

TERRITORY COORDINATOR BILL
Serial 17

Mrs FINOCCHIARO (Territory Coordinator)(in reply): Madam Speaker, I will wrap up what has been an extensive debate on the most important piece of economic reform that the Territory has seen in a decade. We could not be prouder as a government, just six months into government, to have reached this point where not only have we drafted, consulted, prepared amendments and worked through this Bill comprehensively, that we are able to put it to the parliament this evening.

It truly has been a project that has extended itself to every opportunity, every Territorian, every industry group, everyone who is interested and concerned has had an opportunity to be a part of this. It is something I have been working on for a long time. We took the Territory Coordinator to the 2020 election—albeit it has changed a lot since then, definitely for the better. It is no surprise to any Territorian that we proceeded in this direction. It is a very important time for the Territory as we face this crossroad. We have had economic decline, population issues and a lack of delivery on projects.

At the same time we had a government telling us that there was major project after major project in the pipeline. I think the phrase ‘major project’ has serious linkages to the Labor government in that it is such a hallmark of failure on its part—promise after promise never reaching potential. The Territory went from a can-do Territory, a place where the fire was lit in people’s bellies to achieve—you would come here for an opportunity and stay for the lifestyle. You would have your family here and bed down for the long haul and you would become a passionate lifelong Territorian, because you knew that your kids would have just as much, if not more, opportunity than you had.

At the end of the day, is that not what we all want—to lay a life and a foundation for our children to have better opportunities, better access to services and a better lifestyle than what we had? That is pretty hard. I am a born-and-bred Territory kid, and I had a fantastic lifestyle growing up. We went fishing and hunting, not wearing shoes and running amok—Territory kids to the core. I want that for my children too. I want them to know that they can go to school here and achieve great things. I want them to know that they can stay and be whatever it is that they aspire to be, or they can go, come back and know there is a path forward for them in whatever they choose. I think the Member for Drysdale said that as well.

It is about having a future where kids have more than one opportunity, more than one thing that they have to pursue where the world is open to them and where you as a parent and as a community deliver them to the point where they have that chance to make up their own mind and forge their own future. The Territory Coordinator is an important part of that. It is not the only piece, but it is an important piece. It signals off the back of so much failure and the need to do things differently. The Member for Fannie Bay said it very well: if you are opposing this, you are saying you are accepting the status quo. We are not accepting the status quo. That is exactly what we will not do. It is what we were elected to defeat. It was to challenge what has been done time and again, bring forward a different approach and try something new and different. If we continue to do the same thing over and again, as the Attorney-General said, we will get the same outcome. We do not want anything from the last eight years to be the same outcome going forward, so we have to try new things, and I get it.

Change for some people is hard; fear of the unknown can be hard, but this has been a well-worked-through piece of work that has been consulted up and down the Territory. Not only did we consult with various groups, which included land councils and other organisations, but we then went out to public consultation for months and months, not just over Christmas as those opposite would have you believe. It was from Alice Springs to Nhulunbuy and everywhere in between, and people had the opportunity to write submissions, then we had the scrutiny committee process.

I thank the scrutiny committee; it is a very exciting time. Not only is this a major piece of economic reform and of our platform but it is the first time the Legislative Scrutiny Committee came into operation, and I thank them all very much for their hard work.

We are accepting some the recommendations, and the Deputy Chief Minister highlighted that today. We accepted eight in full, which was seven, nine, 11, 18, 19, 22, 23 and 25; two recommendations in part, which were six and 10; and we did not accept 15 of the recommendations, which was one to five, eight, 12 to 17, 20, 21 and 24.

I thank all the members for speaking to this Bill. I heard loud and clear that many will be opposing it. Many have made proposed some amendments, and we will work through it diligently over however long it takes to

support the process that will inevitably come. Make no mistake; with an \$11bn debt and economic failure we had, with the Territory having the worst performing economy in the nation, we have to do something different.

This morning I launched our Rebuilding the Economy Strategy 2025–2028, and the Territory Coordinator is a critical part of that. The Territory can be better. Whilst there was a lot of doom and gloom today—you would think we were talking about something different to what we are. Such is the imagination getting away from those opposite. I thank those who have contributed. We must get that balance right.

The Opposition Leader of all people should know that this is off the back of economic failure. She was a senior minister in that previous government that abolished the legislative scrutiny committee in the first place. Then she complained about it, even though we are the government that brought it back and she is from the government that scrapped it.

We heard from the Member for Mulka who was concerned about consultation in the bush. We thank him for his contribution. Our consultation with land councils happened early on in those initial stages. The Acting Territory Coordinator went out to Nhulunbuy and other areas. There has been much public debate around this issue.

We have been clear about the legislation that is in the schedule is the only legislation that the Territory Coordinator has any power over. It is clear what legislation is not part of that, which includes sacred sites, native title—all of those pieces of legislation are not in the schedule, which means they cannot attract the powers of the Territory Coordinator.

The Member for Gwoja talked about the scrutiny committee process and fundamentally showed a misunderstanding of what this legislation does.

The Member for Nightcliff tended to use rather inflammatory language, if I could put it that way. She talked about the need to balance lifestyle. I could not agree more. What members should take comfort in is the fact that the CLP government stands on three clear pillars and commitments it took to the election to Territorians. One is reducing crime; one is rebuilding the economy which this one deals with; and the third is restoring our beautiful, cherished lifestyle—the lifestyle I talked about that I had the privilege of growing up in that we want for future generations. These matters are front of mind for us in everything we do, because our entire prism and lens, as a government, is through those three key areas.

The Members for Daly and Arafura also spoke, on one hand saying it would add more red tape and on the other saying that there is not enough process involved. I do not know that you can have it both ways. There was a lot of talk about this all-powerful unelected official. The irony is that Labor had three commissioners of whatever they used to do. It is nonsense that we are hearing from the other side.

I thank my team who spoke—the Deputy Chief Minister, the Members for Casuarina and Fong Lim, the Treasurer, Members for Drysdale and Blain, the Attorney-General, the Member for Sanderson—I cannot read my own writing. Thank you everyone—the Minister for Lands, Planning and Environment—everyone else.

There is much work ahead of us. I thank everyone, especially the hardworking public servants. I have been told by those same hardworking public servants—I am not meant to name any of them, so I will adhere to that code. I noted a tone of you sitting in the back room and you are watching me speak right now. Thank you. I know it has been a big piece of work with long hours and a lot of travel, but it has been so engaging and inspiring working with you, nutting out the issues and making sure that this is best practice, fit for purpose and cutting edge.

We wanted it to be the most competitive. We went around the country and looked at how everyone else is doing this and how can ours be better and what is the edge for the Territory. Where do we get to say that we have the best regulatory environment and how do we position the Territory moving forward to take advantage of the opportunities we have? We all believe in the future of the Territory, and we want to stop being talked about as some sort of opportunity—this concept that will never transpire into reality.

This huge piece of work that we commenced literally within a couple of days of forming government has now come to this point. I thank the team behind the Territory Coordinator and everyone who has had a role to play in this. It has been wonderful and I appreciate it, as does the entire team.

Thank you to my team as well for your unwavering belief in the fact that we have to do things differently if we want a different outcome. Many of my team spoke about their own experiences in project work. The Member for Karama spoke about his time in supporting the delivery of projects for the Territory and how this type of

regulatory environment could have helped move things along. For some it will be the difference between a project going ahead or not.

I look forward to the consideration in detail stage. Given the number of amendments, we will need to patiently work through them.

Motion agreed to; Bill read a second time.

Consideration in detail

Mr DEPUTY SPEAKER: Honourable members, we have amendments from all parties—the government, opposition and Independents. As the Chief Minister flagged, we want to work through this in a respectful manner. I want everyone to have the opportunity to make their comments. When we come to decision-making I suggest that there will be divisions. Let us do that in a respectful manner. I want to give everyone the opportunity to put forward their amendments. Please recognise that there is a range of clauses, and sometimes all parties wish to make different amendments to the same clause and we need to work through that process.

Have patience with me, as this is the first time I have gone through such an extensive process. I want to be fair to all members. I remind everyone we are now in consideration in detail, so please direct your comments to the clause being considered. The debate is over and everyone can now pose questions to the Chief Minister to seek clarification. Anything about the clause itself is fair game.

Clause 1, by leave, agreed to.

Clause 2:

Mr YOUNG: When does the legislation commence?

Mrs FINOCCHIARO: Whenever the Administrator has the opportunity to do that. We are certainly hoping sooner than later. You can see in the provision that it must be by the latest 8 February 2027, but it will hopefully be soon.

Mr YOUNG: Has there been any indication from the Administrator when the Bill would go through for him to sign off?

Mrs FINOCCHIARO: Not really. We have indicated that we would like it done as fast as possible, but it is a matter for the Administrator to decide.

Mr YOUNG: Do you know the date for the next Executive Council?

Mrs FINOCCHIARO: Yes, I do.

Mr YOUNG: Can you tell us, please?

Mrs FINOCCHIARO: I am just trying to think if there is any reason why I would be unable to. I believe it is Thursday morning.

Ms UIBO: Is it the intention that the Executive Council would provide the recommendation to His Honour the Administrator to sign off on this legislation should it pass tonight?

Mrs FINOCCHIARO: In a technical sense it could happen Thursday. I do not know whether it will happen by Thursday. There is a process that happens prior to that and then it will be gazetted.

Mr YOUNG: Can you outline that process before it gets to Executive Council?

Mrs FINOCCHIARO: The Administrator's assent is sought following the passage of the Bill, following the usual processes. Clause 2 provides that the Act will commence on the day fixed by the Administrator by Gazette notice. That occurs after the assent. If the Bill does not commence before 8 February 2027 it commences on that day.

Once the Bill receives assent, we will move swiftly to fix the commencement date by Gazette notice. The appointment of the Territory Coordinator and the regulations cannot be made until the Act commences.

Mr YOUNG: Would there be any reason for the delay for the Bill to get to the Administrator by Thursday, or to the Executive Council?

Mrs FINOCCHIARO: It is a matter for the Assembly, which sends it over to the Administrator's office. I have answered the question.

Clause 2 agreed to.

Clause 3:

Ms UIBO: I move amendment 1 in schedule 017OPP to clause 3 to omit the definition of 'exemption notice'. This is regarding the definition of an affected person and the reviewable decision. We believe that this will provide Territorians with a mechanism for merits review. The scrutiny committee has provided its report about definitions in this Bill, so we want to make sure that this recommendation from the government-led scrutiny committee is adopted.

Mrs FINOCCHIARO: Opposition Leader, just to clarify, your clause 3 amendment proposes to delete the exemption notice?

Ms UIBO: Our amendment is part of our changes to remove the exemption notice powers from this Bill. It also inserts the definitions for 'affected person' and 'reviewable decision', as I have mentioned, to help implement changes that could not introduce the merits review mechanism to provide Territorians with the knowledge and be rest assured that there is a process of review.

Mrs FINOCCHIARO: Thank you for clarifying. We will not be supporting your proposed amendment.

The Assembly divided:

Ayes 6	Noes 17
Mr Brown	Ms Boothby
J Davis	Mr Burgoyne
K McNamara	Ms Cahill
Mr Paech	Mrs Carlson
Ms Uibo	Mr Charls
Mr Young	Mr Edgington
	Mrs Finocchiaro
	Mrs Hersey
	Mr Howe
	Mr Kerle
	Mr Mackay
	Mr Maley
	Mr O'Gallagher
	Mr Patel
	Dr Rahman
	Mr Yan
	Mrs Zio

Amendment not agreed to.

Ms UIBO: I move an amendment to clause 3 to insert definitions for 'affected person' and 'reviewable decision'. Again, in a similar vein, ensuring there is a merits review mechanism is important. We heard that through the scrutiny process for Territorians and those who spent a lot of time providing insight and expertise to improve this Bill in its current form.

The Territory Labor opposition thoroughly believes this will provide that opportunity, and we seek the CLP government to ensure it has listened to Territorians through that fulsome and robust process, albeit rushed, so we see the mechanisms available and, henceforth, recommendations by the government's weighted scrutiny committee to be improved.

Mrs FINOCCHIARO: Mr Deputy Speaker, we do not accept this amendment to clause 3.

The Assembly divided:

Ayes 7	Noes 17
Mr Brown	Ms Boothby
J Davis	Mr Burgoyne
Mr Guyula	Ms Cahill
K McNamara	Mrs Carlson
Mr Paech	Mr Charls
Ms Uibo	Mr Edgington
Mr Young	Mrs Finocchiaro
	Mrs Hersey
	Mr Howe
	Mr Kerle
	Mr Mackay
	Mr Maley
	Mr O'Gallagher
	Mr Patel
	Dr Rahman
	Mr Yan
	Mrs Zio

Amendment not agreed to.

J DAVIS: Mr Deputy Speaker, I move the amendment to clause 3 to insert definitions for 'economic development' and 'excluded area'. The other terms in the proposed amendment are the same as those just considered.

In relation to economic development, the definition will be 'includes programs, policies, projects and developments that aim to improve the economic well-being and quality of life for a community.'

The scrutiny committee made a recommendation in relation to this. I refer to the comments in the report. The committee noted that it was not satisfied regarding the lack of a definition of 'economic development' and considered that it would be beneficial if the term was specifically defined in the legislation.

The committee sought clarification of the definition of 'economic development' from the Department of the Chief Minister and Cabinet during the scrutiny committee process 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 that would be considered when determining what economic development is ... it is not ... defined ...

I am supporting the recommendation of the committee that we have a definition in the Bill so we know exactly what the guiding principle is.

Second to that is that we add my other bit, which is excluded areas, which refers to section 7A which I will talk to when we come to it.

Mr MALEY: I note there are three amendments to clause 3 in the Independent's amendment pack. Is it possible that we do all three in one? Instead of doing clause 3, division, clause 3, another amendment, clause 3 another amendment, would it be appropriate that the Independent speaks on all three of her amendments to clause 3. That way we do that as a block because they are all amending clause 3 ...

Mr Young: Do you have a dinner to get to?

Mr MALEY: Yes.

Mr Young: That would be right.

Mr MALEY: I am trying to make it so procedurally we have it in a pack so we do not miss anything.

Mr DEPUTY SPEAKER: I will take the advice of the Clerk on this.

J DAVIS: Mr Deputy Speaker, I prefer to do them one by one because they refer to different aspects. There may be different views on them.

Mr DEPUTY SPEAKER: I take your point. Sorry, Deputy Chief Minister, I think the Member for Johnston ...

Mrs FINOCCHIARO: Member for Johnston, we will not be accepting your amendment 1 to clause 3.

The Assembly divided:

Ayes 7	Noes 17
Mr Brown	Ms Boothby
J Davis	Mr Burgoyne
Mr Guyula	Ms Cahill
K McNamara	Mrs Carlson
Mr Paech	Mr Charls
Ms Uibo	Mr Edgington
Mr Young	Mrs Finocchiaro
	Mrs Hersey
	Mr Howe
	Mr Kerle
	Mr Mackay
	Mr Maley
	Mr O’Gallagher
	Mr Patel
	Dr Rahman
	Mr Yan
	Mrs Zio

Amendment not agreed to.

J DAVIS: I move amendment 2 in schedule 017IND to clause 3 to amend the definition of ‘eligible person’. I note that this is a consequential amendment to the definition of ‘eligible person’ to provide for the eligibility criteria set out in new clause 11A.

Mrs FINOCCHIARO: We will not make amendment 2 to clause 3.

Amendment not agreed to.

J DAVIS: I move amendment 3 in schedule 017IND to clause 3. The purpose of this amendment is to ensure that subordinate legislation is included in relation to scheduled laws.

Mrs FINOCCHIARO: As a matter of procedure, we are still on clause 3, so I was going to go through opposition amendments, Independent amendments and then do ours. Does that work procedurally?

Mr DEPUTY SPEAKER: Yes.

Mrs FINOCCHIARO: From after this time, we should be doing all the amendment 1s to each clause.

Mr PAECH: That is correct. I note that you and the Member for Johnston have a similar amendment to clause 3. I think that because we started with the Member for Johnston it went to that, but we know you have one as well.

Mrs FINOCCHIARO: I have an amendment 1 to clause 3 as well.

Mr DEPUTY SPEAKER: I will reverse the order. Chief Minister, your amendment.

Mrs FINOCCHIARO: I move amendment 1 in schedule 017GOV to clause 3 to omit paragraph (b) from the definition of ‘Scheduled law’.

This was a recommendation from the Legislative Scrutiny Committee that we accepted. It will remove ‘an Act prescribed by regulation; or’ and any reference to paragraph (b) under the definition of ‘Scheduled law’. Essentially, this confirms that new laws cannot be added to the Schedule by regulation. It will have to come to parliament to then be passed as law to end up in the Schedule. As we know, under the Territory

Coordinator Act the powers must be for legislation listed in the Schedule. We have accepted the recommendation that if there is to be movement on that Schedule it should come to parliament first.

Mr PAECH: I acknowledge the amendment put forward by the Chief Minister as a result of the Legislative Scrutiny Committee. It is an important and reasonable amendment put forward by the committee. I take the Chief Minister's point that this provides greater clarification for people in the community that moving forward it will be the role of the Legislative Assembly to debate on the floor of parliament any additional laws that are to be considered in the remit of the Territory Coordinator.

As I have said, this is reasonable. We are prepared to support this amendment so that things are not amended by regulation in the future.

Amendment agreed to.

Mr DEPUTY SPEAKER: Are there any other speakers to clause 3?

J DAVIS: Mr Deputy Speaker, my amendment is now unnecessary.

Mr MALEY: The second amendment is to 'Scheduled law', omitting paragraph (c). We have done amendment 1, which is paragraph (b). The second amendment is clause 3 again, but this time it is paragraph (c). We cannot forget that.

Mrs FINOCCHIARO: I move amendment 2 to clause 3 to omit a reference to paragraph (c) from the definition of 'Scheduled law', and I described that earlier.

Amendment agreed to.

Clause 3, as amended, agreed to.

Clause 4:

J DAVIS: I move amendment 4 to clause 4 to insert new paragraph (e) 'public sector investment'. 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. The committee considered this and suggested also including 'public sector investment' and agreed that the meaning of economic significance should be amended to incorporate the potential for public sector investment.

This amendment speaks specifically to inserting 'public sector investment' into clause 4.

K McNAMARA: Mr Deputy Speaker, I support this amendment and want to know if this amendment is not supported by government, can we get a reason?

Mrs FINOCCHIARO: The government will not support amendment 4 to clause 4. Part of the reason is that it relates to public sector investment. Obviously, public sector investment is important, but this is about stimulating and supporting private sector investment. The definition of 'economic significance' is used to make decisions about significant projects or Territory development areas, which are specifically designed to facilitate private sector investment.

If it is public sector investment, the Territory is undertaking that process itself. It does not require that level of oversight as private sector investment would, which is what the entire Bill is about supporting.

The Assembly divided:

Ayes 7	Noes 17
Mr Brown	Ms Boothby
J Davis	Mr Burgoyne
Mr Guyula	Ms Cahill
K McNamara	Mrs Carlson
Mr Paech	Mr Charls
Ms Uibo	Mr Edgington
Mr Young	Mrs Finocchiaro
	Mrs Hersey

Mr Howe
Mr Kerle
Mr Mackay
Mr Maley
Mr O'Gallagher
Mr Patel
Dr Rahman
Mr Yan
Mrs Zio

Amendment not agreed to.

Mr YOUNG: Which specific criteria determine a project's economic significance?

Mrs FINOCCHIARO: Clause 4 is the meaning of economic significance. It says:

A project or development is of economic significance to the Territory, or a region ...

Basically, the criteria are its significance for private sector investment, job creation, population growth or development or advancement of an industry. It has to relate to one of those four paragraphs.

Ms UIBO: Can a project be declared significant without an independent cost–benefit analysis?

Mrs FINOCCHIARO: Yes, it can.

Mr YOUNG: Going back to determining a project's economic significance, with a mining project or private development, how would that be classified without an independent economic examination?

Mrs FINOCCHIARO: There will be an assessment, obviously. Not just any project will meet the threshold of being economically significant. That work will be done by the Territory Coordinator, having regard to the primary principle and making sure that it fits into one of the four categories. For example, a project might become economically significant because it is an enormous job creator, which is paragraph (b), or because it will yield a huge outcome for population growth. That is how that assessment will be done.

Mr YOUNG: Is there a mechanism for appeal if a community or local government disputes the economic significance of the project?

Mrs FINOCCHIARO: No.

Mr YOUNG: There is no mechanism for dispute. Why not?

Mrs FINOCCHIARO: It is not dissimilar to when your government had its failed major projects scheme. That was just a determination made. I assume you had criteria to base it on at the time. The criteria in this legislation is about economic significance because the whole point of the Territory Coordinator Bill is economic development and economic growth.

