in the Territory". (Submission 185, p. 11).

- Submission 229 by Aboriginal Peak Organisations of the NT is concerned that the Bill "to instil a Territory Coordinator for the purpose of fast-tracking development and investment of prospective NT projects jeopardises the commitments made by the Northern Territory Government (NTG) in the National Agreement on Closing the Gap" and makes a number of recommendations for safeguards that have not been addressed, noting that without the resolution of these issues, the Assembly should be hesitant to pass the Bill.

- Recommendations made:
  - Mandatory public consultation for more of the existing elements of the Bill that have no consultation requirements;
  - Independent oversight body;
  - Maintain merits review rights;
  - Establish specific thresholds for declaring "significant projects" and "Territory Development Areas";
  - Create public registers for all Territory Coordinator power exercises, significant projects, exemptions, and variations;
  - Preserve Information Act 2002 protections and statutory independence of existing authorities;
  - Establish clear protocols for information sharing between agencies;
  - Require parliamentary approval for additions to scheduled laws;
  - Introduce cost recovery mechanisms for the work of the Territory Coordinator when additional resources are required to prioritise a statutory process, and when a 'step in notice' is instructed.

- Submission 232 by the Northern Land Council observes that the Bill is now less protective of Aboriginal Territorians' rights than the previous version released as an Exposure Draft. In its submission it notes that the scheme:
  - Provides inadequate consultation for Aboriginal Territorians, meaning:
    - It is permissive for the Territory Coordinator to consult, if they choose to, on recommending use of exemption power;
    - There is no consultation on Territory Development Area and Infrastructure Coordination Area declarations, which then allows use of Part 7 powers;
    - There is no consultation on program of works despite it being similar to an Infrastructure Coordination Plan;
    - The preparation of a Territory Development Area plan requires the Territory Coordinator to conduct public consultation, but the Minister is only required to consider a "summary of submissions". This is a dilution of consultation;
    - There is no requirement to consider each submission given during consultation on an Infrastructure Coordination Plan;

  - Removes merits review rights for decisions affected by a Territory Coordinator or Minister's decision under the Bill;
  - Allows for Aboriginal Land and Exclusive Native Title Land to be to be declared a Territory Development Area and Infrastructure Coordination Area without any prior consent or even consultation, which then allows for the Part 7 powers to be used in relation to that land;
  - Interference of Land Rights through the power of entry under Part 8 of the Bill;

- With the removal of previous clause 14 from the Exposure Draft, runs counter to the Government's statement of intending to uphold Aboriginal rights;
- Through the step-in and condition variation power, subverts Parliamentary intention that specialised government agencies, such as the NT Environment Protection Authority make decisions, or make recommendations to the relevant Minister who then makes the decision under the Acts and Regulations in the Schedule to the Bill (rather than the Territory Coordinator or Minister under this Bill).

- Submission 225 by the Larrakia Development Corporation notes that
  - To avoid diminishing the rights of Traditional Owners to protect their Country and Sacred sites, the Bill needs to respect the importance of the world's oldest living Culture. It is clear from the current draft of the proposed Bill that there is no intention to do so. (p. 2)
  - The Bill as drafted, will disregard the unceded sovereignty of Traditional Owners over their lands and waters, including Sacred Sites. (p. 2)
  - The Bill provides the NT Government the ability to simply ignore advice from subject matter expert organisations and individuals who object to a project based on social, cultural, health and environmental knowledge and evidence-based research. (p. 2)
  - The Bill will have the effect of also usurping the protections provided by other NT Legislation, including the Sacred Sites Act, legislation that has helped to protect Aboriginal Sacred Sites for decades. (p. 2)
  - Throughout the draft Bill the repeated use of the word 'may', when referring to engagement on environmental, social, and cultural concerns, removes the requirement for the Territory Coordinator to consider Aboriginal Traditional Owners and their Culture, Country, and Sacred Sites. (p. 2)
  - The Territory Coordinator will have the authority to override current legislative protections and our genuine concerns. The well-worn principles of Free, Prior and Informed Consent will also be further eroded. This position is unacceptable and immoral. (p. 2)

- Submission 233 from LGANT notes significant concerns with principles of good regulation and threats to the NT as a place to do business;
  - Where the government makes the statement that they are seeking to 'cut red tape' – it should be amended through the proper democratic process as is its mandate, not circumvented. (p. 2)
  - That parallel efforts should be made to address inefficiencies through critical legislative reform, process modernisation, and proper resourcing. (p. 2)
  - LGANT understands that the principles have been drafted to be intentionally vague to ensure a level of flexibility in scope and application of the Territory Coordinator powers. The five principles of good regulation are transparency, consistency, proportionality, targeting and accountability. The concept of an independent central decision-making body governed by ambiguous principles is contrary to good regulation. (p. 3)
  - The absence of a clear set of principles that can be relied upon can have the unintended consequence of making the NT an unpredictable place to do business – arguably as damaging as a complex and lengthy regulatory process (p. 3)

- Submission 228 from Yinjiya Mark Guyula MLA stated:

