

# Explanatory Statement

## TERRITORY COORDINATOR BILL 2025

### SERIAL NO. 17 LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

#### MINISTER FOR TERRITORY COORDINATOR

#### **GENERAL OUTLINE**

This Bill establishes the Territory Coordinator and grants the Territory Coordinator and the Minister a range of powers to coordinate and consolidate regulatory processes for projects and developments of economic significance to the Territory. In particular, the Bill:

- Establishes the statutory role of the Territory Coordinator and provides eligibility criteria for appointment to the role, grounds for termination, the functions and powers of the role, and powers to delegate the Territory Coordinator's functions and powers.
- Grants the Minister the power to designate a significant project, declare an infrastructure coordination area (ICA) in relation to a significant project, and approve an infrastructure coordination plan (ICP) in relation to a significant project.
- Grants the Minister the power to approve a program of works.
- Grants the Minister the power to designate a Territory development area (TDA), and to approve a proposed TDA plan in relation to the area.
- Establishes powers for the Territory Coordinator to authorise a person to enter land that is within an ICA or a TDA.
- Establishes powers for the Territory Coordinator and Minister to give a prioritisation, progression-related, or decision request to a responsible entity of a statutory process or decision in a Scheduled law (a law listed in the Schedule to the Act or by regulation).
- Establishes the power for the Territory Coordinator and Minister to give a step-in notice to a responsible entity, informing them that the Territory Coordinator or Minister will step in to act as the decision maker for the specified statutory process or decision.
- Establishes the power for the Minister to give an exemption notice to modify or exclude the application of a Scheduled law on specific grounds.
- Establishes the power of the Territory Coordinator to give a condition variation notice to a responsible entity and a proponent, to modify or revoke a condition of a statutory approval under a Scheduled law.

#### **NOTES ON CLAUSES**

##### **Part 1. Preliminary matters**

##### **Clause 1. Short Title.**

This is a formal clause which provides for the citation of the Bill. The Bill when passed will be cited as the *Territory Coordinator Act 2025*.

## Clause 2. Commencement.

This clause sets out how the Act will be commenced. The Act will commence on the day fixed in the notice given by the Administrator in the Northern Territory Government *Gazette*. If for any reason a provision has not commenced by 8 February 2027, it will commence on that day.

## Clause 3. Definitions

The clause sets out definitions for key terms that are used throughout the Bill. Some divisions of the Bill also include definitions clauses for terms that are specific to those divisions. In addition, the *Interpretation Act 1978* contains definitions and other provisions that may be relevant to this Act.

**Aboriginal land:** This term has the same definition as provided by section 3(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

**applicant:** This term is used in Part 7 and is explained in section 62.

**approved program of works:** This term refers to a program of works that is approved by the Minister under section 41.

**condition variation notice:** This term is used in Part 7 and is explained in section 84(1).

**decision request:** This term is used in Part 7 and is explained in section 66(1).

**economic significance:** This term is explained in section 4.

**eligible person:** This term is explained in section 11(2).

**environment:** This term reflects the definition provided by section 6 of the *Environment Protection Act 2019* at the time of the Bill being introduced.

**exemption notice:** This term is explained in section 77(1).

**IC activity:** This term means any activity undertaken by the Territory Coordinator to facilitate the implementation of an ICP, or a project that is permitted under an ICP

**ICA:** This term means an area of land of water declared as an infrastructure coordination area under section 25(1).

**ICP:** This term is explained in section 27.

**interested party:** This term is explained in section 5(1).

**Land Council:** This has the same meaning as provided by section 3(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

**National Native Title Register:** This term means the register established under section 192 of the *Native Title Act 1993* (Cth).

**native title rights and interests:** This term has the same meaning as provided by section 223 of the *Native Title Act 1993* (Cth).

**original entity:** This term is used in Part 7 and is explained in section 71(c).

**owner or occupier:** This term is used in Part 8, and means the registered owner of the land or any other person registered on the land title, any person with an interest in the land recorded on the National Native Title Register, or any person who is the identifiable occupier of the land if the registered owner or a person with an interest recorded on the Register is not the occupier.

**plan area:** This term is used to describe the area that to which a TDA plan, a proposed TDA plan, an ICP or a proposed ICP relate.

**primary principle:** This term is explained in section 8(1).

**prioritisation request:** This term is used in Part 7 and is explained in section 64(1).

**program of works:** This term is explained in section 38.

**progression-related request:** This term is used in Part 7 and is explained in section 65(1).

**proponent:** This term is widely used in Territory laws and means the person who proposes a project or takes over the conduct of a project from the previous proponent of the project.

**public body:** This term is used to describe bodies that have certain obligations under this Bill, and means a body that is a government agency, a local government council, a Government owned corporation, or any other body that performs a public function on behalf of the Territory or another public body.

**public entity:** This term is explained in section 6(1), and includes a public body.

**registered owner:** This term applies to a registered owner of land and has the same meaning as provided by section 4 of the *Land Title Act 2000*.

**relevant law:** This term means, in relation to a statutory decision or a statutory process, means the Scheduled law under which the decision may be made or the process undertaken.

**responsible entity:** This term means the entity that may make a statutory decision or undertake a statutory process under the relevant law. It does not include a court or tribunal.

**Scheduled law:** This term refers to Acts in relation to which the Territory Coordinator or Minister may exercise the powers under Part 7, and means Acts that are included in the Schedule or prescribed by regulation, including subordinate legislation made under those Acts.

**significant project:** This term means a project that has a designation under section 23 in effect.

**statutory decision:** This term is explained in section 7(1).

**statutory process:** This term is used to refer to processes in relation to which the Territory Coordinator and Minister may exercise the powers under Part 7, and means a process that is required to be undertaken under a Scheduled law. It does not include a process that is undertaken by a court or tribunal.

**step-in notice:** This term is explained in section 68(2).

**TDA activity:** This term means an activity undertaken by the Territory Coordinator to implement a TDA plan or a project that is permitted under a TDA plan.

**TDA plan:** This term is explained in section 46(1).

**Territory Coordinator:** This is the person who is appointed under section 11.

**Territory development area (TDA):** This means an area of land or water in the Territory that has a designation under section 43 in effect.

**works project:** This term is used in Part 7 and is explained in section 62.

#### **Clause 4. Meaning of economic significance**

This clause provides a definition for 'economic significance', which is a key criterion for making decisions to designate significant projects and TDAs. 'Economic significance' is defined broadly to ensure there is flexibility around the type, scale, and impact of development that satisfies the criteria for these designations. This may include private sector investment, job creation, population growth, or the development or advancement of an industry in the Territory or a region of the Territory.

This clause is not intended to provide any absolute quantitative threshold for ‘economic significance’. Instead, this clause intends to provide flexibility to enable the Minister to consider the economic significance of a project in relation to a region or the Territory as a whole. For example, the potential job creation from a project may be significant at the regional level, but not at the Territory level. In this scenario, this clause enables the Minister to designate the project as a significant project on the basis that the project is of economic significance to a region of the Territory.

#### **Clause 5. Meaning of *interested party***

This clause provides a definition for an ‘interested party’. This term is relevant for notifications of designations of ICAs and TDAs, and approvals of ICPs and TDA plans.

The clause provides that each of the following persons is an interested party for an area:

- a) The registered owner of, or any other person registered on the land title for, land within the area or any adjoining land;
- b) If any part of the area or any adjoining land is Aboriginal land – the Land Council and Land Trust for the land;
- c) Any of the following, as defined in section 253 of the *Native Title Act 1993* (Cth), in relation to any part of the area:
  - a. A registered native title body corporate;
  - b. A registered native title claimant;
  - c. A representative Aboriginal/Torres Strait Islander body;
- d) The relevant local government council for the area.

This clause also includes the power to expand the list of interested parties in future by prescribing other parties in regulation.

For this section, Land Trust has the same meaning as provided by section 3(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

#### **Clause 6. Meaning of *public entity***

The clause provides a definition for ‘public entity’, which outlines the entities which have a number of obligations under the Act, including providing information, documents or assistance to the Territory Coordinator, cooperating with the Territory Coordinator in the performance of their functions, and complying with an ICP or program of works approved by the Minister.

This clause specifically provides that a court or tribunal is not a public entity, recognising that there is no intention for the powers contained in this Bill to be directed towards courts or tribunals. The clause also allows further entities to be excluded from the definition.

#### **Clause 7. Meaning of *statutory decision***

This clause provides a definition for ‘statutory decision’, which is limited to decisions that are made under a law that is included in the Schedule or listed by Regulation.

This limitation is intended to ensure the powers in the Bill can only apply to decisions that relate to the regulatory processes that enable economic development, and avoid unintended consequences from their application to decisions under other legislation.