Ms UIBO: Chief Minister, noting your response in terms of a criteria, you alluded to the former government's processes around declaring a major project. Obviously, there were mechanisms and processes for that. There were also appeals processes available to businesses, proponents and the public.

You are now saying that through this Bill there will be none of that, that there is a declared process by the Territory Coordinator, with no mechanisms whatsoever for a review, unlike what was previously provided under the Labor government?

Mrs FINOCCHIARO: I think you are conflating several issues into one, and I will not pull them all apart. Clause 4 is the definition of economic significance. It must be economically significant to the Territory, or a region of the Northern Territory and it reaches that threshold if it facilitates any of the following:

- private sector investment
- job creation the population growth
- development or advancement of an industry

You asked me specifically about clause 4—whether there was an appeals process for someone who presumably was deemed to be economically significant, and they did not want to be or, conversely, wanted to be deemed economically significant and they were not. My answer to that is no, there is no appeals process under clause 4.

Mr YOUNG: What guarantees exist to ensure that economic benefits from fast tracked projects flow to Territorians, rather than offshore corporations?

Mrs FINOCCHIARO: That is not relevant to the clause.

Ms UIBO: I think it is relevant. We are talking about economic significance to the Territory or a region of the Northern Territory. Does economic significance apply only to the Territory, or who can be the beneficiary of an economic project? We want reassurance that if all these processes are fast-tracked, that they will benefit the Northern Territory as opposed to an offshore company.

Mrs FINOCCHIARO: By the very definition it must benefit the Territory. It must be economically significant to the Territory or a region in the Territory, because it creates jobs, population growth, or the development or advancement of an industry in the Territory.

Mr YOUNG: Does the definition consider long-term economic, social and environmental stability?

Mrs FINOCCHIARO: This is the definition of economic significance, so under this definition, it is strictly looking at what is economic significance. I go back to my earlier point around the four subheadings.

Mr YOUNG: What safeguards exist to ensure that private sector interests do not disproportionately influence economically significant determinations?

Mr MACKAY: A point of order, Mister Deputy Speaker! Standing Order 155; we are talking about definition of economic significance and the question asked is not relevant to that particular clause.

Mr YOUNG: It is relevant. The Chief Minister was just about to answer it before she was rudely interrupted by the Deputy Chief Minister.

Mr CHAIR: I will allow it.

Mrs FINOCCHIARO: I did not quite understand what you were getting at in your question, if you could repeat or rephrase it?

Mr YOUNG: What safeguards exist to ensure that private sector interests do not disproportionally influence economic significant determinations?

Mrs FINOCCHIARO: The reality is the entire Bill is designed to support growth in private sector investment. For example, in the last 10 years, private sector investment in the Territory has only grown by about 33% compared to over 100% of public sector investment. That is what we are trying to balance out by its very nature. This clause is around the meaning of economic significance, and it sets out what economic significance looks like.

Clause 4 agreed to.

Clauses 5 to 7, by leave, taken together and agreed to.

J DAVIS: I move amendment 5 in schedule 017 IND to insert new Clause 7A after Clause 7. This amendment identifies the excluded areas where the Territory Coordinator model cannot apply—what are sometimes called, no go zones. The areas proposed to be excluded are:

- a park reserve or sanctuary declared under the *Territory Parks and Wildlife Conservation Act*
- the park as defined in section 3 of the Nitmiluk National Park Act
- a sanctuary as defined in section 3 of the *Coburg Peninsula Aboriginal Land, Sanctuary Marine Park Act*

- a Commonwealth reserve as defined in section 528 of the *Environment Protection and Biodiversity Conservation Act* including a park or reserve proclaimed under the *National Parks and Wildlife Conservation Act*, that under section 3 of the *Environmental Reform Consequential Provisions Act 1990* was declared as a Commonwealth reserve
- the area of land or water known as an Indigenous protected area that is the subject of an agreement with the traditional owners or custodians of the area that is recognised by the Commonwealth as part of Australia's national reserve system, special reserve land or general reserve land under the *Mineral Titles Act 2010*
- land awarded as a reserve under section 9(1) of the *Petroleum Act 1994*, an area of land or water declared under subsection 2.

This was something we heard a lot about through the consultation process both in submissions and from witnesses. I will share some of what we heard. The Northern Land Council said 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 risk to the land rights of traditional owners which could lead to irreversible damage of the economic, social and spiritual wellbeing. We are particularly concerned that Aboriginal land and exclusive native title land can be declared a TDA or ICA without any prior consent or even consultation.

To add to that, an oral testimony from Mr Dean, the Chair of the NLC, 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 our position around TDAs and ICAs has been taken.

The Central Land Council said that it 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. TDAs should not be established in environmentally important areas such as national parks, reserves and protected environmental areas.

In oral testimony, Ms Pedder, Protected Area Manager of Keep Top End Coasts Healthy, noted that the Bill does not exclude any areas from being potential development sites and everything is on the line—for example, marine parks and other conservation areas such as Cobourg Marine Park, which was established by previous 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 can exclude areas which are too special to be 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. Our fellow member, Mr Guyula, similarly recommends that the Bill be amended to specifically protect certain geographic areas, including areas specified by Aboriginal landowners and custodians, from application of the Territory Coordinator model and to ensure there is community-led decision-making regarding environmentally sensitive areas.

The Environmental Defenders Office explained how the no-go zone approach is proposed in the South Australian State Development Coordination and Facilitation Bill, noting that although the South Australian model has not been finalised, it is important to note that it includes safeguards that do not appear in the Territory Coordinator Bill. The South Australian model incorporates no-go zones, which are areas where exemption powers cannot be exercised.

K McNAMARA: Mr Deputy Speaker, I support this amendment. I expect that anyone in this Assembly who has uttered the phrase 'restore our Territory lifestyle' would also vote in favour of this amendment. The Territory lifestyle is not hanging out at Casuarina shopping centre in the air con. Our Territory lifestyle is our parks and wildlife; it is camping, fishing, hunting and four-wheel driving. It is Nitmiluk; it is Cobourg Peninsula.

Every tourist ad the NT puts out highlights these places. What about Aboriginal Territorians' lifestyle? Where are their rights to protect certain sacred areas from the bulldozer that is this bill? This is why land councils have spoken against this Bill. It is why the tourism industry made submissions. These are areas that—if anyone wants to take our lifestyle seriously—need to be protecting the things laid out in this amendment.

If you are serious about protecting our lifestyle, I hope you will vote for this amendment.

Mr PAECH: Mr Deputy Speaker, I also support the amendments put forward by the Member for Johnston. The Territory Labor opposition will move amendments later in regard to exemptions and no-go zones. What the member has put forward is reasonable. It reflects the oral testimony given by a number of key witnesses to the Legislative Scrutiny Committee.

When we reflect on the intention of the Bill and the comments made by the government in regard to protecting and looking after the Territory lifestyle, environmental protections and no-go zones should be part of that lifestyle.

I will highlight a component the Member for Johnston raised. Several Northern Territory parks are subject to what is called an ILUA, an Indigenous Land Use Agreement. That means they are jointly managed with Aboriginal Territorians. No-go zones are an important aspect because they would enshrine in the legislation and give confidence to Aboriginal people who have not had a thorough consultation on this Bill to know they cannot enter that area of the Territory and it can be safeguarded.

The Territory has two wonderful marine parks and reserves. There are a number of wildlife parks and Indigenous protected areas, another key aspect of the Northern Territory's social and environmental fabric, that needs to be protected.

We will be supporting the Member for Johnston's amendments. They are reasonable, they are reflective of 94% of the submissions that were presented to the Legislative Scrutiny Committee which talked about the need to have areas in the Act that are exempt to ensure that Aboriginal people have certainty, that this activity will not happen, that local tourism businesses in parks have certainty, that economic development opportunity will not happen in a Territory wildlife park at the cost of a local tourism operator and that areas of land currently declared as Indigenous protected areas have certainty and longevity well into the future. We support the amendment, and we will be moving further amendments tonight regarding exemptions and no-go zones.

Mrs FINOCCHIARO: The government will not be accepting amendment five after clause 7. To give clarity to everyone, our beautiful natural environment—going to Litchfield on the weekend—and all these things are exactly what we are keen to preserve and, in fact, enhance for future generations, particularly our tourism industry, we have five clear pillars of our economy. I launched our economic strategy today, and tourism is one of our five focus areas. You can rest assured that we would not be doing anything to jeopardise those opportunities in the Territory. We cannot accept this recommendation because if an infrastructure coordination area or a Territory development area needs to be looked at, then that enables those plans to be developed—to enter onto that land for those plans to be developed. That is why it is important. I remind members that nothing in the Territory Coordinator Bill impacts on the rights contained in Commonwealth legislation, and it does not change any of the rules regarding access to Aboriginal land or any other of those rights of entry.

Mr PAECH: I seek some clarification. Could there not be a provision where a TDA or an ICA is declared but there is a portion of that declaration that is shaded that highlights that it is a national park or reserve that indicates that it is a no-go zone—or is that the intention of the department to do that process anyway.

Mrs FINOCCHIARO: It is just more practical. If there was an ICA or a TDA and it went over Aboriginal land, for example, or went over a piece of park for argument's sake, all those ordinary principles and rules of access apply. It might just be that a surveyor needs to walk across a parcel of land to put up their tripod to survey the land. It is a non-invasive process that supports the development of a Territory development area, for example. All the land access rules under Commonwealth law and existing Aboriginal land laws still apply, then under the legislation at a different point there is all the land access arrangements set out that requires notification and all those other types of things. It, in and of itself, does not override the Commonwealth legislation, as we have discussed.

Mr PAECH: I seek further clarification on that. You talked about the current provisions and procedures that are in place around getting access on to Aboriginal land, whether it is freehold Aboriginal land or part of an Aboriginal land trust. Can you confirm that part of a TDA or an ICA would still follow the appropriate process whereby once that area is declared the appropriate landholder would be informed and consent would still need to be sought to access that portion of the land under that declaration?

Mrs FINOCCHIARO: Yes, definitely.

Ms UIBO: In regard to the proposed amendment by the Member for Johnston, part (b) of section 7A of the amendment specifically outlines *Nitmiluk (Katherine Gorge) National Park Act 1989*. For 35 years it has been a joint managed park that sits in my electorate as the Member for Arnhem. It borders the Member for Katherine's electorate as well.

In terms of a tangible example of where a declaration may occur—say, some of the private property and adjacent land that sits within the Katherine electorate—if that was then to be mapped and declared as a Territory development area, could the mapping then encompass Nitmiluk National Park?

With the Member for Johnston's proposed amendment, could that mean that without prior notice the Territory Coordinator could encompass the Nitmiluk jointly managed park with Jawoyn and the Northern Territory Government as well as perhaps private property, but not necessarily speak to the landowners on the Nitmiluk side? How would that be stepped through in regard to this part of the proposed amendment of the Member for Johnston?

Mrs FINOCCHIARO: Yes is the short answer, Opposition Leader. That prior notice has to happen; that is enshrined in the legislation. Of course, if it exists in any of those other Acts, then that is the process that has to be followed.

Ms UIBO: A follow-up question on that. If the prior notice is provided—not permission sought but prior notice is provided on the Nitmiluk park side as a joint managed park—are there guarantees for the landowners and the joint management of that part that part of the TDA has a guarantee that there will be no development on there unless there was that prior and predetermined consent, as opposed to a notice or declaration by the Territory Coordinator?

Mrs FINOCCHIARO: To do the Territory development area, if it was a mapping exercise—here is the map, that could be a Territory development area—that does not require any notification. That actual declaration does not require anything, but obviously in deciding what is a Territory development area or an ICA, if there are people having to access land and look around and conduct surveys or geological studies or whatever it might be depending on the case, then all of those normal approvals have to apply. If it was on ALRA land, there would need to be a permit, or those different types of things. In terms of the development, if the area was established and going to move ahead, all the approvals and processes start.

Ms UIBO: Thank you, Chief Minister, that is clear. If there was no consent, to reiterate that example again, for Nitmiluk and the boundary, if a TDA existed over Nitmiluk without the consent of the landholders—Jawoyn and NTG co-managed—there could be no development on that unless there was the consent by both parties of the joint management?

Mrs FINOCCHIARO: To clarify, because there are two parts to it. One is to get onto the land to have a look around effectively and help inform the development of the area. If it was ALRA, that would require the normal permits, but if it was a private landowner, that is set out in the Bill about notice periods and those types of things. For development, if the area is determined, this is a Territory development area, then if a project proponent within that area, they would then be initiating all the ordinary processes.

The Territory Coordinator, as a body or an individual, is not doing the building. If they say this is a fantastic area, for example it would be great for agriculture, they will not be out there planting mangoes. It would be, 'This is a Territory development area, it has fantastic soil, great water blah blah', and opportunity for proponents would be made available.

Ms UIBO: As it affects that example through the amendment provided by the Member for Johnston which directly affects my electorate, in terms of the Territory Coordinator's role looking at other economic plans in regions—I am using the Nitmiluk example which is the Big Rivers Region. Would the Territory Coordinator's position, if there was a consent to not access land on the park side—could they then propose that proponents look at just the private land, even though perhaps it does include the region of the park as well, the park's estate?

Mrs FINOCCHIARO: To use your example, it could end up part of the Territory development area, but if there was no consent we cannot go on it. It might just be on the map.

The Assembly divided:

Ayes 7	Noes 17
Mr Brown	Ms Boothby

J Davis	Mr Burgoyne
Mr Guyula	Ms Cahill
K McNamara	Mrs Carlson
Mr Paech	Mr Charls
Ms Uibo	Mr Edgington
Mr Young	Mrs Finocchiaro
	Mrs Hersey
	Mr Howe
	Mr Kerle
	Mr Mackay
	Mr Maley
	Mr O’Gallagher
	Mr Patel
	Dr Rahman
	Mr Yan
	Mrs Zio

Amendment not agreed to.

Clause 8:

J DAVIS: I move amendment 6 in schedule 017IND to clause 8, to amend subclause 1. The purpose of this clause is to, in the definition, omit ‘the primary objective of driving economic development’ and replacing that with ‘practising sustainable economic development’. The vast majority of witnesses and submissions in the scrutiny committee process raised significant concerns about the primary principle, noting that it should not be elevated above social and environmental outcomes but should adhere to the 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.

Mrs FINOCCHIARO: We will not be accepting that amendment. It is clear that the primary principle is to make sure a project has economic benefit to the Territory, then there also must be consideration of the social and environmental outcomes. It is deliberately done in that way.

The Territory Coordinator must be balanced when considering the potential social and environmental outcomes, of course, which may be varied depending on the type of project, but the starting point of driving economic development is the actual point of the primary principal.

Mr PAECH: This amendment brought by the Member for Johnston was raised by numerous individuals during their oral testimonies to the Legislative Scrutiny Committee, and it raises concern. Some of the oral testimony highlighted that it seems as though economic development and sustainability are mutually exclusive and it does not provide for a basis for the two to go in tandem. The motion put forward by the Member for Johnston highlights that.

We understand the intent of the government’s Bill before us is economic development, but it should not come at the cost of sustainable development; rather, it should highlight the need to do the two things together. That would address several of the key concerns of Territorians and organisations who are worried that this Bill is only addressing an economic narrative, not social and ecological sustainability.

Mrs FINOCCHIARO: I understand the proposition you are making. At the end of the day the primary principle is to be taken into consideration when exercising those key powers. I know there is a tendency to believe that this is all encompassing, but the reality is that it is not. There is a schedule at the back which are the only pieces of legislation that the Territory Coordinator can use those key powers in. When the key powers are being used, the Territory Coordinator or the minister must turn their mind to the primary objective. The first question is does the project drive economic development for the Territory or a region in the Territory? Then they look to paragraph (b) and have to consider the potential social and environmental outcomes. It is not that it is ignoring anything; the overarching principle of this Bill is that economic growth story that we desperately need in the Territory. That is the whole point of the legislation. In our view, we have struck the right balance with that primary principle.

J DAVIS: Does that mean that the primary objective of driving economic development will override any potential social and environmental negative impacts of this Bill?

Mrs FINOCCHIARO: No, that is not right. You have to consider both. Every time the key power is used the primary principle has to be considered. You will be looking at the economic development and the social and environmental outcomes to make your decision.

J DAVIS: Given that, can you explain why it needs to say 'primary principle' if they are equally weighted?

Mrs FINOCCHIARO: It is not about weighting. The overarching principle is about economic development. What this is saying is that you must consider the social and environmental outcomes.

The Assembly divided:

Ayes 7	Noes 17
Mr Brown	Ms Boothby
J Davis	Mr Burgoyne
Mr Guyula	Ms Cahill
K McNamara	Mrs Carlson
Mr Paech	Mr Charls
Ms Uibo	Mr Edgington
Mr Young	Mrs Finocchiaro
	Mrs Hersey
	Mr Howe
	Mr Kerle
	Mr Mackay
	Mr Maley
	Mr O'Gallagher
	Mr Patel
	Dr Rahman
	Mr Yan
	Mrs Zio

Amendment not agreed to.

Mr DEPUTY SPEAKER: I remind all members that the ringing of the bells is for only one minute, particularly if you are outside the Chamber.

J DAVIS: I move amendment 7 in schedule 017IND to clause 8 to amend subclause (2). Currently, it reads:

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.

My amendment proposes that we remove all words from 'but' to 'prevail'. The primary principle in this Bill grants a level of authority that may conflict with the objectives, principles or considerations established by other legislation. Such a conflict risks undermining the objectives of existing laws within the Territory and it introduces a significant degree of regulatory uncertainty. This uncertainty poses risks to not only the public's confidence in the Bill but also the Territory's attractiveness to potential investors who may be deterred by the lack of clarity.

Existing regulatory frameworks often require decision-makers to balance a range of objectives and considerations which the powers conferred by this Bill could potentially override; therefore, I propose to amend this Bill to remove this uncertainty.

Mrs FINOCCHIARO: The government will not be accepting your amendment to this clause. Again, it is reinforcing a deliberate way in which the legislation is structured around that primary principle when exercising those key powers. Subclause (2) creates clarity. First it says that the Territory Coordinator or minister has to have regard to the objects, principles and considerations of that other legislation, which is important. When there is an inconsistency we revert to the primary principle. It is clearly stepping through what needs to happen to give the certainty that we are so desperate to secure in our regulatory environment in the Territory.

The Assembly divided:

Ayes 7	Noes 17
Mr Brown	Ms Boothby
J Davis	Mr Burgoyne
Mr Guyula	Ms Cahill
K McNamara	Mrs Carlson
Mr Paech	Mr Charls
Ms Uibo	Mr Edgington
Mr Young	Mrs Finocchiaro
	Mrs Hersey
	Mr Howe
	Mr Kerle
	Mr Mackay
	Mr Maley
	Mr O’Gallagher
	Mr Patel
	Dr Rahman
	Mr Yan
	Mrs Zio

Amendment not agreed to.

Mr YOUNG: I gain from the scrutiny committee’s recommendations that there were concerns raised by stakeholders that the primary principle raises economic concerns over social and environmental outcomes. Why does this clause prioritise economic development over existing laws and community rights?

Mrs FINOCCHIARO: That is a mischaracterisation, if I can put it that way. This is about having an overarching principle to make sure that both the Territory Coordinator and the minister in the exercise of their powers do it in a structured way. This is about making sure that the primary objective of driving economic development is a consideration and that the potential social and environmental outcomes are also considered.

The Bill, by its nature when exercising those key powers, is about having to intervene—that may be a word you could use—in other processes. It is important if a decision is going to be taken to do that, that there is some structure around why you would do that.

Mr YOUNG: How does this principle interact with native title protections, environmental protections and local governance framework?

Mrs FINOCCHIARO: You are conflating a few things. Remember, if it is not in the Schedule, it is out. The Territory Coordinator does not have any powers enlivened. I think you mentioned native title—it is just not available to the Territory Coordinator so that is out—that is not a concern.

Mr YOUNG: The other two were environmental protections and local government.

Mrs FINOCCHIARO: It depends what key powers you are using. For example if you were just asking for progression and what the exercise of the key power would do, if we use an environmental process, this particular project deemed significant. Do not forget that it has to go through a number of hoops to get to this point—it is a high threshold—if the primary principle is in place, if it is making a request for example or one of those key powers, it is utilising that existing legislation.

If it is going to be a prioritisation request for the EPA, it would be for the EPA to prioritise a certain project in the list. It is not stopping the EPA from doing its work or changing the work of the EPA. It just depends on what power in the context.

Mr YOUNG: How does this Bill align with international Indigenous rights agreements—for example the declaration of rights of Indigenous peoples?