- "In its current state the Bill does not provide sufficient regard to the rights of Aboriginal landowners/custodians and communities, it fails to provide sufficient safeguards for our environment and cultural heritage, and it fails to provide sufficient safeguards for democratic processes." (p. 1)

- Submission 235 from the Central Land Council stated:
  - "CLC, in its own right and on behalf of its constituents, does not support the Bill due to the unacceptable risks it presents to the rights and interests of Aboriginal Territorians. The Bill, if enacted in its current form, will result in adverse social, environmental and cultural outcomes. It will erode transparency and accountability in the Northern Territory". (p. 4)

- Submission 224 from Larrakia Elder Eric Fejo stated:
  - "I urge the Scrutiny Committee to recommend that this Bill is not passed, and to do your utmost to ensure that democracy is upheld in the Northern Territory, including all the checks and balances that are part of this system" (p. 3)

(ii) whether the Assembly should amend the Bill

If the Assembly chooses to pass the Bill, I note that I am in support of the majority of the recommendations of the Committee, but have additional recommendations which I believe are imperative for the Government to consider in relation to this Bill. If the Assembly chooses to pass the Bill, I note that I am in support of the majority of the recommendations of the Committee but have additional recommendations which I believe are imperative for the Government to consider in relation to this Bill. I have provided these recommendations in relation to parts (iii) and (iv) as listed below.

(iii) whether the Bill has sufficient regard to the rights and liberties of individuals

(iv) whether the Bill has sufficient regard to the institution of Parliament

This Bill does not have sufficient regard to either the rights and liberties of individuals or the institution of Parliament. I outline this in further detail below.

b. Recommendations on specific clauses

Should the Government intend to pass the Bill, I support the recommendations put forward by the committee as a bare minimum.

All witnesses were asked whether they could recommend any areas of refinement or amendment to the Bill should it go through, and this report attempts to capture these views for consideration by Government.

Clause	Comments	Recommendation
8 (1)	The majority of witnesses and submissions raised significant concerns about the Primary Principle, noting that it should not be elevated above social and environmental outcomes, but should adhere to the	That Clause 8 (1) (a) be amended as follows: (1) The primary principle of this Act is that, when exercising a key power

	principles of ecologically sustainable development and ensure economic, social and environmental outcomes are considered with equal weighting. Given this I propose that the Primary Principle be amended to ensure that driving economic development adheres to the principles of ecologically sustainable development.	under this Act, or when exercising a power or performing a function under any other Act in connection with the exercise of a key power, the Minister or the Territory Coordinator must have regard to following considerations: (a) ~~the primary objective of driving~~ sustainable economic development for the Territory or a region of the Territory; and (b) the potential social and environmental outcomes for the Territory or a region of the Territory
8 (2)	The Primary Principle prevails to an extent inconsistent with the relevant objects, principles or considerations another Act under which the TC or Chief Minister are performing functions. Doing so risks undermining the purposes promoted by other laws in the Territory and introduces regulatory uncertainty. In this way, the Primary Principle poses risks to the social licence of the Bill as well as a lack of clarity to potential investors. Other regulatory schemes set up statutory decisions to be made with a variety of objectives and considerations, which the exercise of powers under the Bill could override. For Example: The Primary Principle could apply to decisions under the Environment Protection Act 2019 (NT) (EP Act) including to grant environmental approvals for projects with the potential to have a significant impact on the environment. Under Part 2 of the EP Act, decision-makers are required to consider and apply principles of ecologically sustainable development (ESD), such as the precautionary principle and the principle of inter-generational equity, when making decisions. In making decisions that affect the environment,	That Clause 8 (2) be amended as follows: (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 in subsection (1), the considerations in subsection (1) prevail~~

	decision-makers, proponents and approval holders must apply a hierarchy of approaches in order of priority: (1) avoid adverse impacts on the environment; (2) mitigate adverse impacts; (3) if appropriate, offset impacts that cannot be avoided or mitigated. The Primary Principle (as defined) would override these considerations.	
37(3)	Clause 37(3) prevents a responsible entity from approving an application for a statutory decision or regarding a statutory process in relation to any activity being carried out on land in an infrastructure coordination area (ICA) unless (a) the activity is consistent with the approved ICP in effect in the area; or (b) the Territory Coordinator gives consent.	That clause 37(3) be removed.
43(2)		Add condition (d) that the Minister has obtained the written consent of Native Title holders, ALRA holders or freehold land holders through a landholder consent process where landholders have veto rights. Add condition (e) that the area does not cover any identified conservation areas such as parks, conservation covenants or IPAs.
48	Public consultation should be required before decisions are made to declare an area or project a program of works, significant project or TDA. In order for public consultation to be conducted thoroughly and guided by principles of free, prior, and informed consent, the regulations guiding consultation must be specific and robust. Many submissions noted the need for clear frameworks for consultations, see for example LGANT submission number 233) "Consultation steps are crucial in the planning and development of significant projects as they are the barometer of what is in the public interest in a locality. To ensure that there is social licence for a project, the Territory Coordinator must ensure that there	That in prescribing the manner in which public consultations are to be conducted, the Regulations incorporate the following provisions: (a) minimum consultation periods; (b) the requirement that materials be provided in First Nations languages as directed by interested parties; (c) include in-person information sessions; and

