

From: Ian McBryde: [REDACTED]

To: Parliamentary Select Committee into Territory Coordinator Bill 2025

I will write my submission with responses directly to the Terms Of Reference of this Committee

Terms Of Reference: -

**3) b) i)** Should the Assembly pass the bill? - **NO**:- it over-rides previously considered legislation that was deemed necessary and therefore disregards previous parliamentary decisions and considerations. It is thus particularly undemocratic in its very being. **Surely all the Acts that it overrides were not unnecessary?** In many cases I am sure current members probably voted for those Acts. It may be a slower process but surely all the other Acts could be looked at and amended *if* necessary. **Has this been considered?** The creation of a position with the extraordinary powers bestowed upon it, that is unelected and with the altered eligibility criteria, means that almost anybody and particularly someone with vested interests could be appointed. This is very dangerous in the context of decision making with such powers especially if a person with vested interests is appointed and is undemocratic. This lacks acceptable governance in Australia..

**3) b) ii)** Should the Bill be amended - If it must pass then there should be significant amendments - however I can see little reason for it to pass at all. The changes between the Draft Bill and the Final Bill make it even more of an autocratic bill and overrides democratic matters significantly. **Which minister has responsibility for this bill? And which government department has oversight? Is it the Chief Minister?** If it is then that person also has enormous autocratic powers. **Are the only restraints the minimal reporting and publishing requirements?**

**3) b) iii) NO**, I do not believe this Bill does has sufficient regard to the rights and liberties of individuals. **Does the committee believe or have legal opinion that there is sufficient regard to rights and liberties of individuals?**

**A)** The power is NOT subject to appropriate review - when only the TC and Minister are the reviewers of their own actions this is not appropriate. Otherwise the slow unwieldy Judicial review process is undertaken. This is even slower than an appeal process if undertaken and could require injunction(s) whilst undertaken. This is expensive and out of reach of most people and organizations. **Is this really fair on individuals, Agencies or organizations that have reasonable objections?**

**B)** Natural Justice - implies a fairness. **Is this fair? Is it respectful to previous Parliaments?** Inevitably things go wrong and this is more likely when so many or all of the checks and balances are overridden. **"Procedural fairness has evolved from its origins as a duty for public authorities to act fairly and with common sense in the exercise of public power."** (Clayton Utz document) **Does the Committee consider that this Act is either fair or common sense?**

**C)** **Does the Committee believe an unrepresentative person with vested interests should ever have the powers being invested in the TC? Is a person with vested interests appropriate?**

**D)** **How are whistleblowers affected by the controls that are placed under this Bill?**

**E)** The power on entry does not require a warrant only a TC notice! So this is not met!

**F)** I do not believe it does with the offence of misleading information and/or documents being a harsh penalty. **Do the proponents have the same controls?** Corporations regularly exaggerate benefits. **Are they bound to their assertions about job creation and financial benefits to those other than themselves?**

**G)** I believe it does affect rights of landowners, and liberties of many. **Where will the TDAs and ICAs be?** It is possible the various roads, pipelines, power-lines etc will cross over many landowners properties significantly affecting their property management. (Rights of landowners) **Will public be allowed access to these areas?** (Liberty)

**H)** The immunity for the TC, their staff or someone acting is probably excessive. Conflicts of interest will arise and I believe have not been addressed. **Does the Committee believe conflicts of interest are covered?**

I) Appears to be. However it also appears to admit it may be and has a second clause to cover this.

