

Submission to Legislative Scrutiny Committee on Territory Coordinator Bill (Serial 17)

The Local Government Association of the Northern Territory (LGANT) welcomes the opportunity to provide a submission to the Legislative Scrutiny Committee on the Territory Coordinator Bill (Serial 17) (the Bill). Based on our consideration of the summarised consultation report, and the introduced Territory Coordinator Bill 2025 we have prepared this submission for consideration by the Committee. It should be noted that we are re-prosecuting our initial arguments and constructive recommendations submitted on 17 January 2025 to the NT Government as there was little acknowledgement of these in the consultation report and the introduced Bill. We acknowledge the description of the general sentiment of feedback being that very few submissions made in January were neutral or supportive and we are glad to have the opportunity to reiterate our position that as a sector our goal is to improve the economic position of the NT while protecting cultural, social and environmental values. We stand by the NT Government's three pillars and are wholly motivated by the mandate given to our elected members which is to protect the Territory lifestyle and to conduct ourselves only in a way that advances this mission.

As a representative of the local government sector in the NT, LGANT remains a willing partner to the NT Government's initiative to foster economic growth for the benefit of all Territorians and have been disappointed throughout the formulation and consultation on the Bill to find that the sector has not been recognised as a key partner, but rather as an impediment to growth. As the third sphere of government, it is also our duty to Territorians (who voted for our elected members) to contribute to the prosperity of the NT, and we ask the Committee to consider our recommendations that have been formulated to contribute to a strong and equitable framework for the Territory Coordinator.

Introduction

LGANT, as a membership-based organisation, is the voice of local government in the NT representing 16 of the 17 councils across the NT. This membership consists of four municipal, three shire, and nine regional councils, and two associate members (including the prospective Groote Archipelago Regional Council).

LGANT provides leadership, support, representation, and advocacy on behalf of our member councils for the benefit of their communities.

The local government sector makes a significant contribution to the NT economy as it collectively employs around 3,000 Territorians and is often the largest employer of Indigenous people in remote and regional areas. Local government councils in the NT also manage and control assets and infrastructure valued at \$2.57 billion, are responsible for over 13,000 kilometres of roads, and receive and expend over \$505 million annually.

Economic development is one of LGANT's strategic priorities given its role in strengthening our communities and regions. This is echoed in the NT *Local Government Act 2019* which states that councils have the objective of seeking to ensure a proper emphasis on environmentally sustainable development within its area and a proper balance between economic, social, environmental and cultural considerations. LGANT recognises that certain inefficiencies threaten the attractiveness of the NT as a place to do business and is supportive of an approach that enables more efficient engagement on local economic development projects; improving efficiency through strong coordination of the roles played by a number of departments; holding decision-makers to task and ensuring that a fair, proper and timely

process is carried out – and that this can be made possible with the help of a centralised and independent coordination body with that clear mandate.

Councils are critical stakeholders in the social and economic development of their communities - they plan into the future and are the front line for community engagement, and complaints when things go wrong. The Bill outlines extensive and far-reaching access to a range of powers, including those held by councils under the *Local Government Act 2019*. We consider this to be an over-reach and threatening the important role councils play to a standard expected of them by the communities they serve. The introduction of the requirement that decision-making under an entity's own governing legislation be consistent with a Territory Development Area plan or Infrastructure Coordination Plan, and that that entity must consult the Territory Coordinator should it wish to make a decision that relates to those plans, only serves to further erode any semblance of partnership and balance of power that existed between the local government sector and the NT Government.

Local government is one of the three spheres of government, led by members that are elected by their communities. Creating a single decision-maker will not reduce the complexities associated with a project nor does the need for the project to be properly designed and assessed diminish. Hence, the likely results of such decisions will be political, with oversights due to the need for speedy decision-making in favour of developers, potentially causing additional risk and shifting of costs to local government councils which could result in councils raising rates to cover these additional expenses (never a popular vote, especially during a cost-of-living crisis).

