

Mr Brent Potter MLA  
Chairperson  
Legal and Constitutional Affairs Committee  
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Via Email: [LA.Committees@nt.gov.au](mailto:LA.Committees@nt.gov.au)

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File reference  
EDOC2023/288277

Dear Mr Potter

**RE: INQUIRY INTO A PROCESS TO REVIEW BILLS FOR THEIR IMPACT ON FIRST NATIONS TERRITORIANS**

NT Health thanks the Legislative Assembly and the Legal and Constitutional Affairs Committee for the opportunity to contribute to the inquiry into a process to review Bills for their impact on First Nations Territorians.

NT Health supports a process to review Bills for their impact on First Nations Territorians.

The Discussion Paper identifies models of legislative review currently in place elsewhere in Australasia, including Scrutiny Committees and Statements of Compatibility. NT Health does not consider either of these processes to be the preferred process. Instead, NT Health suggests a framework such as the Northern Territory Government Regulation-Making Framework (RMF).

The RMF mandates the preparation of a Preliminary Regulation Impact Statement (PRIS) and the potential preparation of a Regulation Impact Statement (RIS) by Agencies when proposing regulation. The Regulatory Impact Committee (RIC) independently assesses and certifies the PRIS and RIS for compliance with regulation-making principles.

A similar framework could be established for assessing whether a proposal is likely to impact significantly on First Nations Territorians. A committee could assess whether proposals are:

- consistent with the principles underlying the Northern Territory Government's Local Decision Making Policy Framework; and
- consistent with the Northern Territory Government's commitments to Closing the Gap; and
- consistent with the United Nations Declaration on the Rights of Indigenous Peoples and other international instruments to which Australia is a party.

The RMF applies to both primary and subordinate legislation. NT Health support assessing both primary and subordinate legislation for their impact on First Nations Territorians.

Scrutiny Committees

While NT Health notes the importance of scrutiny committees in the legislative process, NT Health support a process that requires an assessment before a Bill is introduced into the



Legislative Assembly. NT Health considers this approach would deliver improved policies and laws by encouraging early and ongoing consideration of impacts on First Nation Territorians.

Agencies must undertake the RMF before a proposal is approved by Cabinet. This allows any issues or concerns to be raised and dealt with early in the legislative process. Whereas, if a scrutiny committee approach is adopted in the Territory, any change to a Bill will require an Assembly Amendment. NT Health does not consider this approach to be an effective use of Government resources. The Office of the Parliamentary Counsel has identified a resource shortage for legislative drafters in Australia. Dealing with issues or concerns at the beginning of the legislative process allows Agencies to develop options and does not waste Agency or Parliamentary resources on drafting legislation that may not be accepted by a scrutiny committee.

In addition, NT Health are concerned about the burden of scrutiny committees on Agency representatives. Agency representatives would be required to appear before the committee to answer any question posed by the committee. While NT Health supports transparent legislation, the scrutiny committee process may affect the practice of the Legislature by removing the scrutiny from the sponsoring Member and placing that scrutiny on Agency representatives.


#### Statement of Compatibility

NT Health agrees with the importance of identifying and assessing proposals for compatibility with human rights. However, NT Health considers that a framework similar to the RMF would provide a more rigorous assessment than a Statement of Compatibility process.

Statements of Compatibility rely on Agencies to identify whether a proposal impacts on human rights. NT Health considers a committee of independent members who have the relevant skills and qualifications to assess issues that may impact on First Nation Territorians would provide a better assessment of policy than Agency identification. An independent assessment would produce better policy and more effective legislation.

If you have any follow up queries, please contact Claire Doyle, Senior Legislation Officer, Department of Health on 08 8999 2941 or email [DoHLegal.THS@nt.gov.au](mailto:DoHLegal.THS@nt.gov.au).

Yours sincerely



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Chief Executive  
Day Month 2023

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