



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

15th Assembly

LEGISLATIVE SCRUTINY COMMITTEE

Public Hearing Transcript

9.00 am – 2.30 pm, Thursday 27 February 2025

Litchfield Room, Level 3, Parliament House

Members: Mrs Oly Carlson MLA, Chair, Member for Wanguri
Ms Justine Davis MLA, Member for Johnston
Mr Clinton Howe MLA, Member for Drysdale
Mr Andrew Mackay MLA, Member for Goyder
Mr Chanston Paech MLA, Member for Gwoja

Witnesses: *Local Government Association of the NT*

Mary Watson: Chief Executive Officer
Sarah Zaharie: Director Public Affairs

Minerals Council of Australia

Cathryn Tilmouth: Executive Director Northern Australia
Dr Amber Jarrett: Principal Policy Advisor NT

Larrakia Nation Aboriginal Corporation

Michael Rotumah: Chief Executive Officer

Central Land Council

Barbara Shaw: Deputy Chair
Georgia Stewart: Policy Manager
Su Sze Ting: Senior Lawyer

Nurrdalinji Native Title Aboriginal Corporation

Samuel Janama Sandy: Chairperson
Greg McIntyre SC: Legal Representative, Native Title and Aboriginal Heritage

Northern Land Council

Yuseph Deen: Chief Executive Officer
David Astalosh: General Manager Governance, Strategy and Communication

Australian Institute of Architects

Miriam Wallace: President NT Chapter
Karen Relph: Manager NT Chapter
Jo Rees: Ajar Architects

Department of Mining and Energy

Alister Trier: Chief Executive
James Pratt: Senior Executive Director Energy Development
Brett Easton: Director Policy and Reform

Department of the Chief Minister and Cabinet

Tom Leeming: Deputy Chief Executive Officer Policy, Reform and Regions
Margaret Close: Senior Executive Director Strategic Policy and Delivery
Stuart Knowles: Interim Territory Coordinator

PUBLIC HEARING ON THE TERRITORY COORDINATOR BILL 2025

Local Government Association of the Northern Territory

Mr DEPUTY CHAIR: On behalf of the committee, I welcome everyone to the public hearing into the Territory Coordinator Bill 2025.

I welcome to the table to give evidence to the committee from the Local Government Association of the Northern Territory Ms Mary Watson, Chief Executive Officer and Ms Sarah Zaharie, Director Public Affairs. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website.

If, at any time during the hearing, you are concerned that what you will say should not be made public you may ask the committee to go into a closed session and take your evidence in private.

Can you please each state your name and the capacity in which you are appearing.

Ms WATSON: Mary Watson, Chief Executive Officer of the Local Government Association.

S ZAHARIE: I am Sarah Zaharie, Director Public Affairs of the Local Government Association of the NT.

Mr DEPUTY CHAIR: Before we begin I will introduce my fellow committee members. We have Mr Chansey Paech, the Member for Gwojja; Mr Clinton Howe, the Member for Drysdale; joining us by telecommunications is Ms Oly Carlson, the Member for Wanguri; and joining us shortly will be the Member for Johnston, Justine Davis. I am Andrew Mackay, the Member for Goyder.

Would you like to make an opening statement, Ms Watson?

Ms WATSON: Yes, thank you. I am pleased to be given the opportunity to speak to the scrutiny committee hearing.

LGANT is tasked with advocating for its democratically elected members who are entrusted by their community to represent their needs. LGANT and the local government sector is supportive of the intention to improve efficiency, exempt duplicative processes and contribute generally to strengthening the Territory's economy. These are goals that are consistent with the objectives of the local government sector.

The CLP ran on a platform of returning local decision-making to communities through government reforms. In the Chief Minister's own words, 'Communities are feeling disempowered. People want local leaders running communities'. She described her goal to make sure, 'We are delivering a style and form of local government that will give greater empowerment and control'.

These promises inspired hope in the local government sector and painted a picture of partnership and working together toward a shared goal, to protect and restore the Territory lifestyle. Instead, we are here today talking about a Bill that will potentially further disempower people and elected representatives in the Territory through centralised decision-making by a 'independent' facilitator.

That is why today we ask this committee to amend the Bill by removing the *Local Government Act* from the schedule of laws to which the Territory Coordinator Act applies. Local government should instead be empowered to partner with the NTG to deliver on shared values of a prosperous economy.

Local government is empowered by the *Local Government Act* with the objective to advance local communities, promote economic wellbeing and to assist constructive participation by the diverse populations they serve.

Councils are concerned with the day to day, while also considering the bigger picture to ensure that decisions are made to contribute to the long-term prosperity of their community. Their decisions are informed by council meeting, elected councillors and local knowledge.

The needs of residents in Darwin will be different to the needs of residents in Central Desert, for example. This is the value of local government. They know what their constituents want. This is why we oppose a one-size-fits-all approach that empowers the Territory Coordinator to make decisions under the *Local Government Act*, with no local understanding and no long-term investment in the council area—not just with respect to the infrastructure but with respect to the social, cultural and environmental values of that place.

The *Local Government Act* identifies local government as a distinct and essential sphere of government. I will say that again—a distinct sphere of government. While the Territory Coordinator Bill seeks to centralised decision-making through its powers, in effect delegating under the *Local Government Act* to an unelected, apparently independent facilitator over whom only the Chief Minister has oversight.

Further, the Territory Government is essentially relieving elected councillors from their duties and replacing them with the Territory Coordinator as it sees fit.

Referring back to the Chief Minister's comments during the election campaign and, indeed, once elected, we struggled to find in this Bill where and how decision-making is being returned to local communities. Trust in local democracy, engagement with local politics and elections are all diminished if local government councils are disempowered.

During consultations with the proposed Territory Coordinator, we sought to understand the red tape which exists within the *Local Government Act* to render it subject to the Territory Coordinator's powers. When asked why the *Local Government Act* is included in the Bill, we were recently told by the Territory Coordinator's office that it is because we do not know what we do not know. This is not good law-making.

If this Bill passes with the inclusion of the *Local Government Act* listed as a scheduled law, we see it as a potential blow to the financial sustainability of Territory councils. Under Division 2 of the Territory Coordinator Act, for example, the coordinator can identify infrastructure required to support a project.

Part 5 of the Act enables the coordinator to direct a public entity to deliver certain works. Part 6 of the Act enables the coordinator to direct or coordinate investigations and studies for a Territory development area plan. We would like to know who wears the cost when the Territory Coordinator directs councils to deliver works and actions to support a development or plan. Will councils inherit the ownership and maintenance of infrastructure or works done without adequate and ongoing funding? Part 9 of the bill does not include local government councils as one of the bodies which would benefit from cost-recovery exercises. On the contrary, if identified as a project proponent, we would incur costs.

This cost and responsibility shift from the other two spheres of government into local government is all too common and has to stop. There are too many unanswered questions and areas of ambiguity in this Bill in its current form for LGANT and the local government sector to be supportive at this time. Again, we ask for it to be amended through removal of the *Local Government Act* and the schedule of laws.

Councils in the Territory are responsible for over 13,000 kilometres of roads, street signage, lighting, waste management, parks, animal management, libraries and swimming pools. They work hard to build liveable communities that enable projects to attract a local workforce and keep them. Considering a major project like the Beetaloo Sub-basin, the Territory Coordinator may use their powers to declare an IC or TDA activity to direct councils to prioritise community infrastructure to accommodate workers coming into the region over other essential services as determined by council—services and works that have been prioritised by communities themselves through advocacy to their elected council representatives.

If councils must direct their limited resources to the priorities of the coordinator, there is no doubt they will have little to no resources available for the priorities of their communities. This then presents a risk to the Territory government, which will no doubt have to fill the gap or risk seeing Territory residents go without services. This is contrary to the goal of rebuilding the economy and the Territory lifestyle, as liveability in towns and communities will decline.

Under its powers, the Territory Coordinator may also direct councils to freeze rates collection, which will also have a detrimental effect on council resources. The other surprising part of this Bill is that the Territory Coordinator's powers can be used to declare a new authority over a TDA. The ambiguity of the purpose and scope of such an authority raises concerns that this authority could replace a local government council and put in place alternates. This is akin to, for example, the Darwin Waterfront Corporation authority. This seems counterintuitive to the intentions of the Act in removing duplication and improving efficiencies. Who will fund these authorities?

We see no point in creating this framework with a goal to improve economic prosperity for Territorians if communities are left behind. When you exclude or overrule local government councils from their own decision-making powers or when you ignore the goals of community members who voted for the council elected members, you are shifting the benefits of this whom framework away from them.

We ask that the Territory Act be amended by removing the *Local Government Act* until a regulatory impact analysis can be undertaken and statement considered by this government. A key principle in policy-making is identifying a public policy problem that necessitates intervention. The problem with local government councils or their ownership of certain approvals processes that block economic development are yet to be identified in the development of this Bill. We have been asked by the Territory Coordinator's office and this government to try to see the benefits to the local government sector and get on board. Yes, local government councils could potentially work with the Territory Coordinator to progress initiatives, but such a partnership approach does not need the *Local Government Act* included in the Territory Coordinator Bill.

I take this opportunity to remind you again that we share a common goal: we are all working for the prosperity of the Territory. Councils and the Territory government should continue to work hand in hand with recognition of local government as a distinct and essential sphere of government.

Mr PAECH: Thank you, Mary, for your deputation.

I note in your submission you have done quite a lot of research around other Australian jurisdictions that have delivered a similar piece of reform, probably not as overarching as the Territory Coordinator. Can you step us through the differences and what you want to see? You spoke about the Territory development areas. My understanding of LGANT's position is that with local councils there should be a requirement for them to approve TDAs before they are declared.

Ms WATSON: Is it in our submission?

Mr PAECH: Yes.

Part one is the analysis that you have done with Queensland, Victoria and South Australia and the process in which they have made additional changes to better suit the local government associations of those jurisdictions.

My second question is: you spoke about council being empowered around Territory development areas. I am making sure that we hear from you. The likelihood is the legislation will go ahead, given that the CLP have the numbers on the committee and on the floor of parliament, but our role is to put the best set of recommendations up for the government to consider. I want to make sure that we do it in a manner that is representative of the views of LGANT.

S ZAHARIE: To your first question—the other examples—we have worked with our partner associations across the country and talked to them through the development of their respective Bills.

South Australia is currently going through a similar process and their consultation closed in August. They are currently negotiating the position of local government in that Act. As we understand, they are making some headway in removing the *Local Government Act* from the South Australian model and creating more of a model where the local government are represented within a team of experts to advise and to consult with their equivalent to a Territory Coordinator.

They have also identified a minimum of 60 days of public consultation regardless of any exemption that is applied, and we have asked for it in the submission regarding the lack of rigour in public consultation generally. We understand that this is to be developed further in the regulations, but as we stated it does not provide us a lot of confidence that there will be a minimum standard applied.

To the second question, I will hand to Ms Watson.

Ms WATSON: If the Bill goes ahead in its current form and our wishes of having local government exempt from the Bill are not met, then, yes, I think we need to have a formal framework in place to work with between the two governments, an official partnership of sorts. Yes, there are some concerns, as we have expressed, around the Territory development areas and how those powers will be used. We hope that if it goes ahead that there is explicit agreement amongst the two parties.

Mr PAECH: I note in your submission you talk about the potential for financial implications. Having been a Local Government minister myself, as the person who signs off on potential setting of the rates do you have concerns with this process that a Territory Coordinator could determine the fees and charges for councils, taking away their ability to look at financial sustainability?

Ms WATSON: Absolutely, that is one of our major concerns, and it is sort of contrary to the Act, which is around hastening approvals, if that makes sense. If you are going to be exempting or asking councils to freeze rates, it is more of an incentive than an approvals process.

We are not clear on whether the power will be used, but there is the ability to do that. That is concerning, given the financial sustainability issues, particularly in our regional councils, which are already limited by things such as conditional rating, which is where you talked about the Local Government minister sets those rates, which is different to other rates that council set.

Mr PAECH: We have been on this committee for a day, now into today. We are yet to get a tangible example from anyone about where there are blockages that this Bill would address. Given that you are the peak body for local government, are there examples where there are blockages caused by local government that are stopping development?

Ms WATSON: Not under the *Local Government Act* that we can find. As we talked about, the Territory Coordinator's Office cannot tell us any.

Mr HOWE: Quickly, Mr Chair, we keep hearing the comments that the CLP is controlling this committee. I ask that be put down as the Member for Johnston can attest to in other committees, the party is not controlling this committee ...

Mr PAECH: Facts are facts.

Mr HOWE: ... and we are acting as individual members. If that could be controlled, please.

We heard from another ...

Mr PAECH: We are seeing it today.

Mr HOWE: We heard from another council which gave both pros and cons of this Bill. Do you see a situation where this could be beneficial to a council? What kind of situation could a council use for the Territory Coordinator? Importantly, what I am trying to tie this to is recommendations we can provide. What kind of recommendation could be useful in the Bill to help yourselves.

Ms WATSON: We have thought about this—the positives. I think there are positives. We talked about that. The intent is positive. I mentioned briefly in my introduction that councils could potentially be seen as partners. Say, for example, a council might want to work with a project proponent to get a project up in its region. It could approach the Territory Coordinator to do that. Potentially that is a positive.

There are some concerns about cost recovery of that process as part of our comments we have already made on the Bill. Honestly, the *Local Government Act* does not need to be in the Bill for that partnership approach to happen. We see that part as being a positive.

S ZAHARIE: I would flip it in saying that as part of the lawmaking process we should have the benefit demonstrated to us. That is something that we have repeatedly called for in our consultations with the Territory Coordinator's Office. We have asked to run through scenarios that demonstrate both the risks, the positives and the benefits to local councils. We have not made much headway due to the speed at which this process has been run through.

We are keen to hear about the benefits because going through the Bill we have been struggling to find them. Going through our own Act we have been struggling to find the impediments to economic development. In fact, it is in our principles and the objectives of our Act that we should be striving for the economic prosperity of our communities. That is why our submission highlights that we want to be seen as partners and work with government—any government—to ensure that our councils are prospering from development in their areas.

Mr HOWE: If the Territory Coordinator could facilitate a more even relationship with NT councils and act as a third party that enforces that as well, could you see that as a positive?

S ZAHARIE: Definitely. That can only happen when the *Local Government Act* is not in the schedule of laws. There is a threat hanging over the councils that if councils do not fall into line, the powers of the Territory Coordinator will be used to take over that decision-making power.

What we are asking for is to ensure that there is equality in that relationship because, as we mentioned, we are a distinct sphere of government and councils are elected so they represent the views of their communities. We can definitely see a partnership there, but the *Local Government Act* must be removed and the threat of step-in powers must be removed.

J DAVIS: Apologies for being late. Thank you for appearing and for your submission.

One of the things that you highlight in your submission is the notion of risk—the risk this Bill might bring to you and more broadly. Could you expand on that and give some examples of where you see risks with this? You have already touched on this.

Ms WATSON: Yes, we have touched on quite a few of them I think. It is the interpretation of many parts of the Act that are a risk to us. We are already experiencing issues under our own *Local Government Act* where the interpretation is meaning some financial sustainability issues for our sector now.

That is the real risk; we do not think it has been well tested and there is a risk to financial sustainability. It is about the big-brother approach to this distinct sphere of government. That is the real risk for us.

There is also the powers of our elected members being diminished.

J DAVIS: Could you give an example of what that might look like?

S ZAHARIE: Yes, the rates is one of the examples that we are most concerned about. Rates is a major revenue stream for our councils. In consultation with the Territory Coordinator's office, when we raised the prospect of the step-in powers being used to freeze rates or determine a lower level of rates, we were told that there was no reason why they could not do that.

That, to us, goes against the objectives of the Act, which is to create efficient processes. We are concerned that there will be decisions taken that are made simply to improve the attractiveness of doing business in the Territory, and that slashing rates will only impact councils.

Ms WATSON: Another risk is the relatively new part of the Act about the ability to put in place an authority. There is no definition in the Act of what that authority is. Will it be that the Territory Coordinator does not want to work with the councils, so it will create a new authority and their own powers to be able to direct them to do what it wants? What does that mean for democracy in those areas? There is a big risk to communities here.

J DAVIS: You have talked about the risk of lack of clarity in other aspects of the Bill as well. One of the other things that you talked about in your submission is the notion of social licence and the concern that this Bill might impact on social licence for projects. Could you talk about that a little?

S ZAHARIE: Sure. Councils, as elected representatives of their communities, understand the needs of their communities. That is why we are proposing that they be partners under this Act because they can represent those needs to the Territory Coordinator's office and ensure that projects are not being undertaken that go against the values of that community.

J DAVIS: For the benefit of me and anyone who is watching, can you give a definition of what 'social licence' means and why it is important for development?

S ZAHARIE: I think it simply means buy-in. You have a community that is supportive of what is happening; they are excited about the development that is occurring and the potential future benefit that they will experience.

That is why it is important to avoid communities being lumped with decisions that are short-term focused, and then being left with the legacy issues. That is where the social licence comes into it.

Mr DEPUTY CHAIR: As a former member of a local government, as well as Chansey over there, I can appreciate the role they play in servicing Territorians. Can you see the benefit for your members in the long-term financial sustainability of their councils by having a Territory Coordinator who can facilitate

development and potentially increase the rates that councils can derive from industry across the Territory, especially in more of the regional and remote councils which do not necessarily have a high rate base from traditional housing rates?

Ms WATSON: Yes, absolutely, we agree with the intent of the legislation. There is a lot of work to be done. There are other pieces of legislation that inhibit the rates at the moment. There is more work to be done more broadly to benefit the financial sustainability of our councils. This Bill will not solve those problems. There is still a lot of work to do.

Mr DEPUTY CHAIR: Do you or your members have an opinion on the rates that are set currently by the minister rather than the local government? For those listening, councils will set generally residential and commercial rates but mining and pastoral leases, that kind of thing, are all determined by the minister. Is that something your members are advocating for to be put back into the power of councils?