This Bill is proposing to preference the circumvention of legislative requirements, policies and procedures in the name of efficiency instead of properly engaging with the business of government, a large part of which is to make and amend laws and regulations. Existing processes enshrined in NT policy and legislation, many of which will be subject to the powers of the Territory Coordinator have been developed based on expert advice, science, research, key stakeholder engagement, public consultation and by heeding what is best practice. It is the role of government to design the regulatory framework, while independent regulators are responsible for its operationalisation – where the performance of regulators is less than optimal, government has a co-responsibility to improve that. 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. It is our opinion that parallel efforts should be made to address inefficiencies through critical legislative reform, process modernisation, and proper resourcing. Updating strategic land use plans, many of which are over 20 years old, could, for example, go a long way in attracting investment into NT towns. As could funding the implementation of projects identified in Regional Economic Growth Plans. In other words, getting to the bottom of what the problem is and fixing that problem should be the priority rather than trying to legislate the by-passing of due process.

We are aware of similar proposed and actual models in other jurisdictions, and would like to highlight key aspects that should be explored as part of further development of the Bill, including:

- Queensland's Coordinator General:
 - Must invoke a rigorous and comprehensive environmental impact assessment (in certain circumstances) involving whole-of-government coordination.
 - Imposes a requirement for a social impact assessment for all large resource projects to manage measures. The social impact assessment process ensures that there are

measures for community and stakeholder engagement; workforce management; local business and industry procurement and health and community wellbeing.

- Victoria's Coordinator General:
 - Establishes priority assessment teams within key regulatory bodies who will both work with applicants and carry out assessments according to priority timeframes.
 - Invests in regional infrastructure to open more land for development.
- Australian Government's 'Future Made in Australia' agenda:
 - Establishing a central point of contact focused on prioritisation, investment concierge and regulatory facilitation.
 - Prioritisation of a project will consider its potential contribution to local communities.
 - Coordinating approvals across government.
- South Australia Coordinator-General's Office:
 - Establishes an office consisting of three members bringing a diversity of skillsets and expertise to decision-making.

The South Australian Government and the Local Government Association of South Australia (LGASA) have negotiated to exclude their Local Government Act from their draft Bill. LGASA has proposed a Local Government Coordinator in an attempt to assist councils to advance their projects (which are often held up by state government bureaucracy). This genuine partnership approach between the two spheres of government in South Australia, one of shared vision, is what we would like to see in the NT.

Definition of 'significant project'

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.

The loose definition of 'significant project' brings with it a raft of risks including:

- inconsistent interpretation and decision-making
- a lack of clarity and predictability of process if proponents are not clear about the classification of their project from the outset
- the unintended consequence of potential undue influence on decision-makers by developers seeking to have their projects fast-tracked.

The lack of definition also threatens to create murkiness in the scope of the Approvals Fast Track Taskforce, which according to the definition given to it by the Department of Chief Minister and Cabinet – deal with the 'small end of town.' The issue with this is that in the Territory context, with a low population base and a small number of developers (compared to the rest of the country), most developers will consider themselves to be proposing 'significant' projects when really, they are small housing subdivisions and industrial precincts. There is a need to define what 'significant' means in a Territory context to make that clear for local businesses, and those interstate or international proponents seeking to do business in the NT. 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.

We acknowledge that criteria for the designation of a significant project are set to be prescribed by the Regulations. This is a poor attempt to address what no doubt was considerable concern from stakeholders around the vague definition in the Bill and will do little to appease those who took the time to provide feedback.

Consultation provisions and public interest

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 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.

We understand that one of the motivations to use step-in powers or to issue an exemption for consultation is to avoid duplicate processes occurring at different stages of the regulatory process – with the potential that these processes would prosecute the same questions, render similar results and merely hold up approvals and unnecessarily delay development. There is a need for improved efficiency, but this must not be at the cost of an informed public who should be given every opportunity to participate in shaping their communities. LGANT recommends that where a process/step/requirement is exempt, it can only be in circumstances where a process equal to or greater than the exempt process has or will take place, as directed by the Territory Coordinator. Alternatively, consider the South Australian example where a minimum consultation period of 60 days is required notwithstanding any exemption notices or other powers exercised by the Office of the Coordinator General.

LGANT has advocated consistently for local government councils to be consulted throughout the lifecycle of a development – particularly at the planning stages. Consultation helps to prevent inefficiencies where early decisions are later derailed due to a lack of local support and diminished social licence.

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.