## **Clause 8. Primary principle of Act**

This clause sets out the primary principle that the Territory Coordinator and Minister must consider when exercising key powers under the Bill, or a power or function under any other Act in connection with the execution of a key power. When doing so, this clause provides the Territory Coordinator and Minister must consider the primary objective of driving economic development, as well as the potential social and environmental outcomes.

Driving economic development is the primary objective of the Territory Coordinator's role. However, must be balanced and proportionate when considering the potential social and environmental outcomes, such as benefits to the community impacts to human health for example.

The Territory Coordinator and Minister must consider the primary principle when exercising the following key powers:

- (a) Designating a significant project under clause 23;
- (b) Declaring an infrastructure coordination area under clause 25
- (c) Varying the boundaries of an ICA;
- (d) Approving or varying an ICP;
- (e) Approving a program of works under clause 41;
- (f) Designating a TDA under clause 43;
- (g) Approving a TDA plan under section 50;
- (h) Varying the boundaries of a TDA under clause 53;
- (i) Approving a variation of a TDA plan under clause 57;
- (j) Giving a prioritisation, progression-related or decision request under clauses 64, 65 or 66;
- (k) Giving a step-in notice under 68 or 69;
- (l) Giving an exemption notice under 80;
- (m) Giving a condition variation notice 84.
- (n) Exercising a power under a step-in notice.

When the Territory Coordinator or Minister exercises a power under another Act under a step-in notice, they must consider the primary principle in addition to the objects, principles or considerations of the relevant Act.

However, this clause provides that to the extent there is any inconsistency between the primary principle and the objects, principles or considerations of the relevant Act, the primary principle prevails. This is to ensure the Territory Coordinator and Minister make decisions in a way that gives effect to the purpose of the other legislation, but are also empowered to achieve the objectives of the Bill. This broadens the basis for decision-making and means that the Territory Coordinator or the Minister have the potential to make decisions that were not available to the original decision-maker.

## **Clause 9. Act binds Crown**

This is a standard clause that provides that the Bill is intended to apply to the Crown.

This clause provides that criminal liability is intended to apply to agents, instrumentalities, officers and employees of the Crown, but that criminal liability is not intended to apply to the Crown in the right of the Territory itself.

## **Clause 10. Application of Criminal Code**

This is a standard clause that provides that Part IIAA of the Criminal Code applies to an offence against this Act. Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. Part IIAA also defines, or elaborates on, certain concepts commonly used in the creation of offences.

## **Part 2. Territory Coordinator**

### **Clause 11. Appointment of Territory Coordinator**

This clause provides for the Administrator to appoint an eligible person as Territory Coordinator.

An eligible person is someone who has suitable qualifications or experience relating to the Territory Coordinator's functions, which are contained in clause 19.

The appointment must be in writing, and notice of the appointment must be published in the Gazette as soon as practical after it is made.

### **Clause 12. Term and conditions of appointment**

This clause provides for the terms and conditions of appointment.

The clause provides that the Territory Coordinator can be appointed for a period not exceeding five years. The term of appointment will be specified in the Instrument of Appointment. The clause also provides that the Territory Coordinator can be reappointed. There is no limit on the number of times a person can be reappointed as Territory Coordinator.

The clause provides that the Administrator determines the Territory Coordinator's conditions of office, including remuneration, expenses and allowances. These will be articulated in the Instrument of Appointment. It is anticipated that conditions relating to declarations of interest, managing conflicts of interest, and engaging in outside employment, will be managed as part of the employment arrangement.

The clause provides assurance that conditions of office cannot be varied to the detriment of the Territory Coordinator during their term of office. Variations that benefit the Coordinator are permitted. This may include, for example, annual salary increases in line with increases to the Consumer Price Index, or variation to allowances to align with those provided to Executive Contract Officers at an equivalent level within the Northern Territory Public Service.

### **Clause 13. Vacancy in office**

This clause sets out the circumstances in which the office of the Territory Coordinator becomes vacant, which are any of the following:

- (a) If the person resigns by providing written notice to the Administrator.
- (b) If the Administrator terminates the person's appointment. The grounds for which the Administrator can terminate appointment are set out in clause 14.
- (c) The person is no longer an eligible person. Clause 11 sets out the eligibility criteria.
- (d) The person is found guilty of an indictable offence for which the maximum penalty is imprisonment for a term of at least 12 months.
- (e) The person becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors or compounds with creditors or makes an assignment of remuneration for their benefit.

#### **Clause 14. Termination of appointment**

This clause provides that the Administrator can terminate the Territory Coordinator's appointment, by written notice, in any of the following circumstances.

- (a) If the person breaches a condition of appointment.
- (b) The person is absent, without approved leave and without reasonable excuse, for either 28 consecutive days or 42 days in any 12-month period.
- (c) On the ground of misbehaviour or physical or mental incapacity.

Within six sittings days after the termination, the Minister must table a report in the Legislative Assembly setting out the reasons for the termination. This requirement provides transparency over the action.

#### **Clause 15. Leave of absence**

This clause provides that the Minister may grant the Territory Coordinator a leave of absence in the event it is required, for example due to unforeseen personal matters. The Minister determines the conditions of the leave of absence.

#### **Clause 16. Acting Territory Coordinator**

This clause enables the Minister to appoint a person to act as the Territory Coordinator if they meet the eligibility criteria in clause 11.

The Minister can only appoint an acting Territory Coordinator in certain circumstances.

Firstly, the Minister can appoint an acting Territory Coordinator during a vacancy in office. As set out in subclause (2), in these circumstances the appointment to act may only be for a period or periods not exceeding in aggregate 6 months in any 12 months.

Secondly, the Minister can appoint an acting Territory Coordinator when the Territory Coordinator is unable, or unavailable, to perform the duties of the office. These circumstances would include when the Territory Coordinator is on recreational leave, or a leave of absence granted under clause 15.

Finally, the Minister can appoint an acting Territory Coordinator where a conflict of interest arises in relation to the Coordinator exercising a power or performing a function in relation to a specific project or activity. In those circumstances, the acting appointment would be to exercise the power or perform the function in relation to that project or activity. The ability to appoint an acting Coordinator in these circumstances recognises that there may be situations that give rise to an actual, potential or perceived conflict of interest for the Territory Coordinator.

#### **Clause 17. Territory Coordinator's staff, consultants and facilities**

This clause provides that the Territory Coordinator's staff consists of public sector employees who are employed for the purposes of carrying out the Coordinator's functions, or persons employed in an Agency who are made available to the Coordinator through an arrangement between their Chief Executive Officer and the Coordinator.

Upon establishment, the Territory Coordinator will be administratively supported by the Department of the Chief Minister and Cabinet, and will be provided with the facilities to properly exercise their functions and powers.

This clause also enables the Territory Coordinator to engage consultants. This will be an important mechanism for the Territory Coordinator to access specialist skills and expertise.

#### **Clause 18. Delegation**

This clause enables the Territory Coordinator to delegate any of their powers or functions, except those contained in Part 7 (expediting statutory processes and decisions).

Given the significance of the powers Part 7, these should only be exercised by the Territory Coordinator. In cases where the Territory Coordinator has a conflict of interest in relation to a particular matter, the Minister would appoint an Acting Territory Coordinator in accordance with clause 16 to exercise the functions and powers in Part 7 in relation to that matter.

The Territory Coordinator may delegate any of the remainder of their functions or powers to a person with the appropriate qualifications or experience to exercise the power of function. In practice, it is anticipated that any delegations will be made to the Territory Coordinator's staff within the meaning of clause 17.

### **Clause 19. Functions**

This clause sets out the functions of the Territory Coordinator, which enable the Coordinator to work with public entities and proponents, to support the efficient and coordinated delivery of projects and developments of economic significance within the Territory.

The Territory Coordinator's functions are:

- (a) to assess, facilitate and coordinate the delivery of projects or developments of economic significance;
- (b) to identify and investigate projects and works that may be suitable to be designated as significant projects or programs of works and make recommendations to the Minister;
- (c) to identify and investigate areas of the Territory that may be suitable to be designated as infrastructure coordination areas or TDAs and make recommendations to the Minister;
- (d) to prepare, coordinate and oversee the implementation of ICPs, IC activities, programs of work, TDA plans TDA activities;
- (e) to provide a single point of contact for case management for proponents in their engagement with government for significant projects, TDAs and programs of work;
- (f) to facilitate collaboration and coordination between stakeholders including proponents, the Territory, local communities, traditional owners, native title holders and Land Councils, in relation to significant projects, programs of work and TDAs, with particular consideration of:
  - (i) integrated strategic planning; and
  - (ii) impacts and community benefit considerations;
- (g) to provide strategic advice and advocacy to the Minister in relation to factors that impact the effective delivery of the Coordinator's functions;
- (h) to perform any other functions conferred on the Coordinator by this Act or any other Act, or by the Minister in writing.