	is good engagement with local government and that the public are not limited in their opportunity to provide feedback. This is especially important given that when step-in powers are used, in most instances, any avenue for review or appeal is extinguished. The Bill is scant in terms of describing consultation requirements except to say that the Territory Coordinator may exempt consultation requirements defined in other Acts. We also note the advice provided on 5 December 2024 that consultation requirements would be developed in the Regulations which would describe public consultation requirements as part of proposed Territory Development Area plans. Without having an understanding of what is proposed to be in the Regulations, we do not have a strong degree of confidence that the minimum requirements for consultation will be sufficient". (p. 4) Working to obtain social licence by way of community and stakeholder engagement is a meaningful gesture of a commitment to give value back to regional and local communities in which a project is being proposed to take place. It provides an avenue for communities to identify meaningful and enduring ways that a project can contribute to the area, safeguarding from 'boom and bust', the cycle of which mostly affects local communities. (pg4) In the event of projects at the scale of oil, gas and mining projects, local communities and local government must be engaged fully throughout the development process to minimise the impact on, and maximise the opportunities for, NT communities. Larrakia Development Corporation (submission 233) notes that "the Territory Coordinator will not be required to engage with Traditional Owners on project developments, until after the ICP is developed. Traditional Owner inputs are only required to be sought in the public consultation phase. This is a grossly inadequate form of consultation for Traditional Owners and not supported by the Larrakia Development Corporation" (p. 2).	(d) require that submissions to public consultations are made available on the Territory Coordinator website.

52		That clause 52 be removed. The clause prevents the approval of an application for a statutory decision or regarding a statutory process in relation to any activity being carried out on land in a Territory Development Area (TDA) unless (a) the activity is consistent with the approved TDA plan in effect in the area; or (b) the Territory Coordinator gives consent.
65 (1)a	Deadlines already exist for much of this work; imposing arbitrary deadlines risks impeding quality of assessment process.	That Clause 65 1(a) is removed.
Division 3	The entire concept of step-in notices should be abolished. It is inappropriate for the Territory Coordinator or the Minister for the Territory Coordinator to intervene and carry out statutory processes on behalf of a responsible entity. Many of these entities, such as the EPA, possess specific expertise and accountability, such as Ministers they are accountable to. Having the Territory Coordinator or Minister step in to make decisions on their behalf undermines public trust in both Parliament and the Government.	That Division 3 Step-in Notices, in its entirety, be removed.
70		Amended to require the written consent of the responsible entity, not just their consultation.
77	Many submissions argued that exemption notices are undemocratic and lack adequate regard for the institution of Parliament. Exemption notices are not applicable in other jurisdictions. The committee received legal advice from Professor Aughterson, noting the exemption powers are highly unusual, resembling Henry VIII powers, as they allow amendments to be made to an Act of the Legislative Assembly without prior approval. In addition to this legal advice, several submissions raised concerns about the broad terms under which an exemption notice may	That the power to give exemption notices under Division 4 is removed.

	be issued. Clause 77(1) specifies that an exemption notice relates to a decision or process involving a significant project, yet the definition is so broad that nearly anything could be considered related to such a decision or process. These powers were described by Professor Aughterson and Greg McIntyre SC, a witness with Nurrdalinji Native Title Aboriginal Corp, as powers that are 'extraordinary, unprecedented, and far-reaching.' Of particular significance to Parliament are that these powers are potentially open to legal challenge.	
78 (1) (a)	Making projects exempt from the law solely for the purpose of an ill defined concept of economic development creates risks to our economy, community and environment.	That Clause 78 (1)a is removed.
82	As noted in many submissions, the 6 sittings days' time frame for the Assembly to review exemption notices means that there may be several weeks – and up to 16 weeks – before this review can take place. Under 85(2) Government agencies and proponents proceed as though the notice was valid until a disallowable notice is issued. There is no option to reverse any actions taken. This was noted by submissions including Palmerston Council, NLC, APONT and INPEX.	If powers to grant exemption notices are to remain in the Bill, exemption notices should be tabled in the Assembly prior to implementation, to ensure they can be debated for any actions taken that cannot be reversed.
83	As above – concerns have been raised that this clause does not have due regard to the institution of Parliament, given the significant powers associated with the issuing of condition variation notices.	Condition variation notices be subject to disallowance by Parliament.
83, 84, 85	With reference to the Committee's Terms of References, clauses 3(b)(iii)(A), (B) and (K) and clause 3(b)(iv), the Bill should not give Condition Variation Powers to the Territory Coordinator. Condition Variation Power, as drafted, is so far-reaching that it should not even be given to a Minister. To allow the Territory Coordinator to vary conditions imposed under existing Acts and Regulations in a way that could not be imposed under those Acts or Regulations disregards the intention of Parliament and does not pay sufficient regard to the institution of Parliament. It could also affect decisions that are already made, giving the community great	That clauses 83, 84 and 85 are removed.