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. The 2018 *‘Inquiry into how the mining sector can support businesses in regional economies’* makes the case for a minimum set of standards for mining and resources companies in relation to securing and maintaining a social licence to operate in regional areas. Applying to general major projects, the Territory Benefit Policy is a mandatory policy applied to

private sector projects – it emphasises the importance of strong, collaborative relationships with local communities and workforce, ensuring transparent communication throughout the project lifecycle and imposes the requirement of a communication and reporting strategy for engagement with local industry, highlighting the benefits and opportunities locally as a result of the project. Achieving public consultation and engagement to a minimum standard should be noted in the development of the Regulations.

Public notice of decisions and review reports should also be given where the public expects to see it, for example via the original responsible authority's website, the Government Gazette, and media releases.

Territory Coordinator powers

The prospective Territory Coordinator is an unelected decision-maker with near unfettered scope and little accountability. The Bill describes scenarios in which the Chief Minister can step in to the decision-making role of the Territory Coordinator, diminishing the independence of the role. Regulators must be free from influence by politics and must also be equipped with the appropriate skills, knowledge and experience to exercise their purpose.

One of our key concerns is the application of Territory Coordinator powers in the context of local government and using step-in powers to make decisions under the *Local Government Act 2019*. Overconcentrating responsibilities to a single individual in an essentially unlimited capacity risks a compromised assessment of all the relevant factors and risks associated with a project. We therefore request the exclusion of the *Local Government Act 2019* from the scope of the Territory Coordinators' powers. This would demonstrate a respect for the separation of powers and the important role councils play as led by elected members.

As per the Bill, there are no discernible limitations on the scope of step-in powers. This means that there is nothing to prevent the Territory Coordinator from stepping in to make a decision about a proponent's obligation to pay council rates, for example. This is despite the public messaging that the Territory Coordinator is proposed to "maximise opportunities to streamline and coordinate processes, not cut corners." LGANT strongly opposes any action that impacts long-term certainty and the financial sustainability of councils. Cuts to council revenue streams result in cuts to community liveability and LGANT does not support the NT Government using the Territory Coordinator's powers to freeze rates as a form of incentive for attracting investment into Territory Development Areas without the explicit agreement of the respective council/s.

We are not of the opinion that it is the intention that the Territory Coordinator have unlimited access to powers held by councils and so we recommend that the step-in power be supported by a clear protocol to ensure that it is only exercised once a specific set of circumstances has occurred, and to achieve a specific objective, rather than being used in instances where it may somehow vaguely impact a project. This protocol should also include clear limitations for instances where a step-in power may not be used, or that the step-in power may only be used with the consent of the relevant council. Local government in the NT is not responsible for the planning system but is recognised as a 'relevant authority' for the purposes of the NT Government's Planning Scheme other than where exceptions apply under Schedule 3. In a move that LGANT deems similar to the Territory Coordinator powers, the NT Government has determined that any development associated with the NT Remote Housing Program is exempt from normal consultation (such as a public exhibition and comment phase for a new subdivision). This is of great concern to our sector and has created several legacy issues for councils. Councils hold important

local knowledge, have a future focus and the trust of their communities and should instead be seen as a valuable partner in making progress.

The role of local government

Local governments are integral to economic development, social service delivery, climate adaptation, waste management, preservation of the natural environment and enhancing community liveability and productivity. Councils play an essential role in the long-term planning that underpins new housing and industrial development to ensure community liveability and access to services. This includes preparing for future population growth and for the subsequent increased pressure on services and infrastructure such as libraries, waste management, roads, green space, and sport and recreation facilities. As investment picks up in regional areas, so too should a focus on skills growth and community development with an agenda to build enduring communities. This is why it is crucial for councils to have a seat at the table as they will continue to bear the responsibility for a place – its people, and its infrastructure – long after the delivery of a project.

The Bill does not demonstrate any intention to engage with the local government sector to ensure that economic benefit flows to local communities, and the infrastructure required to support significant projects. LGANT is particularly concerned about Part 1, Division 3 of the draft Bill in which a statutory obligation can be placed on councils to carry out work if that work is required under an infrastructure coordination plan to support a significant project. This could impact on a council's ability to undertake other works, impact resourcing and general servicing of other urgent priorities as identified by that council and their communities. Councils are instrumental in regional and local economic dynamics, contributing to the NT's productivity through strategic investment in infrastructure, workforce, technology, and climate adaptation initiatives. Through these services, local government forms an integral part of the systems and activities of the NT economy. This is notwithstanding councils being disempowered through the system of conditional rating applying to land held under pastoral leases and mining tenements (these rates are determined by the NT Government as opposed to councils setting their own rates).