This clause provides that 'native title holder' has the same meaning as provided by section 224 of the *Native Title Act 1993* (Cth).

### **Clause 20. Powers**

This clause provides that the Territory Coordinator has all the powers necessary to perform their functions.

Subclause (2) provides several examples of those powers, including to request information, documents or assistance from a public entity, direct a public entity to coordinate actions or share information with public entity or a proponent, and undertake public consultation.

Further specific powers are set out elsewhere in the Act, including Part 7.



**Clause 21. Impartiality and independence**

This clause provides that the Territory Coordinator must act impartially and independently, and is not subject to direction from any person, other than the Minister in writing.

These requirements provide assurance that the Territory Coordinator is not subject to undue influence when performing their functions or exercising their powers, and assist in maintaining the integrity of the role.

**Clause 22. Cooperation with Territory Coordinator**

This clause provides that public entities have a duty to cooperate, including sharing information and documents, with the Territory Coordinator to the extent that it is reasonable and within the scope of the entity's functions.

However, the clause makes it clear that public entities will not be required to provide information or documents to the Territory Coordinator where it would constitute an offence against a law of the Territory or the Commonwealth, or breach a term of a contract.

The Territory Coordinator may report an entity's failure to cooperate to the Minister, and include details in the annual report that is required under clause 99.

**Part 3. Significant projects****Clause 23. Designation of significant project**

This clause establishes the requirements and processes for the Minister to designate a significant project.

The Minister may designate a significant project if the Minister believes on reasonable grounds that the project:

- a) is of economic significance to the Territory or a region of the Territory; or
- b) is complex in nature and is of regional significance in terms of scale and impact; or
- c) meets the criteria prescribed by regulation.

'Economic significance' is defined in clause 4.

Designating a significant project under this clause is a 'key power' under the Act. This means that when making the designation, the Minister must have regard to the primary objective of driving economic development for the Territory or region of the Territory, and the potential social and environmental outcomes for the Territory or a region of the Territory (refer to clause 8).

The designation of a significant project remains in place until it is revoked by the Minister.

A significant project designation enables the Territory Coordinator and Minister to use the powers under Part 7 in relation to applicable regulatory processes for the project. These benefits help to de-risk the project and accelerate its delivery.

**Clause 24. Notice of designation or revocation**

The clause provides that the Minister must give written notice of a designation of a project under clause 23, or the revocation of the designation of a project.

The notice of designation must include a statement of reasons for the designation and any information be published online and given to the proponent of the project.

Notice of the designation or revocation of the designation must be published online and given to the proponent of the project.

## **Part 4. Infrastructure Coordination**

This Part establishes the process for creating an ICP for significant projects by providing a framework for:

- identifying the land with potential for the necessary infrastructure through the designation of an ICA;
- enabling the Territory Coordinator to authorise entry to land to conduct studies and investigations to confirm the suitability of the land for the infrastructure; and
- consulting on a proposed plan and publication of the approved plan.

### **Division 1. Infrastructure coordination areas**

#### **Clause 25. Declaration of infrastructure coordination area in relation to significant project**

This clause provides the Minister with the authority to declare an ICA in relation to a significant project.

An ICA may be declared over an area of land or water that needs to be investigated for its suitability as an area to which an ICP will apply.

The declaration must identify the significant project to which it relates, the proposed infrastructure for which the land is being investigated, and the boundaries of the area being investigated.

This clause also enables the Minister to vary or revoke the boundaries of an ICA to increase or decrease the area being investigated.

Notices of declaration, variation or revocation must be published online and given to each interested part for the area. A notice of declaration or variation must include a statement of reasons and any information prescribed by regulation.

Declaring an ICA or varying the boundaries of an ICA under this clause is a 'key power' under the Act. This means that when exercising these powers, the Minister must have regard to the primary objective of driving economic development for the Territory or region of the Territory, and the potential social and environmental outcomes for the Territory or a region of the Territory (refer to clause 8).

Declaring an ICA enables the Territory Coordinator to authorise the entry to land under Part 8.

#### **Clause 26. Territory Coordinator's views to be sought on ICA applications**

This clause requires a responsible entity, when considering an application that relates to an area within an ICA to which an ICP is not in effect, to take into account the Territory Coordinator's views on the application before making any decision.

This ensures that the Territory Coordinator maintains visibility of activities in the ICA and can communicate to decision-makers the potential impact that an application could have to the delivery of infrastructure within the ICA.

### **Division 2. Infrastructure coordination plans**

#### **Clause 27. Infrastructure coordination plan**

This clause provides that an ICP in relation to a significant project does the following:

- a) identifies the infrastructure required to support the project;
- b) identifies the entities that are responsible for delivering the infrastructure works;
- c) Identifies any governance or finance frameworks required for delivering the plan.

An example of where an ICP may be required for a project is where a significant volume of heavy vehicle traffic is generated that requires upgrades to a highway intersection for safe and efficient movement of supply materials or export product. The Territory Coordinator could apply the powers in Part 7 to activities under an ICP to coordinate infrastructure delivery, timing delivery with the construction or operational needs of the project.

An ICP can be used to coordinate infrastructure that is delivered or partly delivered by private entities. For example, an ICP could consider the electricity infrastructure upgrades necessary for a solar energy project, and require a public entity to deliver some components, like a substation, while the proponent would be responsible to construct the power lines and other transmission infrastructure.

**Clause 28. Preparation of proposed infrastructure coordination plan**

This clause provides that the Territory Coordinator must prepare a proposed ICP if directed by the Minister. The Territory Coordinator may also prepare a proposed ICP on their own initiative.

In preparing the ICP, the Territory Coordinator:

- a) may direct a public entity to assist the Territory Coordinator;
- b) must consult with each public body and public entity identified in the plan; and
- c) may consult with any other person the Coordinator considers appropriate.

The power to direct a public entity allows the Territory Coordinator to seek information and other assistance that is required to develop the ICP.

The requirement for the Territory Coordinator to consult with public bodies and public entities identified in the plan ensures those bodies and entities are aware of their obligations and have the opportunity to discuss any issues with the Territory Coordinator.

The Territory Coordinator may also consult with any other person they consider appropriate. This might include discussing the plan with the proponent of the significant project, to determine the work and timeframes required.

**Clause 29. Public consultation**

This clause requires the Territory Coordinator to conduct public consultation on a proposed ICP and to make the proposed plan available online.

Regulations will provide further detail about how public consultation will be conducted.

**Clause 30. Submission to Minister and decision**

This clause requires the Territory Coordinator to give the proposed ICP to the Minister for approval.

The Minister can approve the proposed ICP, refer it back to the Territory Coordinator for amendment, or refuse to approve it.

If the Minister refers the proposed ICP back to the Territory Coordinator, the Coordinator must consider the Minister's objections and comments and amend the plan as requested by the Minister. The Territory Coordinator must also notify the public bodies and entities that have been consulted in the preparation of the Plan about those amendments. The Territory Coordinator must then resubmit the plan to the Minister.

**Clause 31. Effect of approval**

This clause establishes the Territory Coordinator's obligations and the subsequent compliance framework for public bodies and entities once the Minister approves an ICP.

This clause requires the Territory Coordinator to give a copy of the approved ICP to each public body and public entity identified in the plan, and publish the ICP online so it is available to the public.

This clause provides that each public body and public entity identified in the ICP must comply with the plan to the extent it is reasonably able to.

The Territory Coordinator may report a body or entity's failure to cooperate to the Minister, and include details in the annual report that is required under clause 99.

### **Division 3. Variation and revocation of ICPs**

#### **Clause 32. Variation of ICP**

This clause requires the Territory Coordinator to prepare a proposed variation of an ICP if directed to do so by the Minister. The Territory Coordinator may also prepare a proposed variation of an ICP on the Coordinator's own initiative.

The proposed variation must be published online. The Territory Coordinator must consult publicly on the proposed variation if it would create a material change to the ICP. Public consultation is to be undertaken in accordance with any regulations that may be made.

#### **Clause 33. Recommendation to Minister**

This clause provides that when recommending a proposed variation to the Minister, the Territory Coordinator must give the Minister a copy of the proposed variation, a summary of the submissions received during any public consultation, and a recommendation in relation to the proposed variation.

#### **Clause 34. Minister's decision**

This clause provides that after receiving a proposed variation of an ICP, and considering any summary of submissions received during public consultation, the Minister may approve the proposed variation, refer it back to the Territory Coordinator for amendment, or refuse to approve the proposed variation.

#### **Clause 35. Effect of decision**

This clause sets out the effect of the Minister's decision in relation to a proposed variation to an ICP.

If approved by the Minister, the proposed variation takes effect on the date specified in the notice published under clause 37.