J) I am not sure what the legal position is where Commonwealth and NT Acts have conflict. Much has been removed from the Bill compared to the draft. **Is it legal for the NT Government to ignore or bypass Federal Legislation?** These are matters of national significance and would question the integrity of any Government to bypass, ignore or try and override them. **Does the Committee believe that Indigenous rights and traditions are regarded and supported in this Bill?**

K) There are a number of areas where it is not clear. The Minister seems to be able to perform the functions without reference to the TC or anyone else. **Is this appropriate, fair and procedurally fair?**

3) **b) iv)** The Bill does NOT have sufficient regard to the institution of Parliament. It effectively disregards, hence disrespects, many previous Parliaments and their work by overriding considered and passed Acts by those bodies and appointing a non-elected person to have powers greater than most sitting members. **Does the Committee agree that the current Government proposal to bypass some 32 previously passed Acts has sufficient regard to previous Parliaments?** I have grave concerns that by overriding and bypassing the checks and balances put in place by previous Parliaments that there will be enormous consequences and the results of those will be borne by Territorians and the rest of Australia. In the main large companies and businesses are there for their profit and benefit rather than the benefit of the general public or Governments. There are countless examples of messes left behind after the profit has been made that the Government - hence the taxpayers - have had to clean up: the checks and balances are important!

I note that in the consultation report that the positive views were largely held by stakeholders - they have a vested interest in being able to overcome the previously placed checks and balances. **The general public in the meeting I attended were overwhelmingly against do they have a financial interest?** The general public want an environment in which they can live and this potentially rides roughshod over that desire.

Also from the Clayton Utz document on procedural fairness is the following: -

- *The hearing rule requires that a person who may be affected by a decision be given the opportunity to present their case prior to the decision being made. In most cases, this requires the decision-maker to provide adequate notice that an adverse decision may be made, disclose prejudicial allegations and information, and give the affected person an opportunity to respond to those allegations and that information.*
- *The bias rule requires that the decision-maker be objectively considered to be impartial and not to have pre-judged the decision. A person can be disqualified from making a decision if a fair-minded observer, informed of the circumstances, might reasonably suspect that the decision-maker is not impartial.*

I do not believe the lawmakers wanting this Act nor the position of TC can operate with Procedural Fairness! Please find attached my original submission. There were many changes from the Draft Bill with a very short timeframe to respond. The intent of the Bill appears to be the same so much of the submission does not need to be altered. To rewrite in the time allowed is virtually impossible. One change of note is the wording of the primary aim from economic prosperity to economic development. Development does not guarantee prosperity - after the massive development of the Darwin Harbour region over the last 20 years I understand the Government finances are not in good shape. **This begs the question - what evidence can the Committee provide to the people and the Government this Act that will not cause economic, social, environmental and cultural impacts that will outweigh claimed, perceived or actual benefits?**

A concern I have is once the projects have been approved, and inevitably some things will go wrong, who is accountable and who is responsible for the necessary expenses associated with correcting this? That will usually see the NT citizens/taxpayers footing the bill. There are also some clauses that exclude many from culpability. Again this is not acceptable governance for Australia in this modern era. **What and where are the provisions for accountability?** Which proponents, Agencies, individuals will bear responsibility for adverse impacts that are inevitable? **And who will pay for the expensive remediation bills that are likely to be left?**

I must say, sadly, that with the majority on the review panel being Government members I have little hope that the citizens will be heard and no doubt whatsoever the corporations will be. A shame as they are there for the benefit of the company and its shareholders not the general public. I trust the non-government members are able to record a dissenting vote if they so choose.

**Who wins with this Bill?** I believe it is highly unlikely to be the people of the NT or Government finances. This Bill seems to prioritise private interests, investors and corporations many of whom will be overseas and where the profits will then go. It also seems to be likely to be to the detriment of Territorians and the rest of Australia for a short term possible gain.

Thank you for your time and consideration

Ian McBryde

**ORIGINAL SUBMISSION**

From: Ian McBryde: [REDACTED]

To: The interim OTC

Subject: consultation about the proposed "*An Act to establish the Office of the Territory Coordinator (TC) to facilitate the undertaking of certain projects, to provide for the designation of Territory Development Area's and for related purposes.*"

To Whom it may concern:

This submission is written as a concerned citizen. It mainly highlights the many reasons why the proposal for a new Act of Parliament carries too much risk.

There are numerous inconsistencies, ill-defined processes and directions and undefined words amongst other deficiencies in this poorly presented Bill.