Ms WATSON: Yes. For that conditional rating for most pastoral and mining leases, it is the position of LGANT that we would like those conditional rating element of the Act removed to allow councils to set their rates as opposed to the minister setting their rates. That has been a longstanding position of LGANT's.

Mr DEPUTY CHAIR: We have time for one or two more questions. For best practice, can I get you to ask one question at a time, Chansey. Let them answer it and then ask the second.

Mr PAECH: I just do not want to be shut down.

Mr DEPUTY CHAIR: I am letting you ask your questions but one at a time makes it easier for everybody.

Mr PAECH: Sure. I am really interested to find out further. You have spoken about not wanting to be overridden. You had the CLP minister out there yesterday with his 10-gallon hat on making announcements regarding the sub-divisions at Holtze. Is it a concern of local government that you will be excluded from decisions where subdivisions are going on, and you will be expected to then become the custodian of an asset that you had no decision-making or consultation or involvement in regarding stormwater drainage, parks, recreational spaces but you will then be directed or informed to wear that liability?

Ms WATSON: Absolutely. We already have concerns regarding that process which is not under our Act. The local government sector is not the planning authority in the NT, like it is in other jurisdictions. We are already doing some work with the relevant department on improving that process. There are some potential improvements that could happen in that space from both a developer and a local government perspective. But we need to work together to make those improvements.

That is the underlying premise of our submission. We need to identify what the problems are and work on finding solutions to those instead of creating a new layer of bureaucracy that will try and fix those things. Let us invest in those issues and problem-solving first to get the enabling environment right.

Mr PAECH: You are advocating to be removed from the schedule. One of the things we heard yesterday is that the government intends to be able to amend by regulation. So, it could take you out of the schedule now but there is nothing stopping you or the entire statute book ending up on the regulations. Is it a position of local government that you would like to be in the legislation as an exemption?

Ms WATSON: We have not even considered that, but I think we agree it is the same issue. We still have a lot of unanswered questions. I do not really have a comment on that. We will have to take it on notice because we have not scenarioed that one.

J DAVIS: I notice when you were presenting your evidence you talked about extending the consultation period to 60 days. I am not sure if you talked about that in your submission. Could you quickly talk to that?

S ZAHARIE: We provided examples of similar models in other jurisdictions. We consulted with the Local Government Association of South Australia to talk about its consultation process. It has set out in that Bill that there is a minimum 60-day public consultation period regardless of any exemption or powers used by its Territory Coordinator equivalent.

J DAVIS: Is that something you would like to see in this Bill should it go ahead?

S ZAHARIE: Yes. That is also on the basis that the public consultation requirements in the Bill as they stand are quite vague and refer to the regulations that we are yet to see.

Mr DEPUTY CHAIR: On behalf of the committee, I thank you for appearing today before us and thank you for the time and the short notice and turnaround of your submissions.

The committee suspended.

Minerals Council of Australia – NT Division

Mr DEPUTY CHAIR: On behalf of the committee, I welcome everyone to the public hearing into the Territory Coordinator Bill 2025.

I welcome to the table to give evidence to the committee from the Minerals Council of Australia – NT Division, Ms Cathryn Tilmouth, Executive Director Northern Australia and Dr Amber Jarrett, Principal Policy Advisor NT. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website.

If, at any time during the hearing, you are concerned that what you will say should not be made public you may ask the committee to go into a closed session and take your evidence in private.

Can you please each state your name and the capacity in which you are appearing.

Ms TILMOUTH: Cathryn Tilmouth, Executive Director Northern Australia of the Minerals Council of Australia.

Dr JARRETT: Dr Amber Jarrett, Principal Policy Advisor of the Minerals Council of Australia, NT Division.

Mr DEPUTY CHAIR: Before we begin, I will introduce my fellow committee members. The Member for Gwoja, Mr Chansey Paech; the Member for Drysdale, Mr Clinton Howe; the Member for Johnston, Justine Davis; and joining us by telecommunication is the Member for Wanguri, Ms Oli Carlson. I am the Member for Goyder, Andrew Mackay. Ms Tilmouth, would you like to make an opening statement?

Ms TILMOUTH: Thank you for the opportunity. I would like to acknowledge the Larrakia people and also the traditional owners where we operate our mining operations around Australia.

The Minerals Council of Australia—MCA—represents Australia's exploration mining and minerals processing industry nationally and internationally in its contribution to sustainable development and society. Australia's minerals industry is innovative, technologically advanced, capital intensive and environmentally and socially progressive. MCA member companies Australia wide produce most of Australia's annual mineral output.

While mineral projects in the Territory offer great potential, they are not a guaranteed pipeline to success. Millions of dollars in exploration and mining project investment are lost every year due to rising costs, regulatory burden and declining productivity. The numerous potential benefits that flow into the surrounding host community when an exploration project is converted into a successful mining operation, are also then lost.

Mining provides employment and training opportunities, community investment, infrastructure and emergency services to some of the remotest parts of the Territory. There are also the obvious economic benefits from the mineral industry. In 2022–23, the value of the resources sector was \$8.1bn. This includes a direct injection of \$209m in royalties and millions of dollars in council rates and other land use payments—a revenue stream that is vital to the Territory.

The NT 2024–25 budget outlined the Territory's economic reliance on the minerals sector. The resource industry accounted for 28% of the Territory's output, making it the largest contributor to economic production. However, the Territory cannot take this revenue source for granted and become complacent.

In its final report to NT Government in 2022 the Mineral Development Taskforce identified that due to this heavy reliance on royalty revenue and due to the fact that there were a number of existing mines reaching the end of their expected life, royalties are projected to fall from \$370m, or 14% of the NT's own-source

revenue, to only \$150m and 6% of the NT's own-source revenue just after 2030. To preserve this revenue base immediate actions need to be taken.

Other key findings of the final report were that regulatory processes have a significant impact on project economics. There is an infrastructure gap in the Territory which must be addressed in a timely manner to de-risk exploration, mining and downstream value-add investment opportunities. The Territory is well-endowed with minerals that are building blocks for a clean and technology-enabled future.

The formation of the Mineral Development Taskforce was born out of the recommendations of the Territory Economic Reconstruction Commission's final report from November 2020. These reports all spoke to the importance of enhancing investor confidence in the Northern Territory to grow the economy.

The Northern Territory has for too long struggled to provide investor confidence in the minerals sector. There are surveys such as the Fraser Institute Survey of Mining Companies that support these claims. When you look across the border to Western Australia, Queensland or even South Australia there are exponentially more mines in operation than there are currently here in the Territory.

I can assure you, as can my learned friend Dr Amber Jarrett, that from a geological perspective the Northern Territory has world-class minerals deposits, so it has nothing to do with the rocks. The NT has minerals that are in demand by the world market for their use in manufacturing and technology, renewable energy and the list goes on. The Territory could be at the forefront of delivering a low-emissions future to the rest of the world and, at the same time, could create greater opportunities for Territorians here at home.

As at 1 February 2025 the Northern Territory has 19 developing mining projects worth a combined estimated capex of \$6bn and an estimated 3,500 jobs in construction and 3,500 jobs in production. The provisions within the Territory Coordinator Bill to ensure that these projects and any future mineral projects are not hampered due to red tape and poor policy decisions, as well as the provisions to coordinate and address infrastructure deficiencies to open up regional areas and improve the feasibility of potential projects, will increase investor confidence.

It will mean that mineral projects in the Territory will have the best chance at success and so increase the likelihood that the potential benefits for the economy, jobs and training opportunities for Territorians and community investment by companies are realised, and is why the Minerals Council of Australia is supportive of the passing of the Territory Coordinator Bill.

Mr DEPUTY CHAIR: Before I open it up for questions, I will start with one of my own. Can you expand on how delays for approvals can affect both project viability and investor confidence, and how the Territory Coordinator might help streamline some of those inefficiencies?

Ms TILMOUTH: When you are looking at any sort of business opportunity, you want to know how long it will take, and how much it is going to cost. While we do have these world-class minerals deposits in the Northern Territory, you are not only competing with other jurisdictions within Australia that also have similar minerals deposits you are also competing with the rest of the world. You are also competing where they are not paying as much for labour, not paying as much for processing and they have shorter distances to go to the market, so you need to make it as commercially viable as possible.

To make anything take longer and be more expensive in the Northern Territory you pretty much are pricing yourself out of the market. Any sort of delay, anything that takes longer or is more expensive, you are going to miss out on an opportunity. You could look at a commodity such as the need for lithium for batteries for electric vehicles, and if you take too long to get the approvals for that sort of mine to get up to scale and out to market, as technology moves so fast—that happened recently. That window of opportunity will only be open for so long, as the technology moves so fast. They will come up with new technology, and this happened in Indonesia recently. They were able to use newer technology to use a derivative of nickel to be used in the batteries for electric vehicles. It is cheaper to use nickel than to process lithium to put into electric vehicles. You need that agility and to be able to get approvals fast and streamlined. You cannot sit back and wait if you want to capitalise on opportunities.

Mr PAECH: What is the holdup?

Ms TILMOUTH: Approvals, duplications of approvals, processes and the motivation to get things done in a timely manner.

Mr PAECH: Do you have an example?

Ms TILMOUTH: We have a number of examples which we can talk through. We know mining is a complex operation and requires multiple approvals from multiple departments such as EPA, infrastructure, WorkSafe and federal regulatory approvals. We acknowledge the hard work of NT public servants and acknowledge that there are some resource constraints. One thing we appreciate in the Bill put forward is the ability to communicate between the different government agencies and enhance the clarity in processes.

There have been examples of bureaucratic inefficiencies that led to impractical regulatory demands. I could turn your mind back to the Chandler Salt Mine—which was in your electorate—south of Alice Springs. It faced years of regulatory delays and activism. That led that company prioritising building the exact same project in the Western Australian jurisdiction; they were able to get that off the ground a lot faster and the Western Australia government and community were able to benefit from that investment, rather than the people in the Northern Territory. It is fortunate that they decided to come back and revisit that project recently.

Mr PAECH: To be clear, a lot of the Mineral Council's concern is actually of a bureaucratic nature within existing government departments?

Ms TILMOUTH: Processes?

Mr PAECH: Within departments?

Ms TILMOUTH: Yes, there are departmental and duplication delays and the inability for things to not be coordinated.

Mr PAECH: Could you elaborate when you talk about activism. What is it that you are referring to community consultation? What does activism mean for the Minerals Council?

Ms TILMOUTH: The spreading of misinformation or disinformation about projects.

Mr PAECH: What is your position on community consultation. Yesterday we heard from the Australian Energy Producers that they do not believe that consultation and regulation is necessary in some cases. I am interested on your position.

Ms TILMOUTH: We believe we have very strong ESG standards. Consultation is a strong part of the Minerals Council's processes. We consult heavily before projects are developed. We are not looking to cut any corners. There is a difference between consultation and talking about what the benefits are, or the truth is, about a project and the spreading of misinformation and disinformation to put forward a non-development agenda.

Mr PAECH: Are you still supportive of the consultation process with traditional owner groups taking as long as it needs to ensure that everyone is consulted?

Ms TILMOUTH: I am also very supportive of traditional owners exercising their long-fought-for-right to leverage the assets they have as traditional owners, should they wish to, to seek their own generational wealth if they would like to use their asset, such as that we have seen in various successful cases like Gulkula in Arnhem Land where they have a bauxite mine operating on their traditional lands. It is traditional owners operating a traditional owner mine where they can also train their young people to operate that mine. They have jobs and opportunities on their mine site owned by traditional owners.

Mr HOWE: Thank you for clarifying some of those concerns of misinformation that goes around. There are quite a few interesting points, and I have a few questions.

It is concerning that only 5% of projects are moving to a favourable financial decision. Do you see that the Territory Coordinator could help improve those numbers, especially regarding the concern about the bureaucratic burden and the non-competitiveness that is creating?

Ms TILMOUTH: Absolutely. Investor confidence is a huge thing. Not only do you need to get through the regulatory processes; you also need to be able to attract capital and investment. From an external investor's perspective, if you are able to see that the likelihood of this project is it will get up, that there is favourable environmental and regulatory processes and that the entire investment environment will happen, then you are more likely to invest in this jurisdiction.

Mr HOWE: With the social progression seen from the industry, could you speak on—we spoke about the falling revenue and part of the economy in the NT—what the industry is doing relating to the hiring of women

and the growth in that area and how, by the Territory Coordinator facilitating this industry, we can get better social outcomes?

Ms TILMOUTH: We are one of the leading industries of choice. It is something that the mining industry is very proud of. The Northern Territory is sitting on par with the rest of the country with 17% female employment. We partner with Women in Resources. It is not just in frontline operations; it is in technical roles as well. There is the drive for workforce education attainment.

I will defer to Amber who also sits on the Women in Resources committee and boards and on the skills shortage committee for our national organisation.

Dr JARRETT: It is important to make the point that the minerals industry provides high-paying, high-quality jobs in remote parts of the Territory.

The 2024 ISACNT Mining Insight report showed that in the Northern Territory there is 15% female participation in the workforce. We need to do better. That is one of the reasons the Minerals Council of Australia in the NT and abroad support groups such as Women in Resources. This ISACNT report also showed that participation by Aboriginal Territorians was at 11%, while Australia-wide, that is lower at 9%.

The Territory is making strong gains there. The more jobs we can progress across the Territory will mean more of these opportunities for local Territorians.

Mr HOWE: Is it fair to say the Territory Coordinator could make serious headway in closing gender wage gaps and closing the gap initiatives by providing local employment and investment in communities?

Ms TILMOUTH: The beauty of the mining industry is the fact that these mineral deposits are in the remotest parts of the Northern Territory. The jobs therefore, for proximity, are in the remotest parts of the Northern Territory.

Mr DEPUTY CHAIR: I recognise the Member for Johnston in the interests of time and fairness to ask questions.

J DAVIS: Thank you for your submission and for appearing today. For the clarity of the committee can you outline the companies that you represent?

Ms TILMOUTH: All our members?

J DAVIS: Maybe the types of companies for time.

Ms TILMOUTH: The majority of the minerals projects; at the moment there are five operating mines. I can take than on notice who all our members are in the Northern Territory.

J DAVIS: I would appreciate that.

Ms TILMOUTH: It is all publicly available information on our Minerals Council Australia website.

Dr JARRETT: It is important to note that we represent members that are large multinational companies all the way through to small Territory owned exploration companies.

J DAVIS: Are you acting on behalf of all those companies from large multinational to smaller locally owned Territory ones?

Ms TILMOUTH: For the purpose of this Bill, it would be our members in the Northern Territory.

J DAVIS: One of the terms of references of our committee is to determine whether the Bill has sufficient regard to the institution of parliament. To that end and given your strong presence here and the way the Bill has been drafted, I am interested to know whether prior to the drafting of this Bill you had any separate meetings with the Chief Minister or members of the CLP?

Ms TILMOUTH: For the purpose of the drafting of the Bill?

J DAVIS: Yes. For input into the potential Bill.

Ms TILMOUTH: No.

J DAVIS: We have not been privy to the initial consultation process; did you make a submission to the initial consultation process?

Ms TILMOUTH: Yes.

J DAVIS: Were any recommendations you made in those submissions adopted in the new version of the Bill?

Ms TILMOUTH: To some extent, yes; they were.

J DAVIS: Can you outline which ones they were?

Ms TILMOUTH: Yes. In the initial Bill that went out for consultation we believed that a criteria of the definitions for significant project, program of works and TDA were the only—defining those was fairly narrow in order for the Territory Coordinator to exercise the powers for that so we provided recommendation that that would be broadened so that the Territory Coordinator would be able to provide those levels of powers of functions to more projects. We are believers in for a government to move away from the historic process of picking winners and move more towards making legislation that allows there to be more of a legislative framework that allows for more projects, or more successful rates of conversion.

Mr HOWE: Would you like government to make a healthier environment?

Ms TILMOUTH: Healthier environment for everyone to have a fair chance at winning—at success.

J DAVIS: Are there any other recommendations that you could share with us?

Ms TILMOUTH: That was probably our point. We can provide the submission if you would like.

J DAVIS: Yes, I would appreciate that; thank you.

Mr PAECH: I acknowledge first of all that the Territory Coordinator's role is not to address gender equality, acknowledge there are two wonderful women before us on the committee and acknowledge the hard work you have put in to get where you are.

We have heard from many people about the Aboriginal Areas Protection Authority legislation. I ask from the position of the Minerals Council, not of you as individuals, does the Minerals Council of the Northern Territory support the sacred sites legislation being drafted into the legislation as an exemption, as a no-go area?

Ms TILMOUTH: As in a no-go area as in a no-go zone?

Mr PAECH: Yes, as in there can be no activity taking place where there are areas that are sacred sites.

Ms TILMOUTH: I believe that the sacred site legislation and the provisions within that where you have authority certificates already provides those sorts of protections.

Mr PAECH: Under the legislation, things can be done by regulation following the passage of the Bill. We heard from some presenters that they would rather it be enshrined in the legislation that it is absolutely a no-go zone—the same with heritage. I am just after the views, whether the Minerals Council of Australia would support that.

Ms TILMOUTH: I do not think the Minerals Council would support arbitrary no-go zones, such were introduced under the Pepper inquiry, but we are supportive of the sacred site legislation and the process in which those authority certificates and the protections and indemnities through those provide for operators and custodians.

Dr JARRETT: One of the recommendations in the Mineral Development Taskforce was to use something like a geographical information system to overlay layers of areas that might be prospective for minerals, operating mines, areas of environmental significance and potentially sacred sites. I believe there is a lot of complexity, as I am sure you would appreciate, with making site information publicly available, and I guess that is one of the risks. To answer your question, I am not sure that it can be a simple yes or no because of all the sensitivities.

Mr PAECH: The purpose of my question is for existing pre-registered sacred sites. A number of organisations yesterday said that whilst it is not mentioned in the legislation, it could be amended by regulation to be incorporated. They were asking ...