If the Minister refers the proposed variation back to the Territory Coordinator, the Territory Coordinator must amend the proposed variation as requested by the Minister, and follow the processes set out under clauses 32(2) to 34 to seek a decision for the amended proposed variation.

#### **Clause 36. Revocation of approval of ICP**

This clause provides that the Minister may revoke the approval of an ICP. The revocation takes effect on the date specified in the notice published under clause 37.

### **Division 4. Notices**

#### **Clause 37. Notices in relation to ICPs**

This clause provides that notices of approval of a proposed ICP or proposed variation of an ICP, or a revocation of an ICP, must:

- (a) include the information that is prescribed by regulations;
- (b) be published on the Territory Coordinator Agency; and
- (c) given to each interested party for the plan area for the ICP and anyone who made a submission on the proposed ICP or variation.

This clause also establishes that once an ICP is approved, responsible entities must not approve an application for a statutory decision in relation to an activity carried out on land in an ICA unless it is consistent with the ICP. This is to ensure the land is preserved for the infrastructure necessary for the construction or operation of the significant project.

This clause provides that once an ICP is approved, responsible entities must not approve an application for a statutory decision in relation to an activity within an ICA unless it is consistent with the approved ICP or the Territory Coordinator gives consent. This is to ensure the land is preserved for the infrastructure necessary for the construction or operation of the significant project.

## **Part 5. Programs of works**

This Part outlines the process for preparing, approving and implementing a program of works.

### **Clause 38. Meaning of *program of works***

This clause outlines the purpose of a program of works and the types of works which may be included.

This clause provides that a program of works enables social or economic development in the Territory or a region of the Territory by documenting an aggregation of works, projects, services, utilities, undertakings or functions to be undertaken by a public entity or a proponent of a project. The program of works essentially outlines a broad array of connected or related activities that will be undertaken by a public entity or a project proponent to support that development.

Programs of works might include coordinating works for roads, housing, community infrastructure, energy generation or storage, or water infrastructure projects. For example, a program of works could relate to the upgrade of bore water infrastructure in multiple communities, improving liveability, supporting growth or economic development through greater certainty of water availability. These types of works would support the social and economic development of the Territory by addressing infrastructure needs that support the attraction or development of significant projects, industry advancement, population growth and retention, and community development.

### **Clause 39. Preparing a program of works**

This clause enables the Minister to direct the Territory Coordinator to prepare a program of works for the Territory or any part of the Territory. The Territory Coordinator may also prepare a program of works on their own initiative.

This clause provides that a program of works must do the following:

- a) state the period of time for which it is in effect; and
- b) describe each of the works, projects, services, utilities, undertakings or functions to be delivered in the period; and
- c) if the program does not apply to the Territory as a whole – state which region it applies to; and
- d) identify the public entities that are responsible for delivering each of the works, projects, services, utilities, undertakings and functions in the program; and
- e) identify any governance and finance frameworks required for delivering the works, projects, services, utilities, undertakings and functions in the program.

### **Clause 40. Selection of works for program and performance of works**

This clause enables the Territory Coordinator to use their discretion when selecting the works to be included in a program of works, but requires the Territory Coordinator to have regard to the primary principle in clause 8 when doing so.

The requirement to have regard to the primary principle means the Territory Coordinator must consider whether the works support the primary objective of driving economic development for the Territory or a region of the Territory, and the potential social and environmental outcomes for the Territory or a region of the Territory.

This clause enables the Territory Coordinator to nominate any public entity or person authorised by law to undertake the activities in the program of works. Before selecting items for inclusion, the Coordinator must consult with the public bodies and entities who are identified in the plan as being responsible for delivery, and may consult with others if appropriate.

**Clause 41. Submission to Minister and decision**

This clause requires the Territory Coordinator to give the proposed program of works to the Minister for approval.

The Minister can approve the proposed program of works, refer it back to the Territory Coordinator for amendment, or refuse to approve it.

Approving a program of works under this clause is a ‘key power’ under the Act. This means that when exercising this power, the Minister must have regard to the primary objective of driving economic development for the Territory or region of the Territory, and the potential social and environmental outcomes for the Territory or a region of the Territory (refer to clause 8).

If the Minister approves the program of works, a notice approving the program and authorising the Territory Coordinator to implement it must be published online, alongside a statement of reasons.

If the Minister does not approve the program, the Territory Coordinator must consider the Minister’s objections and comments and amend the program as requested by the Minister before resubmitting the amended program to the Minister.

**Clause 42. Effect of approval**

This clause establishes when the Minister’s approval of a program of works takes effect, and outlines the Territory Coordinator’s obligations in relation to an approved program of works.

The program of works takes effect on publication of the approval notice under clause 41.

The Territory Coordinator must give a copy of the approved program of works to each public body and public entity identified in the program of works, and publish the program of works online so it is available to the public.

This clause provides that each public body and public entity identified in the program of works must comply with the plan to the extent it is reasonably able to.

The Territory Coordinator may report a body or entity’s failure to comply with the requirements of the approved program to the Minister, and include details in the annual report that is required under clause 99.

This clause provides that the Minister can direct the Territory Coordinator to undertake and commission investigations, prepare plans, give directions, and take any other actions necessary or desirable to implement the program of works and the individual works contained in it. The Territory Coordinator also may also carry out these same activities on their own initiative.

**Part 6. Territory development**

This Part establishes and sets out processes and requirements for TDAs and TDA plans.

## **Division 1. Territory development areas**

### **Clause 43. Designation of Territory development area**

This Minister may designate any area of land or water in the Territory as a TDA if they consider it has potential for development of economic significance to the Territory, or a region of the Territory; it has potential for infrastructure that would enable, or be enabled by, development of economic significance to the Territory; or it meets any other criteria prescribed by regulation.

Designating a TDA is a 'key power' under the Act. This means that when exercising the power, the Minister must have regard to the primary objective of driving economic development for the Territory or region of the Territory, and the potential social and environmental outcomes for the Territory or a region of the Territory (refer to clause 8).

TDA's are suited for purposes such as specific industrial or agricultural development or enabling infrastructure, like an infrastructure coordinator, which would benefit from whole-of-regulatory-system master planning and coordination to de-risk future investment.

A statement of reasons for the designation of a TDA must be published online, alongside the notice of designation that is required by clause 60(2).

The designation takes effect on the date specified in the notice published under clause 60(2) and has effect until it is revoked.

### **Clause 44. Powers of Territory Coordinator in relation to Territory development area**

This clause enables the Territory Coordinator to direct and coordinate the work that is required to develop a TDA plan by directing a public entity to undertake or coordinate investigations or studies, or prepare reports, or by engaging a person to undertake investigations or studies or prepare reports. The Territory Coordinator can also authorise a person to enter land to carry out work to prepare a TDA plan.

TDA plan investigations could include baseline flora and fauna surveys, geological testing, infrastructure assessments, economic demand assessments, feasibility studies or cultural heritage assessments. This information will inform the TDA plan and its proposed land uses, development activities and associated infrastructure. TDA plan investigations could also identify a justification to expand or decrease the boundaries of the TDA.

### **Clause 45. Territory Coordinator's views to be sought on Territory development area applications**

This clause requires a responsible entity to seek and take into account the Territory Coordinator's views on applications that relate to an area within a TDA to which a TDA plan is not in effect before making any decision.

This ensures that the Territory Coordinator maintains visibility of activities in the TDA and can communicate to decision makers the potential impact that an application could have to the potential development in the area.

## **Division 2. Making of Territory development area plans**

This division sets out the processes for preparing and approving a TDA plan.

### **Clause 46. Territory development area plans**

Following the designation of a TDA and the necessary studies and investigations in area, a TDA plan is prepared. The TDA plan may:

- a) identify the activities, land uses, development outcomes and environmental and social values or outcomes for the plan area;
- b) identify the infrastructure and services required for the activities, land uses and development proposed for the plan area;

- c) identify land that may be acquired;
- d) identify any governance or finance frameworks required for delivering the plan;
- e) set out requirements for activities, land uses or development in the plan area, including cost recovery arrangements or requirements relating to any other matter prescribed by regulation; and
- f) provide for an authority to be established for the plan area, membership of the authority, how the authority will operate and the powers and functions of the authority.

Cost recovery arrangements could recover costs such as those relating to land development generally, infrastructure like jetties or specialist freight handling equipment that may be required by a limited number of proponents.

An authority established for a plan area could be responsible for things like commercial lease negotiations, maintenance of assets or delivery of services.

#### **Clause 47. Preparation of proposed TDA plan**

This clause requires the Territory Coordinator to prepare a proposed TDA plan for each TDA.

The Territory Coordinator may also prepare a TDA plan for any other area. This may occur when, during the course of preparing a TDA plan for a TDA, the Territory Coordinator determines that an additional area is required to be part of the TDA plan.