The issues are significant and warrant a complete re-think of the purpose. The proposal begs the question, what is the motive for making a dramatic change from a democratic system of governance to a near-autocratic system?

Large and complex multi-agency, multi-company and multi-national projects would appear to be one-sided, short term thinking and more likely to benefit the companies and not the citizens of the NT.

The community benefits spruiked by the CLP and Chief Minister (CM) are difficult to believe given these have not occurred in recent decades from existing industry projects.

On the contrary, any limited benefit to Territorians and other Australians, is likely to be out-weighed by significant social, cultural, economic and environmental costs on an already divided and struggling society. In my opinion, no part of this proposal is necessary.

The Bill for a proposed new Act of Parliament (the proposal hereafter) is not necessary as NT Laws already exist to manage project development. The existing legislation was enacted for a purpose and to propose one new Act that enables at least 32 Acts of Parliament to be circumvented is a very disturbing proposition.

- *Recommendation: Abandon the proposed Act and work with existing legislation and modifications therein if necessary.*

There is no need for a new position of a TC or OTC, nor can the NT afford the expense of setting up a new office with its expansive demands for additional administration and compliance.

- *Recommendation: Better resource Departments rather than invest heavily in a new Office.*

**Economic significance**

The proposal does not define what economic benefit is and there are no limitations in the proposal. A project could be small or large, short term or longer and still get status as economically significant and thereafter avoid the due process under current democratic institutions, including public scrutiny. The history of major

projects is that they don't produce as many jobs as promised and they bring pollution and environmental degradation.

- *Recommendation: Abandon this Bill and respect all considerations under current Laws and best practice with regard to proposed development.*

### **Autocratic Powers**

The proposal to make profound changes to the existing democratic systems, being a new Act that over-rides the principles of nearly every other Act, and giving unprecedented and autocratic power to the Chief Minister is flawed, dangerous and unethical. The proposal explains how the power is really in the hands of the CM and that the TC could be described merely as a decoy or puppet. Centralisation of power in one person places the constituency and the cultural and socio-economic fabric of our society and Nation at risk. This proposed Act would give so much power to a Government that it would unlikely be repealed by a future Government. The prospect of permanently changing the NT's current democracy to a more autocratic system of Government is of national concern. This raises the current debate about donations to political parties to a whole new level.

- *Recommendation: Abandon this Bill and respect all considerations under current Laws and best practice with regard to proposed development.*

### **Fast-tracking**

The CM has spoken often in recent months about the need to accelerate development and this is backed up in the proposal by exceedingly short time-frames for approval processes, reviews, notices, decisions and so on. The concept of a Step-In-Notice that can stop even short delays, is further evidence that the proposal is completely out of step with the considered scrutiny that needs to take place under democratic processes. For example, if the TC or CM feels that progress of something is not happening fast enough, they can step in and make a decision and do so without public consultation, with the primary principle of the proposed new Act over-riding the principle of the Act under which the decision is being made (e.g. the Water Act 1992).

The speed at which major complex projects could be approved and commence is alarming. The larger the project the more time is needed to fully understand them, the more experts are needed to properly analyse them, the more legal input is necessary and so on. Fast-tracking complex projects indubitably will result in poor contracts, without necessary checks and balances, compliance, reviews, conflict resolution clauses and potentially considerable harm to iconic NT landscapes and associated economies such as tourism. Large projects take time because they need to. Existing legislation is not slowing things down, it is doing what it is meant to do, examining developments that need over-sight.

- *Recommendation: Abandon this Bill and respect all considerations under current Laws and best practice with regard to proposed development.*

### **Water**

All major projects invariably require significant amounts of water. Current developments have seen water tables fall (e.g. Howard Springs bore-field, aquifers surrounding the Katherine, Roper and Daly Rivers). The proposed scale of multi-agency, multi-national and complex projects would need to use more NT Water, resources that are already under pressure. The proposed AROWS that has been referred to the NTEPA for its environmental impacts stands out as a significant project that could be expedited without going through adequate scrutiny. This major complex project appears to underpin the proposal for a new Act, yet the TC, CM and CLP have been near silent about this large water harvesting project. The proposal could possibly have been written to fast-track this development alone, because water supply underpins most significant projects.