	uncertainty about the extent of the Territory Coordinator's powers. There is no opportunity for Parliament to scrutinise this decision. The case for this interventionist power being needed has not been made to the Committee. Evidence before the Committee in support of this recommendation is: ○ Submission (235) by the Central Land Council notes that: ▪ "Under the Bill there is no obligation to consult with nor seriously consider the views of interested parties or other people whose rights and interests may be affected by: [...] Variation of a condition on an existing approval or decision [...] An example is where a decision might require a proponent to undertake a social and cultural impact assessment in a particular manner. Variation to that condition would impact the people whose society and culture was to be the subject of that assessment. They ought to be given opportunity to comment on and have input into any proposed variation, and have their views seriously considered." (p. 8). ▪ "The Territory Coordinator is given a power to excuse a project proponent from complying with a condition already imposed under a lawfully given approval, just because the proponent is unable to comply with it. Placing that power in the hands of an unelected official undermines the authority given by Parliament to the entity that imposed that original condition." (p. 10).	

	○ Submission 242 by the Utilities Commission states "The ability for the Territory Coordinator to give condition variation notices (refer section 84 of the Bill), and for the Minister to give an exemption notice (refer sections 77 and 80 of the Bill) appears to duplicate existing similar processes under the ER Act and WSSS Act [the Electricity Reform Act 2000 and Water Supply and Sewerage Services Act 2000], and this duplication may add unnecessary complexity and confusion for industry participants." (p. 2). ○ Submission 231 by the Environmental Defenders Office notes that "Condition variation notices may be inconsistent with principles of natural justice…The Bill allows the Territory Coordinator to vary conditions already imposed as a result of completion of a statutory decision-making process as well as impose conditions that could not be imposed by the relevant law the decision is made under…In situations where conditions are included following public consultation but then are removed by a condition variation notice, submitters would be denied procedural fairness. Conditions imposed on their request would have changed, and they have no opportunity to comment to the Territory Coordinator before the variation is made" (p. 3).	
85 (d)	Clause 85, Permitted variations, (d) assures "consistency between the conditions applying to the decision and any requirements under a Commonwealth law" But the revised Bill does not explicitly require compliance with the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), opening up potential legal conflict. There remains uncertainty regarding legal consistency and conflicts between NT and Commonwealth	Comment only – Bill inconsistent with 85 (d) (i)

	laws. The Bill may create situations where NT approvals are fast-tracked, but later found non-compliant with the EPBC Act. There are several ways that application of the proposed Coordinator powers could trigger a formal reassessment of the Bilateral Agreement between the Commonwealth and the Northern Territory. This in turn could have the contrary effect of worsening regulatory duplication and investor confidence. We should require clear legislative alignment with federal laws to avoid regulatory conflicts. To achieve this, the Bill must show how NT projects approved via the extraordinary powers of this Bill will align with the EPBC Act and Commonwealth environmental obligations. Stakeholders would have greater certainty as to the intended status of the project if the Bilateral agreement and the EPBC Act were specifically referenced in the Bill.	
86	Rationale: With reference to the Committee's Terms of References, clauses 3(b)(iii)(A) and (K) and clause 3(b)(iv), the Bill should unambiguously state the limits to the Territory Coordinator exercising powers under other legislation passed by this Parliament and should be internally consistent. Both the powers under clauses 73 and 86 are exercised by the Territory Coordinator in the first place (but can be exercised by the Minister) and achieve similar effects of modifying the kind of decision made under another Act or Regulations. Both powers should be subject to the same limitation, that they be consistent with the law the decision is being made under. Both powers should also be clear at the outset, that the Act or Regulations a decision is made under, sets the considerations for making that decision. Evidence before the Committee in support of this recommendation is: ○ Submission 231 by the Environmental Defenders Office notes that "Condition variation notices may be inconsistent with principles of natural justice...The Bill allows the Territory Coordinator to vary conditions already imposed as a result of	That clause 86 of the Bill be amended in the same manner as the committee report recommends amending clause 73(2) as below : That clause 73(2) be amended to clarify that unless an exemption notice has been issued in relation to the making of a statutory decision, the Territory Coordinator may only impose conditions the Coordinator considers necessary or desirable to promote the primary principle if they are consistent with the law under which the Coordinator is making a statutory decision.

	completion of a statutory decision-making process as well as impose conditions that could not be imposed by the relevant law the decision is made under...In situations where conditions are included following public consultation but then are removed by a condition variation notice, submitters would be denied procedural fairness. Conditions imposed on their request would have changed, and they have no opportunity to comment to the Territory Coordinator before the variation is made." (p. 3). ○ Submission 235 by the Central Land Council recommends that "The provisions relating to step-in notices and condition variation notices, set out in Divisions 3 and 5 of Part 7 of the Bill, should be amended to:...Require the Territory Coordinator or Minister to follow the same statutory processes and consider the same relevant considerations as the responsible entity would have done under its governing legislation." (p. 6).	
92, 93, 94	With reference to the Committee's Terms of References, clauses 3(b)(iii), the Bill should not allow any statutory power to enter land. If the Territory Coordinator considers it desirable to enter land for the development of a Territory Development Area plan or Infrastructure Coordination Plan, then entry should be negotiated and agreed to with landowners, without resorting to intrusive powers. These powers are more like what the community would expect for investigations and compliance and have not been justified for use under the Territory Coordinator scheme. Evidence before the Committee in support of this recommendation is: ○ Submission 232 by the Northern Land Council observes that the Bill including the power of entry powers interferes with Aboriginal Land Rights.	That clauses 92, 93 and 94 are removed.