In this case, the Territory Coordinator must either follow the process in clause 43 to have this area designated as part of the TDA, or propose a change to the TDA in the proposed TDA plan and recommend the Minister designate the area as TDA at the time of approving the TDA plan as provided for in clause 50(a).

#### **Clause 48. Public consultation**

This clause requires the Territory Coordinator to conduct public consultation on a proposed TDA plan and to make the proposed plan available online.

Regulations will provide further detail about how public consultation will be conducted.

#### **Clause 49. Recommendation to Minister**

This clause sets out the requirements for the Territory Coordinator's recommendation to the Minister in relation to a proposed TDA plan.

After public consultation has been undertaken on a proposed TDA plan, this clause provides that the Territory Coordinator must give the Minister a copy of the proposed TDA plan, a summary of the submissions received during public consultation, and make a recommendation in relation to the proposed plan.

#### **Clause 50. Minister's decision**

This clause provides that after receiving a recommendation in relation to a proposed TDA plan, and considering any summary of submissions received during public consultation, the Minister may approve the proposed plan and if the plan area is not a TDA, designate it as a TDA; refer the proposed plan back to the Territory Coordinator for amendment; or refuse to approve the proposed plan.

Approving a proposed TDA plan under this clause is a 'key power' under the Act. This means that when exercising the power to approve the plan, the Minister must have regard to the primary objective of driving economic development for the Territory or region of the Territory, and the potential social and environmental outcomes for the Territory or a region of the Territory (refer to clause 8).



**Clause 51. Effect of decision**

This clause provides that if the Minister approves the proposed TDA plan, the plan becomes the TDA plan for the TDA from the date specified in the notice published under section 60(2). The TDA plan must also be published online.

If the Minister refers the TDA plan back to the Territory Coordinator for amendment, the Territory Coordinator must amend the TDA plan as requested by the Minister and follow the processes under clauses 48 to 50 to seek a decision for the amended TDA plan.

**Clause 52. Activities to be consistent with TDA plan**

This clause provides that once a TDA plan is approved, responsible entities must not approve an application for a statutory decision or regarding a statutory in relation to an activity within a TDA unless it is consistent with the approved TDA plan in effect for the area, or the Territory Coordinator gives consent.

This is to ensure that the land is preserved for activities that will enable the development potential of the area to be realised as outlined in the TDA plan.

**Division 3. Variation and revocation of Territory development areas and plans**

This division sets out the processes and requirements for varying and revoking a TDA.

**Clause 53. Variation of boundaries of Territory development area**

This clause enables the Minister to vary the boundaries of a TDA to increase or decrease the area being investigated.

The Minister may vary the boundaries of a TDA to incorporate new areas of land or water within the TDA if they consider that the new area:

- a) Has potential for development of economic significance to the Territory, or a region of the Territory; or
- b) The new area has potential for the establishment of infrastructure that would enable, or be enabled by, development of economic significance to the Territory; or
- c) The new area meets any other criteria prescribed by regulation.

Varying the boundaries of a TDA under this clause is a 'key power' under the Act. This means that when exercising the power, the Minister must have regard to the primary objective of driving economic development for the Territory or region of the Territory, and the potential social and environmental outcomes for the Territory or a region of the Territory (refer to clause 8).

The variation made by the Minister takes effect on the date specified in the notice published under clause 60(2). The Minister must also publish a statement of reasons for the variation.

**Clause 54. Revocation of designation of Territory development area**

This clause enables the Minister to revoke a designation of a TDA.

The revocation takes effect on the date specified in the notice published under clause 60(2). Any TDA plan that in effect in the area is also automatically revoked.

**Clause 55. Variation of TDA plan**

This clause requires the Territory Coordinator to prepare a proposed variation of a TDA plan if directed to do so by the Minister. The Territory Coordinator may also prepare a proposed variation of a TDA plan on the Coordinator's own initiative.

The Territory Coordinator must consult publicly on the proposed variation if it would create a material change to the TDA plan. Public consultation is undertaken in accordance with the regulations.

**Clause 56. Recommendation to Minister**

This clause provides that when recommending a proposed variation to the Minister, the Territory Coordinator must give the Minister a copy of the proposed variation, a summary of the submissions received during any public consultation, and a recommendation in relation to the proposed variation.

**Clause 57. Minister's decision**

This clause provides that after receiving a proposed variation of a TDA plan, and considering any summary of submissions received during public consultation, the Minister may approve the proposed variation, refer it back to the Territory Coordinator for amendment, or refuse to approve the proposed variation.

Approving a variation of a TDA plan under this clause is a 'key power' under the Act. This means that when approved the variation, the Territory Coordinator must have regard to the primary objective of driving economic development for the Territory or region of the Territory, and the potential social and environmental outcomes for the Territory or a region of the Territory (refer to clause 8).

**Clause 58. Effect of decision**

This clause sets out the effect of the Minister's decision in relation to a proposed variation of a TDA plan.

If approved, the proposed variation takes effect on the date specified in the notice published under clause 61(2).

If the Minister refers the proposed variation back to the Territory Coordinator, the Territory Coordinator must amend the proposed variation as requested by the Minister, and follow the processes under clauses 55(2) to 57 to seek approval for the amended proposed variation.

**Clause 59. Revocation of approval of TDA plan**

This clause provides that the Minister may revoke the approval of a TDA plan. The revocation takes effect on the date specified in the notice published under clause 61(2).

A note the clause flags that a TDA plan may be automatically revoked under clause 54.

**Division 4. Notices**

This division sets out the requirements for publishing notices in relation to TDAs and TDA plans.

**Clause 60. Notices in relation to Territory development areas**

This clause provides that the Minister must give notices if the Minister designates an area to be Territory development area, varies the boundaries of a TDA, or revokes a designation of a TDA.

This clause requires these notices to include the information that is set out in the regulations, be published online, and given to each interested party for the TDA.

**Clause 61. Notices in relation to TDA plans**

This clause provides that the Minister must give notices if the Minister approves a proposed TDA plan or proposed variation of a TDA plan, or revokes the approval of a TDA plan. The clause requires these notices to include the information that is set out in the regulations, be published online, and given to each interested party for the plan area for the TDA plan and anyone who made a submission on the proposed TDA plan or variation.

**Part 7. Expediting statutory processes and decisions**

This Part provides a suite of powers available to the Territory Coordinator and the Minister to help coordinate and streamline approvals for projects and development of economic significance to the Territory.

While the requests and notices can be used in relation to any statutory decision or statutory process within the Scheduled laws, it is not intended that the Minister or Territory Coordinator would exercise the powers:

- in relation to compliance and enforcement provisions within the Scheduled laws, as the role of the Territory Coordinator is to assist in streamlining and coordinating approvals not take on the role of enforcement or compliance; or
- that would be inconsistent with agreements between the Territory and the Commonwealth Government or a State or Territory Government; or
- interfere with national uniform legislation arrangements.

The Territory Coordinator must not give a request or notice in relation to a statutory decision or statutory process unless the Coordinator has consulted the responsible entity for the decision or process. This will allow the responsible to identify issues such as those outlined above, and enable the Territory Coordinator to work with the responsible entity to identify an alternative solution.

## **Division 1. General matters**

### **Clause 62. Definitions**

This clause clarifies the meaning of key terms used in the Part.

### **Clause 63. Application of Part**

This clause provides that this Part, and any request or notice given under it by the Territory Coordinator or the Minister, applies despite any law to the contrary.

The *Interpretation Act 1978* is excluded given its role in providing a framework to interpret legislation. Where this Part seeks to override the provisions of the *Interpretation Act 1978*, this is expressly stated.

## **Division 2. Requests**

### **Clause 64. Prioritisation request**

This clause provides that the Territory Coordinator may issue a notice to a responsible entity, requesting them to prioritise a statutory process for one or more significant project, works project, IC activity or TDA activity. The clause makes it clear that the relevant law for the statutory process continues to apply, even when a prioritisation request is issued.

Giving a prioritisation request under this clause is a 'key power' under the Act. This means that when exercising the power to give a prioritisation request, the Territory Coordinator must have regard to the primary objective of driving economic development for the Territory or region of the Territory, and the potential social and environmental outcomes for the Territory or a region of the Territory (refer to clause 8).

The Territory Coordinator must also consult with the responsible entity before making the request.

The responsible entity must give priority to undertaking the statutory process for the project, activity or area in the request. Priority only has to be given over other matters the entity is responsible for that are subject to the same process. The notice does not require the entity to prioritise undertaking the process over all its other responsibilities or obligations.

The requirement to prioritise does not apply if the responsible entity is a minister. In these cases, the notice would provide an indication of the importance of the statutory process for the particular project or activity.