Mrs FINOCCHIARO: This legislation makes sure the Territory Coordinator only has powers on bills that are in the schedule. You will see in the schedule there is nothing in there around Aboriginal land rights, sacred sites or anything like that, and ultimately it also cannot override Commonwealth legislation. Those are your protections.

Mr YOUNG: Why does this clause override consideration in other acts rather than being required to align with them?

Mrs FINOCCHIARO: I just explained that to the Member for Johnston. I assume you are mainly referencing subsection (2). If the Territory Coordinator or the minister are performing a power or a function, then they have to have consideration of whatever that legislation is at the time, whatever the relevant objects, principles or considerations are under that other Act, and where there is inconsistency, they revert back to this. It provides clarity, certainty and a pathway forward.

Clause 8 agreed to.

Clauses 9 and 10, by leave, taken together and agreed to.

Clause 11:

J DAVIS: I move amendment 8 in schedule 017 IND to clause 11 to admit existing clause 11 and insert new clause 11. This is in relation to the appointment of the Territory Coordinator. My amendment seeks to clarify what happens with the appointment of the Territory Coordinator and changes what is there currently, to say that the appointment may be made only after receiving a recommendation from the Legislative Assembly and that the minister must table a copy of the appointment within six sitting days after the appointment is made.

Mrs FINOCCHIARO: We will not be accepting your amendment in clause 11.

Amendment not agreed to.

Clause 11 agreed to.

After clause 11:

J DAVIS: I move amendment 9 in schedule 017IND after clause 11 to insert new clause 11(a). This is in relation to the eligibility of the Territory Coordinator. I note that this was a recommendation of the Scrutiny Committee and it is impossible to understand why the government has not accepted this recommendation. I cannot see any possible reason why there could be for not having stringent eligibility criteria for appointing this individual with vast powers. The committee said that, given the functions and powers of the Territory Coordinator, it is of the view that the appointment provisions should mirror those for other statutory officers, such as the Auditor-General, Ombudsman, Electoral Commissioner and the Independent Commissioner Against Corruption. In the interest 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.

I am proposing that we insert the following amendment:

1. That a person is an eligible person for appointment as a Territory Coordinator if:
 - (a) the person has suitable qualifications or experience relating to the Territory Coordinator's functions
 - (b) the person is not:
 - (i) a judicial officer
 - (ii) a member of an Australian parliament
 - (iii) a member of a local government council or an equivalent body in a state or another Territory
 - (iv) a member of a political party
 - (v) an officer of a Territory-controlled entity;
 - (c) the person does not have a recent political affiliation.

2. For subsection (1)(c), a person has a recent political affiliation if, at any time during the previous three years the person
 - (a) was a member of the Legislative Assembly or a local government council
 - (b) was an officer holder or elected representative of a political party in the Territory or elsewhere in Australia
 - (c) was a member of staff of a minister
 - (d) made a reportable donation to a political party or an associated entity of a political party in the Territory or elsewhere in Australia.
3. For subsection (2)(d) a person made a reportable donation if it was made by the person or by a body corporate of which the person was an office holder or majority shareholder at the time the donation was made.
4. In this section there are definitions which I will not read out; people have that in front of them.

I note that this was a recommendation to the Scrutiny Committee that the proposed Territory Coordinator will have extremely wide powers, including powers to override decisions which are made by ministers and elected representatives. If the government insists on passing this Bill, despite the strong and well-founded opposition to it, the public must be able to be confident that whoever holds the title of Territory Coordinator is beyond reproach, independent of any past or current vested interests and possesses strong qualifications to undertake the role. I repeat, I cannot see any reason why the government did not accept this recommendation from the committee.

Mr PAECH: I support the Member for Johnston in putting forward this amendment. I acknowledge the members of the Legislative Scrutiny Committee who also discussed the option of putting this amendment forward. I agree with the member that I do not understand what is prohibiting the government from agreeing to this important amendment. It provides some certainty to Territorians on a number of key elements. One is the appointment, which should be in line with, as the Member for Johnston said, an Ombudsman, Electoral Commissioner, Children's Commissioner, Anti-Discrimination Commissioner or the ICAC—all those important roles that people need to have certainty that there is not a political affiliation, that there have not been donations made to political parties or there is a membership that could create a perceived potential or real conflict in the Territory Coordinator's role. That is important.

As we have heard, the Territory is a small jurisdiction and potential perceived and real conflicts can be difficult to manage, so this provision removes any of that by saying that the person should not have a political affiliation, have donated to a political party or be involved in related entities or a local government.

We have these requirements for the Electoral Commissioner, the ICAC, the Children's Commissioner, the Information Ombudsman and so forth. Given that this position has the potential to have powers to make certain decisions, that individual needs not to be put in a position where they will be compromised.

K McNAMARA: I support this amendment. This position of the Territory Coordinator must be impartial. We have seen the considerable public response to this Bill—an enormous outcry by hundreds of individuals. Not only must this position be truly impartial but crucially the public must have confidence that the Territory Coordinator is impartial.

The government is already struggling to get social licence for this Bill. It has had enormous pushback from the public. The public deserves accountability and for the independence and impartiality of who is appointed Territory Coordinator. This is how you show respect to the public. Then you are holding the Territory Coordinator to the highest standard possible. We have such a problem in the Northern Territory with corporate vested interests infecting political parties and political decisions that we must ensure true impartiality of this incredibly powerful position.

I remind all members opposite that you can vote how you want. If you want this Bill to have integrity, vote for this amendment. If you are not voting for it, why not?

Mrs FINOCCHIARO: I thank everyone for their contributions. The government will not accept the amendment. I will explain why. There is a lot of conflation of multiple issues.

Firstly, the Member for Johnston said that the Territory Coordinator has the power to override ministers. They do not. There are conflict management processes in the Act. All three of you made the argument why we are not accepting the amendment. It is because all the people you talked about to whom this section would apply are integrity commissioners; they have integrity functions. That is why their eligibility is written in the way that you proposed. For example, ours aligns with similar legislation in Queensland and South Australia to make sure that it is the best person for the job and other statutory appointments such as the Chairperson of the Planning Commission and the Development Consent Authority.

Mr PAECH: Should the Territory Coordinator not have integrity? What is stopping us from putting in the legislation tonight that this person should not have a political affiliation or have donated to a political party? Is it because the government has already lined up a coordinator who was a CLP candidate or has made a donation?

Mrs FINOCCHIARO: I will not dignify your ridiculous drivel with an answer. I have made it clear that the Electoral Commissioner and the ICAC are integrity commissioners. I correct the members opposite; the Children's Commissioner does not have the same criteria.

This is much more in line with the Chairperson of the Planning Commission or the DCA in terms of the statutory functions that they have. There are provisions around conflict and integrity. I think you are being rather pathetic.

Mr PAECH: Can you confirm that under this legislation there is nothing to prohibit the government from appointing someone to be the Territory Coordinator who has previously been a member of parliament, a candidate or has made a political donation? Is there nothing that would stop a person who has done one of those three things from being appointed the Territory Coordinator?

Mrs FINOCCHIARO: I will say it again for the last time: the proposed amendment is eligibility criteria for an integrity commissioner-type function. The criteria proposed in the Territory Coordinator legislation are for someone who understands the economy and is the best person for the job. Ultimately, those processes are properly set out in the legislation, and it is not suitable or necessary to have an integrity commissioner-level set of criteria for the Territory Coordinator function. That is the decision being made by the government.

J DAVIS: Can you explain which things in this list would be inappropriate to consider in the appointment of the Territory Coordinator?

Mrs FINOCCHIARO: I have answered this question.

J DAVIS: Do you think it would be appropriate for the Territory Coordinator to be eligible if they were any of these things on this list?

Mrs FINOCCHIARO: I have answered this question.

J DAVIS: Is the answer yes, Chief Minister?

Members interjecting.

Mr DEPUTY SPEAKER: Member for Johnston, the Chief Minister said that she has answered the question.

Members interjecting.

K McNAMARA: Does that mean that a potential Territory Coordinator could be any of these?

Mr EDGINGTON: A point of order, Mr Deputy Speaker! Standing Order 158; this is getting repetitious, asking the same question repeatedly. The Chief Minister has answered the question.

Mr DEPUTY SPEAKER: I take the point. This question has been asked several times, and the Chief Minister is giving the same answer every time. Is there a new question?

J DAVIS: Can you explain the process for making the decision to remove this? Even the scrutiny committee was not privy to the submissions given to the government in relation to the draft Bill and the new Bill. I am interested in what submissions were given in terms of removing this provision from the draft Bill.

Mr MALEY: A point of order, Mr Deputy Speaker! Standing Order 155; the question must be relevant to the clause.

Mr DEPUTY SPEAKER: I will allow the question to stand.

Mrs FINOCCHIARO: I cannot speak to a specific submission, but what I will say is that we conducted a lot of our own research and canvassed broadly across the Northern Territory. In my concluding remarks I talked about us being conscious to make sure that our Bill was best practice, fit for purpose and had a competitive edge on similar legislation in other jurisdictions. Simplifying the eligibility criteria to similar requirements as in Queensland for its Coordinator-General and what is proposed in South Australia—again South Australia's is in its infant stages, so it is similar—is the policy decision we took.

Mr PAECH: I acknowledge that the Chief Minister has highlighted that the government will not be supporting them.

In clause 11, the appointment of a Territory Coordinator, section 2 says:

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

I want to understand, given that you have made it clear that his is about economic development, what would be suitable qualifications to fulfil the role of the Territory Coordinator?

Mrs FINOCCHIARO: Subsection 2 talks about suitable qualifications for experience relating to the functions. Obviously the Territory Coordinator's functions are clearly set out in the Bill. They relate to the key powers that we have been talking about. The entire role hinges on supporting economic development in the Northern Territory.

It might be economic-type qualifications, extensive experience in various industries. It might be industry-specific experience or experience across a range of industries.

There are a number of different experiences and qualifications that a person would have over their lifetime that would lead them to be the best person for the job.

The Assembly divided:

Ayes 7	Noes 17
Mr Brown	Ms Boothby
J Davis	Mr Burgoyne
Mr Guyula	Ms Cahill
K McNamara	Mrs Carlson
Mr Paech	Mr Charls
Ms Uibo	Mr Edgington
Mr Young	Mrs Finocchiaro
	Mrs Hersey
	Mr Howe
	Mr Kerle
	Mr Mackay
	Mr Maley
	Mr O'Gallagher
	Mr Patel
	Dr Rahman
	Mr Yan
	Mrs Zio

Amendment not agreed to.

Clause 12:

Mr YOUNG: What checks and balance exist to ensure the Coordinator is not politically appointed?

Mrs FINOCCHIARO: You have an amendment?

Ms UIBO: Sorry, I think I have missed my chance.

Madam SPEAKER: We are up to clause 12. Leader of the Opposition, you can move amendment 3 now.

Ms UIBO: We are eager to ask questions on clauses for clarification as much as making sure we have amendments that have been proposed and circulated prior.

I move amendment 3 to schedule 017OPP to clause 12 to insert new subclauses (4) and (5).

The insertion of the clause and the amendment proposed is that we insert:

(4) The Territory Coordinator must not engage in lobbying activities on behalf of any private sector entity or industry for five years after the Coordinator leaves the office

(5) In this section:

lobbying activities means communications with the minister or public sector employee in an effort to influence government decision-making, include the development or amendment of legislation, government policy or a government program, the awarding of a government contract or grant or the allocation of funding that does not include any of the following:

- (a) communications with the Committee of the Legislative Assembly
- (b) communications with a person who is a minister and in that person's capacity as a member of the Legislative Assembly in relation to non-ministerial responsibility
- (c) communications in response to a call for submissions
- (d) petitions or communications in the nature of grass roots campaign attempting to influence the government policy or decision
- (e) communications in response to request for a tender
- (f) statements made in a public forum
- (g) responses to requests by government representatives for information

We are moving this amendment to ban lobbying for the Territory Coordinator for five years and have included all the definitions of lobbying.

K McNAMARA: I support this amendment. The lobbyist register implemented recently by the government is about as limp as wet lettuce. The CLP lobbyist register has given the public no confidence in this government's ability to manage lobbyists and vested corporate interests in our parliament. Once again, this government has no social licence for this Bill. If they want to earn the public's trust, they need to show integrity, be accountable and operate to the highest standard.

This amendment is a completely practical and vital amendment to ensure the integrity of the Territory Coordinator role. It would speak volumes for those opposite to vote against it and indeed if they do vote against it, I will be incredibly curious as to why that would be.

Mrs FINOCCHIARO: The government will not be supporting this amendment.

K McNAMARA: I would like to know the reason why.

Mrs FINOCCHIARO: Member for Nightcliff—very similar to previous—the terms and conditions of the appointment are clearly set out, and it is a policy decision we have made.

K McNAMARA: Just to clarify, that means you think it is appropriate for the Territory Coordinator to continue to be a lobbyist after the role is finished?

Mr MALEY: A point of order, Madam Speaker! Standing Order 155; it is not relevant to the clause.

Mr YOUNG: Speaking to the point of order, I believe the question by the Member for Nightcliff is completely relevant to this clause.

Madam SPEAKER: That is up to the Chief Minister.

The question is that the amendment be agreed to.

The Assembly divided:

Ayes 6	Noes 17
Mr Brown	Ms Boothby
J Davis	Mr Burgoyne
K McNamara	Ms Cahill
Mr Paech	Mrs Carlson
Ms Uibo	Mr Charls
Mr Young	Mr Edgington
	Mrs Finocchiaro
	Mrs Hersey
	Mr Howe
	Mr Kerle
	Mr Mackay
	Mr Maley
	Mr O’Gallagher
	Mr Patel
	Dr Rahman
	Mr Yan
	Mrs Zio

Amendment not agreed to.

Clause 12:

Mr PAECH: In relation to clause 12, the term and conditions, I seek clarification on section (1).

(1) Subject to this Part, the Territory Coordinator

(a) holds office for the period, not exceeding 5 years, specified in the appointment; and

(b) Is eligible for reappointment.

Is it a period prescribed or the intention that you could have a coordinator who is, say, appointed for four years then has an option of four years and then can continue to have options of that long, or are they appointed for a period of four years, and they only get another option for an additional four years, or prescribed term?

Mrs FINOCCHIARO: No. They will be appointed for a period not longer than five years and then as it is reaching its expiration, if they are doing a great job, they are eligible to be reappointed. It is not like a five-plus-five contract or something like that. It has to be a reappointment.

Mr PAECH: It would not be, say, for instance where we have had other appointments where they are only offered two full terms of the term that is offered. For example, we could have a Territory Coordinator who might be doing a great job, and they could be there for 10 years because each review it is deemed that they are okay, it is not that they are only allowed to do an eight-year term.

Mrs FINOCCHIARO: Yes, that is exactly right.

Clause 12 agreed to.

Clauses 13 to 17, by leave, taken together and agreed to.

Clause 18:

Mrs FINOCCHIARO: I move amendment 3 in schedule 017Gov to clause 18 to amend subclause (1). This was a scrutiny committee amendment that we accepted. What this amendment does is it confirms that any delegation by the Territory Coordinator is in writing, which the Scrutiny Committee from its deliberations felt was important and so we have amended clause 18 to make sure that it must be made in writing.

Clause 18, as amended, agreed to.

Clause 19, by leave, agreed to.

Clause 20:

Mrs FINOCCHIARO: I move amendment 4 in schedule 017GOV to clause 20 to amend subclause (2)(c). This was a scrutiny committee recommendation. This amends the clause so that clause 20(2)(c) says, 'undertake public consultation', and deletes 'regarding a proposed ICP or proposed TDA plan'.

In effect this clause will confirm that the Territory Coordinator has the power to undertake public consultation in accordance with their functions, which the scrutiny committee recommended.

Amendment agreed to.

Clause 20, as amended, agreed to.

Clauses 21 and 22, by leave, taken together and agreed to.

New clauses 22A and 22B:

Ms UIBO: I move amendment 4 in schedule 017OPP to insert new clauses 22A and 22B after clause 22 in Part 2.

This amendment will insert clause 22A, Conflicts of interest, which states:

If the Territory Coordinator becomes aware that the Coordinator has or may have a direct or indirect pecuniary interest in a matter to be considered by the Coordinator under this Act, the Coordinator:

- (a) must publicly declare, as soon as possible on the Territory Coordinator or Agency website, the nature of the interest or possible interest; and*
- (b) must not exercise any powers or perform any functions under this Act in relation to the matter.*

It also inserts clause 22B, Public disclosure of certain meetings, which states:

If the Territory Coordinator holds or attends a meeting with a representative of a private sector entity, the Coordinator must, within 5 business days after the meeting takes place, publicly disclose on the Territory Coordinator or Agency website:

- (a) the time and date of the meeting; and*
- (b) each attendee of the meeting.*

This goes to the heart of being open and transparent. We know that the Territory Coordinator appointment is an appointment of the government, so this provides the opportunity for further accountability and openness around this position, which is apparently not an integrity appointment, as the Chief Minister has said.

This would allow Territorians and other proponents to know who is meeting with the Territory Coordinator and who is the decision-maker for some of those components of the Bill, such as the prescriber of those Territory development areas. This will make sure that there is openness and accountability. Of course, having that displayed in real time will go a long way, hence this amendment has been proposed by the opposition.

K McNAMARA: I support this amendment. Once again this goes to integrity, which is surely the role of this Chamber. The government puts forward legislation and while we as the crossbench and opposition may not like the legislation, we will still work to help improve it to get the best outcomes for Territorians and the best legislation possible.

I could not see any reason why you would not want to operate once again to the highest standards possible and display integrity throughout this Bill. I think this is an entirely appropriate amendment. If it is not supported by the government, I would like to know why.

Mrs FINOCCHIARO: I appreciate the contributions. The government will not be accepting this amendment. We have already gone past it, but proposed section 16 in the Bill allows the appointment of an Acting Territory Coordinator and that is specifically about whether there is an actual or perceived conflict of interest, so that deals with that issue. There is a part of the employment terms and conditions that requires the Territory Coordinator to declare conflicts of interest, so it has just been dealt with in a different way.

Ms UIBO: Does that endorse the real-time publication of those meetings with the Territory Coordinator?

Mrs FINOCCHIARO: We are not accepting your amendment, but in how conflicts of interest are managed that is set out in the Bill. Again, section 16 allows for an Acting Territory Coordinator to be appointed if there is a perceived conflict of interest. Separate to that, their employment terms and conditions required there to be declarations of conflicts of interest.

Ms UIBO: Will those conflicts of interest be published or made available publicly in any way, shape or form?

Mrs FINOCCHIARO: No, they are not required to be published as part of the declaration. However, obviously when there is an Acting Territory Coordinator people will know there is one.

Ms UIBO: How will people know if there is no publication about that position?

Mrs FINOCCHIARO: In a practical sense you would be declaring your conflict and saying, 'You are not dealing with me anymore; you are dealing with whoever'. It is a transfer of power to someone else. The proponents or anyone involved would be aware of it.

Ms UIBO: To clarify, that would be by the gazettal notice that people know officially that there would be an acting Territory Coordinator?

Mrs FINOCCHIARO: No.

Ms UIBO: Can I clarify whether it will be by word of mouth?

Mrs FINOCCHIARO: If you want to be smart about it, that is totally fine. I have answered the question. I understand what you are getting at. I understand your amendment. We have taken the decision to not accept the amendment and feel strongly that the conflict management is adequately covered in both the employment terms and conditions and section 16.

Amendment not agreed to.

Clause 22 agreed to.

Clauses 23 and 24, by leave, considered together.

Mr YOUNG: I want clarification that we are on clause 23 now?

Madam SPEAKER: Clauses 23 and 24.

Mr YOUNG: How does this Bill ensure traditional owners, landholders and councils are consulted before a project is designated?

Mrs FINOCCHIARO: Reconfirming nothing in the Act can override Commonwealth legislation and the schedule. In terms of designation of a significant project, the minister has to have regard for the primary principles, obviously. There is no requirement for public consultation on the determining of a significant project.

Mr YOUNG: Should there be an independent review process for project designations?

Mrs FINOCCHIARO: There will be a review of the Act every five years. That is set out in the Act, not in relation to specific projects.

Mr YOUNG: Why is there no requirement to consider community opposition before designation?

Mrs FINOCCHIARO: There is clear criteria for what would be a significant project, so the minister has to believe, on reasonable grounds, that it is of economic significance. We went through that definition earlier. It is of a complex nature or regional significance in terms of its scale or impact, so it has to be significant. The language we have adopted in the Bill is plain speaking so that it gives effect to the intention. If there are any additional criteria they can be prescribed by regulation.

Mr YOUNG: If I was a regular member of the public, where would I find the criteria?

