

18 February 2025

Submission to the Parliamentary Scrutiny Committee: Territory Coordinator Bill 2025

Introduction

We are a family living and working in Nhulunbuy with two young kids. Having made our home here, we feel extremely lucky to be living on spectacular Yolŋu country and love this part of the Territory very much. Thank you to the Parliamentary Scrutiny Committee for considering our submission on the proposed Territory Coordinator Bill 2025.

We strongly reject the Territory Coordinator Bill 2025 as it represents an unprecedented concentration of power that would undermine democratic processes, environmental protections, and community rights in the Northern Territory. As Territorians we see this Bill as a direct attack on us personally, undermining our democracy and rights. This Bill enables a single unelected official and the Chief Minister to override 32 existing laws and potentially more through regulation, with purposefully minimising transparency and removing important checks and balances.

While this submission concerns the Territory Coordinator Bill, we cannot help but also consider this Bill alongside the recent amendments to remove third party merit review rights from the Planning Act, Water Act and Petroleum Acts – which occurred in parliament 'under urgency'. Community members can no longer challenge decisions on their merits in NTCAT, now limited to only judicial review. Judicial review is extremely expensive and very limited in scope – only examining if a legal error was made in the decision-making process, not if the decision itself was right or wrong. This is extremely concerning, as the Territory Coordinator Bill concentrates power into the hands of two people, prioritises economic development and removes proper process – it is inevitable that wrong decisions will be made. The removal of third-party merits review, combined with the Territory Coordinator Bill, creates an especially alarming scenario for community rights, transparency, democracy and environmental protection in the NT.

The current Bill prioritises the economy over all other considerations. This is not how economic development should occur in 2025 – there are other values that are of equal importance and must be explicitly considered in decision making – including sustainability, climate impacts and impacts on local communities.

The current Bill reduces transparency in decision making and concentrates power into the hands of two people. This Bill undermines the Northern Territory's democracy, due process and transparency in decision making.

Territorians do not want the pursuit of economic activity elevated over their own rights, democracy and good governance.

Key Concerns

The Bill prioritizes undefined "economic prosperity" over environmental, social, cultural and other public interest considerations that, in our view, already do not receive enough protection or consideration under Northern Territory law. The Bill removes appropriate safeguards, transparency, and accountability measures that are essential for good governance. The introduction of this Bill does not imbue in us any hope for increased economic prosperity. Rather, it instils in us a tremendous fear of what dodgy deals will be dealt under this dictatorial bill at the expense of our precious nature, water, irreplaceable cultural values and community cohesion.

Living in Nhulunbuy, we are particularly interested in good governance that will support the community transition as Rio Tinto Gove Operations look to close the bauxite mine. Unfortunately, in our view this Bill curtails community options and undermines what should be a Yolŋu and community-led transition to a sustainable future. We are concerned this Bill effectively removes the opportunity for Yolŋu-led decision making and places all decision-making for future projects with the Territory Coordinator and Chief Minister.

Nhulunbuy Example

The "primary principle" of this Bill explicitly prioritizes "economic prosperity" over other considerations. But on Yolŋu country, for Traditional Owners and community members who love this place, it is these 'other considerations' – culture, country, community – that are most important. The Territory Coordinator Bill rejects these important issues of concern to fast-track development approvals. This will be achieved by minimising environmental and cultural heritage protections and minimising opportunities for the community and Traditional Owners to have a voice in decision making.

We are particularly concerned that the new draft Bill has removed the section that said the Territory Coordinator could not interfere with Commonwealth laws, or the Sacred Sites Act, Native Title Act, Heritage Act or Aboriginal Land Act. We can only assume this means that the Territory Coordinator Bill will impact the legal rights of Aboriginal land holders, result in reduced protections for Sacred Sites and heritage places, and remove protections for the outstanding biodiversity significance of this region.