A prioritisation request could be used in combination with a cost recovery arrangement agreed with a proponent, as foreshadowed in clause 97, to fund the additional resources that an agency may require in order to comply with the request.

### **Clause 65. Progression-related request**

This clause provides that the Territory Coordinator may issue a written notice to a responsible entity, asking them to start, complete, pause or continue to undertake a statutory process for a significant project, a works projects, an IC activity or a TDA activity. The clause makes it clear that the relevant law for the statutory process continues to apply, even when a progression-related request is issued.

Giving a progression-related request under this clause is a ‘key power’ under the Act. This means that when exercising the power to give the request, the Territory Coordinator must have regard to the primary objective of driving economic development for the Territory or region of the Territory, and the potential social and environmental outcomes for the Territory or a region of the Territory (refer to clause 8).

The Territory Coordinator must also consult with the responsible entity before making the request and have regard to the timeframes and requirements in the relevant law for undertaking the process.

The responsible entity must notify the Territory Coordinator of its compliance with the request as soon as practicable. The relevant law for the statutory process still applies with some exceptions. If a ‘pause’ request is issued, the statutory timeframe is temporarily put on hold. In addition, if section 42 of the *Northern Territory Civil and Administrative Tribunal Act 2014* applies to the statutory process, the operation of that section is paused while the ‘pause’ request is in effect. If the Territory Coordinator revokes a ‘pause’ request, the statutory process resumes when the notice is received by the responsible entity.

The requirement to comply with a progression-related request does not apply if the responsible entity is a Minister. In these cases, the notice would provide an indication of the importance the action requested for the particular project or activity.

A progression-related request enables the Territory Coordinator to align the assessment of multiple processes to achieve specific outcomes. This may be to align multiple public consultation periods so holistic information about a project can be given, instead of just the information relevant to one regulatory application. A progression-related request may be used to balance assessment resourcing across multiple agencies or to align multiple decisions so that a proponent has certainty ahead of key milestones, such as final investment decision. In this circumstance, it is necessary for all parties to meet their timing commitments.

### **Clause 66. Decision request**

This clause provides that the Territory Coordinator may issue a notice to a responsible entity, asking them to make a specified decision in relation to a significant project, a works project, an IC activity or a TDA activity within the period specified in the notice. The clause makes it clear that the relevant law for the decision continues to apply, even when a decision request is issued.

Giving a progression notice under this clause is a ‘key power’ under the Act. This means that when exercising the power to give the notice, the Territory Coordinator must have regard to the primary objective of driving economic development for the Territory or region of the Territory, and the potential social and environmental outcomes for the Territory or a region of the Territory (refer to clause 8).

The clause provides that that period specified must be at least 20 days after the request is given. If a lesser period is defined under the relevant law for the statutory process, then the decision must be given within that period.

The Territory Coordinator must consult with the responsible entity before making the request and have regard to the timeframes and requirements in the relevant law for undertaking the process.

The responsible entity must notify the Territory Coordinator that it has complied with the notice as soon as practical after the decision is made.

A decision request could be used where a proponent has a milestone date that a public entity needs to deliver a decision for, such as at end of financial year, before a board meeting, or before mandatory stock market reporting is due.

**Clause 67. When Minister may make request**

This clause provides that the Territory Coordinator cannot make a prioritisation, progression-related or decision request if they are the applicant for a statutory decision or statutory process, or where a Minister is the responsible entity for a statutory decision or statutory process.

In these circumstances, the clause provides that the Minister may instead make the request, and any reference to the Territory Coordinator in sections 64, 65, or 66 is taken to be a reference to the Minister.

The Territory Coordinator may be an applicant in relation to TDA activities, for example, as part of the role that the Territory Coordinator might play in de-risking an area for future development by applying for pre-approvals.

A Minister is taken to be the responsible entity for a statutory decision or a statutory process when the relevant law provides that the Minister is responsible for making that decision or undertaking that process. This applies regardless of whether the Minister has delegated those powers.

**Division 3. Step-in notices**

This division sets out the framework for the Territory Coordinator or the Minister to 'step in' to a relevant law and undertake a statutory process or make a statutory decision in relation to a significant project, a works project, an ICA activity or a TDA activity, in the place of a responsible entity.

**Clause 68. Territory Coordinator may give step-in notice**

This clause enables the Territory Coordinator to give a step-in notice to a responsible entity and an applicant for a statutory decision or statutory process in relation to a significant project, a works project, an IC activity or a TDA activity, advising that the Coordinator will step-in in place of the responsible entity, and that the Territory Coordinator is the responsible entity for that decision or process from the time the notice is given until the decision is made or the process is undertaken.

Giving a step-in notice under this clause is a 'key power' under the Act. This means that when exercising the power to give a step-in notice, the Territory Coordinator must have regard to the primary objective of driving economic development for the Territory or region of the Territory, and the potential social and environmental outcomes for the Territory or a region of the Territory (refer to clause 8).

**Clause 69. When Minister may give step-in notice**

This clause provides that the Territory Coordinator cannot a step-in notice if they are the applicant for a statutory decision or statutory process, or where a Minister is the responsible entity for a statutory decision or statutory process.

In these circumstances, the clause provides that the Minister may instead give the under clause 68, and any reference to the Territory Coordinator in sections 70 to 74 is taken to be a reference to the Minister.

As outlined above, the Territory Coordinator may be an applicant in relation to TDA activities, as part of the role that the Territory Coordinator might play in de-risking an area for future development by applying for pre-approvals.

A Minister is taken to be the responsible entity for a statutory decision or a statutory process when the relevant law provides that the Minister is responsible for making that decision or undertaking that process. This applies regardless of whether the Minister has delegated those powers.

**Clause 70. When step-in notice may be given**

The clause requires the Territory Coordinator to consult with the responsible entity for the statutory decision or statutory process prior to issuing the step-in notice.

This allows the responsible entity to make the Territory Coordinator aware of any issues that might impact on their decision to issue the notice. Examples of issues that a responsible entity may wish raise with Territory Coordinator include considerations under the relevant legislation or the quality or availability of information from the proponent or another source.

**Clause 71. Effects of step-in notice**

This clause outlines what happens if the Territory Coordinator gives a step-in notice, which is:

- (a) the Coordinator becomes the responsible entity under the relevant law for the decision or process from the time the step-in notice is given until the Coordinator finishes making the decision or undertaking the process; and
- (b) the Coordinator has all the powers of the responsible entity; and
- (c) the entity (the original entity) that was the responsible entity before the step-in notice was given must give assistance or recommendations to the Territory Coordinator as required by clause 72; and
- (d) no person (including the original entity) may take any action in relation to the decision or process other than to comply with section 72 until the Coordinator gives a notice of completion under section 74.

Even though the Coordinator is taken to become the responsible entity under the relevant law, the making of the decision or undertaking of the process by the Coordinator is taken to be the exercise of a power or performance of a function of the Coordinator under this Act.

**Clause 72. Original entity to give assistance or recommendations**

This clause ensures that the Territory Coordinator has access to the assistance and materials they need to undertake the statutory process or make the statutory decision. It places an obligation on the original entity to give the Territory Coordinator all reasonable assistance and materials, including material the entity held prior to the step-in notice being given or material received after the step-in notice was given.

The clause provides that the Territory Coordinator may issue a notice to the entity, requiring it to provide a report assessing matters relevant to the decision or process and recommendations about those matters.

The clause provides that the entity does not need to hand over material subject to client legal privilege. However, the entity is not prevented from sharing this material with the Territory Coordinator if it wishes to do so, particularly if it is relevant to the exercise of powers under the step-in notice.

The clause provides that this clause does not limit the general duty of public entities to cooperate with the Territory Coordinator as set out in clause 22.

**Clause 73. Making the statutory decision**

This clause confirms that that the Territory Coordinator must have regard to the primary principle when making a statutory decision under a step-in notice.

The clause also makes it clear that the Territory Coordinator may impose any conditions that are necessary or desirable to promote the primary principle in clause 8.

**Clause 74. Notice of completion**

This clause provides that the Territory Coordinator must notify the applicant and the original entity when they have made the decision or undertaken the process that was stepped into, and sets out what the notice must include.

The statutory decision takes effect when the notice is given, or any later date specified in the notice.

**Clause 75. Effect of statutory decision made under step-in notice**

This clause provides that a statutory decision made by the Territory Coordinator, including a decision to impose a condition, is taken as if it were a decision of the original entity. The original entity is able to administer, enforce and take any action necessary to comply with and give effect to the decision. The original entity must also not change or interfere with a decision made under a step-in notice.

This clause preserves the integrity of the Territory Coordinator's decisions.