Mrs FINOCCHIARO: If there are criteria, they would be in the regs. Otherwise, it is the criteria set out in proposed section 23.

Mr YOUNG: What public consultation will occur before a project is designated?

Mrs FINOCCHIARO: There is no requirement for public consultation on the designation of a significant project. The significant project must be of significance to the Territory, so it has to be highly beneficial to either a region or the Territory itself, it has to be complex and of regional significance in terms of its scale or impact. Going back to the primary principle, we have to look at its economic impact. Going back to the definition of 'economic significance', we had those four criteria, one of which was job creation, and another was population growth. If the project was of a significant size that it would generate economic development, perhaps in population growth or another metric, it could be determined to be a significant project.

Mr YOUNG: How can affected landholders such as pastoralists, mango farmers and traditional owners challenge a project's designation?

Mrs FINOCCHIARO: You cannot challenge a project's designation. A project being designated means that the key powers are available to be used for that project, but the project still has to go through all the processes. Where there is duplication or the process is going too slow—for example, a project has been designated as a significant project so it goes to the DCA or EPA or has to get a water licence or whatever regulatory approval—and the approval being sought is taking too long, the Territory Coordinator could ask for it to be prioritised or exercise any of the other key powers. It does not mean that the significant project magically happens; it provides a streamlined pathway to move through duplication, delays or anything like that.

Mr YOUNG: Why is there no appeal mechanism for communities impacted by significant projects?

Mrs FINOCCHIARO: The designation of significant project gives the project the opportunity to be a part of the Territory Coordinator process. The community then has opportunities throughout the remainder of the development of that project to be involved. One project will need many and varied approvals at every point. It might be a subdivision, a water licence, health, land access or something else, so those processes need to happen. The community then has the opportunity through those things. If any of the key powers are used there are notification provisions and it has to be published on the website, for example.

J DAVIS: You may have answered this and I may have missed it. Did you say that the regulations would outline the criteria for a significant project?

Mrs FINOCCHIARO: Not exactly. I said that there could be additional criteria in the regulations.

J DAVIS: I heard you define it in what, to me, sounded like broad terms. For what passes the level of being significant, can you give any more indication of what that might mean?

Mrs FINOCCHIARO: It is designed to be flexible to suit the process. A significant project has to be of economic significance, so you have the definition of 'economic significance' which has those four criteria we went through earlier. Then it has to meet the criteria again. We have allowed provision in there for if there is requirement for additional criteria it can be set out in the regulations.

Looking at it by itself, it maybe does not appear to you to be enough of criteria, but when you put it all together, we are not intending to be deliberately constrained in what that looks like. The nature of economic benefit to the Territory is broad, so it needs to be flexibly applied.

J DAVIS: I draw your attention to the submission from the Local Government Association which addressed this directly and saw risks in the loose definition of 'significant project', including inconsistent interpretation,

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

They pointed out the lack of definition threatens to create murkiness and that the issue with this in the Territory context with a low population base and a small number of developers compared to the rest of the country is that most developers will consider themselves to be proposing significant projects when they may be small housing subdivisions and industrial precincts. Therefore, there is a need to define what 'significant' means in a Territory context, particularly to make that clear for local businesses.

That is the intent behind my question.

Mrs FINOCCHIARO: I understand the concerns and considerations that have been raised as part of the process and with you. We do not agree with that proposition. We do not think it makes it murky. This is deliberately structured in the way we have the definition of 'economic significance' and 'significant project'. There needs to be that flexibility. For example, if you had a mine it is a different proposition than if you have a housing estate. How many houses or what is the proposal? If it is social housing and therefore there will be access to population growth?

There are a number of considerations you would have. It depends on the nature of the project. I can comfortably say that if a proponent does not have a clear plan about their project, it will not be achieving the threshold.

J DAVIS: For clarity for people who are interested in this, what will be the communication and decision-making process for significant projects? At what point will people know whether their project is a significant project?

Mrs FINOCCHIARO: That is actually clause 24, so we are getting to that. There is notice provisions set out in clause 24. Clause 23 is the definition, if you would like to call it that, or the criteria and clause 24 is the notice of designation or revocation.

Clause 23 agreed to.

Clause 24, by leave, agreed to.

Clause 25:

Ms UIBO: I move an amendment to clause 25 to insert new subclause (1A):

(1A) The Minister must not declare any part of land or water under subsection (1) that is:

- (a) Aboriginal land; or
- (b) land that is the subject of native title as defined in section 223 of the *Native Title Act 1993* (Cth);
or
- (c) a park or reserve declared under section 12 of the *Territory Parks and Wildlife Conservation Act 1976*.

As spoken about earlier by the Member for Gwoja, our team has put forward this amendment again to provide clarity, noting that I anticipate the government will not agree to this amendment. The Chief Minister has already said that all land related to Commonwealth legislation is off the table. I appreciate that if the amendment is agreed to we have that reassurance from the Chief Minister and the government.

Mr PAECH: This amendment has come forward as a result of the Legislative Scrutiny Committee. We heard from expert witnesses who gave oral testimony during that time about their concerns, the need to have those areas declared and that the minister must not declare any park of land or water under those sections.

I will acknowledge the Chief Minister has spoken about this previously as the motion brought forward by the Member for Johnston as a whole—and the definitions. This is going to the heart of particular clauses. I think it is important to highlight the position around these areas, given the complexities and that this would provide certainty to many Aboriginal Territorians around any ongoing development that could or could not happen.

Mrs FINOCCHIARO: I will clarify. Our legislation cannot override Commonwealth law. If it was our land it needs consent. It does not mean that people cannot have the benefit of the Territory Coordinator, but it requires consent.

Going to your amendment, Opposition Leader, obviously we are not accepting it for all the reasons I have stated earlier. I have a good example as to why you might not want to go ahead with this either. Essentially it stops Aboriginal people on their land being able to consent to activity. Using the mining in Gove for example, when the Gove lease ends, your proposed amendment would prevent the Gumatj from working with the Territory Coordinator to realise their economic aspirations for their land.

That is just an unintended consequence probably of your proposed amendment, In any event we are not accepting it as I have outlined previously.

Ms UIBO: Thank you for that tangible and practical example. In my understanding of the *Aboriginal Land Rights (Northern Territory) Act*, there would still be a requirement for free, prior and informed consent of traditional owners. In the case of the example provided just then, if the Gumatj wanted activity on their land for economic development, as long as the traditional owners provided consent, the Territory Coordinator role could then still kick in because it is Aboriginal land, but it has free, prior and informed consent to any decision or proposed notice by the Territory Coordinator.

Mrs FINOCCHIARO: That is what would happen under our legislation. Yours does not do that. Pretend your amendment does not exist; my answer to your question is yes. Your amendment does not do that.

Ms UIBO: Regardless the *Aboriginal Land Rights Act* would still require and through the amendment we proposed around the *Native Title Act*, Aboriginal Territorians who are considered traditional owners would still be able to provide consent on Aboriginal land regardless if the Territory Coordinator position existed or not. They still have that right to do so right now.

Mr MALEY: The minister must not declare any land or water that is Aboriginal land. If you read that bit by itself; if you are an Aboriginal owner and you consent, you cannot get the minister to help you.

Ms UIBO: The point for this amendment is that the minister cannot. When we talk about step-in step-out powers of the Territory Coordinator, they still have their role under this new legislation which has been developed and finalised. The Territory Coordinator position specifically means that if a minister was going to jump over any regulation or processes, it protects that as opposed to what is separately being proposed through the Territory Coordinator role. A minister cannot overstep their power because a minister would not be able to override Commonwealth legislation in this instance. This amendment being proposed is essentially a double protection.

Mrs FINOCCHIARO: I definitely understand what you are trying to achieve, but it does not achieve that because even if you go through all those consents and the TOs say, 'Yes, let us do this. We are keen for whatever it might be,' and those processes happen, this still says that the minister must not. It cannot, even with the consent—that is what yours does. Whereas ours allows that to happen with consent.

Amendment not agreed to.

J DAVIS: I have an additional amendment to that, which is that any area of land or whatever it is, an excluded area under my proposed 7A must not be declared as an ICA. I note that the list of excluded areas would be much longer than the list read out by the Chief Minister. I understand that was not supported, and I know this amendment will not be supported. Nevertheless, I would like to put it to the Chamber.

Mrs FINOCCHIARO: We will not be supporting your amendment.

Amendment not agreed to.

Mr YOUNG: How will affected communities be informed before an infrastructure coordinator activity or an ICA is declared?

Mrs FINOCCHIARO: It is similar to earlier. If it is an ICA there does not need to be any consultation, but when it moves to an ICP that is when that kicks in. That is ahead in clause 27.

Mr YOUNG: Between the process of an ICA to—what did you say, I missed that?

Mrs FINOCCHIARO: The infrastructure coordinated area can be declared much like a significant project. There are very similar requirements in both, so there is no requirement to consult or anything like that. If we were to create the infrastructure coordination plan that requires different consultation. That is ahead in clauses 28 and 29; you have to skip ahead for that. Clause 29 is quite literally titled public consultation.

Mr YOUNG: Will landholders be compensated for infrastructure developments impacting their land? For example, pastoralists and mango farmers.

Mrs FINOCCHIARO: That is not part of this clause. I am not sure I understand the question, Member for Daly but you cannot walk onto someone's land and build a mango farm. You would have to lease or buy the land from them. There are all sorts of processes that would have to happen.

Mr YOUNG: What safeguards ensure public infrastructure is not built primarily for private corporate benefit?

Mrs FINOCCHIARO: I think you asked me a similar question to this earlier. This is about investigating an infrastructure coordination area. It is about looking at whether or not there is infrastructure needed to be done at the same time or if it required a high level of sophisticated coordination and planning to be able to achieve the outcome of that significant project. It is very specific; the area does not require the consultation, but once a plan is put in place that becomes a separate process.

Clause 25 agreed to.

Clause 26, by leave, agreed to.

Clause 27:

Mrs FINOCCHIARO: I move amendment 5 in schedule 017GOV to clause 27. Clause 27 is an amendment that was identified as part of the scrutiny committee process and it is a very small amendment as it inserts the word 'all' in that first line. I will read it:

An infrastructure coordination plan (an ICP) is a plan in relation to a significant project that does of the following ...

That is the amendment 'all' followed by '(a), (b), (c)'. It means that an infrastructure coordination plan in relation to a significant process must do all of those things. It has to do (a), (b) and (c)—not 'or'.

Mr PAECH: This was a committee recommendation. I acknowledge that the government has accepted it. I think it is important to highlight that this change, whilst it looks small and technical in nature, will make sure that all three are done together and not done in isolation. I certainly will be supportive of the amendment.

Amendment agreed to.

Mr YOUNG: I have only one question for this. Should local governments retain the right to reject and infrastructure plan that may conflict with their priorities?

Mrs FINOCCHIARO: Should local governments be able to reject an infrastructure?

Mr YOUNG: Retain the right to reject an infrastructure plan that conflicts with their priorities.

Mrs FINOCCHIARO: What does that even mean? I mean an infrastructure coordination plan may then trigger ...

Mr YOUNG: Local governments might have their own master plan, for example.

Mrs FINOCCHIARO: Yes, that would be flushed out through the consultation process, and they would have the opportunity to be heard on it and put forward their master plan, to follow your example.

Clause 27, as amended, agreed to.

Clause 28, by leave, agreed to.

Clause 29:

J DAVIS: I move amendment 13 in Schedule No 017IND. This is in relation to public consultation. My amendment is in relation to (b) which says: 'Undertake public consultation on the proposed plan in accordance with the regulations'.

I am proposing that we insert a new section 94A in the Act. I will explain quickly what that means so that it makes sense. We need to be clear about what public consultation means. We have seen the shortcomings of this in relation to this process and the community dissatisfaction. Therefore, I have offered a definition under 94A and there are several clauses that refer back to that clause.

We have heard from government members that they believe this has been a robust consultation process and we have heard from many people in the community that they do not agree with that. Having a definition of what consultation means is imperative. We know that for this Bill, individuals and organisations worked incredibly hard to present well-thought-through cases and concerns in relation to this Bill and nearly all those concerns that have been raised have been ignored. I remind the Chamber that it is our job to represent our constituents and communities and neglecting those needs and issues that have been raised does not benefit us or the communities we serve.

I quoted this earlier, but the Northern Land Council spoke for many people when it said that the Northern Land Council is disappointed that the vast majority of issues raised in its previous submission were either unaddressed or exacerbated by the Bill's amendments. In its current form the Bill is now less protective of Aboriginal Territorians' rights than the draft Bill was. I think it is imperative that we have a clear definition of what public consultation means; I believe that should be part of the Act, not a regulation that we do not know what that will say. I can go through, when we get to 94A, exactly what those regulations might be.

Mr PAECH: I am supportive of the amendment, it is important. Chief Minister, I think it would be useful to get an understanding from your government on what you believe constitutes good consultation. We heard from members of the committee that they had some issues or concerns about particular elements or areas of the Territory that they did not feel were consulted thoroughly. I highlight that we heard from a number of organisations and Aboriginal Territorians who raised real concerns about the lack of the consultation being done in First Nations language. I note that there was a consultation by the interim Territory Coordinator in Nhulunbuy but there was concern that the consultation did not go any further into remote communities.

Building on the Member for Johnston's motion 94A, it would be good to get an understanding about how consultation is to be considered in this Bill, moving forward.

Mrs FINOCCHIARO: We will not be accepting the amendment but I will explain. The public consultation has to happen; that is enshrined in the section. Information about that needs to be published on the website, for example, and then public consultation needs to be undertaken. The reality is that public consultation will look could be different for every ICP. It will depend on where it is. For example, if it was relating to somewhere near Nhulunbuy, it would be entirely appropriate to consult with that community. It would not apply to people in Alice Springs.

We will not be accepting the amendment, but we accepted the recommendations. The scrutiny committee also did a recommendation on this which was that consideration had to be had to put the four issues into the regulations, and that has been accepted.

Mr PAECH: I apologise, Chief Minister. Could you repeat that last section, please?

Mrs FINOCCHIARO: Yes, sorry. We will not be accepting the amendment, but we accepted recommendation 23 which asked that consideration be given to including the following four things in the regs, which was minimum consultation periods, requirements that materials be provided in First Nations languages, where practicable holding in-person information sessions and a requirement that submissions to public consultations are public on the coordinator website. Consideration is being given for all those for the regulations.

J DAVIS: When you say you accepted them, where is that? How do we know that?

Mrs FINOCCHIARO: The Deputy Chief Minister and I talked about it in parliament today.

J DAVIS: You said that will be regulations. It will not be part of the Act; is that correct?

Mrs FINOCCHIARO: Yes, correct. It is for consideration in the regulations.

J DAVIS: That will be for consideration in the regulations, so it may or may not be there depending on how the regulations are developed; is that correct?

Mrs FINOCCHIARO: Yes, it would depend. We are applying this flexibly. You have to imagine the environment we are talking about across the Territory will be different. The decision has been made to leave that with the Territory Coordinator. We have accepted it which was for consideration, so it has been considered. It will then be looked at to go into the regulations; it will not be part of the Act. As a minimum we will be putting into the regulations the minimum consultation periods.

J DAVIS: Are you saying in this Chamber that as a minimum that will definitely be in the regulations?

Mrs FINOCCHIARO: Yes.

J DAVIS: Is that just in regard to timeframes?

Mrs FINOCCHIARO: Sorry; I will say it differently. The regulations for the Territory Coordinator will outline minimum consultation periods, and the Territory Coordinator will have consideration to the other four items that were raised as part of scrutiny committee recommendation 23.

Amendment not agreed to.

Mr YOUNG: Is public consultation mandatory for all major infrastructure projects?

Mrs FINOCCHIARO: This is for an infrastructure coordination plan, so there must be consultation on that.

Clause 29 agreed to.

Clause 30:

Mrs FINOCCHIARO: I move amendment 6 in schedule 017GOV to clause 30 to omit subclause (1) and insert new subclause (1). This amendment is from the scrutiny committee. The amendment will reword the subclause to say:

(1) The Territory Coordinator must give to the Minister:

(a) the proposed ICP for the Minister's approval; and

(b) a summary of any submissions received during the public consultation required by section 29(b).

This amendment confirms that the Territory Coordinator will provide the minister a summary of the submissions received during that public consultation process in relation to the proposed ICP.

Mr PAECH: It is a constructive recommendation put forward by the Legislative Scrutiny Committee. I thank the Chief Minister for acknowledging the importance of that. It is important when the Territory Coordinator is providing the minister with a summary of any submissions received during the public consultation. It is an important opportunity during that time for the minister to consider the position of Territorians.

Amendment agreed to.

Clause 30, as amended, agreed to.

Clause 31 agreed to.

Clause 32:

Mrs FINOCCHIARO: I move amendment 7 in schedule 017GOV to clause 32 to amend subclause (2)(b). This is an amendment from the scrutiny committee, it confirms that the Territory Coordinator must also undertake public consultation on a proposed variation to an ICP if the minister considers the variation would affect a material change to the ICP. What it does is subsection (2)(b) inserts the words 'or the minister'. I can read it in full:

The Territory Coordinator must: (a) ...

It stays the same.

- (b) *if the proposed variation would in the opinion of the Coordinator effect a material change to the ICP, undertake public consultation on the proposed variation in accordance with the regulations (if any).*

If there is a variation and it is a material change then public consultation on that variation would also need to happen.

Amendment agreed to.

Clause 32, as amended, agreed to.

Clause 33:

J DAVIS: I move amendment 16 in schedule 017IND to clause 33 to omit 'a summary of the submissions' and insert, 'copies and a summary of the submissions'. There are several parts of this Act which refer to this. I heard the Chief Minister talk about this earlier. The committee was 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 and that it protected against any perception of bias if they received all of them rather than just a summary.

There are several clauses that this applies to. I could move them all at once but they are scattered throughout the Act. I am unsure.

Madam SPEAKER: I think we will do it clause by clause as it will not be confused.

J DAVIS: Thank you.

Mrs FINOCCHIARO: We will not be accepting this amendment.

J DAVIS: Thank you. Can you explain why you will not accept it?

Mrs FINOCCHIARO: It is similar to one of the previous clauses we looked at. Essentially a summary of the submissions during the public consultation will be provided to the minister to approve that proposed variation or not. It is an unnecessary process to provide all of it to the minister.

J DAVIS: I reiterate that the committee was of the view that it was important for the minister to receive all submissions to guard against any potential or perceived bias. We have talked a lot about the importance of how this position is perceived by the community as well as how it acts so I would like to reinforce that.

Mrs FINOCCHIARO: I understand the point you are making. Rest assured that the minister always has the power to direct the Territory Coordinator to request all of the submissions at the minister's discretion. That opportunity is there for the minister.

Amendment not agreed to.

Clause 33 agreed to.

Clause 34:

J DAVIS: I move amendment 17 in schedule 017IND to clause 34—same amendment. Omit 'any summary of submissions' and insert 'each submission', as before ensuring that there is no perception of bias or potential perceived bias for the minister in making their decision.

Mrs FINOCCHIARO: The same rationale applies. We will not be accepting that amendment.

Amendment not agreed to.

Clause 34 agreed to.

Clauses 35 to 38, by leave, taken together and agreed to.

Mr PAECH: A point of order, Madam Speaker! You moved from clauses 35 to 38. We still have to discuss clause 38.

J DAVIS: I am inserting a clause before clause 39.

Mr MALEY: We have gone past it; we said 38.

Mr PAECH: No, she has not.

Madam SPEAKER: I have moved that the clauses 35 to 38 stand as printed.

Mr PAECH: The Member for Johnston is moving after clause 38 before 39.

Madam SPEAKER: Okay. After the Assembly agrees to clause 38 and before the Deputy Speaker moves onto the next clause, the Member for Johnston has the call. Let us go for it.

After clause 38:

J DAVIS: I move amendment 18 in schedule 017IND after clause 38 to insert new clause 38A, which is to insert 'Excluded areas. A program of works must not include works to be undertaken in an excluded area' as defined by 7A.

Mrs FINOCCHIARO: We will not be accepting your amendment because we have not accepted the excluded areas.

Amendment not agreed to.

Clause 39:

Mr YOUNG: To clarify, I have a couple of questions on clause 39. Will the Territory Coordinator's program of works be subject to an independent review?

Mrs FINOCCHIARO: The only independent review is of the Act after five years.

Mr YOUNG: What transparency measures exist to ensure there are no conflicts of interest?

Mrs FINOCCHIARO: That is dealt with—I think it was clause 16—at the start. Yes, clause 16 is the acting coordinator role. Then, of course, in the implement contract we discussed earlier.

Mr YOUNG: Should public hearings be required before a program of works is approved?