Mr DEPUTY CHAIR: There are Commonwealth protections as well.

Mr PAECH: That is under different legislation, different land tenure ...

Mr DEPUTY CHAIR: But there is still Commonwealth protection.

Mr PAECH: But different land tenure.

Where there is not a sacred site on Aboriginal land under the Aboriginal Land Rights Act, there were general concerns around IPAs and where there are sacred sites in municipalities where people are saying it should be a no-go zone. I will rephrase; 'no-go' is probably wrong. It should be exempt; that you cannot do work that would come into contact with that site.

Ms TILMOUTH: The provisions within the Bill that was proposed already has that as a limitation.

Mr PAECH: There is nothing stopping the CLP government from amending regulation.

Ms TILMOUTH: The regulation would not be able to take the limitation out of the sacred site.

Mr PAECH: Depending on the land tenure.

Mr HOWE: Mr Deputy Chair, the exemptions have been purposely put into the Act with regard to Aboriginal land. Could we ...

Mr PAECH: The question is not about Aboriginal land; it is about sacred sites.

Ms TILMOUTH: The official position of the Minerals Council is that we do not support an arbitrary no-go zone policy. We support the sacred site legislation; how it stands it provides the protections.

Mr DEPUTY CHAIR: Broadly speaking on behalf of your members and the Minerals Council of Australia, you would say you are very supportive of this legislation as being a way of moving forward the Territory economy?

Ms TILMOUTH: We support any measures that increase investor confidence in the Northern Territory.

J DAVIS: You said you are here representing your members. I think you said quite clearly on the record you are representing your members within the Territory, not your big, multinational, global partners as part of this.

Ms TILMOUTH: Some of our multinational members would have assets within the Northern Territory, yes.

J DAVIS: We have had lots of people coming before us in this committee speaking as Territorians with large concerns about this Bill and the potential impact. From looking at your website, and you talked here about a strong commitment to, for example, gender and supporting First Nations employment, but ultimately you are here to represent your members to make profit in the Territory; is that correct?

Mr DEPUTY CHAIR: I think that is ...

Mr PAECH: I think she can answer the question, it was not directed to you.

Ms TILMOUTH: I have been invited as the Executive Director of the Minerals Council.

J DAVIS: The Minerals Council's role, in relation to this, is to support their members to make profit; is that correct?

Mr DEPUTY CHAIR: I think that is outside the scope of this inquiry, and it is now 10 o'clock.

Ms TILMOUTH: I am happy to answer the question. When the minerals sector does well, Member for Johnston, the rest of Australia does well, including yourself.

Mr DEPUTY CHAIR: Thank you for your time today and addressing the committee. Thank you for your submission.

The committee suspended.

Larakia Nation Aboriginal Corporation

Mr DEPUTY CHAIR: On behalf of the committee, I welcome everyone to this public hearing into the Territory Coordinator Bill 2025. I welcome to the table to give evidence to the committee from the Larakia Nation Aboriginal Corporation Michael Rotumah, Chief Executive Officer. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public you may ask the committee to go into a closed session and take your evidence in private.

Can you please state your name and the capacity in which you are appearing?

Mr ROTUMAH: Firstly, I acknowledge the Larrakia people as the traditional custodians of the land we meet on today. I also acknowledge elders past, present and emerging and extend that respect to all First Nations people here today.

My name is Michael Rotumah. I am a Iwaidja man and traditional owner from western Arnhem Land. In my capacity as CEO, I am speaking on behalf of the Larrakia National Aboriginal Corporation, the representative body of the Larrakia people, the traditional owners of Darwin.

Mr DEPUTY CHAIR: Thank you. Before we begin, I would like to quickly introduce my fellow committee members. We have the Member for Gwojja, Chansey Paech; the Member for Drysdale, Clinton Howe; the Member for Johnston, Justine Davis; joining us by telecommunications is the Member for Wanguri, Oly Carlson; and I am Andrew Mackay, the Member for Goyder.

Mr Rotumah, would you like to make an opening statement?

Mr ROTUMAH: The Northern Territory has long been heavily reliant on Commonwealth funding with around 70% of the NT Government's revenue coming from federal sources. This dependence is deeply embedded in the Territory's economic structure driven by a small population, vast geography and the high cost of delivering services to remote communities. The claim that the economy can be rebuilt under the guise of a Territory Coordinator is smoke and mirrors because no such role will change this fundamental reality.

Larakia Nation strongly opposes the Territory Coordinator Bill in its current form, due to its failure to respect Larakia governance, its risk to sacred sites and cultural values and its potential to undermine Indigenous rights across the Northern Territory.

Larakia lands and waters were never ceded. In fact, no Aboriginal land across the Northern Territory or this country were ever ceded. Unlike many other colonial contexts where treaties were signed between Indigenous peoples and colonising powers, British settlers in Australia claimed sovereignty over this land under the doctrine of terra nullius. This ignored the existing land ownership and governance systems of Aboriginal and Torres Strait Islander peoples, but in 1992 the Australian High Court Mabo decision overturned terra nullius recognising that Indigenous peoples had a legal claim to land before British colonisation.

Despite this, the land was never formally ceded through treaties or agreements where Australia is one of the few settled colonial nations without a formal treaty with Indigenous peoples. In 2009 Australia formally endorsed the United Nations declaration on the rights of Indigenous peoples but in practice its compliance, especially regarding free, prior and informed consent, remains inconsistent.

The current system has fallen well short of enabling Indigenous communities to exercise genuine control over decisions affecting their lands, waters and culture and Larakia demand that the principles of free, prior and informed consent be embedded in the Bill. Larakia people must be central to any decisions about

development, planning and coordination on Larrakia country, not sidelined by a Territory Coordinator with unchecked powers.

Larrakia lands and waters hold deep cultural significance, and any changes must be made in consultation with Larrakia elders and custodians. Weak safeguards, risk irreversible damage to our sacred sites, lands and waters, similar to the destruction of sacred sites like what happened at Juukan Gorge in Western Australia, further highlighting the gap between international obligations and domestic practice.

Larrakia have always been the custodians of this land. Larrakia will continue to stand strong to protect it. Larrakia are not opposed to progress, but it must be done with Larrakia, not to Larrakia or other First Nations people across the NT. We stand in solidarity with other Aboriginal groups who may face the same loss of autonomy, disregard of cultural values and environmental threats.

We call on the NT Government to engage in genuine consultation with all affected First Nation groups before moving forward with this Bill.

Larrakia Nation strongly recommends the Bill be withdrawn or significantly amended to:

- guarantee First Nations' decision-making authority in development processes
- ensure full protection of sacred sites and cultural values
- require free, prior and informed consent from traditional owners before any projects proceed, and vet strong environmental protections and prevent rushed approvals for projects that may cause harm
- commit to real consultation with Larrakia Nation and other affected First Nations groups.

Larrakia are not just stakeholders. They are the traditional owners. Their rights, lands, waters and culture must be respected. We urge the NT Government to listen to First Nations voices and ensure any legislation upholds our rights, cultural values and our future.

Mr DEPUTY CHAIR: You spoke about the incorporation of free, prior and informed consent principles into the Bill. Do you have any recommendations of what you might like that to look like on behalf of your organisation?

Mr ROTUMAH: Yes. There is a bit of confusion regarding what consultation and consent are. Ensuring that free, prior and informed consent through consultation means the majority of that family or clan group or the traditional owner group is giving full consent and support for that particular project.

Mr DEPUTY CHAIR: Do you have any specific recommendations of how you would like that to be? This committee's purpose is to suggest recommendations. Do you have any particular ways you would like to enshrine that principle into the consultation piece? I am happy to take advice here.

Mr ROTUMAH: My extensive background working with the Commonwealth and noting large community projects. The Territory is so reliant on the Commonwealth for that funding. Bidding for billions of dollars' worth of funding related to infrastructure projects to benefit all Territorians, that consultation must be done at the bid stage not at the tender stage when the contract is going out.

You have three and five years where these projects have been planned and planned and planned. Submission goes into the Commonwealth and then at the eleventh hour, the Northern Land Council is coming to traditional owners seeking their approval because the tender has gone out. We have to get smarter on how we go about that.

Mr DEPUTY CHAIR: With regard to the Territory Coordinator Bill, you would like to see some provision relating to the Territory development areas and IDAs, relating to that traditional owner consultation prior to them being implemented?

Mr ROTUMAH: Definitely. I have met with the Chief Minister regarding the agreement with Larrakia traditional owners. We talked about future development on Larrakia Country and the need to be able to go, 'Right, here is the planning on Larrakia Country for the next 30 to 50 years'. Let us not look at Lee Point or Holtze at the eleventh hour. Let us sit down with our elders and get that consent upfront, well in advance before these development opportunities get turned on.

J DAVIS: Thank you, Michael, for your submission and for appearing today and to Larrakia people for looking after the country that we are on today.

In your submission, you talked about the Northern Territory economy relying hugely on the Commonwealth. Can you see any economic argument for this Bill which is outlined as its purpose?

Mr ROTUMAH: Since self-government, the Territory has been heavily reliant on the Commonwealth. I do not think this Bill will change that significantly. There are already provisions in place to drive the economy within regulations and legislations now.

The government needs to look at the red tape within the bureaucracies that are slowing things down. The previous speaker from the Minerals Council, Catherine Tilmouth, spoke about some of those delays happening and working through that process of being a bit smarter in how we go about our business. It is working smarter and not harder.

Mr PAECH: Is it safe to say that Larrakia Nation would be of the view they are not holding up development; the hold-up of development is with the bureaucracy in its current form which is what needs to be streamlined; not diminishing consultation or approvals in that process. Larrakia Nation does not believe that they are holding anything up, it is the already existing government bureaucracy?

Mr ROTUMAH: Yes. We are not on *Arnhem* land for Larrakia. My country is West Arnhem Land, and I see the difference and the impact it has on Larrakia. That is why we need to work on something with Larrakia to enable progress—Larrakia is open to progress—and it is about putting the correct measures in place and respecting sacred sites which are obviously not on Arnhem land. There are sacred sites and sites of significance here and we need to ensure that we are not impacting on those sacred sites or destroying them like Juukan Gorge.

Mr HOWE: I like your point about long-term planning and I am in agreeance. We have lost some visionary stuff we could do. Would you like it if the Territory Coordinator could facilitate people, like you and me, to sit down and ask what could this area look like in 50 years, consult earlier and have that visionary outlook? If there was a way we can tie that in, do you think that could be quite positive?

Mr ROTUMAH: Definitely positive. We met with the Chief on setting up a council of elders for Larrakia to work through the future planning and development opportunities for Larrakia country, the Darwin region. The opportunity to do that would be an opportunity missed.

J DAVIS: You made reference to the idea of working in partnership and you have had those discussions already. In relation to this Bill, what would working in partnership with Larrakia Nation or First Nations people across the Territory look like?

Mr ROTUMAH: It has to be guaranteeing that First Nations decision-making authority in the development and planning process are wholly involved in that. Sometimes that does take time because there are some very complex sacred sites that need to be dealt with. It is not as easy as knocking over a tree or crossing a river. Those places have special meanings to our people. That is why we have to ensure full protection of sacred sites and cultural values, ensuring we have the free, prior and informed consent and better strong environmental protections. We only have one country and if we ruin it, it is all over.

J DAVIS: What do you see is at risk of this Bill, as it is, going through. We have heard a lot about the idea of delays and that being blamed on various individuals and organisations; and the need to have good social licence when programs are being developed to make sure they will actually work. If a Bill like this went through from the perspective of Larrakia Nation, what do you see the risks to our long-term future in the Territory?

Mr ROTUMAH: To put it simply, there will be movies like *Erin Brockovich*.

Mr PAECH: Michael, I want to confirm if you are of the view that there should be a mandatory consultation processes built into the legislation?

Mr ROTUMAH: One hundred per cent.

Mr DEPUTY CHAIR: On behalf of the committee, I would like to thank you for appearing today and taking time out of your busy day to be here. It is very much appreciated, especially with the short turnarounds.

The committee suspended

Central Land Council

Mr DEPUTY CHAIR: On behalf of the committee, I welcome everyone to this public hearing into the Territory Coordinator Bill 2025. I welcome via videoconference to give evidence to the committee from the Central Land Council: Barbara Shaw, Deputy Chair; Georgia Stewart, Policy Manager; and Su Sze Ting, Senior Lawyer. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public you may ask the committee to go into a closed session and take your evidence in private.

Can you each please state your name and the capacity in which you are appearing.

Ms SHAW: Good morning, my name is Barbara Shaw, and I am the Deputy Chair for the Central Land Council.

Ms STEWART: Good morning, my name is Georgia Stewart, and I am the Manager of Policy at Central Land Council.

Ms TING: Good morning I am Su Sze Ting, and I am the Senior Lawyer for Central Land Council.

Mr DEPUTY CHAIR: Thank you. Before we begin, I would like to quickly introduce my fellow committee members. We have the Member for Gwoja, Chansey Paech; the Member for Drysdale, Clinton Howe; the Member for Johnston, Justine Davis; joining us by telecommunications is the Member for Wanguri, Oly Carlson; and I am Andrew Mackay, the Member for Goyder.

Ms Shaw would you like to make an opening statement?

Ms SHAW: Yes, firstly I would like to acknowledge the country on which we are meeting today here in Central Australia. We are on Arrernte Country, and you guys up there, the committee, are standing on Larrakia Country. I thank the committee for this opportunity for letting us appear today.

The Central Land Council and the traditional owners support economic prosperity for all Territorians, but this should not come at the cost of the environment, cultural and sustainable future of the Northern Territory or destroy public confidence or bad government. Without due diligence and strong regulatory framework there is no guarantee that private development will result in economic prosperity for all Territorians.

If the Territory Coordinator Bill becomes law and the usual checks and balances for all Territory laws are sidestepped and dismissed then the door is open for private profit to trample all over community and environment outcomes.

The Bill will result in less transparency and accountability throughout all the Northern Territory and no opportunity for a third-party review. The Bill is dangerous and poses unacceptable risk to the rights and interests of Aboriginal Territorians. For us it is like a return to the mission days or a new intervention. Quite too often traditional owners and local Aboriginal communities living closely to significant projects are the Territory's most negatively affected by the outcomes of these projects.

We are impacted because of our proximity and deep relationship with the land and natural environment over millennia, and impacts of development may be directed, such as disruption to our ceremonial sites or hunting grounds; or, indirectly, like downstream impact on sacred trees due to lowering of the water table that can occur many kilometres from a mine or a farm. It may be longstanding—and deeply harmful to such sites created by legacy mines. A clear example of that is Rum Jungle. Traditional owners generally resume the land at the end of the project and stay living in and around these projects during these periods of care and maintenance for country.

The Central Land Council executive committee passed a resolution opposing the Bill at our December meeting in 2024. At our February meeting just recently, members were deeply shocked to hear that the Bill was before parliament, and the Bill was made weaker and not stronger, and the rights of individual Aboriginal Territorians are in fact under threat.

Before I hand over to our CLC Policy Manager, Georgia Stewart, I would also like to state that I have a conflict of interest, which I should have done at the start. I have a conflict of interest with Chansey Paech, Member for Gwoja, who is my son, in the Aboriginal way. I acknowledge the only Aboriginal person on the committee: Chansey.

Ms STEWART: Thank you, Barb. Thank you to the committee for the opportunity to speak to the CLCs objections and suggested amendments to the Territory Coordinator Bill. The CLC does not support the Territory Coordinator Bill and only significant amendments can begin to address the range of concerns held by the Central Land Council about the Bill. While we welcome the opportunity to address the committee, we must express our dissatisfaction with the rushed nature of this inquiry with only one week to review the Bill which was substantially amended from the 2024 draft and the way in which concerns raised in our submission to the 2024 Bill was summarised and summarily disregarded in the consultation report.

This disregard for procedural fairness erodes public confidence in the government and we fear that this disregard will be perpetuated if the Territory Coordinator Bill is not withdrawn or is passed without amendment. A few points before we go to questions that are important to the Land Council: the Central Land Council and traditional owners, as Barb said, do not oppose economic development. In fact, we support employment in our region, we support mining on Aboriginal land, and it makes up a significant contribution to the Northern Territory economy. What the CLC and traditional owners are concerned about is that the Territory Coordinator Bill in its current form will result in adverse social, environment and cultural outcomes. We consider that there is too much weight given to economic prosperity in the primary principle and that profits for private companies do not automatically equate to economic prosperity for Territorians. It cannot be an assumed outcome for major projects where profit may trump community benefit, as Barb mentioned.

The CLC understands the government's desire to provide a single point of contact for case management for proponents and facilitate collaboration and coordination between stakeholders, but we believe that desire can be achieved in different ways without giving the Territory Coordinator and the minister such extensive powers. The provisions of the Bill place too much power in the hands of two persons, one of whom is unelected, to bypass requirements under the Northern Territory's long-established legislative framework. After all, what is legislation for, other than to provide that roadmap?

The aims of the Territory Coordinator Bill could be better achieved by proper resourcing of departments and a thorough legislative and regulatory review process which, with adequate periods for public comment, aims at achieving lasting assessment and decision-making improvements. That would avoid any perceived need to empower the minister to override legislation that Northern Territory parliaments have for years considered appropriately balanced in the interest of all parties.

While our full range of amendments and is too long to go through here and is contained in our submission, I draw your attention to some issues of particular concern which are the changes between the 2024 Bill and the 2025 Bill.

The first is the removal of section 14 and the intent of that section which is to uphold the rights and interests of Aboriginal Territorians. This section must be reinstated with the critical amendment that it also limits the power of the minister, not just the coordinator.

In addition, we are deeply concerned by the inexplicable scheduling of the *Heritage Act*. These Acts are subject to the powers of the Territory Coordinator and the minister, and contradict the principle contained in the 2024 Bill and guiding documents to uphold the rights and interests of Aboriginal people.