	○ Submission 231 by the Environmental Defenders Office notes that "The Bill includes powers that can interfere with rights of individuals in relation to land…While there is a limit on entry to residential premises without consent, the Bill allows a person authorised by the Territory Coordinator to enter land without a warrant for a broad range of purposes…This risks substantially interfering with an owner or occupier's privacy and liberty as well as the enjoyment of their land. The compensation provisions in the Bill leave it for the Territory Coordinator to determine the amount of compensation which is wholly inappropriate when the damage comes from entry authorised by legislation." (p. 3). ○ Submission 235 by the Central Land Council recommends that the Territory Coordinator's power to grant entry onto Aboriginal Land or exclusive native title areas under section 92 of the Bill be removed (p. 5). In its annexed Submission on the Exposure Draft, which is referenced and relied upon, the Central Land Council notes that the Bill "does not require the Territory Coordinator or Minister to comply with the Land Rights Act or the Aboriginal Land Act. Instead, it purports to grant a right of entry and authority to undertake specified activities contrary to both the Land Rights Act and Aboriginal Land Act" (Submission on the 2024 Draft Bill, p. 14).	
96	With reference to the Committee's Terms of References, clauses 3(b)(iii)(A) and (B), the Bill should not limit review of or appeal against decisions under the Bill or under Acts and Regulations that is authorised or required under the Bill. The reasons for this are clear: the Bill needs more opportunity for scrutiny and review, not less; and the public should	That clause 96 of the Bill is removed.

	not have existing rights further eroded under the new scheme. Evidence before the Committee in support of this recommendation is: ○ Submission 220 by the City of Palmerston notes: ▪ "The TC's powers to exempt projects from standard reviews based on timelines risks prioritising economic benefits without considering long-term impacts is concerning. While some processes may be slow, adequate time is necessary to gather baseline data and assess potential effects thoroughly. The proposal that judicial review would be the sole means of challenging TC decisions is also concerning. Without merit-based assessments, there is a risk that decisions may be made without sufficient evidence or scrutiny, making judicial review an inadequate safeguard." ▪ "...We ask that merit reviews are still available for decisions of the TC, although with reducing standing to genuine stakeholders, to allow projects to proceed without unnecessary delays from groups far removed from the decision." (p. 1) ○ Submission 231 by the Environmental Defenders Office notes that the Bill "does not allow for any review of decisions, except through judicial review in the Northern Territory Supreme Court, which is a lengthy and costly process, and often a barrier for community members." ○ Submission 235 by the Central Land Council clearly explains the risks to removing merits review: ▪ "Given the breadth of the decisions that the Territory Coordinator will be able to make under the Scheduled Acts, it is imperative that those decisions be subject to independent merits review and appeal processes already existing under the Scheduled Acts. Those	

	processes have been adopted, refined and maintained by Territory parliaments over many years. It is antidemocratic to give an unelected official power to make decisions across such a breadth of legislation with no possibility of merits review, when parliaments have already determined that merits review is appropriate." ▪ "...While judicial review rights remain under the TC Bill, exercising them would be expensive and may lead to protracted litigation, with the unintended consequence that decisions are delayed for years in court. Merits review may not only increase the quality of decisions being made, but also avoid the need for judicial review and speed up approval of projects." ▪ "...Maintaining the review and appeal processes under existing legislation will ensure that there is a layer of protection for both applicants and Territorians, particularly interested parties, from decisions made by the Territory Coordinator." (p. 11) ○ Merits review for petroleum decision remains part of the Government's commitment to implementing the Independent Scientific Inquiry into Hydraulic Fracturing in the Northern Territory recommendations in full (Recommendation 14.24 being the specific commitment for merits review).[2] In evidence before the Committee on 27 February 2025 representatives from the Department of the Chief Minister and Cabinet confirmed that they are under no direction to disregard the government commitment to implementing those Recommendations. ○ Submission 279 by Nurrdalinji Native Title Aboriginal Corporation, noted the apparent tension in policy objectives: "We would also like to note that this consultation paper raises questions	

[2] Justice Rachel Pepper, "Final Report of the Scientific Inquiry into Hydraulic Fracturing in the Northern Territory – Summary Report", (2018). Northern Territory Government, "Scientific Inquiry into Hydraulic Fracturing Final Implementation Report" (2023).

