

Chair
Legislative Scrutiny Committee
Northern Territory Legislative Assembly
GPO Box 3721
DARWIN NT 0801

Dear Sir/Madam

Re: Territory Coordinator Bill 2025

On behalf of the Northern Territory Planning Commission, I am writing to provide a submission to the Legislative Scrutiny Committee's inquiry into the Territory Coordinator Bill 2025. The Commission appreciates the opportunity to contribute to the Committee's inquiry into this legislation and trust that our input will assist in its deliberations.

Please note that the content of our submission remains the same as that provided in response to the Northern Territory Government's call for submissions into the draft Bill during Phase 2 of the consultation process.

Should the Committee require any further information, please contact the Northern Territory Planning Commission via ntpc@nt.gov.au or telephone 08 8924 7940.

Yours sincerely



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Executive Summary

This submission by the Northern Territory Planning Commission (NTPC) focusses on Part 3, Division 2 and Part 5 of the Bill which cover the areas that are likely to generate most of the Territory Coordinator's work.

1. The purpose of Territory Coordinator is to reduce risk¹ for investment and development. The "approval process" is also one of the ways the NTG currently manages risk.
2. Approval times will be shorter if part of the approval process is cut short or bypassed. However, a decision taken without an understanding of the critical issues carries a higher level of risk for the government.
3. The directive powers to be conferred on the Territory Coordinator under Part 3, Division 2 and 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.
4. 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.
5. 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 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.
6. The Territory Coordinator should act as a catalyst for process improvement that, once embedded, should be sustained (reducing the workload on the Territory Coordinator role). This would involve working with Chief Executives to identify areas where regulatory controls are

¹ As defined in The Commonwealth Risk Management Policy 2023 (and ISO 31000:2018)

having unintended negative consequences and where and how they could be reformed.

7. The Territory Coordinator could expedite applications by advising applicants how to make valid applications.
8. The Territory Coordinator could be tasked with provide government with an evidence-base to inform (and justify) decisions about providing support to projects. This could include the capacity to quickly signal when a project does not appear to be in the Territory's interest - and that considerable further work is not warranted by either the proponent or agencies.
9. Strategic forward assessment of areas suitable for development is a neglected area where a Territory Coordinator could really add value. The absence of baseline environmental data in many areas means that long lead-times are required simply to obtain the information necessary to make sound decisions.
10. The role of the Territory Coordinator in collaborating with Commonwealth agencies (e.g. Department of Climate Change, Energy, the Environment and Water and Infrastructure Australia), will be crucial.
11. The proposed Territory Coordinator legislation should include a requirement for the periodic evaluation of the implementation, performance and outcomes of the Office of the Territory Coordinator.

1) Introduction

This Northern Territory Planning Commission (NTPC) submission responds to the invitation to provide feedback on the proposed establishment of a new public service entity - the Office of the Territory Coordinator (Territory Coordinator).

This submission draws on the experience and expertise of NTPC members, who have extensive practical experience in senior leadership roles at all levels of Government and the private sector. Biographies of NTPC members are available on the [NTPC website](#).

This submission draws on the Consultation Paper (the Paper), the Guide to the Bill (the Guide), and the consultation draft of the proposed Territory Coordinator Act (the Draft Bill) circulated by the Department of Chief Minister and Cabinet. Where appropriate these documents are referred to collectively as “the Bill and supporting documents”.

2) De-risking project approvals and decision making

The purpose of Territory Coordinator is to reduce risk² for investment and development.

The changes necessary to achieve this purpose are to be guided by adherence to the “primary objective of driving economic prosperity for the Territory”.

The “approval process” is also one of the ways the NTG currently manages risk.

The current approval process, developed over the period of self-government, is based on the principle that good decisions are evidence-based. Agencies are accountable for providing the advice necessary for sound decision making. The authority and accountability for decision making usually rests with the Minister.

² As defined in The Commonwealth Risk Management Policy 2023 (and ISO 31000:2018)

The purpose of the “approval process” is to give government a way of quantifying and mitigating risks generated when proposals for development are likely to affect Territory communities, the environment³, and/or utilize finite natural resources owned by the Crown.

2.1) The Primary Principle

The proposed model has the “primary objective of driving economic prosperity for the Territory”. This objective is enshrined in the “Primary Principle” that will underpin decisions by the Territory Coordinator (or Minister).

The approach outlined in the Draft Bill and supporting documents is based on the premise that the current approval process is a system that is indifferent to the “economic prosperity for the Territory” comprising “complexities of regulation and multi-agency processes” which creates “uncompetitive approval times”.