A risk and impact analysis of this dam proposal requires detailed analysis, long term modeling, Federal input and consultation across Australia. Yet, if the proposal for a new Act went ahead, these steps may not occur.

#### **Definition of Environment in Part 1.**

The definition of Environment to mean “*all aspects of the surroundings of humans including physical, biological, economic, cultural and social aspects*” is not acceptable. It is trying to deviate the interpretation of the word, and this should be called out. When environment is used in the proposed Act it could just mean ‘economic aspects’ which is clearly incorrect. Everywhere the word environment is used within the proposed Act it is unclear as to which part(s) of the definition is meant. Also, different parts of this definition could easily be in conflict: i.e. physical (buildings) and biological (biodiversity). Indeed under a judicial review, a judge may have to, or choose to, adhere to the primary principle of the Act, making the definition of environment, an economic environment primarily.

- *Recommendation: Remove the current definition and if a proposal is to be redrafted, replace with a correct definition that has cross-party and public support.*

#### **TDA**s

The concept of placing an area of the NT under a new legal framework that displaces other tenures is cause for alarm because of the restrictions and requirements outlined in the proposal. Designating areas and activities therein, is unnecessary, will create conflict and permanently change the land and the relationship between people and that land.

- *Recommendation: remove the concept of a TDA or TDA activity and manage projects under existing land and water management processes and Laws.*

#### **Section 4 Meaning of Economic significance**

This meaning has been defined in this section as facilitating either private sector investment, job creation, population growth or development of advancement of an industry. This meaning or definition has no base level: i.e. it could mean virtually any minimal number or size of the aforementioned clauses. It is defined for the purpose of this proposed Act and allows potential approval of projects with questionable benefit. A more prescriptive definition would be a requirement for minimum key targets by a major project or proponent: i.e. value of the private sector investment, number of jobs, amount of tax and royalties, other support to the NT economy, remediation of impacts and factoring in all externalities. Also population growth (s4c) is not a meaning of economic significance but can be a consequence of investment and job creation, but it should not be something the Government facilitates. Also, the question remains as to whether it is the role of Government to advance an industry which mostly has private benefits (s4d).

- *Recommendation: remove this definition and if a proposal is to be redrafted, replace with a correct definition that has cross-party and public support.*

#### **Meaning of an interested party**

This meaning has been defined in this section, as restricted to persons who are registered under Land Title Act 2000 or legal or equitable interest in the area, or a Native Title holder or registered claimant for any part of the area, a Local Government Council for the area, CEO of an agency that may have a specific interest in the area or person who conducts business or industry in the area or who is prescribed by regulation. This eliminates a Territorian or any Australian citizen from having an interest or say in what happens in their Territory/country. It excludes larger number of informed people and shuts out most Territorians from having any say. Yet all these people have a stake in the NT and many have valuable knowledge and relevant

contributions to make. It is an undemocratic meaning and can only lead to poor outcomes because informed public consultation is avoided.

- *Recommendation: remove this definition and if a proposal is to be redrafted, replace with a correct definition that has cross-party and public support.*

### **Regulations**

There are numerous mentions of regulations in the proposal, but no details provided. Many of the areas where regulations are yet to be determined, give significant power to the cabinet. This could further weaken the public ability to engage with this Act and its implementation. Many of these regulations should arguably be presented in the Bill. Regulations are written by the cabinet and then approved by the Administrator and contain significant details and powers. Without knowing these, the public, nor the opposition party know what they are signing onto. The regulations when eventually approved could indeed extend the reach of the Act even further.