Mrs FINOCCHIARO: No, there is no consultation on program of works. Program of works will generally be public infrastructure.

Mr YOUNG: Will there be an independent oversight or audit requirements for the coordinator's work programs?

Mrs FINOCCHIARO: No. This is program of works, it is different. You could say that it is like a category. It is a sequence of small projects that would need to happen to give effect—things like utilities or other services, and those types of things, which are required. If there are multiple services. An example is probably about a big major housing development in a remote community, or something like that, which then may need multiple services to be delivered. That is something that would need to be envisaged by clause 39.

Mr YOUNG: What mechanisms prevent political interference in project selections?

Mrs FINOCCHIARO: There is clear criteria. We have talked about criteria on economic significance and significant projects. All the key powers have got their own structure and criteria within the Act. It has to meet those criteria or it will not enliven any of the provisions.

Clause 39 agreed to.

Clause 40, by leave, agreed to.

After clause 40:

J DAVIS: I move amendment 19 in schedule 017IND, after clause 40, to insert new clause 40A. This is in relation to preparing a program of works. I am proposing that we insert ‘after preparing a proposed program of works, the Territory Coordinator must:

- (a) publish the proposed program on the Territory Coordinator or Agency website
- (b) undertake public consultation on the proposed program in accordance with section 94A.

Mr PAECH: I wish to speak in support of the amendments put forward by the Member for Johnston. We heard at the committee deliberation, the oral testimony of people concerned about moving forward with the Territory Coordinator legislation. The need to have a thorough and comprehensive consideration and determinations of what public consultation was and how that information would be distributed and made available. People raised concerns about the process to occur if public hearings were to be undertaken.

I support the amendment put forward by the member. It represents a large number of community members who gave testimony at the hearing. I acknowledge the Chief Minister will respond in a moment. She has previously stated the provisions that will be done, I believe, in the regulations once they are developed. This is a good mechanism to consider enshrining into the legislation.

Mrs FINOCCHIARO: The government will not be accepting the Member for Johnston’s amendment.

I confirm that there is no requirement for public consultation as part of that program and performance of works. Clause 40(3)(a) provides that there must be consultation with a public body, public entity or a person who has been identified in the plan who is responsible for the delivery. Paragraph (b) says:

may consult with any other person the Coordinator considers appropriate.

Therefore, there is opportunity for consultation.

J DAVIS: How will communication happen with the public in relation to proposed programs?

Mrs FINOCCHIARO: This is for programs of works. It is, generally speaking, types of utilities. I imagine, Member for Johnston, where you live if Power and Water was fixing the powerlines down the street you probably would not know about it; its people would just be doing it. The requirement in this is to have consultation with the relevant stakeholders—if you want to call them that—or as set out in clause 40(3)(a). It also gives the opportunity to consult with any other person that the Territory Coordinator considers appropriate.

The notifications are at 41(3), which is just over the page:

If the Minister approves the program, the Minister must:

- (a) *give written notice on the Territory Coordinator or Agency website that the Minister:*
 - (i) *approves the program of works; and*
 - (ii) *authorises its implementation ... and*
- (b) *publish a statement of reasons ...*

There will be transparency mechanisms, so people will understand why. It will be made available. There is that component, which is in clause 41. Clause 40(3)(b) also allows for consultation if required. It would be on the situation, location—all those types of factors.

J DAVIS: There would be public communication after a decision was made, but not prior to that; is that correct?

Mrs FINOCCHIARO: There would be publishing of a statement of reasons, which is important so that people can understand it. There would be written notice that there is a program of works, it has been approved and will be implemented by the Territory Coordinator. People will understand the detail of what that looks like and what those works might be.

There is no requirement per se to broadly consult with a community, but they must consult with a public body, public entity or person to be identified in the plan as responsible for the delivery. They may also consult more broadly.

Mr PAECH: As you highlighted then, those actions would be loosely after the activity has occurred, not prior to the activity occurring. As an example, sometimes if there is activity happening with DOLI—I think that is the new department of Infrastructure now—DIPL or Power and Water, it would notify the key stakeholders prior to the sealing of a road or doing particular things. I want clarification. What you highlighted is that after the activity has happened there is a mechanism where it is published or made available, so if people ask questions they can locate the information.

Mrs FINOCCHIARO: Yes. That gives me a good opportunity to clarify. Nothing stops the Territory Coordinator or the public body—whoever it might be—from doing that consultation. The normal process still applies. Whilst there is no consultation required under proposed section 40 for the program of works, yes, there is a requirement after the decision has been made to make sure that is transparent.

The ordinary processes for those programs of works still have to happen. To use the Power and Water example, if the ordinary process for Power and Water when it is putting up power poles or running water pipes—whatever it might be—is that there is consultation about where that has to go or there are notices in people's letterboxes, those normal regulatory processes still happen. It is just that there is no overarching consultation on the program of works.

Madam SPEAKER: The question is that the amendment be agreed to.

The Assembly divided:

Ayes 7	Noes 17
Mr Brown	Ms Boothby
J Davis	Mr Burgoyne
Mr Guyula	Ms Cahill
K McNamara	Mrs Carlson
Mr Paech	Mr Charls
Ms Uibo	Mr Edgington
Mr Young	Mrs Finocchiaro
	Mrs Hersey
	Mr Howe
	Mr Kerle
	Mr Mackay
	Mr Maley
	Mr O'Gallagher
	Mr Patel
	Dr Rahman
	Mr Yan
	Mrs Zio

Amendment not agreed to.

Clauses 41 and 42, by leave, taken together and agreed to.

Clause 43:

Ms UIBO: I move amendment 6 in schedule 017OPP to clause 43 to insert in subclause (1A) after clause 43(1) the insertion of the new subsection will read:

The minister must not designate any part of land or water under subsection (1) that is:

- (a) Aboriginal land; or
- (b) land that is the subject of native title as defined in section 223 of the Native Title Act 1993 (Cth); or
- (c) a park or reserve declared under section 12 of the Territory Parks and Wildlife Conservation Act 1976.

This goes to an earlier proposed amendment that was not agreed to by the government which is about establishing no-go zones to protect Aboriginal land, Native Title parks and reserves. We heard strong submissions through the public hearings from the four Aboriginal land councils, as well as other entities and organisations regarding legislative protections in this Bill to provide certainty from the government—regardless of who is in government—that there would not be any concern of those three areas being overridden. I am sure the Chief Minister will provide a similar answer, but we are proposing the amendment Mr Deputy Speaker.

We are proposing this amendment in order to provide further advocacy for those who provided public submissions, that is why.

Mrs FINOCCHIARO: Mr Deputy Speaker, we will not accept this clause for same reason—you have a mirror section a little earlier. It may have been in relation to ICPs or something like that. It applies same way in Territory Development Areas; we would not want to stop the utilisation of the Territory Coordinator legislation where there was consent and that is why we will not be supporting your amendment.

Amendment not agreed to.

J DAVIS: I move amendment 20 in schedule 017IND to amend clause 43(1). The power under this clause has far-reaching consequences. Once an area of land or water is part of the TDA powers under the Bill can be used affecting that land and water. This can be done without the consent of traditional owners or native title rights holders or interest holders.

The purpose of this amendment is to require the minister to obtain consent of traditional owners and exclusive native title rights holders, as well as other landowners, and that consultation should be required for non-exclusive possession-type interests.

I am proposing that we insert at clause 43(1):

(1A) An area of land or water that is an excluded area must not be designated as a Territory development area.

(1B) The Minister must not make a designation under this section unless:

(a) all of the following have given written consent to the designation:

- (i) the registered owner of any estate in fee simple in the proposed Territory development area;
- (ii) the traditional owners of any Aboriginal land in the proposed Territory development area;
- (iii) any native title holders who hold native title rights and interest under the *Native Title Act 1993* comprising rights of possession, occupation use and enjoyment of land in the proposed Territory development area to the exclusion of all others
- (iv) a person who holds a lease from the Crown under the *Pastoral Land Act 1992* in respect of land in the proposed Territory development area; and

(b) the Minister has consulted with the following:

- (i) any native title holders who hold native title rights and interests other than those mentioned in paragraph (a)(iii) in respect of land in the proposed Territory development area; and
- (ii) a person who holds a lease from the Crown under the *Crown Lands Act 1992* or *Special Purposes Leases Act 1953* in respect of the land in the proposed TDA.

To summarise, the purpose of this amendment is to ensure, in particular, that any areas that are proposed to become a TDA cannot be done without consent of traditional owners, native title rights or interest holders and other people I mentioned in the amendment.

Mrs FINOCCHIARO: We will not be accepting that amendment. I can explain why. For a designation of a Territory development area there is no requirement for consultation. Reflecting on an earlier conversation we

had, that mapping and designation process—for example, it might be Middle Arm, an area for a specific type of industry or purpose, or whatever it might be. It could be agricultural land. For the Territory development area plan, that requires consultation.

Any activity within it triggers whatever the activity might be. Again, if it was ALRA land it would require consent. If it was private property or a cattle station for example, then there are provisions in the Act for notification before entry on land and all of those things.

For designation there is no consultation, but the Territory development area plan does require it. In any event, to do anything on that land you then need to go through whatever the correct process is.

Amendment not agree to.

Ms UIBO: Why are parks, reserves and environmentally sensitive areas not automatically excluded from TDAs?

Mrs FINOCCHIARO: It is similar to a conversation we had earlier. Essentially, the Territory development area is the area on the map that might be suitable as a development area; within that comes the plan, then the activity. There are multiple layers to it. There is also a requirement, for example, that there be a statement of reasons for that designation and other transparency mechanisms, including publishing the notice et cetera.

Ms UIBO: Will there be any need for approval for environmental assessments for a TDA?

Mrs FINOCCHIARO: Yes. All the normal approvals processes would happen, but because it is a Territory development area—for argument's sake—and a proponent was moving through a regulatory process that was taking an extraordinary amount of time, that would allow the Territory Coordinator to use a key power. It could be step-in or a priority; any of those would be able to be enlivened or utilised by the Territory Coordinator, but it does not circumvent that process. It just depends on which power the Territory Coordinator was using because there is exemption power as well. We deal with that a bit later. Does that answer your question?

Ms UIBO: I was checking something with the Member for Johnston making sure there will be other proposed amendments ticked off because I have jumped straight into questions. What is stopping the Territory Coordinator from declaring the whole of the Northern Territory as a TDA?

Mrs FINOCCHIARO: That means that the Territory Coordinator thinks highly of the Territory. I am a proud and passionate Territorian. I love this place dearly and I believe in its economic potential, but do I believe that the whole of the Northern Territory has the potential for development of economic significance? No. Criteria 43(2) deals with that. It has to have the potential for development of economic significance. Going back to the original definition that we dealt with earlier, the area must have potential for construction of infrastructure that would enable or be enabled by a development of economic significance and then there may well be additional criteria set out in the regulations. There is still a framework to move through.

Ms UIBO: Could the Territory Coordinator declare a whole region, for example Big Rivers, Barkly, Top End, East Arnhem or Central?

Mrs FINOCCHIARO: To confirm, it is the minister who declares the Territory development areas, not the Territory Coordinator. Remind me of your question.

Ms UIBO: I asked if the Territory Coordinator could declare a whole region, and if you are referring to minister would that be the Chief Minister as a responsible portfolio holder?

Mrs FINOCCHIARO: Because I am the Chief Minister and the responsible portfolio minister, yes, but no. It is right now. For argument's sake, it is the Minister for Territory Coordinator who would be the responsible minister to designate the Territory development area.

Ms UIBO: Going back to the one before, would the Territory Coordinator or the responsible minister be able to declare a whole region?

Mrs FINOCCHIARO: When you say region, are you talking the way we traditionally carve up the Territory?

Ms UIBO: Central, Barkly, Big Rivers, East Arnhem and the Top End, plus obviously there is Darwin and Palmerston in there as well.

Mrs FINOCCHIARO: No, I do not ...

Mr EDGINGTON: Only the Barkly.

Ms UIBO: What about the Barkly?

Mrs FINOCCHIARO: The Barkly probably would be the only one that you ...

Ms UIBO: Big Rivers is all right too.

Mrs FINOCCHIARO: Big Rivers is wonderful.

It still has to have the adequate consideration. The minister would still have to go through that process of there being economic significance or if there is potential for construction infrastructure. It is not intended to be wholesale chunks of the Territory.

Ms UIBO: Would that go back to the four elements that was at the start of the Bill?

Mrs FINOCCHIARO: Yes, because that is how you define economic significance. In clause 43(2)(a) it says that it 'has potential for development of economic significance', and then you would go back to those four.

Clause 43 agreed to.

Clause 44:

J DAVIS: I move amendment 23 in schedule 017IND to omit clause 44(c). This is a consequential amendment to the removal of Part 8, which deals with entry to land and which we have not yet come to.

Clause 44(b) says:

engage a person to undertake investigations or studies or prepare reports required for the development of a TDA plan ...

Mrs FINOCCHIARO: Government will not be accepting your amendment.

Amendment not agreed to.

Ms UIBO: My question is about landholder objections. Where would that be held? Is it just the judicial process if somebody would like to object to a TDA?

Mrs FINOCCHIARO: There is always the opportunity for someone to seek judicial review of the decision, but there is no other review outside of judicial review for that.

Ms UIBO: Will the Territory Coordinator be able to override any existing planning laws without parliamentary approval?

Mrs FINOCCHIARO: He cannot override anything. I think what you are asking is about one of the key powers. The exemption power cannot be used by the Territory Coordinator; it is the minister only. It is not the Territory Coordinator but the minister who could exempt a certain process. To use your example it could be a planning process. That criteria has to apply—is it duplicating a process? There has to be a reason to do that.

Ms UIBO: Could the Territory Coordinator override any master plans et cetera in retrospect, if anything has already been granted prior to the Territory Coordinator Bill coming into effect? Could a planning decision be overridden by the Territory Coordinator once the Territory Coordinator exists in legislation?

Mrs FINOCCHIARO: That is not this clause. You are looking for the condition variation.

Ms UIBO: Where should I direct that question? Which clause number? I apologise.

Mrs FINOCCHIARO: Condition variation notices are at Division 5 section 83.

Clause 44 agreed to.

Clauses 45 to 47, by leave, taken together and agreed to.

Clause 48:

J DAVIS: I move amendment 24 in schedule 017IND to clause 48(b) to omit 'the regulations' and insert 'section 94(a)'. This is in relation to public consultation.

Mr MALEY: We will not accept the clause. Section 94(a) will not be agreed to in the future. That clause is unworkable.

Amendment not agreed to.

Clause 48 agreed to.

Clause 49:

J DAVIS: I move amendment 25 in schedule 017IND to amend clause 49 to omit 'a summary of the submissions' and insert 'both copies and a summary of the submissions' to ensure that there is no possibility of any perception of bias in terms of the submissions the minister will receive from the coordinator.

Mrs FINOCCHIARO: This is similar. We will not be accepting this amendment. I will reinforce and remind members that the minister can at any time request all the submissions.

Amendment not agreed to.

Clause 49 agreed to.

Clause 50:

J DAVIS: I move amendment 26 in schedule 017IND to amend clause 50 to omit 'the summary of submissions' and insert 'each submission'.

Mr MALEY: We will not accept that based on the fact that the minister can ask for those submissions if required when making that decision.

Ms UIBO: The recommendation of the scrutiny committee is in order to safeguard against any potential perceived bias in making the decision the minister should consider all submissions received during public consultation. Therefore, the scrutiny committee recommended that clause 50 be amended. We support the work of the committee that was led by a government majority. I find it strange that the government would not accept the recommendations.

Mr MALEY: We will not be accepting it. As the Chief Minister has said, when the minister can make decisions in relation to that, the minister can ask for those submissions. The minister is the one that will be responsible and, of course, the minister is an elected official.

Ms UIBO: What if the minister does not know to ask the question or is misinformed by the information they have received and then makes an error in decision-making because they have not been provided all the right information? How is that safeguarded if a decision is made on the incorrect information?

Mr MALEY: Ultimately it is for the minister to make the decision. The minister is an elected official, and that minister can ask for any information that they see fit. Your question is hypothetical because, as you know being a former minister, you make decisions all the time, and if you get the wrong information that could happen—it certainly could. It is unlikely because I think government departments do a great job. Any public servants listening now, you do a great job, and we thank you for your support.

Amendment not agreed to.

Clause 50 agreed to.

Clauses 51 to 54, by leave, taken together and agreed to.

Clause 55:

Mrs FINOCCHIARO: Mr Deputy Speaker, I move amendment 8 in schedule 017GOV to clause 55 to amend subclause (2)(b). Clause 55 is a variation of a TDA plan, and this amendment came from the scrutiny committee. It is very similar to an amendment we made earlier where we insert the words 'or the minister'. Clause (2)(b) will read:

'If the proposed variation would, in the opinion of the coordinator or the minister effect a material change'

It then confirms that the Territory Coordinator must also undertake public consultation on a proposed variation to a TDA plan if the minister considers that the variation would affect a material change to the TDA plan.

Amendment agreed to.

Clause 55, as amended, agreed to.

Clause 56:

J DAVIS: Mr Deputy Speaker, I move amendment 28 in schedule 017IND to amend subclause 56(b) to omit 'a summary of submissions' and insert 'copies, and a summary, of the submissions' on the recommendation of the scrutiny committee.

Mr MALEY: Mr Deputy Speaker, we will not be accepting the recommendation because, as we said earlier, the minister makes the decision, and copies of those submissions can be requested if the minister sees fit.

Amendment not agreed to.

Clause 56 agreed to.

Clause 57:

J DAVIS: I move amendment 29 in schedule 017IND to amend clause 57 to omit 'any summary of submissions' and insert 'each submission'.

Mr MALEY: We will not be accepting the amendment based on the same words I said earlier that the minister can the decision and the minister can request to see all the submissions if the minister sees fit.

Amendment not agreed to.

Clause 57 agreed to.

Clauses 58 to 62, by leave, taken together and agreed to.

Clause 63:

Mrs FINOCCHIARO: I move amendment 9 in schedule 017GOV to amend clause 63(2). This is to update an incorrect clause number, so instead of reading '85(2)' it will be '86(2)'.

Amendment agreed to.

Clause 63, as amended, agreed to.

After clause 63:

J DAVIS: I move amendment 30 in schedule 017IND after clause 63 to insert new clause 63A in Part 7, Division 1. The purpose of this is to ensure that it is clear that the application of Part in this section cannot apply to an excluded area. The amendment reads:

63A Application of Part in relation to excluded area

To avoid doubt, a request or notice under this Part must not be made or given in relation to a statutory process or statutory decision that relates, either whole or in part, to an activity, project or area that is on or relates to an excluded area.

Mrs FINOCCHIARO: We will not be accepting that amendment because we have not accepted that there are excluded areas.

Amendment not agreed to.

Clause 64, by leave, agreed to.

Clause 65:

J DAVIS: I move amendment 31 in schedule 017IND to omit clause 65(1) and replace it with new clause 65(1). This is regarding progression-related requests. This clause allows the Territory Coordinator to make a progression request that a statutory process be completed within a set period of time. We heard during the scrutiny committee process that statutory deadlines already exist for much of the statutory processes; that this power could be used in relation to this Bill creates unnecessary complexity by imposing potentially arbitrary deadlines using this power. This also risks diluting the quality of the assessment processes. I therefore propose the following amendment that we insert:

- (1) Subject to subsection (2) and section 67, the Territory Coordinator may, by written notice (a progression-related request) given to the responsible entity for a statutory process, request the entity to pause, or to continue to undertake, the process in relation to a significant project, a works project, an IC activity or a TDA activity for the period specified in the request.

Mrs FINOCCHIARO: We will not be adopting your amendment. Currently it requires the Territory Coordinator to give notice to start, complete, pause or continue. Your amendment would remove start or complete which would entirely change the operation of the clause and the Act, which we do not accept.

Amendment not agreed to.

Clause 65 agreed to.

Clauses 66 and 67, by leave, taken together and agreed to.

Clause 68:

Mr YOUNG: Which criteria determine when the Territory Coordinator can override regulatory bodies?

Mrs FINOCCHIARO: A step-in notice is a key power that the Territory Coordinator can avail themselves of if it is a significant project, a works project, an IC activity or a TDA activity. That is the framework in which that particular type of power can be used.

Mr YOUNG: Should the affected agencies have the right to challenge a step-in decision?

Mrs FINOCCHIARO: No, the Act has not been designed in that way. The Territory Coordinator must have regard to certain things before being able to do that—for example, the primary principle of driving economic development and what the social and environmental outcomes for the region will be. Ultimately, if the Territorian Coordinator has to take the measure of stepping in, in place of the responsible entity, it means there has been a form of failure on the part of the responsible entity.