**Clause 76. Subsequent alteration or imposition of conditions**

This clause provides that the original entity can only make a material alteration to a condition imposed by the Territory Coordinator under a step-in notice after consulting with the Territory Coordinator. Conditions that are subsequently imposed have no effect to the extent that they are inconsistent with a condition imposed by the Coordinator, unless the Territory Coordinator consents to the new condition.

This clause also makes it clear that the original entity has the ability to apply or renew any condition imposed by the Territory Coordinator.

This clause preserves the integrity of any conditions imposed by the Territory Coordinator.

**Division 4. Exemption notices**

This Division provides the framework for giving exemption notices, which modify or exclude the application of a relevant law or provision of the relevant law for the purposes of a statutory decision being made or a statutory process being undertaken in relation to a significant project, works project, IC Activity or TDA activity.

**Clause 77. Exemption notice**

This clause defines an exemption notice as a notice that:

- a) relates to a statutory decision to be made, or a statutory process to be undertaken, in relation to a significant project, a works project, an IC activity or a TDA activity; and
- b) states for the purpose of the decision being made or the process being undertaken, the application of the law or a provision of a relevant law, is modified or excluded in the manner specific in the notice.

The clause also provides that regulations can set out matters to which exemption notices cannot be given.

Situations where an exemption notice could be used include:

- To modify the length of time that a non-pastoral use permit is valid from 30 years to 70 years to respond to provide certainty for financial decisions.
- To exempt multiple consultation processes under different statutory processes where the Minister is satisfied that undertaking one comprehensive consultation process will meet the objective of consultation under other Acts.

Exemption notices allow the modification or exclusion of the law to respond to the unique circumstances of projects, but cannot create powers that do not exist, and they do not replace the ongoing need for project-specific legislation that can create powers that respond to specific project needs.

**Clause 78. Grounds for giving exemption notice**

This clause sets out the only two grounds for giving an exemption notice.

The first ground is that having regard to the primary principle and the purpose and objectives of the relevant law, the application of the law or part of the law is not necessary for achieving effective or efficient regulation of the significant project, works project, IC Activity or TDA activity.

The second ground for issuing an exemption notice is that 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.

The grounds for issuing an exemption notice recognise that there may be circumstances where the application of a particular regulatory process or decision is not required because the issue it was seeking to regulate is or has been addressed through other means. The use of an exemption notice recognises the work that has already done, avoids duplication, and reduces time and public resources when no public value is being derived, or there is no detriment to the quality of process or outcome.

**Clause 79. Recommendation to Minister**

This clause provides that the Territory Coordinator can recommend that the Minister issue an exemption notice, if the Coordinator is satisfied that one of the grounds for issuing an exemption notice in clause 78 exist.

Before doing so, the Territory Coordinator must consult with the responsible entity and the applicant for the statutory decision or statutory process. The Minister may also consult with any other person that may be affected by the proposed exemption notice.

The recommendation to the Minister must set out the ground for issuing the exemption, details of who was consulted and a summary of their views.

**Clause 80. Minister may give exemption notice**

The Minister may give an exemption notice on the recommendation of the Territory Coordinator (in accordance with clause 79) or on the Minister's own initiative if satisfied that grounds for issuing an exemption notice in clause 78 exist.

Giving an exemption notice under this clause is a 'key power' under the Act. This means that when exercising the power to give an exemption notice, the Minister must have regard to the primary objective of driving economic development for the Territory or region of the Territory, and the potential social and environmental outcomes for the Territory or a region of the Territory (refer to clause 8).

Before giving a notice on the Minister's own initiative, the Minister must consult the responsible entity and the applicant for the statutory decision or statutory process. The Minister may also consult with any other person that may be affected by the proposed exemption notice.

**Clause 81. Effects of exemption notice**

This clause provides that when an exemption notice is given, the application of the relevant law, or provision of the law, to the statutory decision or statutory process is modified or excluded in the manner specified in the notice. To preserve the integrity of the notice, the clause also authorises a decision maker to make a decision in accordance with the law as modified or excluded by the notice.



## **Clause 82. Tabling and disallowance**

This clause sets out the requirement to table an exemption notice in the Legislative Assembly and the process for disallowing those notices.

The clause requires the Minister to table a copy of an exemption notice in the Legislative Assembly the next sitting day after it is made.

The Legislative Assembly may resolve to disallow an exemption notice, or a specified provision of the notice, whether or not it has been tabled.

A notice of a resolution to disallow an exemption notice must be given within 6 sitting dates after it is tabled or, if the exemption notice has not been tabled, 6 sitting days after the day on which the notice was required to be tabled.

A disallowance has the same effect as a revocation of the notice. However, it does not affect anything done before the disallowance. A person or entity can rely on an exemption notice once it has been made, but does so accepting the risk that it may be disallowed.

## **Division 5. Condition variation notices**

### **Clause 83. Meaning of approval**

This clause provides a definition for 'approval', which is a term used in this Division and includes to include an authorisation, permission, a consent, a lease, a licence, a certificate or another authority.

### **Clause 84. Territory Coordinator may give condition variation notice**

This clause enables the Territory Coordinator to issue a notice varying the conditions imposed on a statutory decision made in relation to a significant project, a works project, an ICA activity or a TDA activity.

Giving a condition variation notice under this clause is a 'key power' under the Act. This means that when exercising the power to give a condition variation notice, the Territory Coordinator must have regard to the primary objective of driving economic development for the Territory or region of the Territory, and the potential social and environmental outcomes for the Territory or a region of the Territory (refer to clause 8).

The Territory Coordinator must first consult with the responsible entity about the proposed notice and any entity that the Territory Coordinator considers would be affected by the proposed notice. The notice must be given to the responsible entity, or any other entity to which the decision applies.

If the responsible entity is a Minister, the Territory Coordinator must obtain the Minister's consent to the proposed notice. A Minister is taken to be the responsible entity for a statutory decision when the relevant law provides that the Minister is responsible for making that decision. This applies regardless of whether the Minister has delegated those powers.

A condition variation notice could be relevant, for example, where a significant project has received an approval with conditions that limit construction hours to minimise noise impacts to the community, but there is a crucial piece of equipment that can only be delivered at night as it would block traffic if transported during the day. In this case, the Territory Coordinator could vary the conditions to allow that piece of equipment to be installed at night, helping to keep the project on schedule while ensuring local businesses can continue to operate without disruption.

### **Clause 85. Permitted variations**

This clause provides that conditions imposed on a statutory decision may only be varied through a condition variation notice in the following circumstances:

- a) they are made in line with the relevant law under which the decision was made;
- b) the applicant consents to the variation;

- c) in the case of time-limited approvals, the variation takes effect upon renewal or extension of the approval.
- d) the Territory Coordinator is satisfied that the variation provides consistency between the conditions applying to the decision and any requirements under a Commonwealth law in relation to the significant project, IC activity, works project, or TDA activity
- e) the Coordinator is satisfied that the variation is likely to prevent harm to a person or material environmental harm as defined in the *Environment Protection Act 2019*;
- f) the Coordinator is satisfied that the variation is in connection with an inability by the applicant to comply with a requirement of a Territory law or a condition of an approval under a Territory law (an example might be where circumstances have changed and compliance with the condition is no longer reasonable).
- g) The Coordinator is satisfied that the conditions set out in regulations exist.

The clause also defines 'approval' for the purposes of the section to include an authorisation, permission, a consent, a lease, a licence, a certificate or another authority.

**Clause 86. Effect of condition variation notice and revocation of condition**

This clause provides that a condition that is varied by a condition variation notice is valid under the relevant law, regardless of whether it could have been varied under that law.

The original entity responsible for the decision can administer and enforce the varied condition notwithstanding the purpose of the relevant law, and may take any necessary action to comply with and give effect to the varied condition.

The Territory Coordinator may revoke a varied condition at any time, by providing notice to the responsible entity and the holder of the approval.

**Clause 87. When Minister may give condition variation notice**

This clause provides that the Territory Coordinator cannot issue a condition variation notice that imposes conditions on a decision for which they were the applicant.

In these circumstances, the Minister may instead give the condition variation notice, and any reference to the Territory Coordinator in clauses 84, 85 or 86 is taken to be a reference to the Minister.

As outlined above, the Territory Coordinator may be an applicant in relation to TDA activities, as part of the role that the Territory Coordinator might play in de-risking an area for future development by applying for pre-approvals.

**Division 6. Publication and reporting**

This Part outlines when and how requests and notices, and reports about them, will be made public. This will provide transparency over the actions taken under this Part and promote public awareness of the operations of the Territory Coordinator.

**Clause 88. Publication of requests and notices**

This clause establishes the requirement for step-in, exemption and condition variation notices given under this Part, as well as a statement of reasons, to be published online as soon as practicable after they are given.