- *Recommendation: Include more of the regulations in the body of the Bill.*

### **PART 3 Division 1, s18. Notice of designation or revocation**

The publication of plans and proposals need only be on Government web-sites or as regulations prescribe (which could be nowhere). Considering the size and scale of the proposed complex projects, it is of concern that the Government doesn't even have to specify that these things are published more widely.

- *Recommendation: If a proposal is to be redrafted, replace with best practice publication in public media outlets, and in the Government Gazette.*

The only opportunity of anyone to have a decision made under the proposed Act, looked at or reviewed is through a judicial review which takes time and is costly. During this time, actions of concern could proceed. This situation is obstructive to anybody trying to have matters of relevance heard.

- *Recommendation: If a proposal is to be redrafted, this situation needs to be remedied and other more accessible review processes should be permitted.*

### **The CM, her Government and the backers.**

The proposal brings into question the motives of the CLP machinery and the CM. Their proposal to essentially place the CM 'above the Law' raises urgent questions of national significance. There are insufficient and inadequate limitations within the proposal to justify this level of autocracy.

The outcome could see the benefiting companies, industries and corporates placed above the Law as the Government not just relaxes but waives relevant considerations and Law in order to expedite their interests.

This is a dangerous outcome if the proposed Act were to be enacted, because the primary principle of the proposed Act is 'driving economic prosperity for the Territory or region of the Territory'. This clearly places the economic interests of overseas and multinational companies especially over all the combined interests of all Australian citizens and Territorians in particular.

Big business do things for themselves. They are not doing things to help the NT. They do things because it helps them. The CLP are an Australian Government wanting to throw out the rule book to assist big business quite likely to the detriment of Australia and its citizens.

For decades, decision making has respected the quadruple bottom line as best practice. To propose that economic benefit is the primary matter, sounds alarm bells. Regardless of how the Government is representing this Bill, there are not enough checks and balances to ensure that there is not rampant over-reach by either the Government or the corporations that will use it.

The consequences related to this high level of risk are that companies and industries stand to benefit and everyone and everything else stands to lose. There is plenty of evidence that the return on investment by Governments of public monies is significantly less than was initially spruiked to achieve approval for those private investments. Indeed, the evidence that many companies in the NT pay woefully small tax and royalties is sufficient to pause this autocratic proposal. Governments make so many mistakes as it is, with regard to contracts and investment decisions. Introducing a Bill to fast track these decisions can only further exacerbate this situation.

Companies pay little if anything for the enormous water resources they use, nor adequately remediate pollution, or the impacts on those resources and the loss and damage to other water, air and land.

Justifications that the CLP and CM have been spruiking such as growth and jobs and population is old thinking. Linking economic growth to population growth is an outdated, short term idea, known to be destructive to the planet, harming societies, cultures and the environment.

The CLP and CM's promised flow on effects to Territorians cannot be believed. The benefits might be minimal, while the costs are likely to be significant and either permanent or long term (i.e. to social, cultural, environmental and economic factors surrounding the loss of resources, irreversible changes to environmental support systems, air pollution etc.).

Their promises and rationale is not backed up by developments to date such as INPEX which has resulted in minimal economic benefit, nor population growth or significant jobs. On the contrary, the complex projects the Government has in mind to expedite and facilitate, would under the proposed Act, be able to continue the pattern of companies running rough shod over Territorians and their lifestyle. This proposal could well see the fleecing of Australia's resource wealth, natural and cultural heritage and future.

The scale of the proposed 'complex projects' surrounding mining, gas, processing, AROWS, land clearing, water and agricultural development etc. is contrary to Federal climate policy and net zero emissions policies. For the NT Government to knowingly ignore higher level commitments and Federal and International agreements and actions to protect remaining natural landscapes and resources, not least for the future sake of humanity, is blatant self-interest, driven by short term gain.

The proposal has the potential and high probability of very significantly increasing Australia's green-house gas emissions, which is of serious concern.

- *Recommendation: Abandon the proposed Act and work with existing legislation and modifications therein if necessary.*