Further to that—your question is spread out across a number of sections, so moving forward, but answering the same question—section 70 requires there to be consultation with that responsible entity. They would have to be talking to the entity about what is going on, what is happening, why things are not progressing et cetera and consult with it about that.

Mr YOUNG: Is there set criteria about that—for example, environmental protections to go through that the Territory Coordinator wants to override? Is there a process for that?

Mrs FINOCCHIARO: The criteria are set out in that section. To clarify, I mentioned in answer to your previous question that for them to do that there would be some sort of failure. That will not always be the case; it will not always be that there has been a failure. It might be that because you have considered the primary principle that you will make a different decision. It is also available to the Territory Coordinator to make a different decision from the conclusion that the public entity came to.

Mr YOUNG: How does this align with the principles of local governance and agencies' independence?

Mrs FINOCCHIARO: The entire purpose of this Bill is to provide a process for projects of significance around that primary principle to give a way through where there are unnecessary blockages or duplicated processes where projects are significantly complex.

We have been through all of those criteria that get us to this point. The step-in notice is one of as number of key decisions that the Territory Coordinator can utilise once all of those hurdles have been overcome to get to this point.

Mr YOUNG: Under what circumstances can the coordinator take over a statutory decision from a responsible government agency?

Mrs FINOCCHIARO: A few things have to happen. Obviously, it has to be a piece of legislation that is in the schedule to start with. Then it has to be a significant project, a works project, an ICA activity or TDA activity. There are many thresholds to get to this point.

Then there is a requirement for consultation under clause 70. That allows a responsible entity to make the Territory Coordinator aware of any issues that might impact on the decision or impacts that particular notice. It gives that entity the opportunity to raise specific considerations under whatever that relevant legislation might be.

Mr YOUNG: What are the legal risks of the Territory Coordinator overriding decisions that have been made by those agencies?

Mrs FINOCCHIARO: We are on step-in which means that the decision has not been made. They are stepping into the role of the decision-maker. Pick any statutory—the decision-maker or any of the other regulatory frameworks you would have to go through, depending on the type of project. It is the Territory Coordinator consulting on why something might be happening a particular way. If they take on that responsibility as if they were the original decision-maker then they are the one that will go through the process of making the decision in consultation with the entity that would normally make the decision.

Mr YOUNG: Are there any legal risks to that?

Mrs FINOCCHIARO: It is power in this Act, so as long as the process is followed properly then it is allowable under this legislation.

Ms UIBO: If there was a legal challenge through that judicial process that we spoke about earlier, is it therefore reasonable to assume that there could be a delay on a project if someone then goes through that judicial process to stop, challenge or override a possible decision by the Territory Coordinator?

Mrs FINOCCHIARO: Playing out your example in this situation, it would be the public entity that is being stepped in on that would have to be the one to go through that process.

Ms UIBO: That could also create delays because a legal process obviously has to then be concluded, resolved or agreed to in some way, shape or form, to then allow the process to be either cleared or resolved when it comes to a final decision, if it is challenged legally?

Mrs FINOCCHIARO: Opposition Leader, I have been indulgent about hypotheticals, but that is too much of a hypothetical for me to give you an answer.

Ms UIBO: I appreciate your indulgence as everyone has different angles. To put it bluntly, if a legal challenge is enacted, no further decision could be made by the Territory Coordinator until that legal challenge is concluded?

Mr MALEY: Perhaps, I could answer. It depends what the legal challenge or court order is. If there is an injunction stopping someone from doing something, the court order would be an injunction. If there is no injunction and the court order allows work to continue, it will continue. We are playing hypothetical and the answer depends what the court orders.

Ms UIBO: The answer would be yes if there was a court injunction?

Mr MALEY: As per anyone making a decision, if there is a court involved, the Supreme Court overrides. it

Mr YOUNG: Is there a requirement for the coordinator to issue a public justification before stepping in?

Mrs FINOCCHIARO: Not before but afterwards.

Mr YOUNG: Why not before?

Mrs FINOCCHIARO: What would the notice say if it was before? I am encouraging you to play that out.

Mr YOUNG: I assume there is a criteria so the Territory Coordinator is knowingly going to step in. Would there be a notice then or is it after the fact?

Mrs FINOCCHIARO: It is after the fact. It does not make any sense to have it before. If a step-in notice is issued, the notice will be published.

Clause 68 agreed to.

Clause 69, by leave, agreed to.

Clause 70:

J DAVIS: I move amendment 35 in schedule 017IND to omit clause 70 and insert a new clause 70. I note that this is a recommendation from the scrutiny committee. This is in relation to when step-in notices may be given. I note that I oppose clause 70 altogether but I am moving this amendment to minimise the harm it will do when the Bill passes.

The amendment says that the Territory Coordinator may only give a step-in notice for a statutory decision or statutory process if the responsible entity for the decision or process agrees to the step-in notice.

If the step-in powers remain in the Bill and the Bill passes, I propose that the responsible entities' function is to be replaced, be given the final say over whether the Territory Coordinator or minister steps in. Apologies for the confusion.

Mrs FINOCCHIARO: We will not be supporting that as it defeats the whole purpose.

Mr PAECH: I speak in support of the amendment from the Member for Johnston. I do not support this clause, but this is an important safeguard that was a recommendation of the committee. It appears that the government members of that committee are voting against their own recommendations, but equally it is an important recommendation that should be embedded in the legislation.

Mr DEPUTY SPEAKER: Thank you for your view.

Mr PAECH: Are you speaking on behalf of the Chief Minister still?

Mr MALEY: I have answered your question.

Mr PAECH: Great, good to see you.

The Assembly divided:

Ayes 6	Noes 17
Mr Brown	Ms Boothby
J Davis	Mr Burgoyne
K McNamara	Ms Cahill
Mr Paech	Mrs Carlson
Ms Uibo	Mr Charls
Mr Young	Mr Edgington
	Mrs Finocchiaro
	Mrs Hersey
	Mr Howe
	Mr Kerle
	Mr Mackay
	Mr Maley
	Mr O'Gallagher

Mr Patel
Dr Rahman
Mr Yan
Mrs Zio

Amendment not agreed to.

Mrs FINOCCHIARO: I want to correct the record on clause 70. There is no recommendation from the scrutiny committee on 70, so the Member for Gwoja's comments ...

Mr PAECH: My apologies, I am referring to 73, I acknowledge that. I will acknowledge that the committee voted against all their recommendations, every other recommendation.

Clause 70 agreed to.

Clauses 71 and 72, by leave, taken together and agreed to.

Clause 73:

J DAVIS: I move amendment 39 in schedule 017IND to omit 73(2). This is a recommendation of the committee. 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.

I quoted from this earlier in terms of what the committee heard during our process. There was concern raised that the drafting of this section makes it unclear whether or not conditions imposed by the coordinator to promote a primary principle must also be permissible under the relevant law.

The use of the word 'also' here implies that the Territory Coordinator will be able to impose conditions outside of the law over which they are exercising their step-in powers, so long as those conditions promote an extremely broad and subjective definition of economic development.

Concerns were raised about this by Professor Aughterson in his advice to the committee. The committee's response to that was 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.

Therefore, the amendment that I moved reflects the recommendation from the committee.

Mrs FINOCCHIARO: Member for Johnston, we will not be accepting that amendment. Again, it defeats the purpose and intention of that clause.

The Assembly divided:

Ayes 6	Noes 17
Mr Brown	Ms Boothby
J Davis	Mr Burgoyne
K McNamara	Ms Cahill
Mr Paech	Mrs Carlson
Ms Uibo	Mr Charls
Mr Young	Mr Edgington
	Mrs Finocchiaro
	Mrs Hersey
	Mr Howe
	Mr Kerle
	Mr Mackay
	Mr Maley
	Mr O'Gallagher
	Mr Patel
	Dr Rahman
	Mr Yan

Mrs Zio

Amendment not agreed to.

Clause 73 agreed to.

Clauses 74 to 76, by leave, taken together and agreed to.

Clause 77:

Ms UIBO: I move amendment 7 to schedule 017OPP to clause 77 to insert new subclause (3):

(3) An exemption notice cannot be given if it would solely or primarily benefit a private corporation.

The reason for our proposed amendment is to address the conflicts of interest by creating a prohibition of exemption notices that solely benefit private corporations. It is again feedback from the process of public scrutiny to try to provide another layer of accountability and scrutiny for the Territory Coordinator role to provide comfort to Territorians that there is an avenue that essentially blocks, stops, prevents the influence of a private corporation on any decision-making that a Territory Coordinator may decide to grant.

Mrs FINOCCHIARO: We will not be accepting that amendment. Essentially what you are saying is that it would remove significant projects. That is a huge part of Bill, for obvious reasons. I remind you that exemption notices can only be issued by the minister, not the Territory Coordinator.

Amendment not agreed to.

Clause 77 agreed to.

Clause 78:

J DAVIS: I move amendment 45 in schedule 017IND to omit clause 78 and insert new clause 78. The clause would now read:

Ground for giving exemption notice

An exemption notice may only be given under this Division if 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.

This removes paragraph (a) of the current Bill which undervalues the function of regulatory processes and introduces discretion that the scrutiny committee heard is to a level that was not satisfactory to the community.

Mrs FINOCCHIARO: We will not be accepting the amendment.

Amendment not agreed to.

Clause 78 agreed to.

Clause 79:

J DAVIS: I have one amendment which is no longer relevant, but two more amendments.

I move amendment 48 in schedule 017IND to amend clause 79(2)(b) by omitting 'may' and inserting 'must' so that consultations should be compulsory not discretionary.

Mrs FINOCCHIARO: That amendment is not supported by the government.

Amendment not agreed to.

J DAVIS: I move amendment 49 in schedule 017IND to amend clause 79(3)(a). The purpose of this amendment is to insert:

(a) why the Territory Coordinator is satisfied the ground to issue the exemption notice exists; and

The purpose of this is so that the community can have an understanding of the basis for the decision being made.

Mrs FINOCCHIARO: The government will not be accepting your amendment.

Amendment not agreed to.

Mr YOUNG: Why does a minister, rather than an independent authority, have final approval over exemption notices?

Mrs FINOCCHIARO: In the legislation it would be the Territory Coordinator or the minister, and given the ability to exempt legislation or processes, bringing it to the minister gives it an additional layer of consideration, I suppose.

Mr YOUNG: What safeguards exist to ensure that the exemptions powers are not used for the benefit of politically connected industry or developers?

Mrs FINOCCHIARO: Much like every other time you have asked that question, there are a number of thresholds and tests embedded throughout the whole Act, and to extend on my earlier answer to you around why the minister does it, it also then makes that decision disallowable by the parliament. It brings the decision into the parliament which again is another layer of transparency and scrutiny and accountability, and it gives the parliament the opportunity to vote on the decision that the minister made.

Mr YOUNG: Can you outline the thresholds or tests as you just indicated to ensure the safeguards are there?

Mrs FINOCCHIARO: No, because they are not in Clause 79. They are embedded from 1 right through to 79; we have gone over them extensively.

Clause 79 agreed to.

Clause 80:

J DAVIS: I move amendment 51 in schedule 017IND to amend 80(2)(b) replace in by that the Territory Coordinator 'must' consult not 'may' consult. This was a recommendation of the committee. The committee stated that 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. The committee is of the view that consulting with any other person that the coordinator or minister considers may be affected by the proposed exemption notice should not be optional. I am supporting that recommendation of the committee.

Mrs FINOCCHIARO: We did not accept that recommendation of the scrutiny committee and do not accept your amendment.

J DAVIS: Can you explain why you did not accept that recommendation?

Mrs FINOCCHIARO: Yes, because it comes down to there needing to be a level of discretion because it will depend very much on the individual situation. The way it is currently drafted allows for there to be consultation if that is what is deemed necessary and appropriate at the time.

Amendment not agreed to.

J DAVIS: I move amendment 52 in schedule 017IND to amend 80(3) to read that 'a ground mentioned in section 78(1)' replace that with 'the ground mentioned in section 78' which perhaps is a consequential amendment. I will withdraw that because it has already been addressed.

Clause 80 agreed to.

Clause 81:

Ms UIBO: I move amendment 9 to schedule 017OPP to clause 81 to insert new subclause (3), 'This section is subject to section 82'. This is part of our amendments to remove exemption notices.

Mrs FINOCCHIARO: This amendment is not accepted by the government.

Amendment not agreed to.

Clause 81 agreed to.

Clause 82:

Ms UIBO: I move amendment 11 in schedule 017OPP to clause 82(1). We are calling for the Bill to require real-time publicly accessible reporting on the Territory Coordinator's website; reports indexed by project, industry and type of exemption or variation; and justifications for all decisions supported by economic and environmental impact statements. Additionally, we call for clause 82, Tabling and disallowance, to require that any exemption notices, if retained, must be tabled in the Legislative Assembly before taking effect. This ensures that parliament and the public have the opportunity to review and provide input before works commence. The amendments have been circulated.

Mr MALEY: We will not be accepting this amendment because it goes against the principles of trying to speed up things and make things easier to do business in the Northern Territory.

Amendment not agreed to.

Ms UIBO: I move amendment 12 of schedule 017OPP to clause 82(2). This leads on from what was previously discussed. The amendment is omitting 'whether or not it has been tabled'.

Mr MALEY: We will not accept the amendment because it goes against the principle of what the Territory Coordinator Bill is trying to do.

Amendment not agreed to.

Ms UIBO: I move amendment 13 in schedule 017OPP to clause 82(3) to omit all words after 'given' and insert 'within 6 sitting days after it is tabled'.

Mr MALEY: We will not accept this amendment due to the fact it goes against the principles of the Territory Coordinator Bill we are trying to enact to make the Territory a better place to do business.

Amendment not agreed to.

Ms UIBO: I move amendment 14 in schedule 017OPP to omit clauses 82(4) and (5) and insert:

- (4) An exemption notice does not take effect until the earlier of the following:
 - (a) the day on which the resolution mentioned in subsection (2) is considered and disposed of by the Legislative Assembly;
 - (b) the expiry of the period mentioned in subsection (3).

Mr MALEY: We will not accept the amendment as this goes against the principles of the Territory Coordinator Act which is to make the Territory the best place to do business. We are trying to speed up approvals time and this is what this legislation does.

J DAVIS: You said that this goes against the intention of the Act. My understanding of the amendment is that the exemption notice is tabled not on the next sitting day, which we heard in the committee could be up to four months after the exemption notice had been put in place, and nothing done under that exemption notice is reversible. Is that the intention of this Act?

Mr MALEY: Member for Johnston, I think you answered your own question. This legislation is trying to speed up approval processes and get rid of delays. If there is a four-month delay—these exemption notices are made by the minister, not by the coordinator; therefore, an elected official does that. That person will be held to account, because they are a minister of the government. It will move to the next sitting day and the minister will consider all the options.

As we have gone through with the rest of the legislation, the minister can seek all of the submissions and will be responsible to make a decision. If that decision is made, it should be upheld. It could be reversed—or go forward—and there would be a delay, which we are trying to stop.

J DAVIS: I remind the House of what I said earlier. The committee's legal advice was that the minister having power, not only the Territory Coordinator, was not particularly comforting in terms of making sure we were following democratic processes. The significant concern raised in our legal advice and by many people who gave evidence to the committee was that this is presumably in place to give comfort to people who might be concerned about fast-tracking processes without the Legislative Assembly having oversight. It does not achieve that aim because the nature of our sitting calendar is that six sitting days could mean four months, in which time irreversible work could have been done that the House may not support.

Mr MALEY: That is why this decision rests with the minister and not the Territory Coordinator. The minister makes the decision about exemption notices because of the gravity of what exemption notices are. It will be made by the minister who will not make that decision lightly. The minister will consider all the information before making a decision based on the best interests of all Territorians. That is why the minister will make that decision, not the Territory Coordinator.

J DAVIS: Is there a rationale for why it could not come to the Chamber earlier than six sitting days?

Mr MALEY: We are trying to avoid delay and speed up the approval processes in the Northern Territory. The exemption notice is a big thing to do and that is why the minister makes that decision.

Amendment not agreed to.

Clause 82 agreed to.

Clauses 83 to 85, by leave, taken together and agreed to.

Clause 86:

J DAVIS: I move amendment 60 in schedule 017IND to insert new clause 86(4) after 86(3). This is in relation to condition variation notices and refers to a further amendment that I will be proposing; a new clause before clause 88. The insertion is:

(4) A condition variation notice takes effect as provided for in section 87A(5).

Mrs FINOCCHIARO: We will not be accepting the amendment.

Amendment not agreed to.

Clause 86 agreed to.

Clause 87, by leave, agreed to.

After clause 87:

J DAVIS: I move amendment 61 in schedule 017IND after clause 87 to insert new clause 87A in Part 7, Division 5.

This is in relation to tabling and disallowance. Clause 87 allows the minister to issue the condition variation notice. As we have heard, this is a far-reaching power that could affect decisions made even before the Bill comes into effect. It allows significant modifications of conditions, including allowing new conditions that could not usually be imposed under the primary legislation under which the decision was made.

This power should be subject to the same parliamentary scrutiny as the exemption notice. It should be tabled and disallowable. It also should not take effect until the time for tabling and disallowance has passed.

We heard about this during the process of the scrutiny committee. The Central Land Council said 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 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 an opportunity to comment on and have input into any proposed variation and have their views seriously considered.

Similarly, the Utilities Commission said that the Territory Coordinator is given a power to excuse a project proponent from complying with a condition already imposed. Placing that power in the hands of the Territory Coordinator undermines the authority given by parliament to the entity that imposed the original condition.

The Environmental Defenders Office said 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 the completion of statutory decision-making processes.

In situations where conditions are included following public consultation but then are removed by condition variation notice, submitters will be denied procedural fairness. Conditions imposed on their request would have changed and they would have no opportunity to comment before the variation is made.

I therefore propose that we insert clause 87A, Tabling and disallowance:

- (1) The Minister must table a copy of a condition variation notice in the Legislative Assembly before it takes effect.
- (2) The Legislative Assembly may pass a resolution disallowing a condition variation notice, or a specified provision of the notice.
- (3) Notice of a resolution under subsection (2) must be given within 6 sitting days after it is tabled.
- (4) If a resolution disallows a condition variation notice or provisions of it, the disallowance has the same effect as a revocation of the notice or provisions.
- (5) A condition variation notice takes effect on the early of the following:
 - (a) the day on which the resolution mentioned in subsection (2) is considered and disposed of by the Legislative Assembly;
 - (b) if the notice of a resolution is not given within the period specified in subsection (3) – the expiry of that period.

Mrs FINOCCHIARO: Member for Johnston, we will not be accepting your amendment.

Amendment not agreed to.

Clause 88:

Mrs FINOCCHIARO: I move amendment 10 in schedule 017GOV to omit clause 88 and insert new clause 88. This was a recommendation of the scrutiny committee. It confirms that all requests and notices must be published, but a statement of reasons is required to be published only for notices. New clause 88 will read:

88 Publication of requests and notices

- (1) Within 5 business days after giving one of the following requests or notices, the Territory Coordinator or Minister must publish a copy of the request or notice on the Territory Coordinator or Agency website:
 - (a) a prioritisation request;
 - (b) a progression-related request;
 - (c) a decision request;
 - (d) a step-in notice;

- (e) a notice of completion under section 74;
 - (f) an exemption notice;
 - (g) a condition variation notice;
 - (h) a notice of revocation of a condition under section 86(3).
- (2) For a notice mentioned in subsection (1)(d), (f), (g) or (h), the Territory Coordinator or Minister must also publish a statement of reasons for giving the notice.

Amendment agreed to.

Clause 88, as amended, agreed to.

Clauses 89 and 90, by leave, taken together and agreed to.

Clause 91:

Mrs FINOCCHIARO: I move amendment 11 in schedule 017GOV to omit clause 91 and insert new clause 91. This amendment confirms that the minister must table a copy of the completion notice given to the minister under section 90(1) and that a report on that notice is not required to be tabled.

Amendment agreed to.

Clause 91, as amended, agreed to.

Clause 92:

Mr YOUNG: Why is no warrant required to enter private or Aboriginal land?

Mrs FINOCCHIARO: This part of the Bill sets out the powers to enter land. Clause 92 has details regarding how a person can be authorised to enter land to do specific things. There has to have been at least 14 days' notice prior to entry. The notice has to do a range of things so that the person whose land it is will be well aware of the activity. It cannot override the Commonwealth Aboriginal Land Rights Act. Federal legislation cannot be overridden.

Mr YOUNG: Does this mean the Territory Coordinator would need to apply for a permit to enter Aboriginal land?

Mrs FINOCCHIARO: Whoever the person is who is entering the land; it will not be the Territory Coordinator.