It is incomprehensible that the Territory Coordinator could interfere with the process of identifying and protecting sites of cultural heritage. Have we forgotten Juukan Gorge so soon?

Similarly, the minister must not be able to give an exemption notice in relation to a requirement under the *Environment Protection Act* or regulations that relate to an assessment pursuant to a bilateral agreement with the Commonwealth. This is contained in the original Bill but has been removed. We want that reinstated.

There is a range of other important amendments, in particular, removing the power of the minister to designate Aboriginal land in Territory development areas and infrastructure coordination areas, especially

without free, prior and informed consent. The same applies to the power of the coordinator to grant entry to unauthorised persons to enter Aboriginal land and exclusive Native Title areas without free, prior and informed consent.

Finally, removing powers for the Territory Coordinator and minister to identify or determine cultural values and outcomes for a Territory development area—at the moment, this power is given to the coordinator under the definition of environment, which includes cultural values. This must be led by traditional owners and native title holders and should not be subject to the decision-making powers of the Coordinator.

That concludes our specific comments. Our submission contains many more recommended amendments that we encourage you to review. We are now open for questions.

Mr DEPUTY CHAIR: On behalf of the committee, I thank you for your submission and that opening statement. I want to talk about the incorporation of free, prior and informed consent. Do you have any specific recommendations especially relating to TDAs or ICAs? In what mechanism you might like that to be reflected in the Bill?

Ms TING: The biggest concern that we have is that if you look at the way the Bill is drafted, the minister can designate any area in the Northern Territory as a Territory development area without needing to consult with anyone. The only thing that (inaudible). That is our biggest concern: the unilateral discretion of the minister. What is interesting is in the guidance we had on the 2024 Bill there was a clear reference to the fact that—I will read from the guide. It says that:

The Territory Coordinator will work collaboratively with Traditional Owners and Land Councils to support and unlock the economic aspirations ...

and

... the Territory Coordinator [must comply with] the processes set out in the Aboriginal Land Act... when carrying out [TDA] activities.

What we actually want is for the Bill to reflect those principles that have been set up in the guide that was released in the Bill, that you work collaboratively with the land council and traditional owners and embed that into the Act itself. It should not just be a designation of area as a Territory development area without actually talking to land councils, traditional owners and native title holders.

Ms STEWART: I was just going to add a point that without the free, prior and informed consent it sets a discord for Aboriginal people who feel that their rights have been impinged about policy developments, rather than bringing people together around the potential collaboration around future development, and it is an unnecessary complication. It does not add to the objective of streamlining projects.

J DAVIS: Thank you all for your submissions and for appearing today. I want to note that your submission is very detailed and helpful in terms of what we need to do, which is considering potential amendments to this Bill.

Leading on from what you were just talking about, the stated purpose of this Bill is to prioritise economic prosperity in the Northern Territory. Many of the witnesses we have heard from talked about the risks associated with taking away rights from Aboriginal people, including the economic long-term risks of that to the Territory. Could you speak to that?

Ms STEWART: The concerns the Central Land Council has is that the rights and interests of Aboriginal people are embedded in Northern Territory and Commonwealth legislation. Those rights were established to remedy the wrongs of the past and to return land to Aboriginal people who have had land forcibly removed. The powers embedded in those laws give people decision-making rights over their land, access rights and determination of what can happen on that land.

Any sense that this Bill might impinge on those rights is not acceptable to the Central Land Council, and we again reintegrate the need to go back to the original principle of upholding the rights of interested Aboriginal people in existing legislation and not cutting across those rights.

J DAVIS: To clarify, as my question probably was not that clear. We are hearing from many people that setting up the idea that economic development only means making a lot of money—and, in fact, we have heard from some people that there is actually a huge economic cost to not doing things properly and not

looking at, et cetera. I am just interested in the CLC's view of what the economic cost might be to the NT if this Bill goes through as it is.

Ms SHAW: Thank you, Justine, for your question. As the Deputy Chair of Central Land Council—a lot of our constituents are actually based in remote communities. As much as we want economic development out there, what our people want first and foremost is community development to lift their communities up, and the only way they can do that is to have economic development, having investors making deals.

As an example, for me to have community development on my own land, we and Kaytetye people had to go and have several meetings over time and make deals with mining companies. That mining company would be an economic development for my Kaytetye people. But then, the mining company and economic development has to create and generate funding for our homelands and our smaller communities, hence community development first.

Ms TING: And I think because it is really what Barb is saying in her opening statement, is that again we want to reassure we are not against economic development, but we want economic development to be done in such a way that it adheres to all the legislation and also in a way that recognises that Aboriginal people are the first custodians of the land and they will be there when mining companies leave—and the legacy issues that arise from that. Economic cost you are talking about, I think our concerns are making sure that we do not bypass the environmental processes that you need to make sure that any long-term effects of the projects are properly managed so that when the developers and proponents leave, the land can be resumed in a way to the benefit of the traditional owners and native title holders.

Ms STEWART: I think it is also a really important point that economic development is not always of benefit to the broader community and that there needs to be very rigorous processes and due diligence to assess the promises and aspirations of development projects.

When we did an independent commission and review from the Adelaide University of the Singleton proposal he raised a lot of concerns about the overreach of estimation of the input to the Territory economy. It was 35% higher than was reasonably assessed to be true. There were overstated aspirations for employment that do not reflect the current employment market in the Barkly region.

All these things, if processes are curtailed, restrict the rigour that is required to assess genuinely what the costs are and what are the embedded subsidies also of having access to free water and the potential for the costs that go beyond the project for decades to come.

Ms SHAW: Just to add, our people also understand that it is not just about mining. Economic development is not just about mining; there is tourism, farming and agriculture out there and the art industry. There is a lot of stuff on the lands that we can tie into economic development, and it is not just about mining. Our people want to be able to protect their country.

J DAVIS: Thank you; you have outlined really well.

This committee has been asking people about long-term economic planning for the Territory. We need to have proper rigorous things put in place to make sure that whatever we are supporting does look at our long-term benefits. We have also seen—I think you made reference to that—the economic cost to the Territory of projects that are not properly thought through and we are left to pick up the bill, so taking that into account as well.

Mr PAECH: My question is to Georgia. We acknowledged in your submission you are calling for section 14 to be reinstated and to include the minister. That was particular around Aboriginal people being involved. I will use the example of the Wave Hill heritage listing; whilst it is not an Aboriginal sacred site, there is significant Aboriginal connection to that site. How does a Wave Hill scenario look like, or work like, under this Bill?

Ms STEWART: There was damage done to that site, under current legislation. What that points to is the need to strengthen legislation, not to go in the opposite direction which is where the Bill is taking us, which is to weaken those powers by bypassing and giving the powers to the Territory Coordinator.

Our concern is that with setting powers and exemption powers if that site was within a Territory development area, the power of the coordinator at the moment is that they could delay an application, they could delay the declaration of a site and they could also ignore the need to protect those sites that are not yet declared and are under some protection regime.

Our view is that we are going in the wrong direction. We are potentially weakening, rather than looking to strengthen, our heritage laws.

Mr HOWE: Thank you for coming in.

I am trying to get to recommendations that will help this work and help your community as well, being the ultimate goal of what we are trying to do. If we can get the free, prior and informed consent piece right and the protections you are speaking of, could you see this Bill then working for the community as well, with developments you want to do across those broad industries?

Ms TING: We need to see that in the context of all the other amendments. To think about free, prior and informed consent just by itself we would need to look at what other amendments are in the Bill. Our concern is not just about free, prior and informed consent; it is also about the fact that the list of Schedule Acts—there is a range of interest, and the list of Schedule Acts is wide. If there is weakening of any of those protections in any of those Acts—things like the *Water Act*, the *Pastoral Land Act* and the *Mineral Titles Act*—then yes, it might inadvertently impact on Aboriginal people’s country. I do not think it is just the free, prior and informed consent; our concern is a wide range of powers that are currently given to the Territory Coordinator and to the minister, especially the exemption power that allows the minister to exclude or change the operations and laws.

Mr PAECH: Georgie, we have heard from other organisations that have appeared indicating support for various aspects to be enshrined in the legislation as exclusion areas or exclusion zones—whether that is the Aboriginal Areas Protection Authority, legislation to heritage, IPA and those types of things—given then that excludes any future opportunity of them being done by regulation, is that something that the Central Land Council is also supportive of?

Ms STEWART: In addition to the exclusion of Aboriginal freehold title and exclusive native title, we think it should be extended to parks and other high-conservation areas and protected areas. It should not be just limited to those concerns. We focused on them because of the Central Land Council’s specific interest. Parks, too, are covered by joint management arrangements with Aboriginal people, so all these things potentially transgress those rights and interests if they are not upheld.

J DAVIS: You have made mention of this already; you talked about the inclusion of the *Heritage Act* and the new version of it and being unclear how that happened, but I wondered whether you could you talk about what you see the potential impact of that Act being included?

Ms TING: I am not sure whether you read through our submission, but we provided an example of practically how it will work. Currently under the Bill, section 52 says:

- (1) *A responsible entity must not approve an application for a statutory decision ... in a Territory development area unless:*
 - (a) *the activity is consistent with the approved TDA plan in effect in the area; or*
 - (b) *the Territory Coordinator gives consent.*

The example is traditional owners or native title holders, or indeed any Territorian that wants to nominate a place as a heritage place and you made a nomination to the Heritage Council under the *Heritage Act*, which is now a Schedule Act. The Heritage Council’s decision is a statutory decision under the Bill, so if that nomination or declaring that place as a heritage place is inconsistent with a TDA plan then the Heritage Council cannot make that declaration unless the Territory Coordinator consents to it. That is the risk we have. It is a fact that people might want to nominate places of importance and heritage places, but because of the power that is now vested in the Territory Coordinator there is a high risk that places importance of heritage importance may not be declared as heritage places. That is a practical way of how this Bill operates with the *Heritage Act* as a Schedule Act.

J DAVIS: You said in your submission that whether the Territory’s heritage is protected should not be the decision of an unelected official but should sit with the people who have expertise in that.

Ms TING: Yes.

Mr DEPUTY CHAIR: I thank you for appearing before the committee today and taking the time to put a thorough detailed submission in and meeting with us today at short notice. It is much appreciated. On behalf of the committee, thank you.

The committee suspended

Nurrdalinji Native Title Aboriginal Corporation

Mr DEPUTY CHAIR: On behalf of the committee, I welcome everyone to this public hearing into the Territory Coordinator Bill 2025.

I welcome via videoconference to give evidence to the committee the Nurrdalinji Native Title Aboriginal Corporation. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public you may ask the committee to go into a closed session and take your evidence in private.

Could you each please state your name and the capacity in which you are appearing today?

Mr SANDY: My name is Samuel Janama Sandy. I am a Djingili man. I am living in Katherine. (inaudible) within the Murrinji native title area. Should I continue?

Mr PAECH: Yes. Keep going. You are right.

Mr DEPUTY CHAIR: We are listening.

Mr SANDY: Okay. Nurrdalinji is an Aboriginal corporation and includes over 60 members from across the Beetaloo basin and 11 native title determination areas. We set up in 2020. *Nurrdalinji* means 'mixed tribe' in Alawa language. This matches the diversity of members in the corporation. Our members come from a big area, across the Beetaloo and Barkly regions.

Our purpose is to protect country for future generations and support our members to be consulted about what happens on our country.

I have 11 points to point out:

1. We do not support the Northern Territory Coordinator law. It is important to us that we protect our country, water, sacred sites and songlines, and this new law will hurt our ability to do this.
2. The process has been (inaudible) and the concerns of the traditional owners raised at various stages of the proceedings have been ignored.
3. These new developments should not be rushed through. Their impacts must be well understood by all. We have already seen our country and water damaged by fracking with the poisoning of country and water from just a handful of gas wells.
4. There are many examples of where environmental assessments and approvals have been rushed, and communities have been required to deal with the significant negative consequences of these decisions.
5. Traditional owners have fought hard for our rights. We should be properly advised so that we understand it and have control of what happens on our country, so we can make the right decisions about what happens to our land. This new law puts all that at risk.
6. Cultural heritage is part of who we are and it needs all the protection it can get. We have already seen too much destroyed. (Inaudible) that protect sacred sites and culture should not be set aside. We should not hurry developments as big as Beetaloo gas exploration and production.

7. We need to protect our water, our plants and animals and sacred sites and cultural heritage. Government should spend time making sure projects will not do damage.
8. We know that Northern Land Council does not support this Bill, and our clan has spoken out. We are disappointed that we have not been told about the Bill by the government counsel. We have had to seek our legal advice to understand how this impacts on our rights.
9. Our legal advice, such as from Mr McIntyre, tells us this legislation may well be open to challenge in court. We do not want to waste our time challenging the law, but if this is the only way we can secure our rights and ability to make decisions about what happens on our country, we will consider this option.
10. We have a responsibility to protect country and water for their families and everyone who lives in the Territory.
11. We strongly urge the Northern Territory Government not to go ahead with this proposed legislation.

Mr DEPUTY CHAIR: Thank you. Mr McIntyre, can you just quickly introduce yourself.

Mr McINTYRE: My name is Greg McIntyre. I am a barrister who has been engaged to give some advice to Nurrdalindi Native Title Aboriginal Corporation in relation to this Bill.

Mr DEPUTY CHAIR: I will quickly introduce the rest of the committee for your information. We have the Member for Gwoja, Chansey Paech; the Member for Drysdale, Clinton Howe; the Member for Johnston, Justine Davis; and joining us via telecommunications is the Member for Wanguri, Oly Carlson; and I am Andrew Mackay, the Member for Goyder.

Are there any more opening statements you would like to make before we get into some questions?

Mr McINTYRE: Generally, this is an extraordinary piece of legislation which gives unprecedented powers to a public servant, in the shape of the Territory Coordinator, to effectively override legislation which the Legislative Assembly passed both at the time when that coordinator chooses and also to do it with retrospective effect in relation to decisions which will be made pursuant to legislation by authorised ministers under a whole range of legislation. It is a very unusual piece of legislation to have before any parliament. It has extraordinary powers of allowing this Territory Coordinator to step into the place of existing decision-makers to vary conditions which they previously placed upon approvals pursuant to legislative provisions to exempt the activities in areas which the coordinator identifies and to allow the coordinator to enter on to private land held by any private owner, but particularly for the purpose of the group I am representing, Aboriginal land under the Aboriginal Land Rights Act and native title under the *Native Title Act*.

Mr DEPUTY CHAIR: I open to the committee for questions.

Mr PAECH: Thank you for appearing today; I acknowledge the work you have done to prepare. The question I have is of your understanding or interpretation as a legal professional. Clause 18 allows the Territory Coordinator to delegate their power and functions to any person. In the Northern Territory under the Northern Territory *Interpretation Act* the definition of a person is very broad. Is it your understanding that the Territory Coordinator could delegate their powers or functions to any subordinate staff—it could be a low-level AO1 or AO2 staff member—to make decisions of significant environmental or financial implication?

Mr McINTYRE: It does not seem to narrow it in any way. It is a very broad power of delegation. I am concerned that the Territory Coordinator has the powers that person will have, which appear to me to usurp the parliament even. There is an argument that these provisions may be unconstitutional by interfering with the *Northern Territory (Self-Government) Act*, effectively allowing the coordinator himself or herself to vary legislation, but it is even worse, as you point out, that it can be delegated to the most junior persons that the coordinator chooses to delegate it to.

Mr PAECH: Is it your understanding or interpretation that the Bill may extend by regulation, therefore the entire statute book could end up being done via regulation?

Mr McINTYRE: Yes, that is open in the way in which this legislation has been drafted. I see the Northern Land Council's submission points to its particular concern about the *Northern Territory Aboriginal Sacred Sites Act*. It is not in the Schedule at the moment, and I see in their submission they point out that the coordinator could have the power to make an amendment to the regulations. With the infrequency which the Legislative Assembly sits, that amendment—whilst it would be subject to disallowance by the Legislative

Assembly—if it is made some months before the next sitting of the Assembly then that applies for that period of time at least.

Mr PAECH: Mr Sandy, great to have you with us today. How important is it you and to the corporation that government comes and sits down and does consultation, listens and then acts from what they have heard?

Mr SANDY: It is very important that we have a proper consultation from other bodies in government. We need a good proper consultation to be aware of what is to come—the future for the Northern Territory. We do not want to be sidestepped again. We will all come together to improve something out of this. That is my understanding.

Mr HOWE: Thank you, gentlemen, for coming today. A big part of what we are trying to do is to find recommendations that could improve this Bill. We have heard about sacred sites and consultation in multiple submissions. Are there any recommendations that you think could improve this Bill?

Mr McINTYRE: One recommendation would be to reinstate clause 14 in the Bill. As you are probably aware, that provided the power could not be exercised in a manner which would interfere with or modify protection of sites under the *Aboriginal Sacred Sites Act*, protection under the *Heritage Act*, impacts upon the pastoral leases with reservations in favour of Aboriginal people or the recognition of native title and native title interests.

In its previous form, that was a reassurance to Aboriginal groups and individuals within the Territory. That has been eliminated. It is said to be on the basis that those pieces of legislation are not in the schedules but that may not be set in stone either. We see now that the *Heritage Act* has been included in the schedule, which is a matter of particular concern.

Mr HOWE: Thank you—any other aspects of the Bill?

Mr McINTYRE: The other issue is that the previous version of the Bill had a right of merits review. That has been eliminated in the current version of the Bill. If these decisions are really about proper government decision-making about economic development in the Territory, then they need to be open to proper public scrutiny and challenged to overreach by this legislation.

The most efficient way for that challenge to occur is by a broad administrative review process, which applies to most other government decision-making. That was in a previous version of the Bill. It is now not in the Bill, which means that any concerns of the public about decision-making which oversteps the boundaries is limited to judicial review, which is based on quite technical ground as to decision-making rather than addressing the real issues.

J DAVIS: Thank you, Mr Sandy and Mr McIntyre, for coming today and for your work on your submission.