LGANT has previously advocated for significant increases and annual indexing of the NT Operational Subsidy and a reasonable minimum amount to be allocated to a fund using mining and petroleum royalties to support local government councils in their delivery and oversight of community development as economic activity ramps up. This would follow the model recently introduced in NSW via the Royalties Rejuvenation Fund, which allocates a minimum of \$25m per year to support coal mining communities by investing in infrastructure, creating local employment opportunities and workforce development. For example, the NT Government benefits from increased productivity brought in by projects that are made possible by infrastructure maintained by local government, such as roads. Costs to repair, maintain and improve these are borne by the relevant council and this should be considered in determining fair funding for local government councils and more broadly would go some way to addressing the disparities between urban and remote areas – bridging gaps, supporting social cohesion and reducing inequality. This support would be particularly helpful for regional councils with limited revenue-raising capacity, and where large resource projects tend to occur, generating revenue and royalties for the NT Government.

The recent Standing Committee on Regional Development, Infrastructure and Transport *Interim report into local government sustainability* confirmed what we have repeated in our dealings with the NT Government – regional, rural and remote councils are struggling. The report found that councils are becoming increasingly responsible for services that were once the responsibility of the Commonwealth

and the NT Government; struggling to obtain competitive grants that often bear the requirement of co-contribution; and facing constant threats of rates being used as a bargaining tool by the NT Government. The report recommends that the three spheres of government form a stronger partnership to improve the sustainability of the sector and its ability to deliver on the priorities of the Australian and NT Government - we strongly support this, and this is the point we seek to convey to the Committee through our recommendations.

We continue to ask the question, and we hope that the Committee can finally address this: which specific powers in the *Local Government Act* impede or block economic growth in the NT? We were disappointed to see that the *Local Government Act* remains in the Schedule of Acts that are Scheduled Laws despite our recommendation and repeated requests for evidence to support its inclusion. We have considered this at length and can only surmise that the Territory Coordinator may wish to step in to make a decision excluding a project proponent from having to pay rates in order to improve the attractiveness of doing business in the NT. This would not be supported and would only serve to further diminish the power of councils and demonstrate a lack of faith by the NT Government in the third sphere of government. Council rates are a form of property tax and property taxes are generally considered a 'fair' tax in that rate payers contribute proportionally based on the value of their property. This revenue is pooled by councils and used to help pay for services and infrastructure.

The CLP ran a strong election campaign advocating for local decision-making – decisions made at the grass roots by communities – and we ask that now they are Government, they continue to honour this pursuit by partnering with the local government sector and ensuring that communities are not inadvertently compromised by preferencing economic values above all else.

LGANT supports

- The general intention of the Territory Coordinator to coordinate decision-making as a central point of contact for proponents, improving efficiency and clarity of process.
- Decision requests, enabling the Territory Coordinator to specify that a decision be made within a specified period.
- The use of exemption notices where required statutory processes are duplicated.

LGANT recommends

1. That the *Local Government Act 2019* be out of scope, or that Territory Coordinator step-in powers may only be exercised under the guise of this Act with the explicit consent of the relevant council.
2. That the local government sector be clearly identified as an economic development partner of the NT Government.
3. That councils are guaranteed some form of financial benefit as a result of increased activity in their local government area (i.e. increased and indexed NT Operational Subsidy and a royalties fund).
4. The definition of economic significance be expanded to include local community benefit – for example, investment in local workforce development.
5. The primary objective be expanded to include social and environmental benefit.
6. That 'significant project' be clearly defined.

7. That criteria are developed for the use of powers, with clear limitations against their use merely to improve the attractiveness of doing business in the NT (i.e. making the decision that a project proponent is exempt from paying council rates).*

**while we note that these are to be developed in the Regulations, we will reiterate this recommendation in that decisions to ‘improve the attractiveness of doing business in the NT’ should be out of scope.*

8. That the NT Government invest in legislative reform, process improvement and analysis of resourcing shortfalls to improve efficiency and coordination within the regulatory framework.
9. That minimum consultation requirements be legislated.