Application of the Primary Principle is intended to signal a change in the government’s risk-appetite. It is intended that the effect of this change will be “a different decision to that which may have been made by the original decision maker” – who, otherwise, would have been bound by the current approval process.

2.2) Incorporating changes in risk-appetite into the decision-making process

The Draft Bill is designed to give the government more flexibility in the way risk is quantified in the decision-making process. In particular, the Draft Bill provides ways of incorporating changes in government’s willingness to assume risk in order to “expedite industry and economic development”.

Part 5 of The Draft Bill sets out the powers to be conferred on the Territory Coordinator, including:

- “Requests” (Division 2 s.52 – s.55)

³ As defined in Commonwealth and Territory law – including the Draft Bill

- “Step in Notices” (Division 3 s.56 – s.63)
- “Exemption Notices” (Division 3 s.64 – s.69)

The Paper states that “it is anticipated powers [in Division 3 (above)] will be infrequently used”. There are several reasons why this is likely to be the case, including that this may involve a decision about the proportion of project risk the Territory is willing to assume and hence, the potential transfer of risk to the Territory.

The remainder of this submission focusses on Part 3, Division 2 and Part 5 of the Bill which cover the areas that are likely to generate most of the Territory Coordinator’s work.

3) Part 5 Division 2

This Division is headed “Requests” however entities in receipt of a “request” under this division must comply with that request. The directive powers that are most likely to be invoked in the course of the Territory Coordinator’s work are: to direct a public entity (i.e. the Chief Executive or person, with the authority to make a decision), to:

- prioritise processes associated with a project of significance (*Prioritisation Request s.52 – s.55*).
- undertake the required decision-making process within a defined timeframe (*Progression Request s.53*).
- make a decision within a defined timeframe (*Decision Request s.54*).
- coordinate actions or share information with another public entity or a proponent (Part 2 (s.13)).

3.1) Prioritisation

To prioritise a process means you have to give it priority over other projects. This means other projects have a lower priority. The default approach in the NTPS is to process applications in the order they are received. Where

statutory timeframes apply, the start date is the date a valid application is lodged. This is understood by most applicants as a fair and reasonable approach.

If a decision is made to prioritise a particular project (without additional resources) then existing resources must be diverted from projects with a lower priority. This creates a risk that timeframes for projects with a lower priority will be extended.

An approach that gives select project/s an opportunity to jump the queue has to be (and seen to be) based on sound criteria. Even so, proponents whose projects have been demoted from their place in the queue will be unhappy about the situation. Negotiating this will be an important part of the Coordinator's work.

3.2) Progression

Lead times for project approvals are largely determined by the time it takes to get the information required for the decision-maker (usually a Minister).

Approval times will be shorter if the part of the approval process aimed at giving the Minister an understanding of these issues is cut short or bypassed by decree. However, a decision taken without an understanding of these issues carries a higher level of risk for the government.

If the directive approach contemplated in the Draft Bill and supporting documents is adopted, one of the most important functions of the Territory Coordinator will be to assist the Minister in understanding the altered risk profile that this entails.

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.

3.3) Decision

It is unlikely that this provision will need to be invoked very often. In the NTPS it is unusual for important decisions to be withheld once the decision-making process has been completed. This holds for Ministerial decisions. Approving Ministers take advice from their Departments and/or independent statutory authorities set up for that purpose and in addition must manage political risk.

4) How to make the Territory Coordinator role work for the Territory

4.1) Collaboration rather than Direction in Part 3, Division 2 and Part 5 of the Bill

The Territory Coordinator is a leadership role. The use of the term “coordinator” instead of “controller”, used in other jurisdictions is important. The former is a person leading “harmonious action” and the latter is a person “who regulates, directs or constrains”.

These functions will require a collaborative approach. However, as outlined in Section 3 of this submission, Part 3, Division 2 and Part 5 of the Draft Bill establishes that the Territory Coordinators functions will be achieved by direction.

The approach developed by DCMC to implement the recommendations of the Hydraulic Fracturing Inquiry provides an example of successful non-directive oversight of a complex interagency project involving several ministers and spanning two political cycles.

The duties and accountabilities (including those relating to staff and budgets) of Chief Executives of NTG agencies are set out in law. The directive powers to be conferred on the Territory Coordinator under Part 3, Division 2 and 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.

In addition, though not overtly stated, the language of the Bill and supporting documents leaves it open for public servants in the agencies directly affected by the Territory Coordinator legislation to infer that it is underpinned by a belief that they and their agencies have not been doing their jobs as well as they should. Further, that they lack the ability or inclination for the process improvement and systemic reform necessary to achieve the government's objectives.