	about how the Northern Territory Government will implement the findings of The independent Scientific Inquiry into Hydraulic Fracturing of Onshore Unconventional Reservoirs in the Northern Territory (Pepper Inquiry), which explicitly recommends better transparency, accountability and processes for engaging with Traditional Owners in relation to onshore gas developments." (p. 2).	
96 – alternative	With reference to the Committee's Terms of References, clauses 3(b)(iii)(A), (B) and (K), the Bill should not limit existing rights of review under NT legislation and regulations. This is a significant limitation of public rights and should be clear and unambiguous in its effect. The decisions under powers in the Bill currently should be the only decisions that are limited by review and existing avenues to have decisions reviewed under any of the 32 Scheduled laws and Regulations under them should remain unaffected. Evidence before the Committee in support of this recommendation is: ○ Submission 235 by the Central Land Council clearly explains the risks to removing merits review for other legislation and regulations: ▪ "Given the breadth of the decisions that the Territory Coordinator will be able to make under the Scheduled Acts, it is imperative that those decisions be subject to independent merits review and appeal processes already existing under the Scheduled Acts. Those processes have been adopted, refined and maintained by Territory parliaments over many years. It is antidemocratic to give an unelected official power to make decisions across such a breadth of legislation with no possibility of merits review, when parliaments have already determined that merits review is appropriate." ▪ "...Maintaining the review and appeal processes under existing legislation will ensure that there is a layer of protection for both	That clause 96 of the Bill is amended to only limit review of decisions made by the Territory Coordinator or Minister under the Bill.

	applicants and Territorians, particularly interested parties, from decisions made by the Territory Coordinator." (p. 11)	
Schedule of Acts	There were significant concerns raised in relation to the inclusion of specific Acts, in particular taking into account evidence provided to the committee in relation to the Local Government Act (recommended to be removed by the Scrutiny Committee main report), the Heritage Act, the Electricity Reform Act, the Ports Management Act, the Water supply and Sewerage services Act. In the Committee hearings it was noted that the Nuclear Waste, Transport, Storage and Disposal (Prohibition) Act 2004 was removed but the Department of the Chief Minister was unable to advise on the rationale for including or excluding Acts on the schedule, saying 'we don't know what we don't know.'	That the list of Scheduled Acts is reconsidered, and that rationales for the inclusion of each Act are provided. That limitations on the exercise of power under each Act are detailed in the Bill.
Schedule to the Bill	Many submissions and witnesses raised concerns about the inclusion of the Heritage Act, including the Heritage Council (submission 226) who gave evidence that they had not been consulted in relation to inclusion of the Act. "It is important to clarify that the Heritage Council was not consulted about this change first flagged in the Guide to the Territory Coordinator Bill, nor provided any details on specific feedback referred to in the consultation report." (p. 2) Submission 266 from the Heritage Council outlined their significant concerns in their submission and presentation to the committee and made the following recommendation (p. 3). "Were the functions and powers of the Territory Coordinator to extend over all or any aspect of the Heritage Act, the risk of irreversible damage to the diverse range of places significant to Aboriginal peoples in the Territory would be high. Following recent high profile national incidents such as the damage to Gunlom Falls here in the Territory and the destruction of Juukan Gorge in Western Australia, the Council believes the application of the powers of the Territory Coordinator to the	That the Schedule to the Bill (Acts that are Scheduled Laws) be amended to remove the Heritage Act 2011.

	Heritage Act would expose the Territory to legal action which may create project delays and present an unacceptable risk to the Territory's reputation. Further, in Submission 266 The Heritage Council noted the functions of this committee, that "The functions of the Legislative Scrutiny Committee, as detailed in the Terms of Reference, considers whether a Bill: • is consistent with principles of natural justice; • has sufficient regard to Aboriginal and Torres Strait Islander tradition; • does not adversely affect rights and liberties, or impose obligations, retrospectively; and • does not confer immunity from proceeding or prosecution without adequate justification. Based on the government's original position that the Heritage Act will be exempt to protect Aboriginal rights and interests, serious consideration should be given to whether its recent inclusion creates any conflict with these principles." (p. 4) Submission 232 from the Northern Land Council commented that "while the Heritage Act may be a perceived barrier to economic activity, in practice, it does not impose a significant burden on proponents. Submission 232 from the Northern Land Council commented that "while the Heritage Act may be a perceived barrier to economic activity, in practice, it does not impose a significant burden on proponents. The Heritage Act serves an important deterrence role and signals to proponents that cultural heritage is valued in the Northern Territory. There is little benefit to economic development by adding the Heritage Act to the Schedule. There is immeasurable social and cultural value in keeping it excluded. For example, the Heritage Council previously prosecuted a pastoralist for damage to the heritage listed 'Wave Hill Walk-Off' site. The combined effect of section 37 and 52 means the TC can prevent the Heritage Council from prosecuting damage to heritage sites if it is inconsistent with a TDP or ICP. This	