Part of our role, as the Member for Drysdale just said, is to advise parliament on making good law, broadly. I am interested in your views on what we could do with this law to make it good for the long-term of the Territory. You have said there are many examples where environmental assessments and approvals have been rushed, and communities have been required to deal with the significant negative consequences of these decisions, which I assume can mean many things including economic consequences. Sorry, this is a very convoluted question. My question is, first of all, can you give any examples of when decisions have been rushed and the negative consequences of them?

Mr McINTYRE: That is probably one we would take on notice. We will provide you with those examples in a supplementary session if we are able to.

J DAVIS: That would be great. You also made reference to the Pepper inquiry and the government's commitment to implementing the recommendations of the inquiry. Could you comment on that in relation to this Bill?

Mr McINTYRE: Clearly we still advocate the view that the Pepper inquiry recommendations should be followed.

J DAVIS: Going back to my previous question. More broadly, do you have any comments, in looking at the long-term prosperity—and everything that means—of the Northern Territory, how you think this Bill may or may not contribute to that?

Mr McINTYRE: The problem with this Bill is that it has a primary focus which seems to override every other interest. Economic development is not the only factor which should be taken into account in the development of the Territory. We say social and cultural factors need to have at least equal standing with economic development. Obviously, everybody in the Territory wants the Territory to prosper, but if it prospers at the cost of social and cultural issues, then it is not really prospering in an holistic sense.

J DAVIS: I have one last question. You have outlined some of the changes between the first and second draft of the Bill. We were not privy to why those changes happened. I am interested in your views on whose interests they might be serving or what the new Bill looks like in who it will benefit.

Mr McINTYRE: The elimination of merits review has an underlying rationale for fast-tracking decisions for economic developers. The whole thrust of this Bill is to support economic developers who may be government agencies but are probably more likely to be private interests.

One of our concerns is the Petroleum Regulations currently require, before there is any approved appraisal gas takes under the petroleum legislation, there would have to have the consent or approval of Aboriginal people affected. There is the potential for this legislation to eliminate that form of consultation with affected Aboriginal groups.

It will have positive impacts for the petroleum industry and the general property development industry, arguably at the expense of broader community interests, particularly within the Aboriginal communities.

J DAVIS: I have one more question. I am interested, Greg, when you were talking about the potential for constitutional challenge under this Bill. That is not something we had the opportunity to hear much about in this committee. Could you talk any more about that?

Mr McINTYRE: This Bill vests with the Territory Coordinator the capacity to override legislation which this parliament has legislated. The environmental protection legislation, for example, sets out particular procedures by which environmental approvals take place.

The Territory Coordinator, under this legislation, has vested in him or her the power to change what the parliament has legislated in relation to that sort of legislation; to backdate the application of the law; and to change conditions which might have been imposed pursuant to the legislative process retrospectively. It is quite an extraordinary piece of legislation.

The argument is that it is contrary to the legislative power of the legislature, pursuant to the Self-Government Act. I recognise that there is a counter argument that if the legislature chooses to pass this legislation, they are making a voluntary decision to delegate all of their power to legislate in relation to the range of legislation which the Territory Coordinator can impact on when the Territory Coordinator decides to declare a development area. It is quite extraordinary.

There is some level of oversight by the Chief Minister. Some matters need to be approved by the Chief Minister, but it is effectively creating a two-man band to run the Territory.

J DAVIS: Do you think that puts us at risk?

Mr McINTYRE: In what sense?

J DAVIS: Clearly ...

Mr McINTYRE: Are you talking the parliament or the community ...

J DAVIS: I am talking specifically about the parliament in relation to the constitutional matter, but also the community.

Mr McINTYRE: The arguments are there that it is a reversal of the separation of powers. It is divesting the parliament of its powers to make laws and vesting them in the Territory Coordinator with some limited supervision by the Chief Minister, who is acting as part of the Executive. It is a challenge to the separation of powers between the Legislature and the Executive in the Territory.

J DAVIS: One of our roles—which you are probably familiar with—is to determine whether or not laws have sufficient regard to the institution of parliament. It is helpful to hear that.

Mr DEPUTY CHAIR: With regard to the principles of free, prior informed consent, we have heard discussion on this topic from a couple of people presenting today. I am wondering if either Mr Sandy or Mr McIntyre has any proposed recommendations of how to include the principles of free, prior and informed consent, especially in relation to the declaration of the TDAs and the—I had it before—the ICPs. Are there any recommendations about what you would like that to look like?

Mr McINTYRE: At the moment there is, essentially, the opposite of that in relation to those provisions. In relation to the Territory development areas the Territory Coordinator has, as part of his or her role, to conduct public consultation and then provide the minister with a summary of submissions.

As we all know, consultation is a concept which is often not interpreted as free, prior and informed consent. If the Territory was serious about providing landowners, which include Aboriginal landowners under the Land Rights Act and the *Native Title Act* with capacity to consent to these sorts of developments, then they would need to make that legislation different from what it is at the moment.

There is no requirement for ICPs for the Territory Coordinator to even consider any public consultation. There is the removal of the rights under section 95—I withdraw that.

It is a flimsy area of consultation. The Territory Coordinator has, effectively, absolute power to make these decisions to create these Territory Development Areas and these ICPs and to ignore what anybody has to say, let alone require free, prior and informed consent.

Mr DEPUTY CHAIR: Thank you for that. On behalf of the committee, I thank you for appearing today. We appreciate your time and energy in putting together the submission and meeting with us at such short notice.

The committee suspended.

Northern Land Council

Mr DEPUTY CHAIR: On behalf of the committee, I welcome everyone to this public hearing into the Territory Coordinator Bill 2025. I welcome via videoconference to give evidence to the committee from the Northern Land Council, Yuseph Deen Chief Executive Officer and David Astalosh General Manager, Governance, Strategy and Communications. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public, you may ask the committee to go into a closed session and take your evidence in private.

Can you each please state your name and the capacity in which you are appearing today?

Mr DEEN: Good morning Chair and committee members. My name is Yuseph Deen. I am the Chief Executive Officer of the Northern Land Council.

Mr ASTALOSH: Good morning everybody. My name is David Astalosh. I am the General Manager for Governance, Strategy and Communications at the Northern Land Council.

Mr DEPUTY CHAIR: Before we begin, I will introduce my committee colleagues. We have the Member for Gwoja, Chansey Paech; the Member for Drysdale, Clinton Howe; the Member for Johnston, Justine Davis; joining us by telecommunications is the Member for Wanguri, Ms Oly Carlson; and I am Andrew Mackay, the Member for Goyder.

Mr Deen, would you like to make an opening statement?

Mr DEEN: Thank you for the opportunity to be here today to voice the NLC's concerns regarding the Territory Coordinator Bill. I apologise that we could not appear in person, but other business has prevailed where we are outside of the Northern Territory.

Before I proceed any further, I begin by acknowledging the sovereign first peoples of the land that we are meeting on and on which this public hearing is being undertaken, both the Larrakia in Darwin and the Ngannawal and Ngambri people of Canberra. I also acknowledge and recognise the old people, their ancestors who have provided the strength and wisdom that results in leadership, knowledge and common decision-making that has endured millennia. Also, throughout this continent, I acknowledge that sovereignty was never ceded. It always was and always will be Aboriginal land.

The NLC's previous submission to the Chief Minister and Cabinet on the draft Territory Coordinator Bill outlined areas of significant concern which, had they been rectified, would have markedly improved the Bill's palatability to our constituents.

It is with great disappointment that I say that almost all of these issues raised were either unaddressed or made significantly worse by the Bill's amendments. In its current form, this Bill is no less protective of Aboriginal Territorians' rights than the draft Bill was and confers extensive and unchecked power upon unelected individuals. As such, the NLC cannot in good conscience, support this Bill.

However, as the Bill's installation regrettably appears inevitable, the NLC provided a submission of constructive and achievable feedback with the hope of making the Bill somewhat acceptable to our constituents.

In assessing whether the Bill has sufficient regard to the rights and liberties of Aboriginal Territorians, the NLC identified the following areas of concern.

A lack of independence and consultation with unchecked power concentrated in the hands of a few individuals and little to no consultation requirements—the declaration of Territory development areas of infrastructure coordination areas remains undefined and lends themselves to prioritising expediencies over processes that are more optimal. These areas are a significant risk that Aboriginal lands and exclusive native title land is able to be declared a TDA or ICA without consent or consultation.

Power of entry remains unchanged from the draft Bill, with the Territory Coordinator potentially able to authorise entry onto Aboriginal land or land affected by native title without the informed consent and awareness of traditional owners.

The addition of the *Heritage Act 2001* to the Schedule Acts adds little benefit to economic development, with there being immeasurable social and cultural values in keeping it excluded. While the *Heritage Act* may be a perceived barrier to economic activity, it does not impose significant burdens and serves as an important deterrent role signalling to proponents that cultural heritage is valued in the Territory.

Removal of section 14 of the draft Bill was done with the belief that the Territory Coordinator can only exercise powers over Schedule Acts, which means that legislation such as the *Northern Territory Aboriginal Sacred Sites Act 1989* cannot be impacted. However, this is incorrect. Legislation listed in the Schedule can be updated by regulation, meaning the government can simply create regulations adding the *Northern Territory Aboriginal Sacred Sites Act* into the Schedule at a further date.

Further, the *Water Act*, *Petroleum Act* and *Mineral Titles Act* are all scheduled Acts, meaning the Territory Coordinator could exclude requirements under the *Petroleum Act* and *Mining Act* for mining companies to comply with the *Native Title Act*.

Exemption notice procedures which allow the minister to modify or exclude certain provisions or processes that exist under the scheduled Acts, without amending acts, could potentially allow the Territory Coordinator to exclude important procedural rights that exist under scheduled Acts which are protective of traditional owner interests. The inability to review decisions made under the Bill as per section 95, which extends the bar on merits review to any decision under the Act by removing the check on all decisions made under the Bill, the only remaining check occurs through section 100, where the Chief Minister can direct the Territory Coordinator to review itself or the Territory Coordinator can decide to. This process is circular and promotes bad governance.

The NLC second area of consideration was on whether the Bill had sufficient regard to the institution of parliament. It was our assessment that the Bill undermines the institution of parliament in the following ways.

Primary principle in section 8(2), appears to allow the Chief Minister and the Territory Coordinator to make decisions that are inconsistent with NT legislation.

Sections 37 and 52 require government agency decisions to be consistent with the Territory development plans and infrastructure coordination plans unless the Territory Coordinator consents, with the provisions worded broadly enough to allow the Territory Coordinator to hamper basic statutory functions of government agencies, thus undermining the parliamentary intention behind any agency's governing legislation.

Then in condition variation power it is the parliamentary intention that specialised government agencies make decisions or make recommendations to relevant ministers who then make decisions. The Bill enables an unelected official to make these decisions despite the Territory Coordinator having no expertise or experience.

The exemption notice powers are incompatible with accepted legislative standards in the NT and undermine the institution of parliament. All of the laws proposed to be a subject of exemption are extremely important and should be given full legislative backing and opportunity for public submissions prior to the application of any exemption.

Parliamentary veto is not a legitimate check on the Territory Coordinator's use of exemption powers as the NT is a unicameral system that sits only 10 weeks of the year. Further, vetoes are unlikely to occur where the government of the day controls the Legislative Assembly.

Amending scheduled Acts via regulation with no involvement of parliament means that laws such as the Sacred Sites Act can be added to the Territory Coordinator's remit of powers in the future. As such, it is necessary for protection to be enshrined in legislation.

With regard to the disappointing regression of protections from the draft Bill to current Bill, the NLC identified the following key areas as having decreased protection of Aboriginal Territorian rights:

- remove limitations on the Territory Coordinator's exercise of its power to protect the *Northern Territory Aboriginal Sacred Sites Act*, the *Aboriginal Land Act*, the *Pastoral Land Act* and the *Heritage Act* for the recognition and protection of native title rights and interests.
- creation of infrastructure coordination areas and plans allowing the Territory Coordinator to designate additional land and waters to ICAs. The Territory Coordinator can exercise the same powers within ICAs as a Territory development area.
- powers to authorise entry onto an ICA or a TDA to repair plans in conflict with the ALRA and the *Native Title Act*, notice has to be given to the owner or occupier, not both.
- changes to publication requirements, there is now no longer any requirement to publish prioritisation, progression or decision-maker requests on the Territory Coordinator or agencies' websites.

Mr DEPUTY CHAIR: Thank you.

You touched on it at the beginning of your opening statement, and it is in your recommendations around 1.2.c regarding the requirement for consultation and free, prior and informed consent, specifically relating to the declaration of Territory development areas and ICAs. Do you have any specific recommendations of how you think that principle could be incorporated into the Bill?

Mr DEEN: The principle of free, prior and informed consent is a first-order principle; there is no doubt about that. It is important, but not the only key ingredient in strengthening a process that lacks meaningful and genuine engagement with Aboriginal Territorians. There needs to be more than just consultation; there needs to be engagement. Applying principles not only in terms of FPIC but ensuring that other areas of the legislation are strengthened, in its sum, will improve the legislation.

Mr DEPUTY CHAIR: Are there any specific recommendations for how you believe that kind of—you can legislate, we can say, a consultation period; you can always legislate that. Do you have any specific recommendations of how to ensure that the principle is robust?

Mr DEEN: There are international standards that can be drawn upon in terms of FPIC, but also it should be noted that in regard to the NLC's role and NLC's functions we have processes that are complex, comprehensive and ensure free, prior and informed consent which then lead on to self-determination for informed decision-making.

J DAVIS: Thank you for your submission and for appearing today.

Our role, as you know, is to make recommendations to parliament about this Bill, whether or not it should pass and whether or not there should be any amendments to it. You have addressed a lot of that in your submission.

We have had a lot of questions today in relation to free, prior and informed consent. I hear what you are saying that it is only one part of making sure that things happen in a way that is robust. It would be really helpful for us, however, if that is something that we might be looking at recommending to have some concrete examples of how we could embed something like that in the legislation to try to protect the interests that you are referring to. I am going a little further on the question from my colleague to see whether there is anything that we could look at incorporating in this Act should it go ahead.

Mr HOWE: I might be able to help, if that is all right? It ties into my question. How does the NLC currently conduct their—what is your process for covering that consultation and the consent piece?

Mr ASTALOSH: The NLC has a robust set of processes when it comes to hosting consultations with traditional owners and Aboriginal people across the region. A really important part of that is ensuring that information about any proposal is provided transparently and understood, as well as the impacts of what any decision in relation to a proposal will have. NLC processes have been around for a long time and continue to be refined. It gives an opportunity to also validate information so that it is not just one side of the story being presented to traditional owners.

We can take it on notice and get some concrete proposals that may be considered to go into the legislation for you. Utilising existing mechanisms that are there, like land councils, to ensure that the right Aboriginal people are consulted would be a step in the right direction.

Mr HOWE: We would be happy to take something from you guys on that piece.

Mr PAECH: Firstly, I want to ask in particular about native title outstanding claims, where areas have not been determined yet.

In your submission you talked about the infrastructure coordination areas and Territory development areas. The designation of an infrastructure coordination area and Territory development areas does not require consultation. I want to ascertain: what risks does this pose to Aboriginal landowners, especially in areas with native title claims?

Ms ASTALOSH: Broadly speaking, one of the main concerns we have about that is around the powers of entry and the rights of Aboriginal people to determine who is accessing their land. That would be completely undermined by the Territory Coordinator making decisions on behalf of Aboriginal people in those areas.

We are also concerned that it opens up the full suite of the Territory Coordinator's powers to a particular area—again, unchecked and perhaps not necessarily wanted by Aboriginal people in those areas.

With regard to native title, I will need to get back to you on the specifics, but the concerns are wide-ranging and hold potential issues where claims would like to be made and the limitations that could be put on that because the Territory Coordinator's powers are present.

Mr PAECH: Great. Your submission states that Aboriginal land, parks and reserves should not be designated Territory development areas or infrastructure coordination areas without consent. This is a question about what changes you would like to see to restore those protections. We have spoken to many people about having those areas potentially enshrined in legislation as exemptions; therefore, they cannot then be considered later on as a regulation amendment.

Mr DEEN: Aboriginal land, as defined under the Land Rights Act, and land subject to exclusive native title should be excluded from being declared a TDA unless there is permission from the relevant TOs (traditional owners).

All parks and reserves in the Northern Territory should be excluded from being declared a TDA unless there is permission from the relevant traditional owners. Aside from environmental concerns, complex legal issues will arise if there is no proper engagement with traditional owners. There are state parks and reserves that are jointly managed pursuant to ILUAs between the Northern Territory Government and traditional owners and under the Northern Territory parks legislation, hence why our position around TDAs and ICAs has been taken.

On the point about the weakness of schedules or regulations, I am not one to remind parliamentarians of the difference between legislation—an Act and regulations. The strength is in the legislation rather than regulations. Regulations can be changed at any given time, but obviously legislation can only be changed by an Act of parliament.

J DAVIS: You reflected on your submission to the first draft of the Bill and the changes that happened between the two drafts. I am interested in your view on what the overall intent of those changes has been.

Mr DEEN: It is difficult to understand what the intent of the overall changes would be. Therefore, I am struggling with the question that you are asking.

J DAVIS: Sorry. What is the NLC's view about the purpose or the intention of changing the draft legislation from the earlier version to the current version that we have? Whose interests is that serving? That would be the plain English way of saying it.

Mr ASTALOSH: Looking at the definition of the primary principle, you can see the intention of the Bill on the whole. I suggest that may go through to some of the changes that have been made in prioritising the economic agenda above all other interests.

The NLC, we have heard from our council. They want to make sure that cultural values are represented and environmental values are protected in decision-making. That would extend to any decision made by bureaucrats or government.

I should say that traditional owners, we have heard loud and clear, want economic development on their country, but they do not want to be told what to do by third parties, government or external proponents who are seeking to make a quick buck.