In the Territory there are a relatively small number public servants directly involved in project development approval and delivery.

The effectiveness of this NT group is, in part, due to their skill, local knowledge and hard work, but equally importantly a result of close working relationships (trust) built up over time. A characteristic of the NTPS is that successful leaders, especially Chief Executives, rely on earned authority (respect) more than the authority conferred by their role.

It is recommended that Division 2 of the Draft Bill be amended so the Minister (rather than the Territory Coordinator) remains the decision-making 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. Such a recommendation should only be necessary if the Coordinator and Chief Executive of the entity involved could not resolve the issue behind the request.

4.2) Additional areas where the Territory Coordinator could add value

There are several areas where the objectives outlined in the Bill and supporting documents could be advanced:

- Identify areas where process improvement could (and should) be initiated.
- Advise proponents how to lodge valid applications.
- Assess project viability.

- Strategic forward assessment and planning, including negotiations with Commonwealth agencies.

4.2.1 Process improvement

The Office of the Territory Coordinator should be tasked with collaborating with and supporting chief executives in improving the capability of their agencies through process improvement, systemic reform and where necessary legislative reform.

The Territory Coordinator could act as a catalyst for process improvement that, once embedded, could be sustained (reducing the workload on the Territory Coordinator role). It should be noted that the first step in any process improvement is to make the process effective.

This would involve working with chief executives to identify areas where regulatory controls are having unintended negative consequences and where and how they could be reformed.

The Territory Coordinator office should remain lean, relying on agencies to execute projects and drive cultural change.

4.2.2 Advise proponents how to lodge valid applications

Frequently, applicants lodge invalid applications. Rectifying this is a cause of significant delays in the approval process. The Territory Coordinator could expedite applications by advising applicants how to make valid applications.

If the Territory Coordinator forms the view that an application process managed by a public entity is onerous and/or has unreasonable requirements then it should be expected that the Territory Coordinator would collaborate with the Chief Executive of the agency involved to bring about the necessary reforms.

This should be made explicit in the Coordinator's duties.

4.2.3 *Assess project viability*

Given the Territory has to focus on private-led projects and support them to secure finance, open up new markets and assist with supporting infrastructure, one of the most important functions of the Territory Coordinator role could be to assess the economic viability of projects seeking such government assistance and whether the level of government assistance on offer is enough to mean the difference between success and failure (the Sea Farms aquaculture project is a useful case study).

An important function for the Territory Coordinator should be to provide government with an evidence-base to inform (and justify) decisions about providing support to projects.

One of the potential roles alluded to in the Paper is the task of vetting business proposals seeking support from the government. The Territory Coordinator should have the ability to quickly signal when a project does not appear to be in the Territory's interest - and that considerable further work is not warranted by either the proponent or agencies.

4.2.4 *Strategic forward assessment and planning including negotiations with Commonwealth agencies*

The Discussion Paper identifies that one of the key features of the Territory Coordinator model is to:

“drive cohesive, strategic forward assessment and planning process in geographic areas identified as being particular suited to industry development.”

This is a neglected area where a Territory Coordinator could really add value.

The Territory's land tenure arrangements and absence of baseline environmental data in many areas means that long lead-times are required simply to obtain the information necessary to make sound decisions. Existing approaches (usually a result of competing priorities for limited funding) tend to

mean that a last minute “crash through” approach is favoured - leading to poor outcomes.

As outlined in point 4.2.3 (above), sound investment decisions must be based on a sound understanding of opportunities and risks. This involves undertaking the necessary research, gathering information and managing data obtained in that process so that it can be used to inform decisions about development.

The Territory Coordinator role could facilitate improved data collection, integration, and curation, which would be a valuable resource for future planning.

The role of the Territory Coordinator in collaborating with Commonwealth agencies (e.g. Department of Climate Change, Energy, the Environment and Water and Infrastructure Australia), will be crucial.

The Bill and supporting documents leave it unclear as to what role the Territory Coordinator will play in the negotiations with the Commonwealth over funding for major projects and compliance with Commonwealth legislation that applies to projects in the Territory.

5) Review and refine the Territory Coordinator role

The “Territory Coordinator solution” has arguably preceded a thorough analysis of the problem: “the relatively low number of projects realised in the Territory”.

To achieve success, the Territory Coordinator must gain an understanding of the causes of the problem and what approach/s hold most promise for a solution.

The proposed Territory Coordinator legislation should include a requirement for the periodic evaluation of both the implementation, performance and outcomes of the Office of the Territory Coordinator.