	concern also applies to non-Aboriginal sites, such as World War II heritage sites in the Top End". Submission 235 from the Central Land Council noted that "The Heritage Council's decision is a statutory decision for the purpose of the Bill. That means that if declaring the place as a heritage place would not be consistent with the approved TDA plan, then the Heritage Council is not allowed to make that declaration unless the Territory Coordinator consents to it. One example of a heritage place is the Wave Hill Walk Off site, which was damaged recently during the development of pastoral land. The tangible and intangible cultural heritage at this site is deeply valuable not only to Aboriginal people but to all Territorians. The Bill directly impinges on the process under the Heritage Act to assess, declare and protect heritage places in the Northern Territory. This system is needed to preserve both Aboriginal and non-Aboriginal cultural heritage. Whether the Territory's heritage is protected should not be the decision of an unelected official who must adhere to the primary principle above all". Submission 226 from the Heritage Council notes: ○ "The Council does not consider the timeframes provided by the Heritage Act to be unduly lengthy, nor at any time to have contributed to delays in lead times for significant Territory projects to the extent that those projects have been delayed or become unviable" (p. 3). ○ "In order for Aboriginal rights and interests to be protected, all provisions of the Heritage Act must be exempted from the TC's powers, not only those provisions (sections 17 and 18) that provide blanket protection to Aboriginal and Macassan archaeological places and objects (regardless of whether they are listed on the NT Heritage Register or not)." (p. 3). "Were the functions and powers of the Territory Coordinator to extend over all or any aspect of the	

	Heritage Act, the risk of irreversible damage to the diverse range of places significant to Aboriginal peoples in the Territory would be high." (p. 3). Submission 232 from the Northern Land Council notes: ○ "While the Heritage Act may be a perceived barrier to economic activity, in practice, it does not impose a significant burden on proponents. The Heritage Act serves an important deterrence role and signals to proponents that cultural heritage is valued in the Northern Territory. There is little benefit to economic development by adding the Heritage Act to the Schedule. There is immeasurable social and cultural value in keeping it excluded." ○ "The removal of this section is a betrayal of the Government's commitment to "to uphold legislation that seeks to protect Aboriginal rights, interests and cultural values". This protection was widely publicised in Government publications and information meetings." (Submission at 1.14). ○ "While the Sacred Sites Act is not listed in the Schedule … the Government can simply create Regulations adding the Sacred Sites Act into the Schedule at a future date. Protection of the Sacred Sites Act and the Aboriginal Land Act 1978 (NT) need to be enshrined in legislation through an equivalent clause to Section 14 of the Draft Bill" (Submission at 1.16) Submission 235 from the Central Land Council notes: ○ "By removing section 14 of the 2024 Draft Bill, there is no longer any attempt to uphold legislation that seeks to protect Aboriginal rights, interests and cultural values and places of historical importance for the Northern Territory. This is: a) contrary to statements made during the initial consultation period, and b) exacerbated by inclusion of the Heritage Act as a Scheduled Act, something that was not raised as a	

	possibility during the initial consultation period." (p. 8). Concerns around the removal of clause 14 and inclusion of the Heritage Act in the schedule were also expressed by a range of others, including: ○ Yinjiya Mark Guyula MLA, leader of the Liya-Dhalinymirr clan, and Independent Member for Mulka (Submission 228) ○ Aboriginal Peak Organisations NT (Submission 229); ○ Environmental Defenders Office (Submission 231) ○ Nurrdalinji Native Title Aboriginal Corporation, in oral testimony to the Committee (27/02/25, p. 24) Several submissions emphasised the need for the limitations clause to encompass the responsible Minister, including the Central Land Council (Submission 235, p. 7) and the Environmental Defenders Office (Submission 231).[3]	
No Go Zones	The committee heard evidence from a number of witnesses that the Bill should include No Go Zones where the Territory Coordinator powers cannot apply. It was noted that this is the case in the South Australian model. Rationale: With reference to the Committee's Terms of Reference, clauses 3(b)(ii) and 3(b)(iii)(J), there must be limitations to the scope of the Bill including over areas which have high ecological and cultural significance and to recognise the ownership of lands and waters by Aboriginal people. These limitations would be consistent with other statutory frameworks for these areas, rather than undermining them, ensuring that recognised processes and safeguards are followed when determining whether developments should take place in those areas. This is also in line with community expectation for the protection of significant places, and with the rights and interests of Aboriginal people over their lands and waters. Evidence before the Committee in support of these recommendations includes:	A Schedule of areas which cannot be designated as a Territory Development Area or Infrastructure Coordination area be added to the Bill, which includes: • Aboriginal land within the meaning of the Aboriginal Land Rights (Northern Territory) Act 1976; • Areas with exclusive native title; • A park or reserve within the meaning of the Territory Parks and Wildlife Conservation Act 1976 (NT); • A Commonwealth reserve within the meaning of the Environment Protection and Biodiversity Conservation Act 1999 (Cth); • A protected environment area within the meaning of

[3] Per p. 13 of earlier appended submission on the Exposure Draft.