Our position is that traditional owners and Aboriginal people in our region should have a say, and ultimately the decision, on what happens on their land.

Mr DEEN: Just to add to that, as David pointed out, Aboriginal people, First Nations people, are not averse to economic development. The fact is that people want to be part of any sort of economic activity and be a key part of any economic activity. But to elevate the economic imperative over social, cultural and environmental imperatives is something that both the NLC and traditional owners will generally not agree with because you have to take a balanced approach to ensuring that there is a sustainable economic initiative on any sort of country, whether it be Aboriginal land or non-Aboriginal land.

J DAVIS: We have not really had the opportunity in this committee to define what economic prosperity or development means, and I think it could be a contested term. I would be interested in your views. Part of our role is to look at laws that are before the parliament for the long-term benefit for the Territory. What risks do you see for our long-term economic prosperity in the broader sense if this Bill goes through? Does that question make sense? Do you want a bit more detail?

Mr DEEN: It does. If I am off the mark please course correct, I suppose, for want of a better term.

We have seen in the past what elevating the economic objectives has resulted in, in the Northern Territory, to the point where we are now in pretty much the post-mining era to a greater extent—the extraction era—and rehabilitating our country because of contamination to land, without any consideration to Aboriginal culture and heritage, without any sort of real valuing of environmental values either. You only have to look to the past to look to the future should the Bill be passed in its current version.

As we said, we are not averse to economic development, but it has to be a balanced approach. With a Bill that pretty much provides carte blanche decision-making potentially to the Territory Coordinator mechanism, those decisions will, by and large, go unchecked unless the Chief Minister chooses to activate the powers instilled under the Act, but there is no guarantee that will occur.

J DAVIS: Thank you; that did answer my question.

Going to the narrowest view of what economic prosperity might mean with the examples you have given there, we have already seen great cost to the Northern Territory about rushed decision-making. Even if we are just talking about money, potentially there could be risk from this Bill from what you have said.

Mr PAECH: We have heard loud and clear that the NLC absolutely supports economic development opportunities on Aboriginal land in consultation with Aboriginal people. Do you think that there is an opportunity for further delays, given that the merits review has been removed and the only mechanism would be judicial review and, given the current climate of matters before the judiciary, could potentially take much longer?

Mr ASTALOSH: Those judicial reviews are extremely difficult to get into. They are highly expensive and that will limit their ability. The merit review process gives a greater opportunity for decisions to be scrutinised and, ultimately, result in better outcomes. It is a great concern that those have been removed, particularly where they apply to areas of interest with our council members. Whether that is in the water space or to do with activities on pastoral land, they are concerns that we are worried about.

Mr PAECH: We heard from many people yesterday and today talking about the processes being stalled and not being able to proceed and the delays. We have not been able to get an exact example from anyone around where that is delayed in terms of the Northern Territory. There have been some generalised comments that it is often delayed in the consultation process.

Your understanding is the NLC's consultation process is relatively rigorous and is not time-consuming generally, but there are matters where there are strong cultural considerations and environmental impacts that do take longer, as a way of ensuring that everyone is clear in understanding what the proposal is.

Mr DEEN: Yes, we do not accept the premise that there are delays and pointing the finger at traditional owners and Aboriginal land councils. The fact is that we undertake a process of informed decision-making with traditional owners. It should be recognised—and often not cited—that we are dealing with Aboriginal land, private land.

Whilst traditional owners, as mentioned before, are supportive of economic activity on country provided that it is a balanced approach, those decisions can be complex because some of the proposals being put forward to traditional owners are complex, so it is not a yes or no response at the first port of call.

On top of that, we are dealing with a group of people, a core group of people that cannot—that is absolute. Traditional owners cannot sign powers of attorney. Traditional owners cannot assign proxies. Traditional owners cannot deputise their decision-making to anybody else. We consult when traditional owners are available. If there is sorry business or environmental factors such as cyclones, we have to press pause and take that into consideration.

The reports about delays in general—yes, in normal society there will be delays. That is why we developed this work called contingencies in a project management spectrum. However, they are not to the extent that people think they are. On top of that, it is not always the situation that delays are because of the principal group; delays could occur because the proponent group has not properly explained the intricacies of their proposals.

Mr DEPUTY CHAIR: On behalf of the committee, I thank you for your time today and making the accommodations to appear before us. It is very much appreciated. Thank you for your detailed submission.

The committee suspended.

Australian Institute of Architects

Mr DEPUTY CHAIR: On behalf of the committee, I welcome everyone to this public hearing into the Territory Coordinator Bill 2025. I welcome to the table to give evidence to the committee from the Australian Institute of Architects via telecommunication Miriam Wallace, President, NT Chapter; and in person we have Karen Relph, Manager, NT Chapter and Jo Rees, Ajar Architects. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee, and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing, you are concerned that what you will say should not be made public, you may ask the committee to go into a closed session and take your evidence in private. Could each of you state your names and capacity in which you are appearing?

Ms REES: I am Jo Rees appearing as an architect and talking on behalf of the Institute of Architects.

Ms RELPH: I am Karen Relph, Manager of the NT Chapter. I put documentation together and provide it to the committee.

Ms WALLACE: I am Miriam Wallace, the current President of the NT Chapter of Australian Institute of Architects and an architect.

Mr DEPUTY CHAIR: Before we begin, I acknowledge my fellow committee members, the Member for Gwoja, Mr Chasey Paech; the Member for Drysdale, Mr Clinton Howe; the Member for Johnston, Justine Davis; and joining us via telecommunications is Ms Oly Carlson, Member for Wanguri. I am Andrew MacKay, the Member for Goyder. Ms Wallace, would you like to make an opening statement?

Ms WALLACE: The NT Chapter of the Institute of Architects is glad to be asked to contribute to this process. As architects, we are pro-development; however, we also understand the importance of good process and community consultation. I could build you what I think is the most beautiful house in the world, but if I have not listened to what you want you will always feel disappointed. If I have not taken the time to complete site investigations and take expert advice of the structural engineer, the house may look beautiful for a short time but will be built on unsound foundations. If I have not consulted the authorities and community my house may have negative impacts on others that I have not considered.

The NT Chapter of the AIA is broadly supportive of the idea of coordination and clarity of pathways for development in the government system. We acknowledge that the system is currently overburdened, erratic and slow. However, we are uncomfortable with the scale of this proposal and the decision-making powers proposed for the Territory Coordinator. We do not believe that the current slowness in the system is caused by protest from the public or the various anti-development interests from either within or without government. It is simply an issue of capacity in the public service.

When I started working in the NT there were one-stop-shop authority coordination meetings and easily contractible-wise heads in department's who could be called to unravel traffic jams. These meetings and people no longer exist. The old pathways that kept projects moving did not circumnavigate expert advice or public comment and scrutiny but a commonsense solution that supported the existing systems to work better.

The members of the Institution of Architects work on multiple developments simultaneously with developers of all sides. We are concerned that the Territory Coordinator role will champion politically sensitive or large projects over the everyday projects and give big business a pathway to queue-jump projects by smaller developers. This will compound the existing capacity issues that the small developers are already struggling to absorb and create more uncertainty, cost and time delay to the everyday projects that fuel our economy.

Large mining or agricultural developers, while politically noisy about delay and cost, are in reality better placed to absorb the risks that are intrinsic to all development than the smaller developers that we believe will be left behind in the proposed new system. The small developers the NT architects work for are mostly local people who invest the profits back into the Territory community. Large outside developers, despite their oversized presence, often have small long-term NT footprints and the majority of profits leave the Territory, allowing say one or two large developments with a concentrated impact to take precedence in the system ahead of a number of smaller Territory-based projects with broader and longer-term impact. It is counterproductive to supporting sustainable development in the Territory and breaking the boom and bust cycle that we experience.

We are also extremely concerned about the lack of transparency and opportunity for public comment and consultation process outlined in the Bill, especially when coupled with the proposed amendments to the petroleum, planning and water legislation that will remove the right for appeal to NTCAT. Successful development can never be forced on a community. As architects we are aware of the frustrations of NIMBY-ism and how change-averse communities can be. However, a government's role is not to circumnavigate but to represent community, to make space for community scrutiny and comment, to listen and adapt projects to include community concerns or ambitions and sometimes to find the wisdom and know. A community will not thank you for faster development no matter how positive it is if they are excluded from the process.

The public consultation of the Territory Coordinator Bill has been an example of this. During the consultation it was made clear to the public that decisions relating to the *Heritage Act* were to be excluded from the influence of the Territory Coordinator. However, the Bill now tabled gives the Territory Coordinator remit and decisions at NT Heritage. The public has not been given an opportunity to comment on this change, and we believe further public consultation of the full Bill needs to be taken.

It is very common for intricate systems to seem unreasonably complicated and slow from the outside. It is very hard for non-experts to understand the importance of interdependencies and checks and balances. NTG has experts in the public service whose life career have been to aid sustainable development of the NT for the benefit of the community. We already have good systems in place that protect community input and good process from the pressure of big businesses. These resources put your existing systems to work better. Circumnavigating the wisdom of experts in the community will not provide the NT with a long-term positive development that we all want to see.

Mr DEPUTY CHAIR: We will go to questions unless there are any further opening statements you would like to make?

Ms REES: Yes, I have a few in addition to our submission. Like Miriam says, the concept of the Territory Coordinator is sound if the Bill is amended. The transparency and accountability of the Territory Coordinator and the minister are required for the people of the NT to be confident in government decisions and actions. Ensuring the long-term wellbeing of the NT people and environments is the most important aspect of government undertakings and should therefore be the highest priority of the Territory Coordinator. Making rushed decisions without public notice and consultation for the benefit of few speaks to corruption and greed, resulting in long-term costs to people and environments.

In regard to the rights and liberties of individuals under the Territory Coordinator Bill, the rights of freedom of opinion and expression are denied in the short term, which we believe in the long term will result in the denied right to work and education.

In regard to the institution of parliament under the Territory Coordinator Bill, we believe the representation of the people of Australia is denied and the role of parliament to keep a check on the work of government is denied since the tabled annual reports are not enough.

The Territory Coordinator is not an elected position. It would seem to be in the best interests of this senior public servant to have all decisions and work scrutinised by the public so that the Territory Coordinator is not compromised by politics.

We are disappointed by the lack of consideration and inclusion of the public views that formed the consultation process.

By publishing the declarations, outcomes, notices, requests, plans, decisions and other documents and outcomes of the Territory Coordinator's work, followed by providing public consultation, all the decisions and formal outcomes of the Territory Coordinator's work become public documents with decisions informed by a range of experts independent of the proponents of any project.

We feel the Bill in its current form will not create a system that has sensible and transparent processes. Each of our three pillars of parliament—the legislative, executive and judiciary—need to be strong in their professional competence, their high ethical behaviour and their commitment to the Territory people.

Mr DEPUTY CHAIR: Thank you. I now open up for questions. I will ask one quickly.

Just touching on your opening address, Ms Wallace, I just want to clarify the Australian Institute of Architects' position relating to the inclusion of the *Heritage Act* 2011. In the submission it says:

We believe it is in the interest of the people of the NT to include the Heritage Act ...

Is that meant to be 'exclude'? I am trying find out what position on the inclusion of the *Heritage Act* is? Could you clarify that for me, please?

Ms WALLACE: We think that it needs to go back to public consultation and needs to go back to a broader consideration. I believe that there are potential conflicts between federal law and Territory law when it comes to the *Heritage Act*. But there are other experts who know better about that and I think are also presenting to you. We are really cautious of the fact that this has not been discussed and it has been excluded from the process to date

Mr DEPUTY CHAIR: Is there no position on whether you think it is a good inclusion or a bad inclusion?

Ms REES: We will take that on notice.

Mr HOWE: I heard the authority coordination meetings that were done in the past. I am interested to hear more about that, how they worked.

Ms WALLACE: There were really excellent meetings. Our interaction with them as architects was in the planning process. We would make a meeting with the town planners. They would coordinate NTFRS, sometimes the police, Power and Water, Heritage if it was appropriate, Environment if it was appropriate, and get those people in one room at the beginning of the project.

It meant that all these people who had historical knowledge of the area that we would develop in, could let us know, 'The sewer there will definitely need to be upgraded'—information that we if we have at the start of process can help the project to go really well. Also, when our projects came onto their tables, they were already aware of what we trying to achieve.

It made the process so much smoother with everyone understanding what was going on. Just having everyone at one table was excellent. We were told that they were stopped because of capacity.

J DAVIS: Thank you for your submission and for appearing today. I was very happy to see you describing yourselves as professional optimists. I think of myself like that as well.

You have talked about the need for better consultation and going out to the community—for example, regarding that question with the *Heritage Act*—and have given an example of what that might look like. Do you have ideas about how that could be embedded into this Bill to try and make sure that it is operating in a way that addresses some of the concerns that people have raised?

Ms REES: Do you mean the written Bill or the language or ...

J DAVIS: No, sorry. Consultation processes within—do you have any ideas of how we can look at imbedding consultation more robustly into this Bill?

Ms REES: Only so far as when something that is decided—for example, the *Heritage Act*—and there is something to discuss that it would be published and then a consultation period provided. However that is done, we would hope there would be face-to-face consultation like this, as well as the opportunity for online and written submissions.

J DAVIS: You talked about a 60-day consultation period, which we have heard from some other witnesses as well. Is there a reason you came to that particular figure?

Ms REES: Yes. In the online forum in which we participated, that was something which was raised. I believe the idea came from South Australian coordinator—I think they have a different name for it there. That time frame allows for people who happen to be away, extremely busy with work or unwell to still have time to make a submission. Two weeks is a short time frame. Thirty days is often not long enough, but 60 days enables a wider range of people to have their say and for a number of forums to be held.

J DAVIS: As you said, it draws on what is happening in other places. We have heard that 60 days as well.

I am also interested in your views, broadly, on what economic prosperity looks like for the long term. Part of our role is to be advising the government on making laws for the long-term future of the Northern Territory. Do you have any thoughts on that in relation to this proposal?

Ms REES: We are not legislative or legal experts in any way, but we understand that at the moment there is not enough government funding to cover basics like good housing, good educational facilities and good medical facilities. That is what good, long-term funding looks like—enough money to support the poorest and most vulnerable people in our society. That is broad, if that is what you are asking?

J DAVIS: Kind of. Miriam, I saw you nodding. Do you want to say something about that?

Ms WALLACE: Yes. There is what we are seeing right now in the impact of the system. We have small developers who, when they are sitting in the uncertainty of a project—especially with the impact of time or cost at the moment, or they may have put upfront money into a project and are sitting for months waiting for any decisions—that impacts their funding and the likelihood that the project will be able to go ahead.

These are the people who are trying to invest in our community being stifled by the system. Making the system fair and transparent for them without taking away public scrutiny is important.

The second thing to think about is we are seeing now in these large projects that are coming in as emergency responses to some of the issues we have. That money is essentially siloed. It is going to one or two hands and is not spreading evenly throughout the community.

If there were multiple small projects that would take longer, it would be a much more equitable spread of that opportunity for development and economic development. Remove the boom and bust cycles that over heat the economy and impact on the quality and cost effectiveness of what is delivered. Multiple smaller project help to avoid the creation monopolies prevent the territory from being reliant or beholden to one or two large projects or investors.

Also, if we are just talking about development, these large projects give people only one option—for Alice Springs 100-and-something new units that will all look the same. If you spread that development money evenly, you get multiple options for people and we get a much more equal and flexible system of development and a more stable and place centred economy over time. It will take a little more effort, time and patience.

Does that answer your question?

J DAVIS: Yes, that is great. When you talked about delays—you may have mentioned this earlier—sometimes projects are significantly delayed and that is something this Bill purports to address. You talked about this earlier, but is there anything further you want to say about what the causes of those delays are and how we might address them?

Ms WALLACE: At the moment our experience is very much a capacity issue within the public service. I do not think that it is anyone's poor work or bad will, or any one particular person. We are getting really inconsistent decisions, things that used to take six months are taking 18 months; they are going through multiple hands because of staff changes. Alice Springs things are getting pushed to Darwin and we do not have local support. Power and Water is completely opaque at the moment.

I have one project where we are waiting on power and water upgrades in a remote community before a lot can be released. Funding is there for the building. We cannot release the lot; we cannot progress the project, and Power and Water is unable to give us any kind of timeframe. It is absolutely true that there are big roadblocks and delays at the moment, but I think resourcing a secondary system is probably not the answer.

Resourcing the existing experts on the ground is a much better way of doing things and even potentially individual coordinators within the departments which have a role to connect people. Maintaining that expert connection and knowledge of the subject matter is really important ultimately to make good decisions as well as fast decisions.

Mr DEPUTY CHAIR: With regard to the proposed amendments that have been suggested in your submission, I note the vast majority relate specifically towards the transparency and consultation. With regard to the ones that are not specifically tied to that and are not the standard 60 days or published responses—the other amendments you are suggesting—one of the ones you suggest is the rearranging of the primary principle. Can you just touch on why you believe the rearranging of the order of the primary principle has the potential social and environmental outcomes above driving economic prosperity. Can you just touch on that from your perspective?

Ms REES: That speaks to the rights of people to have a better place to live really—that is what we are asking, that the consideration of people's environments, health and education needs are put before development at all costs. These are important decision-making parameters and if it is development at any cost, then the people with the power and wealth to make the projects to go ahead to get the significant major project status will be putting together big projects and the smallest people in the community will be left behind potentially, unless they are put to the forefront of any decision-making process. Actually, by looking at projects through that lens we are more likely to create a place where we retain our skilled people in services delivery.

Ms WALLACE: We are also very aware of our fragile environment in the Territory and how easily that can be broken—and irreversibly so. That is also a really big consideration how we choose to develop.

Mr HOWE: Going back to that point, trying to tie that into a recommendation, would you be supportive of something that created a more even field for smaller individuals who want to invest, so it is not limited to large capital and there is a more even playing field. I am just trying to tie that thought into how we could do a recommendation.