**Clause 89. Reports about requests**

This clause establishes the requirement for the Territory Coordinator to report to the Minister about requests that are made under this Part, and the timeframes for doing so. The clause provides that the Territory Coordinator must also report to the Minister about any non-compliance with the requests.

### **Clause 90. Reports about notices**

This clause establishes the requirement for the Territory Coordinator to report to the Minister about step-in notices and condition variation notices given under this Part. The clause also provides that if the Minister issues a step-in notice, the Minister must prepare a report about the notice.

### **Clause 91. Tabling of reports**

This clause establishes the requirement for the Minister to table in the Legislative Assembly within 6 sitting days, any of the reports received from the Territory Coordinator under clause 90(1) or 90(2), or prepared by the Minister under clause 90(3).

## **Part 8. Entry of land without warrant**

This Part gives the Territory Coordinator the power to authorise persons to enter land within a TDA or ICA with 14 days' notice to the owner or occupier, for the purpose of undertaking work necessary to inform a TDA plan or an ICP. The Part also provides for compensation in certain circumstances.

### **Clause 92. Power to enter land**

This clause enables the Territory Coordinator to authorise a person to enter land that is within an ICA or a TDA for the purpose of carrying out work that is required to develop a proposed ICP or proposed TDA plan.

The types of work that might be necessary to develop these plans include studies and investigations, such as flora and fauna surveys to understand the species, geological testing to understand the suitability of the soil for the anticipated infrastructure or land use, or to inspect the capacity and condition of existing infrastructure to determine necessary upgrades. Some of these studies and investigations may need to occur at a point in time, such as flora surveys, while others may require equipment to remain on the property for a period of time, for example fauna cameras, noise monitors or wind measuring devices to capture the information necessary for environmental baseline studies required for regulatory approvals.

The person who is authorised to enter land must give the owner or occupier at least 14 days' notice before entering. This notice period gives the owner or occupier an opportunity to raise any issues relating to entry, such as whether there are specific site safety or biosecurity procedures they must comply with.

Land can be entered without the owner or occupier's consent, but entry to non-residential premises requires consent. The clause makes it clear that entry to residential premises is not permitted.

It is also clear that these powers cannot override the Commonwealth's *Aboriginal Land Rights (Northern Territory) Act 1976* (the Land Rights Act). The Land Rights Act provides that a person shall not enter or remain upon Aboriginal land, unless they hold certain positions or are doing allowed activities as set out in the Land Rights Act, or have permission to enter granted under Northern Territory reciprocal legislation, such as the Territory's *Aboriginal Land Act 1978*.

### **Clause 93. Powers on entry**

This clause specifies that the following actions can be taken by a person who is authorised by the Territory Coordinator to enter land for the purposes of developing an ICP or proposed TDA plan:

- a) inspect the land and anything on the land;
- b) bring vehicles, equipment, machinery and materials onto the land and install and maintain any equipment, machinery or materials;
- c) take photographs and make sketches or other records of the land;
- d) measure anything, or take samples of anything, on the land;
- e) take any other action reasonably required for the development of the plan.

This clause requires the person who is authorised to enter land to make sure that any work carried out on the land has minimal impact. Once the work is complete, the person must remove everything they brought onto the land, and to the extent possible, leave the land in the same condition as when they entered.

**Clause 94. Compensation for damage**

Ayn work carried out on for the purposes of developing an ICP or proposed TDA plan is intended to be low impact, avoiding damage to the land wherever possible. In the event that damage is caused to the land, including loss suffered as a result of specific circumstances and damage, this clause provides that compensation is payable to the owner or occupier. This includes loss suffered as a result of the following:

- a) being deprived of access to the surface of the land;
- b) damage to the surface of the land or to improvements on the land; and
- c) damage to a crop or to stock on the land.

**Part 9. General matters**

This Part provides for a range of general matters not addressed elsewhere in the Act.

**Clause 95. Limitation on review or appeal**

This clause provides that there are no rights of review or appeals against any decision under the Act or any other law of the Territory that is authorised or required by or under this Act. This applies to decisions by the Minister or the Territory Coordinator, and decisions made by other entities as authorised or required by or under this Act.

A person still has a right to seek judicial review of those decisions.

**Clause 96. Keeping of register**

This clause provides that the Territory Coordinator must keep a register of information about the matters listed in paragraphs 96(1)(a) to (g).

The register must include a copy of each of the documents mentioned in subclause (1), and any other information prescribed by regulation. It must be kept up to date and available for public inspection.

**Clause 97. Recovery of costs**

This clause allows the Territory Coordinator to recover costs from a proponent of a significant project or a program of works, with agreement.

Costs that may be recovered are those incurred by the Territory Coordinator or a regulatory Agency in:

- issuing or complying with a request or notice under Part 7; or
- if a step-in notice is given – making or complying with the statutory decision or undertaking the statutory process to which the step-in notice relates; or
- carrying out any of the Coordinator's functions in relation to the proponent.

Examples of costs that may be recovered could be those incurred by the Territory Coordinator to engage an engineer to complete a road intersection design for heavy vehicles in an ICA, or the costs incurred by a regulatory agency to employ additional staff required to access and process an approval within the timeframe articulated in a decision request under Part 7.

Any costs that the Territory Coordinator recovers on behalf of an Agency must be remitted to that Agency.

If the proponent does not pay the amount agreed, it may be recovered as a debt due and payable to the Territory.

**Clause 98. Acquisition on just terms**

This clause provides that if the operation of the Act would, apart from this section, result in an acquisition of property otherwise than on just terms, the person is entitled to receive compensation from the Territory to ensure that the acquisition is on just terms. A court may decide the amount of compensation it considers necessary to ensure the acquisition is on just terms.

**Clause 99. Annual report**

This is a standard provision that requires the Territory Coordinator to prepare an annual report on the operation of the Act for the financial year, and sets out the timeframes for tabling by the Minister in the Legislative Assembly.

The clause specifies that the report must include a copy of each condition variation notice, exemption notice and step-in notice given during the year. It is anticipated that the Territory Coordinator will include as much information as appropriate for the public to understand the activities undertaken during the year, particularly the use of the powers and functions under Part 7.

**Clause 100. Review into matters relevant to Territory Coordinator's functions**

This clause provides for the Territory Coordinator to undertake reviews into matters relevant to the Coordinator's functions, on the Minister's direction or on the Territory Coordinator's own initiative.

A report on the review must be provided to the Minister, who must provide a written response to the Territory Coordinator as soon as practicable but within six months of receipt. If the Minister has not followed, or does not intend to follow, any advice or recommendation contained in the report the response must include the reasons why.

**Clause 101. Publication of review report and response**

This clause provides that any reports and responses prepared in accordance with clause 100 must be available for public inspection. Any information that is commercial-in-confidence or where there is a reasonable ground for withholding the information, such as the public interest, will be redacted in the report.

**Clause 102. Offence to give misleading information**

This clause makes it an offence to knowingly provide misleading information, or a document containing misleading information, to a TC officer acting in an official capacity. The maximum penalty is 200 penalty units (currently \$37,000) or imprisonment for two years.

'TC officer' mean the Territory Coordinator or a person employed or engaged to carry out functions of the Coordinator under the Act. This could include the Territory Coordinator's staff and consultants engaged by the Territory Coordinator under clause 17.

It is a defence to a prosecution if the person draws the misleading aspect of the information or document to the TC officer's attention, and gives the TC officer the information necessary to remedy that misleading aspect.

**Clause 103. Offence to disclose certain information**

This clause makes it an offence to knowingly disclose confidential information that is received in the course of performing a function or exercising a power under this Act. The maximum penalty is 200 penalty units (currently \$37,000) or imprisonment for two years.

If the confidential information that is disclosed relates to a person, it is defence to prosecution if the person has consented to the disclosure.

**Clause 104. Protection from liability**

This is a standard clause which provides that an individual is not civilly or criminally liable for acts done or omitted to be done, in good faith and in the exercise of a power or performance of a function as the Territory Coordinator, a member of the Coordinator's staff or acting for or on behalf of the Coordinator. Civil claims can still be brought against the Territory.

Subclause (3) clarifies that the exercise of a power includes the purported exercise of the power, and the performance of a function includes the purported performance of the function.

**Clause 105. Regulations**

This clause provides that the Administrator may make regulations under this Act.

The note for this clause refers to the relevance of section 65 of the *Interpretation Act 1978* for this clause.

**Schedule Acts that are Scheduled laws**

The Schedule lists the 32 Acts that are a 'Scheduled law' in accordance with the definition in clause 3.

The application of the powers in Part 7 of the Bill to give prioritisation, progression-related and decision requests, and step-in, exemption and condition variation notices, is limited to the Acts listed in the Schedule. This list reflects Northern Territory Acts that are relevant to the planning, authorisation and operations of projects and development of economic significance.