	○ Submission 232 from the Northern Land Council notes: "Most of the Northern Territory's land and seas are either Aboriginal Land or land affected by native title. Without mandatory consultation requirements, the Northern Territory Government… is likely to prioritise expediency over processes that are optional. There is a risk to the land rights of Traditional Owners, which could lead to irreversible damage of their economic, social and spiritual wellbeing. We are particularly concerned that Aboriginal Land and Exclusive Native Title Land is able to be declared a TDA or ICA without any prior consent or even consultation." (p. 4) ○ In oral testimony, Mr Deen, Chair of the Northern Land Council, noted that "all parks and reserves in the Northern Territory should be excluded from being declared a TDA unless there is permission from the relevant traditional owners. Aside from environmental concerns, complex legal issues will arise if there is no proper engagement with traditional owners. There are state parks and reserves that are jointly managed pursuant to ILUAs between the Northern Territory Government and traditional owners and under the Northern Territory parks legislation, hence why our position around TDAs and ICAs has been taken." ○ Submission 235 from the Central Land Council notes ▪ "The CLC strongly objects to the Minister having a unilateral power and discretion to designate any area of Aboriginal land as a TDA, particularly without the free, prior and informed consent of Traditional Owners in accordance with the Land Rights Act. The same considerations apply to areas where exclusive native title has been determined to exist" (p. 14). ▪ "TDAs should not be established in environmentally important areas such as national parks, reserves and protected environmental areas." (p. 14).	the Environment Protection Act 2019 (NT); • Marine parks • Sites of conservation significance; • Indigenous protected areas (IPAs); • Areas declared as reserved land under the Mineral Tiles Act 2010 (NT) or reserved blocks under the Petroleum Act 1984 (NT). That the Bill be amended to specifically protect certain geographic areas from changes to project conditions or exemption notices, ensuring community-led decision-making regarding environmentally sensitive areas. This should include areas such as marine parks, conservation areas, mineral reserved blocks and petroleum reserved blocks, and areas specified by Aboriginal landowners/custodians, where the Territory Coordinator model cannot apply.

	○ In oral testimony, Ms Pedder, Protected Areas Manager, Keep Top End Coasts Healthy, noted that "the Bill does not exclude any areas from being potential development zones; everything is on the line—for example, marine parks and other conservation areas such as Cobourg Marine Park, which was established by the CLP Chief Minister Paul Everingham, and the Limmen Bight Marine Park, established by Minister Moss in 2020. None of these areas are excluded. The South Australian model is taking a different approach and has the ability to exclude areas which are too special to put on the line… in the Territory some places are too special, such as our protected areas, and they should not be infringed upon. There needs to be clear parameters and areas excluded" (26/02/25, pp. 6-7). ○ Submission 229 from Yiŋiya Mark Guyula MLA, leader of the Liya-Dhalinymirr clan, one part of the Djambarrpuyŋu Nation of the Yolŋgu people of North East Arnhem Land, and Independent Member for Mulka, similarly recommends that the Bill be amended to specifically protect certain geographic areas, including areas specified by Aboriginal landowners/custodians, from application of the Territory Coordinator model, and to ensure community-led decision-making regarding environmentally sensitive areas. ○ Submission 231 from the Environmental Defenders Office explained how the 'no go zone' approach is proposed in the South Australian State Development Coordination and Facilitation Bill 2024 (SA), currently in draft, noting that "although the SA model has not been finalised…it is important to note that the SA model includes some safeguards that do not appear in the TC Bill. The SA model incorporates "no go zones" – areas where exemption powers cannot be exercised 38 including wilderness protection areas and marine sanctuary zones. A similar approach should be considered which lists, at a minimum, current marine parks, conservation areas, mineral and petroleum reserved blocks and other areas of conservation	

	significance in the Territory where powers contained in the TC Bill cannot be exercised" (Submission of 17 January, as annexed to 19 February Submission to this Committee, pp. 13-14).	
Addition to the Bill		That a process within the Bill for adding areas to the Schedule, on application by third parties, with a public consultation process, be added.

Conclusion

The Territory Coordinator Bill as it stands should not be passed by the Legislative Assembly.

The submissions to the Scrutiny Committee make clear that many civil society organisations, Aboriginal peak bodies, and hundreds of individuals in the Territory are deeply concerned about the negative impacts this Bill could have on our community, our environment, and our long-term economic prosperity. The scrutiny committee heard repeatedly that this Bill erodes the integrity of our democratic processes, removes fundamental rights from individuals, threatens the rights of traditional owners and Aboriginal communities, poses unprecedented threats to our environment, and creates unacceptable legal uncertainty for governments bodies, investors and community.

Like the vast majority of those who made submissions and appeared as witnesses, I cannot support the Bill in its current form, and I believe it is not in the best interest of the Northern Territory to proceed with it as is.

I express my gratitude to all those who provided informed, thoughtful submissions and evidence, and I urge the Government to listen to the voices of the Northern Territory community, organisations, Traditional Owners, and government agencies.

As noted, if the Bill is to be passed, I support the majority of the committee's recommendations, and I thank them for their work and their willingness to consider the Bill in light of our Terms of Reference.

Signed,

11/03/25

Justine Davis MLA
Independent Member for Johnston