Mr YOUNG: If it was?

Mrs FINOCCHIARO: It would to be. It would be geophysicist or a technical person. It would be a person on the land doing something.

Mr YOUNG: That person would be instructed by the Territory Coordinator and the Territory Coordinator would need to apply for a permit?

Mrs FINOCCHIARO: Correct.

Mr YOUNG: Will the landholders be notified before government officials enter their property?

Mrs FINOCCHIARO: Yes, it says clearly 'with 14 days notice'. It has to provide a range of details set out in subsection 3 about what notice has to include.

Mr YOUNG: How is that 14 days notice to enter that land, property or parcel of land administered? Is through a phone call? Is it written letter? How would people know that landowner would have received that?

Mrs FINOCCHIARO: It has to be written notice.

Mr YOUNG: How would you clarify that the landholder had received that written notice?

Mrs FINOCCHIARO: The person must not enter premises under this section without the consent of the owner or occupier of the land.

Clause 92(6) says:

The person must show the written authorisation to enter the land to the owner or occupier of the land on request.

There are safeguards built into it. This is to the only piece of Northern Territory legislation that has the power to enter land. This has been modelled off those existing laws.

Mr YOUNG: You said if consent is given. If consent is not given by that landholder what would happen then in regard to that person entering that parcel of land?

Mrs FINOCCHIARO: It is entry into land; you are not allowed into the premises. You are allowed into the premises if, obviously, the owner consents to it. Premises means a building.

If consent is not received to enter the land within the 14 day—is that your question?

Mr YOUNG: Yes.

Mrs FINOCCHIARO: The land can be entered without the owner or occupier's consent, but not into premises.

Mr YOUNG: Sorry, could you repeat that. I got the premises one.

Mrs FINOCCHIARO: As long as a notice has been provided in writing and it complies with all of the parts of this section, then without the owner or occupier's consent they can enter the land. For example, if it was to look at a water metre, a bore, a fence line or something like that, but they would not be able to go into a premise because they would need consent for that.

Mr YOUNG: They would be able to enter that land. For example, I live on one acre at Wagait Beach. I have a house there. Obviously they could not enter my house, but they would be able to walk through my property to the back yard to do whatever activity the Territory Coordinator has authorised?

Mrs FINOCCHIARO: I am not engaging in your hypotheticals. Quite frankly, it sounds ridiculous. It has ...

Mr YOUNG: It is not a hypothetical, it is a reality ...

Mrs FINOCCHIARO: It is a hypothetical; it is not reality. I do not know where your back yard is but if it is in a Territory development area you live somewhere pretty strange. It has to be in a Territory development area or an ICA. Let us give it some context.

Mr YOUNG: Okay. If it was a pastoralist, obviously they could not enter their house or their property, but you are saying they are allowed on their land under the Territory Coordinator's direction?

Mrs FINOCCHIARO: Yes, as long as they have complied with all of the requirements of clause 92, as is allowed in many other pieces of Territory legislation. This is literally modelled on existing laws, probably laws your government brought in.

Mr YOUNG: Can the Territory Coordinator be sued if they wrongfully enter private property or cause damage to sacred sites?

Mrs FINOCCHIARO: You rightly know that if someone damages a sacred site, there are provisions in the *Sacred Sites Act* to deal with that. That is an entirely different course of action. What was your first question? If there was damage? There are provisions in here regarding compensation in section 94, which we are not up to.

Mr YOUNG: The other part of that question was if the Territory Coordinator wrongfully enters a property or issues someone to enter that property, can the Territory Coordinator be sued?

Mrs FINOCCHIARO: That is hypothetical. What is ‘wrongful entry of a property’? If they have complied with section 92, then it is compliant. If they have not, then it is not compliant.

Ms UIBO: If within the 14 days the proposed entry of an authorised person is refused, can the Territory Coordinator use their step-in power to then grant access through another legislation?

Mrs FINOCCHIARO: It is not a ‘yes’ or ‘no’ question. It is a notice. It means giving the person the right amount of notice. It does not mean asking them. It means making sure that the notice is given with that 14-day period, and that all the details are set out in it.

In a practical sense, if the owner or occupier was on holidays or will not be there or some work is happening or there is an issue, they would ring the phone number at the bottom of the notice, make contact and work through those arrangements. That is a practical way it would work. Clause 92(2) does not require consent. It requires notice.

Ms UIBO: Regarding clause 92(2), written notice, I will give you an example. Some of the constituents in my electorate do not have a mailbox. To clarify, is there a requirement for either registered mail or a hand delivery? I am not playing games. I am just thinking of the context. I have some very big properties in the northern part of my electorate that are private residential properties but in those high-yielding agribusiness parts of the Big Rivers region. I am just wondering if the written notice is provided in person, a registered process or a mail delivery because there were concerns in the northern part of my electorate about how people would receive it.

Mrs FINOCCHIARO: I understand your question. The Territory Coordinator will be getting the owner or occupier information from the lands system. Whoever the registered person is or whatever information they can obtain will be how they provide that written notice. There is nothing in this clause that stops the Territory Coordinator from hand delivery or whatever it might need to be. There is nothing that requires them to go beyond providing that written notice. If it is cattle station X, then they would look that up and there would be a post office box, Australia Post outlet or wherever it is that people can then get their mail.

Ms UIBO: Can a written notice also be digitally received or administered for the provision of clause 92(2)?

Mrs FINOCCHIARO: It requires it to be written. It is probably a bit too hypothetical. In a realistic sense, how would you obtain someone’s email address? If you are cattle station X ...

Ms UIBO: I am thinking of the example of an email. We would say, ‘I have written you an email’. It is making sure that person has access to the information of the notice, because geographically, the Wet Season and road inaccessibility—what other practical ways can make sure that person or peoples are informed of a written notice? If it can be digital that means, obviously, it is more likely the authorised person, through the Territory Coordinator, would also have another avenue to provide that information to an owner or occupier of the land they are intending to enter.

Mrs FINOCCHIARO: It would be the ordinary meaning in the *Interpretation Act*. We are just pulling that up for you, if you have other questions.

Ms UIBO: Yes, I have a couple.

Mrs FINOCCHIARO: As long as it is written.

Mr YOUNG: Is there an appeal process when a written notice is given to those landholders? Can they appeal that?

Mrs FINOCCHIARO: Can they appeal the decision? No. There are no specific appeal mechanisms in the clause, but judicial review is always available.

Mr YOUNG: In the circumstances of farmers who may have certain activity happening on their property and they may have cattle in certain yards that the Territory Coordinator has issued a written notice for. For that reason they cannot move that activity or the cattle across to other yards. What happens then? Where do they appeal that decision or be given a longer time, because 14 days is quite short?

Mrs FINOCCHIARO: They would contact the Territory Coordinator and explain why that was not feasible.

Mr YOUNG: If the Territory Coordinator came back and said, 'No, we will go ahead anyway', they may need to be reimbursed for moving cattle from yards or off their property. Obviously, that is a cost to their business.

Mrs FINOCCHIARO: This is getting far too hypothetical to give an appropriate answer.

Mr YOUNG: No, it is just to clarify where they go to appeal that process. That is likely to happen.

Mrs FINOCCHIARO: I have already told you that it is judicial review. You are giving wide-ranging hypotheticals that, quite frankly, do not make any sense. I will not answer your hypothetical because that would be inappropriate in the circumstances.

Mr YOUNG: It makes sense to those property owners considering that they run big businesses on their land. Why is a warrant not required, given that land rights and privacy are at stage?

Mrs FINOCCHIARO: Because this is just the power to enter land, once appropriate notification is given which specified what they will do there, who they are and all those other things. It is the types of works you would need to develop a proposed ICP. It is investigation. They might be going there to look at flora and fauna, conduct some surveys or look across sightlines or topography. It is of a scientific nature, you could say.

Clause 92 agreed to.

Clause 93:

Ms UIBO: I move amendment 17 in schedule 017OPP to clause 93. The amendment proposes to insert after clause 93(2):

- (3) Nothing in this section that authorises a person to enter onto or disturb a sacred site within the meaning of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

The reason for the amendment is to further ensure that there are protections for Aboriginal land and sacred sites from the powers of entry. In light of the joint submission from the four Aboriginal land councils, this would provide further reassurance.

Mrs FINOCCHIARO: The greatest reassurance we can give people is that it is not in the Schedule. That is all the assurance you would need. If it is Commonwealth legislation it cannot be overridden.

Amendment not agreed to.

Clause 93 agreed to.

Clause 94:

J DAVIS: I move amendment 65 in schedule 017IND to amend subclause (1). I note that this was an amendment recommendation of the scrutiny committee in relation to compensation for entering land.

A concern was raised with the committee that the Bill as drafted provides that the amount of compensation, if any, is to be determined by the Territory Coordinator and that there was potential for a conflict of interest in relation to this. It was felt that that compensation for damage being determined by the Territory Coordinator is not an appropriate level of scrutiny for a potentially significant financial burden borne by a landowner.

That is why, at the very least, rather than the Territory Coordinator reviewing the compensation, it will be in keeping for those kinds of powers to be with the minister. The committee, following consideration of the evidence, agreed that it was not appropriate for the Territory Coordinator to determine the amount of compensation if any damage was caused to land.

The committee is of the view that compensation should be determined by the minister or an independent third party. I therefore propose this amendment to omit 'Territory Coordinator' and insert 'Minister or an independent third party appointed by the Minister'.

Mrs FINOCCHIARO: We will not be accepting this recommendation. It is well placed. It is important we have compensation and that is why it is in here. That goes to some of your questions, Member for Daly, in the other clause.

Bear in mind that this is very low impact activity; it is people wandering around, or a car going around. In any event, accidents happen. Someone might reverse into a bore, a fence or a gate. That could foreseeably happen. That is why we have the compensation clause.

It will not be the Territory Coordinator who is out there driving around in his HiLux checking what species of grass are there. That is not the job. However, it is a much more flexible, agile, quick and efficient process to have the Territory Coordinator conduct that because if they have authorised someone to enter premises, it is for a clear purpose. If something has happened, that is a straightforward, quick process for the owner or occupier to have a speedy resolution of that issue.

J DAVIS: I understand it may not be the Territory Coordinator who is entering the land or causing the damage, but they would be the decision-maker. I note that in other schemes, the person who is the decision-maker and responsible is not the same person who would make decisions about amounts of compensation. I repeat my point that, as the committee raised, there is the conflict of interest and to protect the Bill and the community, it would be preferable that an independent third party or the minister were making the determination about compensation.

Mrs FINOCCHIARO: Noted. Opposition Leader, in response to your question, yes, writing includes electronic notice.

The Assembly divided:

Ayes 6	Noes 17
Mr Brown	Ms Boothby
J Davis	Mr Burgoyne
K McNamara	Ms Cahill
Mr Paech	Mrs Carlson
Ms Uibo	Mr Charls
Mr Young	Mr Edgington
	Mrs Finocchiaro
	Mrs Hersey
	Mr Howe
	Mr Kerle
	Mr Mackay
	Mr Maley
	Mr O'Gallagher
	Mr Patel
	Dr Rahman
	Mr Yan
	Mrs Zio

Amendment not agreed to.

J DAVIS: I move amendment 66 to insert new clause 94(1A) after clause 94(1) that says—I withdraw that, because it is in relation to the amendment that we did not pass, so it is now obsolete.

Mr YOUNG: How will the government ensure landowners are fairly compensated for damage?

Mrs FINOCCHIARO: This sets out the scheme for compensation for damage. Obviously, they would have to show there is damage and, presumably, how much that damage resulted in or will cost to fix. It says clearly there:

... as the case requires, the amount, if any, that is determined by the Territory Coordinator to be the amount of the damage.

... damage to land includes loss suffered as a result of any of the following:

The criteria are there.

Mr YOUNG: Why is it the Territory Coordinator who makes that ruling for the compensation and not an independent body?

Mrs FINOCCHIARO: Because that will cause delay, cost and complication or the landowner. We want it to be resolved as quickly as possible.

Mr YOUNG: Is there a mechanism or a body for the landowner to appeal that decision by the Territory Coordinator about the compensation if they do not feel it is just?

Mrs FINOCCHIARO: There is always the courts.

Mr MALEY: Judicial review, yes.

Mr YOUNG: What compensation rights do landholders have if the property is damaged during an inspection?

Mrs FINOCCHIARO: The property rights?

Mr YOUNG: What compensation rights do landholders have?

Mrs FINOCCHIARO: The ones set out in clause 94.

Mr YOUNG: How will cultural damage to Indigenous sites be valued and compensated?

Mrs FINOCCHIARO: That is under the Sacred Sites Act.

Ms UIBO: Would that also apply if there was any damage to a heritage site since that is in the Schedule?

Mrs FINOCCHIARO: There is the ability for compensation for damage. There would have to be damage, someone would have to show there is damage and someone would have to show the cost of the damage. It is there specifically for this purpose; it is not some strange trick. We put compensation for what would be a rare event, given the low-impact nature of the authorisation that there would be any damage or loss suffered.

Ms UIBO: I was thinking of a recent, unfortunate example experienced in the Northern Territory where there was a heritage site on a pastoral property that was damaged. I want to apply that example of the process under clause 94 for compensation for damage. If the *Heritage Act* of the Northern Territory is included in that Schedule, would that then mean compensation claims would be obsolete because it is one of the 32 provisions in the Schedule?

Mrs FINOCCHIARO: It would be set out in the *Heritage Act*.

Ms UIBO: My understanding is that if the Schedule of the 32 laws listed in the Act that the Territory Coordinator can have power over, would that then mean they could, essential, jump over the compensation part of that Act, or would it still stand in its own right?

Mrs FINOCCHIARO: No, the minister would have to issue an exemption notice; it would have to be significant. Do not forget you would have to go straight to the front of the Bill, start the entire process over that heritage building or whatever it might be. Yes, it would not get there. It would not meet those criteria because ...

Ms UIBO: They would still be eligible to apply for compensation?

Mrs FINOCCHIARO: Yes, but it would be under the *Heritage Act*, just like the Sacred Sites Act. They have their own schemes. This is like reversing your Hilux into a fence; it is that kind of stuff.

Clause 94 agreed to.

After clause 94:

J DAVIS: I move amendment 68 in schedule 017IND to insert after clause 94 new clause 94A before clause 95 in Part 9. This is in relation to public consultation requirements. I have heard the government say that it is not open to considering this; nevertheless, I wish to read it out to Chamber. Other members have explained the need to have robust consultation processes that the public can trust. To that end, this amendment proposes that this section sets out the minimum requirements for public consultation. I heard from the Chief Minister that there would be in the regulations a minimum requirement of timeframes and potentially three other things that would be considered.

This amendment says:

- (1) This section sets out the minimum requirements for the public consultation required in relation to each of the following proposals:
 - (a) a proposed ICP ...
 - (b) a proposed variation of the ICP ...
 - (c) a proposed program of works ...
 - (d) a proposed TDA plan ...
 - (e) a proposed variation of a TDA plan ...
- (2) The Territory Coordinator must, when publishing a proposal, as required under this Act, publish a notice on the Territory Coordinator or agency website, including the following information:
 - (a) a statement that the proposal has been published ...
 - (b) the consultation period for the proposal which must be at least 60 days from the date the notice is published;
 - (c) that any person may, within the consultation period, make submissions in relation to the proposal;
 - (d) that submissions may be made in writing or in audiovisual or audio-visual format;
 - (e) the address where submissions may be given.
- (3) During the consultation period, the Territory Coordinator must carry out public information sessions regarding the proposal.
- (4) The Territory Coordinator must, if requested to do so by an interested party for the proposal, and so far as is reasonably practicable, for the purpose of enabling interested parties to understand the proposal:
 - (a) provide information about the proposal in languages other than English
 - (b) arrange for public information sessions regarding the proposal to be carried out in languages other than English.
- (5) As soon as is reasonably practicable after a consultation period finishes, the Territory Coordinator must publish all submissions received by the Territory Coordinator on the Territory Coordinator or Agency website.

I have previously talked to the importance of this amendment. I will not spend more time on it now, but I encourage people to support it.

Mrs FINOCCHIARO: We will not be supporting the amendment.

Amendment not agreed to.

Clause 95:

Ms UIBO: I move amendment 18 in schedule 017OPP to clause 95. The amendment proposes to omit it and insert:

95 Review by NTCAT

- (1) NTCAT has jurisdiction to review a decision (a *reviewable decision*) specified in Schedule 2.

- (2) An *affected person*, for a reviewable decision, is a person specified in Schedule 2 for the decision.
- (3) An affected person for a reviewable decision may apply to NTCAT for review of the decision.

This amendment will provide for merits review of decisions made by the Territory Coordinator with the NT Civil and Administrative Tribunal (NTCAT) responsible for reviewing the coordinator's decision.

This is something many Territorians believe—as seen in the submissions that have been provided, the input into this Bill and in the committee processes of this Bill—would lend itself to being able to have not just one endpoint of reviewing decisions. The only avenue we have heard so far from the government is the judicial review avenue. That is a costly process. It is not always accessible for the everyday Territorian to go through court or a legal proceeding of that nature.

A very high threshold is required for a judicial review process. It would probably knock out a lot of Territorians who want to pursue a review of decision. We believe the provision and insert of this amendment would be able to provide NTCAT with a review process, a mechanism based on merit, which we have heard would be important for Territorians to have faith in the process. The extra level of protection to allow for review would go a long way for the government to adopt this recommendation.

Mrs FINOCCHIARO: We will not accept the amendment. We feel that given the decisions that can be made under the Act, judicial review is the appropriate form of review.

The Assembly divided:

Ayes 6	Noes 17
Mr Brown	Ms Boothby
J Davis	Mr Burgoyne
K McNamara	Ms Cahill
Mr Paech	Mrs Carlson
Ms Uiibo	Mr Charls
Mr Young	Mr Edgington
	Mrs Finocchiaro
	Mrs Hersey
	Mr Howe
	Mr Kerle
	Mr Mackay
	Mr Maley
	Mr O'Gallagher
	Mr Patel
	Dr Rahman
	Mr Yan
	Mrs Zio

Amendment not agreed to.

Mr YOUNG: How is this clause legally consistent with principles of administrative law which generally allow for review mechanisms?

Mrs FINOCCHIARO: It is a review mechanism.

Mr YOUNG: Should affected communities have access to judicial review or an independent tribunal?

Mrs FINOCCHIARO: Judicial review.

Mr YOUNG: Why does the Bill remove appeal rights for landowners and community members?

Mrs FINOCCHIARO: It does not repeal any rights; it literally sets out the opportunity to have a judicial review, as per section 95.

Mr YOUNG: Does the removal of appeal rights increase the risk of legal challenges under federal administrative law?

Mrs FINOCCHIARO: Federal law does not apply. This is Territory law.

Ms UIBO: Further to the Member for Daly's question in regard to if someone was choosing to appeal or challenge a decision when it comes to those Commonwealth laws, would that be in harmony or friction to this legislation?

Mr MALEY: I can answer this. If you have a right under Commonwealth law, any Commonwealth act, you have that right. This legislation does not impinge on that. If you have a right under common law or a jurisdiction for a federal law, you have that power no matter what it might be. It is basically called judicial review in the Supreme or Federal Court.

Clause 95 agreed to.

Clause 96:

Ms UIBO: I move amendment 19 to clause 96(1). After clause 96(1)(g) insert (h), 'a justification of any decision supported by an economic or environmental impact assessment'. This is a series of amendments for clause 96 and part of a suite of changes to increase transparency on the Bill. When it is enacted as law, these amendments will create the requirement for real-time, publicly accessible reporting on the Territory Coordinator's website, reports indexed by project industry and type of exemption or variation, justifications for all decisions supported by economic and environmental impact assessments. There are a couple that we are dealing with individually, so I will stop there.

Mrs FINOCCHIARO: We will not accept your amendment. The information required to be kept on the register is laid out as intended in that clause.

Amendment not agreed to.

Ms UIBO: I move amendment 20 to clause 96(3) to omit 'make reasonable endeavours to ensure the register is kept updated' and insert 'ensure the register is updated within 24 hours of a new entry or change to an entry required by subsection (1)'. This is part of the suite of measures we are hoping will provide more transparency and comfort for Territorians.

Mrs FINOCCHIARO: I understand what you are intending to achieve, but that would be an unachievable outcome. It is not a practical reality to do that, so we will not accept the amendment.

Amendment not agreed to.

Ms UIBO: I move amendment 21 to clause 96(4) to omit and insert:

- (4) The register must be:
 - (a) published on the Territory Coordinator or Agency website; and
 - (b) searchable, or indexed, by project, industry and type of document.

Mrs FINOCCHIARO: We will not accept the amendment.

Amendment not agreed to.

Clause 96 agreed to.