Ms REES: I think it is just rearranging as we suggested the priorities. In that particular instance, I do not think it is about the scale of the proposal. I think it is about the reasons behind whether a development goes ahead and the priorities of that development.

Mr DEPUTY CHAIR: On behalf of the committee, I would like to thank you for taking the time to come in today, it is very much appreciated. Thank you for such a detailed submission and finding the time to come in again with short notice; we do appreciate that.

Ms REES: One final thing, in regard to your point about smaller investors, I think there is definitely a place for that mentioned somewhere in the Bill; it is just not right at the priorities.

Mr DEPUTY CHAIR: Thank you.

The committee suspended.

Department of Mining and Energy

Mr DEPUTY CHAIR: On behalf of the committee, I welcome everyone to this public hearing into the Territory Coordinator Bill 2025.

I welcome to the table to give evidence to the committee from the Department of Mining and Energy Mr Alister Trier, chief executive; Mr James Pratt, senior executive director energy development; and Brett Easton, director policy and reform. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for the use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public you may ask the committee to go into a closed session and take your evidence in private.

Can you each please state your name and the capacity in which you are appearing?

Mr TRIER: My name is Alister Trier. I am the Chief Executive of the Department of Mining and Energy.

Mr PRATT: James Pratt, senior executive director of energy development.

Mr EASTON: Brett Easton, director resource policy and reform, Department of Mining and Energy.

Mr DEPUTY CHAIR: Before we begin, I will introduce my fellow committee members. We have the Member for Gwoja, Mr Chansey Paech; the Member for Drysdale, Mr Clinton Howe; the Member for Johnston, Justine Davis; and joining us via teleconferencing is Ms Oly Carlson, the Member for Wanguri; and I am Andrew Mackay, the Member for Goyder.

Mr Trier, would you like to make an opening statement?

Mr TRIER: Thank you, no. The letter that we provided will suffice.

Mr DEPUTY CHAIR: What value do you see from the introduction of the Territory Coordinator for your department?

Mr TRIER: From my point of view, the challenges of getting significant mining and energy projects over the line—past final investment decision and into implementation—is working through the significant regulatory processes that are required. A number of those are within the remit of the Northern Territory Government. Others are outside the remit.

From a proponent's point of view, it is a complex process to go through. The second word of Territory Coordinator is all about that—coordination. From a strategic overlay, it provides that bespoke service to walk through this difficult and complex environment.

If you see things from a proponent's point of view—we really are in a competitive timeframe to get projects over the line—we need to work with proponents to get them through the various regulatory requirements as best as possible.

Our responsibilities lie, as priorities of government, in getting mining and energy projects over the line. This Bill will add value to that.

Mr DEPUTY CHAIR: Do you have any examples of where, if the Territory Coordinator existed in the past 10 years, it would have made a difference to a project in the Northern Territory?

Mr TRIER: I will not name proponents as individual projects, but I know of mining projects that have had difficulties working through the regulatory process. Not all of that is government's fault. I totally admit that. Proponents have a responsibility to do their due diligence, provide their information in a timely and complete manner. But the interplay between the different regulatory requirements and proponents working through those gives some examples.

Mr PAECH: What are those examples?

Mr TRIER: Member for Gwoja, I will not go into individual projects because they are stock exchange listed.

Mr PAECH: I am asking for an overview. Everyone has spoken about examples but, when asked, cannot say if it is a result of environmental, consultation or landowners. What are these areas of regulatory process that are stalling?

Mr TRIER: Within my area that I can speak for now, we are confident that our current timelines are pretty good. We do not always achieve the outcomes that we would like. Back to my words before, some of that is within our remit and some of that is on behalf of the proponents.

There have been issues of working through mining management plans, as an example, and getting clarity through those. The environment is shifting. The machinery of government is shifting, and some of that stuff might be worked out. They are examples of the past.

Going back to your question, Deputy Chair, the second example I will give is probably more a strategic example of a really complex project, the Middle Arm Sustainable Development Precinct. That is really complex. It is all about establishing a precinct for a range of interconnected and related industries with a long-term vision. That is a really difficult and complex amount of work that has to happen.

There are the environmental, infrastructure and commercial components. The agencies that have been working on that have really applied themselves. I cannot underpin that more strongly, but it has not had that strategic overlay. It has been run with a number of different agencies doing their job but without a coordinated and strategic approach.

Mr PAECH: Does this model that you were just talking about remove the ability for relevant organisations with relevant qualifications and experience and give it to a single individual who is not qualified in a number of those areas?

Mr TRIER: My understanding of the Bill as it stands—and I might be wrong, but I am pretty sure—is that we still deliver within our regulatory obligation. For us, our legislation, we deliver on that. The Bill allows for prioritisation, but that is still through the minister or a minister. Those prioritisation processes are not diluting our responsibilities, so my understanding is that no, the current regulatory provisions still apply.

Mr PAECH: But you acknowledge that the position of the Territory Coordinator—not talking about the individual—can override decisions or recommendations that have been made by an expert group of public servants?

Mr TRIER: The point I was making is that the position provides a coordination. With regard to Middle Arm—a coordination of all the different areas.

Mr PAECH: Yes, but they still become the decision-maker?

Mr TRIER: Not necessarily.

Mr PAECH: How so?

Mr TRIER: Firstly, my understanding is the decisions are still made by the relevant minister, the Minister for the Territory Coordinator.

J DAVIS: I have a follow-up question in relation to the Act and regulations. As the CEO of the agency, you obviously have duties and responsibilities under the Acts and regulations, so I am wondering how you will discharge them if the Territory Controller does use a request power, as you have just said—for example a prioritisation request that causes you to change your way of working. I can give you an example of potentially where that could happen.

For a decision on an environment management plan under the Petroleum (Environment) Regulations, the minister must make a decision within 90 days after submission. How would you, as the agency head supporting the minister, ensure the decisions are made in that timeframe if a prioritisation request means you have to focus your department's attention fully on another statutory process, and particularly what work processes might you need to change within the department to accommodate that?

Mr TRIER: That specific example of the environmental management plan would not sit within my remit; that would be a matter for the Department of Lands, Planning and Environment. Our regulation and legislation still applies. For the example you gave, if it was something within the responsibilities that Mining and Energy administers, that legislative requirement still applies.

Mr PRATT: Departments have statutory timeframes to approve matters in, and our prime objective is to complete those in that time. Your question is about how the Chief Executive would reprioritise resources. Our primary focus is to complete all statutory decisions within the timeframes. If something is falling behind or running amiss, that reprioritisation can ensure that gets the priority through the coordinator and the CE having that discussion. It is no different now when we talk to proponents who talk to our chief executives. If they want something prioritised, it generally occurs.

J DAVIS: Do you see any additional resource implications for your department from this Bill?

Mr TRIER: It is a good question. The short answer is no. I think the projects are the projects. This is about coordination and the strategic overlay of applying ourselves to projects as they come through in the order of priorities of the government. That would be my answer.

Mr HOWE: I would like my questions to be uninterrupted for answers as well. We have heard a lot about the insertion of executive powers throughout this. I was just wondering if I could open the floor for your thoughts on these.

Mr TRIER: My understanding—I have sought advice on this—is that the executive powers still remain with the minister. It could well be our minister. There is an avenue to go to the minister for the office of the Territory Coordinator. The executive powers, as I understand, still remain with ministers.

Mr HOWE: Could you talk the committee through what the complex process that exists looks like? If I could give a simple example: if I was a landowner and there is a potential mineral deposit on my land, what is the process at the moment that a company would have to go through?

Mr TRIER: I put James on notice that I will be going to him in a second. The range of things that would have to happen in your example are mining projects—and I might head to Brett as well.

First, there are obligations within the department. The first thing is tenure. That is probably the most important thing that we look at because tenure is the contractual right between the proponent and the Crown as the owner of the resource.

Then there is activity approval. Those activity approvals are based on a few things—importantly, the environment and getting an environmental approval to ensure that the activity that is planned happens in a way that minimises the impost on the environment ...

Mr HOWE: Could you elaborate on that part? What does that process look like—the environmental ...

Mr TRIER: I will go to Brett, if I could.

Mr EASTON: As far as the stages of getting a mining proposal approved and operational—it is staged because it starts with exploration. Exploration is usually the first we know of opportunity for consultation with affected parties. As that process plays through—that can be somewhat time-consuming in some instances—

it is down to the company to try to secure and identify that resource and to assess whether that will be worth the investment.

Highlighting what Alister said earlier, there are so many other elements that are then involved— for instance, infrastructure; the quality of the road to allow for haulage; the connection to power supply; and water availability. Once you start introducing all of those other elements you are involving a lot of agencies and a lot of different processes. It is an opportunity to bring that together in a way that perhaps individual agencies are not so much focused on.

Ultimately, once a company has developed its plan, then that goes through the environmental assessment process.

Mr HOWE: Could we continue from where we were with environment?

Mr TRIER: On top of the environmental approval, depending on what activity there is, there is an assessment of the operational plans. There is a strong tie-in with the environment.

Building on Brett's comments, there can be broader infrastructure approvals required. For example, from an access point of view, road access intersections and that sort of thing and corridors. There are probably more, but that gives a flavour.

Mr HOWE: My final question: in the view of the department, do you see the Territory Coordinator as a step forward in building investor confidence and the economic impact that will bring?

Mr TRIER: The short answer is yes. I will build on that answer. One of the things that we have benefited from is that we had the ability to go around Australia and look at similar models and how they work in each of those jurisdictions. Some have been in place for a long time, for example, Queensland which has learnt a few lessons along the way. Our context is different so we need to understand that.

The value of the coordinator model is an integrated and strategic approach to project development. Investor confidence relates to sovereign risk, having goal posts in the ground that do not shift, timeliness and accurate information. If we have strong legislation—I contest that we do—and an agile approach to working through the legislative process in a coordinated approach and there is confidence in both of those processes, that brings investor confidence in. We have a lot of opportunity with our resources but we are a small community and a small government. We really need to look at being innovative and competitive in a broader investment environment.

J DAVIS: I appreciate you sharing that you have looked at similar legislation in other states and territories. We have heard about that as well and have been made aware that this particular piece of legislation goes a lot further than models in other states and territories. People have concerns about that. I will put that aside for a minute. I want to ask a specific question.

As I am sure you are aware, the previous clause 14 in the original exposure draft of the Bill prevented the Territory Coordinator from exercising the powers under the Act in a manner that would interfere or modify with the protection of sacred sites. Did your agency recommend that protection be removed?

Mr TRIER: My understanding is—I could be corrected—we did not enter in that discussion.

Mr PAECH: Are you prepared to take that on notice so that we have an understanding if that did or did not occur?

Mr TRIER: Yes, absolutely.

Mr PAECH: Going to the Member for Johnston's line of questioning, other jurisdictions tend to have a panel. For instance, Queensland's coordinator legislation has a group of individuals who look at and make those assessments. Is the department concerned at all by vesting all that kind of decision-making or recommendations to one person to the minister?

Mr TRIER: The short answer is no. The reason is, being a small jurisdiction, our doors are relatively easy to walk through and we try to talk to each other. There is a natural synergy of a coordinated approach in supporting the Territory Coordinator. I am focusing on the coordination part of the Bill. Bigger jurisdictions with more resources might take a different approach. From my point of view, going back to your initial question, I do not have concerns with the way it is put.

Mr PAECH: Do you have concerns that there might be some uncertainty created from this piece of legislation regarding how it intersects with Commonwealth under the EPBC legislation?

Mr TRIER: The short answer is no because it is pretty clear that legislation outside of the authority of the Northern Territory is not part of this process.

Mr PAECH: Just to be clear, in your previous remarks you said that you were happy with the approval timelines within your current department or agency.

Mr TRIER: I indicated that we are not always perfect, but we try to meet our timeframes, yes.

Mr PAECH: I just wanted to be clear in that regard. Normally it would be the role, the function, of your agency or department to look at the coordination of various proponents coming through that they are checking the right boxes and making sure that they are doing the due diligence on the government side.

Mr TRIER: Our role is focused on our responsibilities, but back to my former words, a proponent and a project has a much broader range of responsibilities, so, yes, we will focus on delivering our responsibilities, but having that overarching coordination. I think I used the words bespoke approach to working with proponents as they work through the regulatory matrix. That adds a lot of value, particularly back to your point, Member for Drysdale, around building investor confidence.

Mr PAECH: With the removal of the merits review there will be potentially the increase in judicial reviews, or the request to have judicial reviews, which we heard from previous deputations today that it can be quite a lengthy process. Are you concerned that will then be the process which holds up development?

Mr TRIER: My apologies, Member for Gwoja, I cannot speculate on that.

J DAVIS: We have heard a lot of concerns from people about the consultation process for this Bill, about the transparency of it. I am interested in your thoughts on how we can ensure that there is confidence in this role and how you will be monitoring the effectiveness in terms of what you are saying you think this Bill will deliver.

Mr TRIER: The important thing, as I understand it, is our consultation processes within our responsibilities do not change.

J DAVIS: You were talking earlier about the idea of improving investor confidence with certainty. One of the other things that we have heard from many people is that there is a lot of ambiguity and lack of clarity in the Act as it stands, and people are concerned that will increase uncertainty. Do you have any thoughts on that?

Mr TRIER: My understanding of the Bill is that it is pretty clear. I must confess I have not read every segment of the Bill, but I have been maintaining a fairly close watch as it has developed. I do not see ambiguity that would erode investor confidence, no.

J DAVIS: Taking you back, I cannot remember, you used the word ‘flexibility’ or ‘agility’ or whatever in terms of interpretation of particular requests that might come. I am talking about that kind of ambiguity.

Mr TRIER: I appreciate you bringing that up. I meant that in a different light, and I can understand that my words might have been interpreted in more than one way. That agility to look at the administration of our regulation that still meets the integrity of the administration of that regulation, but also in the mindset of how that intersects with other agency responsibilities and how we can get that to best be implemented in an overarching sense in a timely manner.

Mr PAECH: Clause 18 of the Bill talks about the Territory Coordinator’s ability to delegate their powers and functions to any person, as the definition under the Northern Territory *Interpretation Act*. That being very broad, does the department have concern that the Territory Coordinator could delegate the functions or decision-making to a public servant who has no understanding or technical aspects within the agency to make decisions?

Mr TRIER: I am not able to answer that specific question.

Mr PAECH: That is okay. I note that they are behind me, so they can answer.

Mr TRIER: Yes, thanks.

J DAVIS: I am interested in your role; it sounds like you have robust processes that you are happy with that you will be continuing on with as part of this. In terms of managing potential conflicts between the new Bill and your existing resource laws and stakeholder concerns, including those from Indigenous communities, how do you see they will be addressed under this Bill with you implementing?

Mr TRIER: Could you please just repeat the last bit? I am a little deaf and I want to get this correct.

J DAVIS: Sorry. The last part was: how will you be addressing or managing stakeholder concerns, including those from Indigenous communities, if there are potential conflicts?

Mr TRIER: I do not see that there are conflicts for us in the administration of our responsibilities. We have very defined processes and mechanisms to do that, so I do not see that there are conflicts in that regard. I see that we become part of a broader, more coordinated approach to a project development, but our processes and our mechanisms are well defined in the legislation that underpins them.

J DAVIS: You feel confident that this Bill will not affect your ability to manage any of those conflicts into the future?

Mr TRIER: The short answer is yes.

J DAVIS: As a follow-up from my previous question about the changes between the two Bills, did your department recommend the removal of the *Heritage Act*?

Mr TRIER: I think that was the question ...

Mr PAECH: Yes, you can take it on notice.

Mr DEPUTY CHAIR: On behalf of the committee, I would like thank you for appearing today and speaking with us. I know you are all very busy, but thank you very much for making the time and answering our questions and for your submission.

Mr TRIER: Thank you for the opportunity to appear.

The committee suspended.

Department of the Chief Minister and Cabinet

Mr DEPUTY CHAIR: On behalf of the committee, I welcome everyone to this public hearing into the Territory Coordinator Bill 2025.

I welcome to the table to give evidence to the committee from the Department of the Chief Minister and Cabinet, Mr Tom Leeming, deputy chief executive officer policy, reform and regions; Margaret Close, senior executive director strategic policy and delivery; and Stuart Knowles, Interim Territory Coordinator. Thank you for taking the time to come before the committee today. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public, you may ask that the committee go into a closed session and take your evidence in private.

Can you please each state your name and the capacity in which you are appearing?

Mr LEEMING: My name is Tom Leeming. I am the Deputy Chief Executive Officer of the Department of the Chief Minister and Cabinet for policy, reform and regions.

Mr KNOWLES: Stuart Knowles, the Interim Territory Coordinator within the Department of the Chief Minister and Cabinet.

Ms CLOSE: Margaret Close, Senior Executive Director Strategic Policy and Delivery of the Department of the Chief Minister and Cabinet.

Mr DEPUTY CHAIR: Before we begin I acknowledge my fellow committee members here today. We have the Member for Gwoja, Mr Chansey Paech; the Member for Drysdale, Mr Clinton Howe; the Member for Johnston, Justine Davis; and the Member for Wanguri, Ms Oly Carlson, joining us by telecommunications. I am Andrew Mackay, the Member for Goyder.

Mr Leeming, would you like to make an opening statement?

Mr LEEMING: Yes, please, Mr Deputy Chair. Thank you for the invitation to speak to the committee today about the Territory Coordinator Bill.

I begin by acknowledging the Larrakia people as the traditional custodians of the land we meet on and pay my respects to elders past, present and emerging leaders. I also recognise the important role that traditional owners play in the Territory's economic future.

I hope this brief introductory statement will answer some of the questions you have about this Bill, its purpose and the Territory Coordinator role.

As background, we were asked by government to develop legislation that would deliver on its policy objectives of coordinating and streamlining regulatory processes for significant and complex projects and developments that have the potential to drive economic growth and accelerate private sector opportunities in the Territory. The policy intent is to boost the Territory's competitiveness to attract large-scale investment to fuel growth and create jobs for Territorians. That is the policy instruction we were given by government.