Under the Territory Coordinator Bill, the Chief Minister could designate the Gove Peninsula as a "Territory Development Area," which only requires the Minister to consider that "the area has potential for development of economic significance." No public consultation is required for this designation. The Territory Coordinator could require authorities to approve permits for development over all other work. Under this proposed Bill, new exemption powers could be used to bypass normal environmental assessments and sacred site clearances that might have otherwise required specific conditions to be met before development is approved. Usual rights of consultation and appeal for the community have been severely limited by this Bill and other recent legislative amendments.

The Territory Coordinator Bill prioritises development by reducing avenues for meaningful community consultation, review or proper environmental assessment and possibly Sacred Site and heritage site protection. The broad powers and limited oversight in the Bill, combined with restricted review rights, effectively silences community voices in development decisions affecting their region's future. Instead of supporting Yolŋu aspirations for a sustainable future built on Yolŋu knowledge and connection to country, the Bill enables fast-tracked dangerous

development that could permanently damage the cultural and environmental values that make this region so special.

Specific issues of concern with the Territory Coordinator 2025 Bill:

1. Excessive Concentration of Power
 - The Bill gives extraordinary powers to both the Territory Coordinator and Chief Minister to override existing regulatory processes across 32 different Acts
 - ‘Step in’ powers are incredibly concerning, whereby the Territory Coordinator gains all the powers of the original decision maker, can impose conditions that wouldn’t be legal under the previous law and is solely guided by ‘economic prosperity’
 - Decisions would be made without normal governmental checks and balances
 - The Territory Coordinator would not be accountable to Parliament
 - Only the Chief Minister has oversight of the Territory Coordinator's actions

2. Inadequate Checks and Balances
 - Minimal requirements for consultation before exercising powers
 - No genuine public review or appeal rights
 - No clear public interest test for exercise of powers
 - Reporting requirements are minimal and only to the Chief Minister
 - No independent oversight mechanism

3. Overriding of Existing Protections
 - The "primary principle" elevates economic considerations above all other factors
 - Environmental, social, cultural and health considerations can be disregarded
 - No requirement to demonstrate public benefit or local economic retention
 - Undermines existing environmental assessment processes
 - No third party appeal rights

4. Broad and Poorly Defined Powers
 - Criteria for "significant projects" and "Territory Development Areas" are extremely broad, “economic prosperity” broadly defined and could include anything
 - Powers can be expanded through regulation without parliamentary oversight
 - No limits on size or number of areas that can be designated – there is no area considered ‘too precious to develop’
 - Exemption powers allow complete removal of normal regulatory requirements
 - Condition variation powers allow retrospective changes to existing approvals

5. Environmental Risks
 - Ability to override environmental assessment processes and for the Territory Coordinator to ‘step in’ over the NT EPA or override the Environmental Protection Act.
 - No requirement to consider environmental impacts in pursuit of development goals and powers to override current environmental laws
 - Can modify or remove environmental conditions on existing approvals
 - Protection of the environment is purposefully minimised with this Bill – the NT already has some of the weakest environmental protection laws in the country.

Conclusion

The Territory Coordinator Bill reduces rights, reduces transparency, and affords unprecedented executive power to two people without adequate safeguards. It undermines the institution of Parliament by concentrating power in the executive and allowing regulation to expand powers without parliamentary oversight. This Bill represents a tremendous step backwards for the Northern Territory and should be discarded in its entirety.

The proposed Territory Coordinator role is an unprecedented dangerous shift away from democratic processes and environmental protection. Rather than fast-tracking development at any cost, the Northern Territory needs stronger environmental protections and a genuine commitment to sustainable development that benefits local communities for the long-term.

We need to be clear that 'fast tracking' simply means cutting corners at the expense of what we care about most in the NT – our precious culture, nature-based lifestyles and community voices being heard and respected in decision-making.

We urge the Committee to recommend against passage of this Bill to protect the rights of Territorians, our democracy, good governance, and our precious natural and cultural values for future generations.

Sincerely,

Allana Brown and Dr Scott Price

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