Clauses 97 and 98, by leave, taken together and agreed to.

Clause 99:

Ms UIBO: I move amendment 22 to clause 99 to omit the words 'exemption notice' in clause 99(2).

This amendment removes references to the exemption notices in line with other amendments we have put forward for this Bill.

Mrs FINOCCHIARO: We will not be accepting that because obviously exemption notices are stated. I assume if they are in, you would prefer them to be in the annual report.

Amendment not agreed to.

Clause 99 agreed to.

Clause 100:

J DAVIS: I move amendment 70 in schedule 017IND to clause 100(1). This is also a recommendation from the committee. This is in relation to reviews into the matters relevant to the Territory Coordinator function. The committee noted, as did much evidence given to the committee, that this clause means the Territory Coordinator is reviewing themselves.

The committee had significant concerns about this, therefore the committee recommended that this clause be amended to provide that reviews of any matter the minister considers is one which the coordinator should be concerned with in the general operation of the coordinator's functions are to be undertaken by an independent entity.

The amendment therefore reads that we omit 'conduct' and insert 'arrange for an appropriately qualified independent third party to conduct' a review.

Once again, this is an amendment that goes to public perception of trust in the role of the Territory Coordinator. I encourage the members of government to listen to the recommendations of the committee which read more than 300 submissions and listened to expert witness statements, then made recommendations to try to ensure that this Bill would be as robust as possible.

K McNAMARA: I speak in support of this briefly. It is late and I am tired, but I want to make a point that is confusing to me. This is an amendment that has come directly from the recommendations of the scrutiny committee. I cannot understand why we have the Chair and members of the scrutiny committee in the CLP who are voting against their own recommendations.

It has not gone unnoticed by the public as well who have been watching and questioning why the Chair and other members keep voting against their own recommendations. I do not get it. There will be questions from the public and particular from those who participated in the committee process as to why the Chair and other CLP members cannot think and act for themselves and stand by their recommendations. I would love an answer to that, but I understand I will not get one here.

I still cannot understand the reason why the members opposite would not vote for things that are simply trying to improve this Bill and make it more accountable to the public. What are you afraid of?

Mr EDGINGTON: Is that a question or a statement?

K McNAMARA: It is my statement in support of that. Feel free to answer why you are voting against your own recommendations.

Mrs FINOCCHIARO: I can explain this because you do not understand this section. This is not the Territory Coordinator reviewing themselves. This is if the Territory Coordinator has been continuously stepping in, for example, in certain points of certain regulatory frameworks. They can then make sure there is a review into that legislation or whatever that interfaces it. It is not the Territory Coordinator themselves; it is if they are continuing to hit the same hurdle over and again it can trigger a review into whatever that hurdle looks like. We will not accept the amendment.

J DAVIS: My reading of subclause (1) is that the Territory Coordinator may conduct a review into any matter that is one with which the Territory Coordinator should be concerned in the operation of the coordinator's functions. That, to my reading, would also include the actual operations and functions of the coordinator themselves. Am I misunderstanding that?

Mrs FINOCCHIARO: I suppose you could interpret it that way; that is entirely up to you, Member for Johnston, but that is not what that clause does. We have the five-year review set out in the legislation. That is the review.

J DAVIS: The review process for the Territory Coordinator is that in five years' time there will be a review into the person in that role; is that correct?

Mrs FINOCCHIARO: No, it is into the Act. It is standard that a vast swathe of legislation has a time period for review.

J DAVIS: The process for reviews, just so I understand—are you saying clause 100 is in relation to the functions of the Territory Coordinator, not the Territory Coordinator themselves, and that a review will happen, which may be about the Territory Coordinator in five years?

Mrs FINOCCHIARO: No. Let us stick to clause 100. We will get to the other type of review, because I think they are converging. Clause 100 allows the Territory Coordinator to review matters they have come across that could be resolved in another way. It is not to review themselves and their performance and how they are operating. It is about other interfaces they are having.

Amendment not agreed to.

Clause 100 agreed to.

Clause 101, by leave, agreed to.

After clause 101:

Mrs FINOCCHIARO: I move amendment 12 to insert new clause 101A. This was one of the in-part amendments from the scrutiny committee. This clause has been added and requires the minister to arrange for an independent review. This is that review process now, Member for Johnston.

There will be an independent review of the Act as soon as possible five years after the Act commences. It also requires a report on the outcome of the independent review to be tabled in the Legislative Assembly within 12 months of the end of the five-year period since the commencement of the Act. An independent review will happen, and then it will be tabled in parliament.

Mr PAECH: I acknowledge the amendment you just moved in relation to the review, noting that the agreed position is a review as soon as possible after five years after the commencement of the Act. You are stating that the outcome of the review is to be tabled in the Legislative Assembly within 12 months of the end of the five-year period. Essentially, we could be looking at not knowing the effectiveness of the review for six years; is that correct?

Mrs FINOCCHIARO: In a technical sense, yes. It depends how long that review process goes for. It could be a number of months—six months for the process to be undertaken and then there is the time for writing. All it intends to do is give adequate time for a fulsome process.

Ms UIBO: We had a similar amendment to this. We were to propose three years. I am wondering about the decision on the five years so we can understand that as opposed to the three.

Mrs FINOCCHIARO: The committee recommended five years.

Amendment agreed to.

Clauses 102 and 103, by leave, taken together and agreed to.

Clause 104:

Ms UIBO: The opposition sought a briefing and we have an understanding of this question, but it is important for the public to have this information as well through the consideration in detail process. Can you tell Territorians why the Bill grants full legal immunity to the Territory Coordinator?

Mrs FINOCCHIARO: In proposed section 104, where a person is acting in good faith in the exercise of their powers, there are criteria around it. This type of protection from liability is standard across government. Basically it is if the person is not civil or criminally liable and if they have acted in good faith in the exercise of their power. That applies to the Territory Coordinator, a member of the coordinator's staff or a person acting for or on behalf of the coordinator. As I said, it is standard across government.

Ms UIBO: Can the Territory Coordinator be held personally accountable for misconduct?

Mrs FINOCCHIARO: Misconduct is not this section, for clarity. Misconduct would be under the terms and conditions of employment. This is only when a person is in good faith exercising their powers.

Ms UIBO: Sorry, maybe I should have read my two questions together. The second part of my question leading on from that was to ask you whether the Territory Coordinator could be personally liable in cases of misconduct. Sorry, I was waiting to join those two questions.

Mrs FINOCCHIARO: That is too hypothetical to answer. This clause does not deal with that.

Clause 104 agreed to.

Clause 105, by leave, agreed to.

Schedule:

Ms UIBO: I move amendment 24 in schedule 017OPP to omit item 10 from the Schedule. We have circulated the proposed amendment. This allows for removing the *Heritage Act* from the Schedule. This will allow for—I do not know if that is in the right spot. Sorry—omit Schedule item 10 and item 14, and insert an amended Schedule 2, Reviewable decisions.

The two main Acts that we are concerned about, and this came up in many processes of community feedback into the Bill, was item 10 on the Schedule, the *Heritage Act 2011*, and the *Local Government Act 2019*. We have had a lot of feedback on this, so the amendment is to remove the *Heritage Act 2011* and the *Local Government Act 2019* from the Schedule.

We have heard, right up to tonight, that this is what community and key stakeholders have been meeting and contacting us about. I have also been contacting government, independent members and crossbenchers. In regard to the proposal for this amendment, we believe it allows for merits review of decisions made by the Territory Coordinator, setting out who and what can be reviewed within the Schedule. It also gives better oversight for the Territory Coordinator and promotes natural justice to those affected by coordinator decisions.

We think the new insertion of Schedule 2, Reviewable decisions, will round off some of the clear feedback from the community and the expectations people have in regard to the processes, extra accountability and mechanisms to get clarity or to review decisions. As I have mentioned, we have been contacted and provided the concerns in regard to those two Acts, the *Heritage Act 2011* and the *Local Government Act 2019*. Those who watched, listened to or participated in the scrutiny committee process would have heard those two Acts—wanting the government to remove those two laws from the Schedule because of their concerns.

We do not need to go over it; I think many people are familiar with that. That is our focus through this amendment.

J DAVIS: I support this amendment. Significant concerns were raised in relation to the inclusion of specific acts to the scrutiny committee, particularly in relation to the *Local Government Act* and the *Heritage Act*. In general, in committee hearings it was unclear why some Acts were in and some out. We discussed the fact that the *Nuclear Waste Transport, Storage and Disposal (Prohibition) Act 2004* was removed, but when we asked questions about that in the committee, the Chief Minister was unable to advise on the rationale for including or excluding any acts on the Schedule, saying, 'We don't know what we don't know'.

In general, I believe the list of scheduled Acts should be reconsidered and there should be rationale for the inclusion of each Act. However, in relation to this specific amendment, I support that item 14 and item 10 are omitted from the Schedule. I note that omitting item 14 from the Schedule was a recommendation of the committee.

We heard strong witness statements in relation to the importance of excluding the *Local Government Act* from the Schedule. Also, in relation to the *Heritage Act*, there were concerns raised that was removed between the exposure draft and the current draft of the Bill and the Heritage Council was not consulted or informed regarding that removal.

Mr PAECH: I acknowledge the comments made by the Member for Johnston and the Leader of the Opposition. As a member of the Legislative Scrutiny Committee, I acknowledge the firm advocacy from the Local Government Association of the Northern Territory to have the *Local Government Act 2019* removed

from the Schedule, as well as Palmerston City Council which advocated quite strongly for the desire for the *Local Government Act* be removed from the Schedule.

Regarding the *Heritage Act*, we heard from the Heritage Council and a number of other key witnesses giving oral testimony at the time. Again, they were not given the appropriate information or reason or rationale as to why the *Heritage Act* and the *Local Government Act* needed to remain in the Schedule.

As the Member for Johnston has said, the committee was told by the department, 'We do not know what we do not know. That is why they are in there.' That is quite a pathetic excuse as to why those two pieces of legislation should be in the Schedule. We have made an amendment that any Act that is to go into the Territory Coordinator Act, should come to the floor of parliament and be debated. It would be easy to remove the *Heritage Act* and the *Local Government Act* right here, right now tonight.

If there are any changes, it could come back to the floor of the parliament and the government could signal and talk on its intention as to why those two pieces of legislation need to be included in the Schedule. Currently, we are yet to have an articulated position as to why they need to be in there.

We heard from the Local Government Association of the Northern Territory and Palmerston City Council that local government in the Northern Territory is not like other local government entities. They do not have the same level of planning, approvals and permissions. They have some jurisdiction over traffic management. They felt that what was proposed regarding the planning decisions was not appropriate.

We support the removal of the *Local Government Act* and the *Heritage Act* from the Schedule.

Mrs FINOCCHIARO: I do not appreciate the verballing of the people from the Department of the Chief Minister and Cabinet who made submissions to the scrutiny committee. Equally, there is a big difference between not wanting to be in the Schedule and not understanding why you are there in the first place.

The minister for Local Government made it clear in his submission why it was important that they were in and that local government is an important part of supporting economic development and growth, particularly in the regions. They are important in terms of integrating with processes and regulatory approvals. Equally, the *Heritage Act* came at no surprise to anyone because it was in the consultation paper that we did.

We will not be accepting the amendments and will be proceeding with Schedule as printed.

Ms UIBO: I apologise. I did three in one by accident. Amendment 24 is removing item 10. The Member for Gwoja has an amendment that will be circulated by the Table Office which relates to omitting item 14, as does the Member for Johnston in her amendment. My amendment 25 is the insertion of Schedule 2. I just wanted to clarify that at this late hour. There is a three-in-one that we spoke about, but they all have similar purposes in the inclusion of the amendment proposed.

The Assembly divided:

Ayes 6	Noes 17
Mr Brown	Ms Boothby
J Davis	Mr Burgoyne
K McNamara	Ms Cahill
Mr Paech	Mrs Carlson
Ms Uiho	Mr Charls
Mr Young	Mr Edgington
	Mrs Finocchiaro
	Mrs Hersey
	Mr Howe
	Mr Kerle
	Mr Mackay
	Mr Maley
	Mr O'Gallagher
	Mr Patel
	Dr Rahman
	Mr Yan
	Mrs Zio

Amendment not agreed to.

J DAVIS: I move to omit item 14 from the Schedule. I have already spoken on this, so I will not again.

Mrs FINOCCHIARO: We will not be accepting it.

The Assembly divided:

Ayes 6	Noes 17
Mr Brown	Ms Boothby
J Davis	Mr Burgoyne
K McNamara	Ms Cahill
Mr Paech	Mrs Carlson
Ms Uiibo	Mr Charls
Mr Young	Mr Edgington
	Mrs Finocchiaro
	Mrs Hersey
	Mr Howe
	Mr Kerle
	Mr Mackay
	Mr Maley
	Mr O'Gallagher
	Mr Patel
	Dr Rahman
	Mr Yan
	Mrs Zio

Amendment not agreed to.

Schedule agreed to.

After the Schedule:

Ms UIBO: I move amendment 25 to insert Schedule 2. This is the one where I jumped the gun and spoke about it in amendment 24 by accident. It has been circulated. In amendment 25, the Labor opposition proposes the insertion of Schedule 2, Reviewable decisions, for all the reasons that I will not repeat that I provided before. There are nine elements tabled clearly in the document that was circulated for that amendment.

This will provide the opportunity for Territorians to see that there are specific sections that can provide the affected persons. They are clearly laid out. This should be part of the legislation because that is what people will look to as guidance, being a brand-new law in the Northern Territory. The more information the better, hence, the amendment being proposed.

Mrs FINOCCHIARO: We will not be accepting your recommendation. For the decisions that are being made, judicial review is adequate.

Amendment not agreed to.

Remainder of the Bill:

Mr YOUNG: I still have questions on clause 106. Chief Minister, why was the decision made to include the *Heritage Act*?

Mrs FINOCCHIARO: This was something that we put out in our consultation document seeking feedback on, indicating that we would include it in the Schedule. In the end we made the decision to include it because they have a regulatory interface with decision-making and decision-making timeframes. It is important that the Territory Coordinator has the opportunity, if and when a situation arises, to be able to utilise the key powers in the *Heritage Act*.

Mr YOUNG: Are you able to give an example of those powers that the Territory Coordinator may use regarding the *Heritage Act*?

Mrs FINOCCHIARO: It would be all the key powers in the Act. You go back to page one and work through the process. That could mean that the Territory Coordinator could use their powers.

Mr YOUNG: Why is the *Local Government Act* not excluded as was recommended by the scrutiny committee?

Mrs FINOCCHIARO: I have already answered that.

Mr YOUNG: Are you able to give an answer to that question though?

Mrs FINOCCHIARO: I sure did about 10 minutes ago.

Mr PAECH: Do not worry, the committee is still waiting too—her own members.

Mr YOUNG: It is relevant to this clause. I will put the question in a different way. Why was the decision made to include the *Local Government Act*?

Mrs FINOCCHIARO: I have answered this question.

Mr DEPUTY SPEAKER: I believe the Chief Minister has answered that previously.

Mr YOUNG: She has not answered it in this clause.

Mrs FINOCCHIARO: Where do you think I answered it?

Mr YOUNG: It is in this. I am asking the question to this clause. It needs to be answered to this clause.

Mr DEPUTY SPEAKER: She has answered it in the discussion on the Schedule.

Mr YOUNG: No, no, the Schedule is to this clause, so she needs to answer that.

Mr Edgington: She has answered.

Mr DEPUTY SPEAKER: We are on the Schedule; that is all we are talking about. We have gone past the Schedule now ...

Mr YOUNG: Well, the question is to the Schedule.

Mr DEPUTY SPEAKER: We have gone past the Schedule now. I believe the Chief Minister has answered that question many a time. Are there any new questions?

Mr YOUNG: To clarify you said, 'we are at the Schedule' and then 'we are past the Schedule'. Where are we?

Mrs FINOCCHIARO: Past the Schedule.

Mr DEPUTY SPEAKER: The last amendment raised by the Leader of the Opposition was after we passed the Schedule.

Mr Edgington: It was while you were asleep.

Mr Young: I was not asleep—no worries.

Mr DEPUTY SPEAKER: I will now continue on. You will recall I got to the stage where I said, 'Is it the wish of the Assembly that the remainder of the bill be taken together'. The Member of Daly wanted to talk which he has now done. Okay?

Mr YOUNG: Yes. We got to the remainder of the Bill from the Schedule 106? I said no, so it goes back to that?

Mr DEPUTY SPEAKER: I am advised we are now into the preamble and the long title.

The Assembly divided:

Ayes 17	Noes 6
Ms Boothby	Mr Brown
Mr Burgoyne	J Davis
Ms Cahill	K McNamara
Mrs Carlson	Mr Paech
Mr Charls	Ms Uibo
Mr Edgington	Mr Young
Mrs Finocchiaro	
Mrs Hersey	
Mr Howe	
Mr Kerle	
Mr Mackay	
Mr Maley	
Mr O'Gallagher	
Mr Patel	
Dr Rahman	
Mr Yan	
Mrs Zio	

Remainder of the Bill agreed to.

J DAVIS: I have a question in relation to the *Heritage Act*. You said that was flagged in the consultation process and that you asked people's view about removing the *Heritage Act* from the Schedule. We asked this in the scrutiny committee as well and did not get a satisfactory answer. You said that based on consultation you decided to remove that act—sorry, you decided to include the *Heritage Act* based on the consultation. Can you please tell us whom you spoke to that informed that decision. We know it was not the Heritage Council.

Mrs FINOCCHIARO: I have answered this question.

Ms UIBO: No, you have not.

Mrs FINOCCHIARO: I absolutely have. We talked about this in the Schedule.

Mr PAECH: The Member for Johnston is asking a question. The original proposal talked about having it, then it was removed, then when a Bill came to the committee, now it is included again. It has been in there, it has been talked about not being in there, and it has been in there again. The Member for Johnston is asking a simple question. Who informed that decision for it to remain in there?

The real Chief Minister, the Member for Barkly, can sit down.

Mr DEPUTY SPEAKER: Member for Gwoja, take your seat, please. Member for Johnston, I remind all people, the question is that that Bill be agreed to. We have already been through the Schedule. We will now answer the question that the Bill be agreed to.

Mr YOUNG: A point of order, Mr Deputy Speaker! Standing Order 1; I just want clarification. We can ask questions when it comes to the whole of the bill. You cannot silence us from doing our job.

Mr DEPUTY SPEAKER: I am advised that if you want to go into detail, you need to recommit the Schedule, but I am staying with this. The question is that that Bill be agreed to.

Ms UIBO: We know this is important to get right, regardless of the time of the evening. We have been given some very clear questions and concerns from Territorians. We want to make sure we get the answers for them. We know it will pass; we know what the numbers are. We are not stupid. We honestly want two pieces of clarification about the two bits of legislation. We want to ensure we have asked that, and we know the government wants to ignore the questions from Territorians, but we need to know, by rights of standing orders ...

Mr DEPUTY SPEAKER: Leader of the Opposition, take your seat, please.

Ms UIBO: Are we allowed to ask this question in this section?

Mr DEPUTY SPEAKER: I ask you again to take your seat!

Mr EDGINGTON: Mr Deputy Speaker, the questions relating to the Schedule have already been asked and we have moved on from that part of the questions.

Mr DEPUTY SPEAKER: I agree. I say it again one last time. The question is that that Bill be agreed to.

The Assembly divided:

Ayes 17	Noes 6
Ms Boothby	Mr Brown
Mr Burgoyne	J Davis
Ms Cahill	K McNamara
Mrs Carlson	Mr Paech
Mr Charls	Ms Uibo
Mr Edgington	Mr Young
Mrs Finocchiaro	
Mrs Hersey	
Mr Howe	
Mr Kerle	
Mr Mackay	
Mr Maley	
Mr O’Gallagher	
Mr Patel	
Dr Rahman	
Mr Yan	
Mrs Zio	

Bill agreed to.

Mr DEPUTY SPEAKER: I thank everyone for their contribution and perseverance. We will proceed to the third reading.

Mrs FINOCCHIARO (Territory Coordinator): Mr Deputy Speaker, I move that the Bill be now read a third time.

The Assembly divided:

Ayes 17	Noes 6
Ms Boothby	Mr Brown
Mr Burgoyne	J Davis
Ms Cahill	K McNamara
Mrs Carlson	Mr Paech
Mr Charls	Ms Uibo
Mr Edgington	Mr Young
Mrs Finocchiaro	
Mrs Hersey	
Mr Howe	
Mr Kerle	
Mr Mackay	
Mr Maley	
Mr O’Gallagher	
Mr Patel	
Dr Rahman	
Mr Yan	
Mrs Zio	

Motion agreed to; Bill read a third time.