The consultation process has been the subject of some discussion. There has been extensive consultation in the development of this Bill. That was summarised in the consultation report that was published on our departmental website on 12 February. That consultation included targeted consultation with government regulators, private sector proponents, industry peak bodies, land councils and other stakeholders on the broad model and framework for the Territory Coordinator.

It included the publication in October of a consultation paper which outlined key aspects of the proposed model and included the publication of a draft Territory Coordinator Bill and a guide accompanying it in November, which also coincided with the announcement of Stuart Knowles as Interim Territory Coordinator.

We had an over three-month period of consultation. In that time, as a department and in collaboration with some of our partner agencies, including the Department of Mining and Energy that you have just spoken to, we had 89 stakeholder consultation meetings, with 267 participants in those meetings, across a range of stakeholders, including peak bodies, industry leaders and community groups.

We received 559 written submissions, about half of which were unique individual submissions and the other half were standard form campaign submissions.

My colleagues here held six community information forums across the different regions of the Territory, which 321 people attended. We got 81 feedback forms about them. This was an extensive consultation process over more than three months.

The feedback that was generated through that process has informed a number of relevant refinements to the Bill that is before you now. We thank everyone who took the time to provide their views on the Bill and engage in the process. We were pleased with the level of engagement we got, as a department, in that process. We welcome the opportunity for further scrutiny through this committee process.

In terms of the Bill itself, I will give a high-level outline of how we have designed the Bill to deliver on the government's policy intent.

The Bill, as you know, establishes the role of the Territory Coordinator as an independent statutory officer. The Bill sets out the eligibility requirements for that role, the terms and conditions of appointment and the mechanisms to terminate the appointment. It provides for a range of functions and powers of both the Minister for Territory Coordinator and the Territory Coordinator and also makes clear that all public entities need to cooperate with the Territory Coordinator.

The mechanisms by which the Bill works—the core framework of it—is it allows for the designation of three things: significant projects; programs of work; and Territory development areas. Also associated with significant projects is infrastructure coordination areas. Associated with Territory development areas are Territory development area plans.

I highlight the key features. One is the primary principle. I point out that the primary principle guides both the minister and the Territory Coordinator in exercising their key powers under the Act. That requires those decision-makers to consider the primary objective of economic development as well as the potential social and environmental outcomes. It requires consideration in all decision-making under the Act of all three.

The second key feature is that when those three things are designated—significant projects, programs of work and Territory development areas—a toolkit of powers are enlivened for the minister and/or Territory Coordinator to support projects and developments of economic significance to coordinate and streamline complex regulatory processes.

The key powers are the three request powers and three notice powers.

The prioritisation request is to request a public entity to prioritise a specific statutory process. The progression-related request relates to requesting a public entity to start or complete a specific process within a specified period, or to pause or to restart. A decision request is a request to a public entity to make a statutory decision within a specified period, so putting a real time limit on it.

The notices are condition variation notices, varying the conditions imposed on approval; and a step-in notice to a public entity advising that the minister or Territory Coordinator will step in to take the statutory process on behalf of that entity.

All those powers are, in certain circumstances, able to be exercised by the Territory Coordinator. There is one of those key powers by the Minister for Territory Coordinator on the advice of the Territory Coordinator, which is the exemption notice to a responsible entity, which excludes or modifies the application of a relevant law in specific circumstances.

We have designed and drafted the Bill to make sure that all these decisions are made in a responsible and transparent way that is open to scrutiny with appropriate checks and balances. There is a number of safeguards that we have put in the Bill that are highlighted. A number of these safeguards have either been introduced or strengthened based on the feedback we received on the draft consultation Bill.

Those key powers that I have talked about can only be used when an area has been designated as a significant project, a program of work or a Territory development area. They cannot be used generally on anything; they can only be used once a designation has been made.

Before any decision is made or recommendations put forward to the minister about exercising those powers, the Territory Coordinator has to consult with the responsible regulator. This has come up in some of your questions today. The responsible entity for that decision has to be consulted before the Territory Coordinator or the minister can make a decision. They are not making it on their own without any advice or input from the underlying decision-maker. The Bill says that they have to consult with the responsible regulator before making a decision.

The Territory Coordinator has to report to the minister on all requests and notices made, within five business days. All reports on step-in, condition variation and exemption notices have to be presented to the Legislative Assembly, so none of those notice powers can go unexamined.

On exemption notice, the disallowance provision allows the Legislative Assembly to veto exemption notices.

The Bill mandates that all necessary notifications across all those key powers are available to the public, so there is transparency.

Decisions made by the minister have to come with a clear statement of reasons so that every step of the process is visible and ensures that all stakeholders understand the rationale behind a decision and can see the line of sight from what is in the Act—the Bill now but the Act when it passes—to the decision that has been made.

The last important safeguard I mention—because it has come up a fair amount over the last two days for you—is that the powers in the Bill cannot override Commonwealth laws. That is a basic fact of our

constitutional order in the Territory. Any exercise of powers in the Bill that are not consistent with Commonwealth laws will be an invalid exercise of power and would be overturned by a court. This includes Aboriginal Land Rights and *Native Title Act* rights and interests which are protected by Commonwealth laws.

To the extent that the rights and interests of Aboriginal people, particularly traditional owners and native title holders are protected by Commonwealth law, there is nothing in this Act that can override or undermine those rights and interests because nothing in a Territory law can override or impede with the exercise of a Commonwealth piece of legislation. There is nothing in this Act that can override Commonwealth laws because there is nothing in any Territory Act that can override Commonwealth laws.

In closing, I will just mention a few of the other changes to the Bill we have made in response to the voluminous feedback we received. We made some changes to the schedule of acts to which the key powers can be exercised. We removed the *Nuclear Waste Transport, Storage and Disposal (Prohibition) Act*. We added the *Heritage Act*.

Based on feedback from a number of stakeholders, including many councils, we have expanded the definition of 'interested party' to include references to registered native title body corporates, registered native title claimants and representative Aboriginal and Torres Strait Islander bodies under the *Native Title Act*. We amended the definition of owner-occupier to include relevant traditional owners and persons with registered native title rights and interests. More broadly, we have provided more clarity in the current version of the Bill around the purpose and operation of programs of work and we revoked the time limit on a Territory development area designation so they can remain in effect until it is revoked.

Concluding, this Bill has been drafted to support streamlined regulatory processes to expedite those projects that will deliver significant economic benefit to the Territory and my colleagues, Margaret and Stuart, and I would be very happy to answer any specific questions you have about the Bill and the Territory Coordinator role.

Mr DEPUTY CHAIR: You touched on this a little bit in your opening; today we heard from a number of land councils throughout this process and from traditional owners as well about their concerns regarding the Territory Coordinator's powers in relation to Aboriginal land and sacred sites and the protection of their history and culture. Could you elaborate again, how in their submissions—I assume to the initial Bill as well—have these concerns been addressed?

Mr LEEMING: Both recommendations and issues raised in formal submissions but also recommendations and issues raised in the several meetings we have had with the main land councils on this topic. I will go back to the initial point I made during my opening statement that there is nothing in this legislation or indeed in any Territory legislation that can undermine the rights and interests of traditional owners and native title holders under the *Aboriginal Land Rights Act* and the *Native Title Act* because, as a basic principle, there is nothing in Territory legislation that can overrule or undermine rights that are enshrined in Commonwealth law.

There are two ways in which the Aboriginal rights and interests as enshrined in Commonwealth legislation are protected. One, the schedule of acts in the back does not allow the Territory Coordinator or minister to exercise powers in relation to the key NT acts that relate to Aboriginal rights and interests that interact with Commonwealth legislation, particularly the *NT Sacred Sites Act* is not on the list of scheduled laws for that reason and nor is the *NT Aboriginal Land Act* for that very reason.

The Bill does not allow the Territory Coordinator or Minister for the Territory Coordinator to exercise powers in regard to those acts but also the Bill cannot allow the Territory Coordinator or the Minister for the Territory Coordinator to exercise powers in a way that overrides those rights and interests enshrined in Commonwealth legislation because you cannot. That is the way our constitutional law works in the Territory. That is the way the Territory is established as a Territory.

There are two lines of protection there, very fundamental lines of protection for Aboriginal rights and interests as enshrined in Commonwealth legislation. That is one of the key reasons that what was previously in section 14 of the previous consultation draft Bill is not there anymore. It is just simply not necessary because we have those other two layers of protection for Aboriginal rights and interests.

Mr DEPUTY CHAIR: There has been a lot of discussion throughout this public hearing relating to the states that have similar measures in place and similar bodies. Queensland and South Australia are the two that have been coming up time and again.

When drafting this legislation and presenting it, what consideration was given to how they implemented these kinds of measures in their states? What lessons have been learned from the way they have done it to make sure this is the best piece of legislation to achieve this goal?

Mr LEEMING: If I may, I will answer the question at a high level, but Mr Knowles has been extensively involved in some conversations with people in the jurisdictions, as has Ms Close. I will throw to them for further detail.

We have drawn extensively, since the beginning of this process, from experience, legislation and expertise in other jurisdictions. Across various people in our department we would have spoken to the people who did the Queensland Coordinator-General model five or six times, including a couple of times in person in Queensland. We had many conversations with South Australians who are almost exactly in parallel with us in terms of delivering their legislation, and a number of conversations with Western Australians who are in caretaker right now, but are considering a similar model. There have been interactions with the other jurisdictions about what they are doing and a lot of research into what their legislation does and how it operates.

The summary of that would be what we are doing is most similar to what South Australia are looking to put in place. It certainly draws on the longstanding experience in Queensland, which I will ask Mr Knowles to talk about. To a lesser extent, we have drawn on the similar in some respects models that are in place in New South Wales and Tasmania. We are aware, as I said, of Western Australians beginning to think about this kind of model. The Victorians are thinking about this kind of model too, although it is less clear to us at the moment exactly what that will look like.

We have also looked at the international experience.

Most jurisdictions across Australia and the world are coping with the same issue, which is that over the years jurisdictions establish a range of legislation, including regulatory instruments, to protect and deal with specific issues. Those pieces of legislation are generally high performing on their own merits in their own space. The issue is that there is a compounding impact of all of those bits of legislation and regulation which, when put on top of each other and applied to a complex and large project, create a collective regulatory environment that is prohibitive and uncompetitive in terms of that jurisdiction attracting investment.

There is not necessarily anything wrong with a particular piece of legislation or a particular regulation; it is the compounding effect on these big, complex projects that might be subject to 10, 15 or 20 pieces of legislation and 20, 30 or 40 regulatory processes under those bits of legislation. It is the compounding effect of all of those together which has led jurisdictions to the same point that we are at, which is we need something to streamline and coordinate across for the bigger projects which face that real compounding of complexity and time associated with layers of legislation and regulation.

I will ask Mr Knowles, who has had more direct conversations with some of the other jurisdictions, to comment.

Mr KNOWLES: To provide the context, I started in the position on 25 November. I had involvement between the original draft Bill that went out for public consultation and the final Bill that has been tabled in parliament.

As a part of that consultation piece of work that we focused on over that November-December-January period, I travelled across to Queensland. I met with the current Coordinator-General over there and I met with a previous Coordinator-General in Queensland to discuss our Bill and to discuss the Queensland experience over many years. Since 1938 they have had a Coordinator-General piece of legislation in place.

Following that I went to Adelaide and met with the Department of the Premier and Cabinet in relation to their draft Bill which they are intending, on their last report, to introduce into parliament in March. The conversations were different in that respect because South Australia was still developing their Bill, so they were more interested in the work that we had done. In Queensland it was really understanding what their lessons learned had been over the years and how the different coordinator generals have gone about exercising those powers and that then fed into some of the amendments that were made in the Bill that was tabled in parliament in February.

Mr DEPUTY CHAIR: I pass to the Member for Gwoja and ask that you do one question at a time.

Mr PAECH: I have three questions, but I will let you respond to each of those at the appropriate time. We have had independent legal advice which has raised concern with clause 18 of the Bill and you may have

heard me talk about that previously. It is about the role of the Territory Coordinator to delegate their functions and power to any person who the Territory Coordinator is satisfied has the appropriate qualifications or experience. Under the Northern Territory *Interpretation Act* that is broad. In your draft Bill there is no provision or clarification that the Territory Coordinator could not delegate that to an entry level staff member. What safeguards are in place?

Mr LEEMING: The first and most important safeguard that is in place is subsection 2 of clause 18 which is that the powers or functions under part 7, which is all of the key powers, cannot be delegated so none of the powers associated with notices—the request notices like prioritisation, progression and decision and the notice powers, including step-in, exemption and condition variation—none of those powers can be delegated. The only powers and functions that can be delegated are the broader powers and functions of the Territory Coordinator which relate more to coordination and getting information from agencies and consulting with agencies and so on. None of the key powers can be delegated.

Mr PAECH: Do they sit with the coordinator?

Mr LEEMING: Yes, that is certainly my reading of section 18 of the Bill.

Mr PAECH: Further to that, you make mention following the consultation you removed the provision around the transportation of nuclear waste—again subject to independent legal advice—raises the concern that the schedule can be updated by regulations, so there is no ruling out that the current government or a future government cannot amend regulations and include the transportation of nuclear waste, correct?

Mr LEEMING: Correct that the schedule can be updated by regulations.

Mr PAECH: The nuclear waste provisions could be amended by regulations not needing to be addressed on the floor of parliament, correct?

Mr LEEMING: Yes, the schedule of Act at the back can be updated by regulations.

Mr PAECH: Further to that question, you talk about the Aboriginal Areas Protection Authority legislation, for a point of clarification, not all sacred sites are only on ALRA, there are many sacred sites in areas of the Northern Territory that are not on Aboriginal lands so there is nothing stopping the government from later amending the regulation to put the Aboriginal Areas Protection Authority's legislation on the schedule through regulation, correct?

Mr LEEMING: To the extent your question is, could another Act be added to the schedule, correct.

Mr PAECH: The sacred sites legislation could be added to the schedule by regulation?

Mr LEEMING: Sorry, could you repeat that?

Mr PAECH: The Aboriginal Areas sacred sites legislation could be added to the schedule by regulation.

Mr LEEMING: Any piece of NT legislation could be added to the schedule.

Mr PAECH: The entire Northern Territory statute could eventually end up being a matter for the Territory Coordinator by regulation.

Mr LEEMING: Correct. Margaret, do you want to add to that?

Ms CLOSE: The *Nuclear Waste Transport, Storage and Disposal (Prohibition) Act* could be added back on but we removed it after feedback from the public and reviewing it again that there was no need. There were no powers that the Territory Coordinator would need to exercise in relation to that Act. Yes, it could be added back on, but the decision has been made that there is no benefit to be gained for having it on there.

Mr PAECH: Thank you, Ms Close, is, based on the consultation, was there not an appetite to put pieces of legislation that were raised through the consultation as areas of concern—the transportation of nuclear waste, the sacred sites legislation, Indigenous protected areas, local government—to be listed as items that could never go on the schedule and never go through just regulation to be on there?

Mr LEEMING: The approach has consistently been that we have a schedule that can be amended by regulation, in part because we do not know what we do not know about interaction of legislation with projects 20 years down the track.

Mr PAECH: I acknowledge that. I was wanting to confirm. We have heard from people from your consultation process that it was an area of concern following those consultations that had happened.

Mr Leeming, you talk about extensive consultation. I vehemently disagree that your process was extensive. I want to confirm that it was done over November, December and January when many Territorians are either on vacation, on leave with families, there is the Wet Season when access to regional and remote communities is restricted. How many of your consultations were done in remote communities and in language?

Mr LEEMING: There were several elements to that question. I will go back to the first one which was: can I confirm when the timeframe was? Yes, the timeframe for consultation was I think we started in October and ran through until 17 January. Yes, the consultation took place a little bit in October, over November/December and most of January.

Physical consultations, in terms of the community information forums that were held, were held in each of the main regional centres of the Territory.

Mr PAECH: No remote communities were consulted through a travelling roadshow?

Mr LEEMING: There were no consultation sessions physically held in remote communities, no.

Mr PAECH: Were any materials, as part of your consultations, done in First Nations language?

Mr LEEMING: No.

Mr PAECH: Do you think that is a problem?

Mr LEEMING: I do not think I am at liberty to comment and make ...

Mr PAECH: I will rephrase that. Did the department, at the time of the consultation process, consider using the Aboriginal Interpreter Service or external Aboriginal media organisations to help communicate the messaging around the Territory Coordinator?

Mr LEEMING: Not to my knowledge, no.

J DAVIS: I have a couple of follow-up questions on that. Thank you for outlining the consultation process. I have a couple of data questions. We have not seen the submissions from the original consultation process. It is very difficult to know what they actually said from the report that was produced. The language that is used in that report is very vague and broad, with words like 'many' and 'few'. Would you be able to share with the committee how many of those submissions were in support of the Bill and how many were against it?

Mr LEEMING: There were a few parts to that question also. We have not published the various submissions we got about the Bill because we do not have the consent of the people who made the submissions to publicly release them. That is why we have not publicly released them.

In terms of the number of submissions that were supportive and so on, there were a lot of submissions where—whilst for many of the submissions it was possible to discern support or opposition to the legislation, for a significant number the nature of the submission was comments and recommendations on the Bill, which could be construed as supportive or not supportive. There was no objective way of doing that.

Mr HOWE: For the Member for Johnston to get the information, could we potentially get on notice a question and then we can get all that information instead of ...

J DAVIS: We do not need to go into detail now. Based on the feedback that we got from this consultation where they are public, 95%—there was a very clear view from the community and stakeholders. I am wondering if that was reflected in the initial consultation that we have not seen. I am happy to take that on notice. If you could provide whatever information is ...

Mr LEEMING: We can endeavour to provide the information. What I would say is the consultation process and the way that we synthesised the consultation that came in, including in the consultation report, was designed to do two things. It was designed to inform Territorians of the Bill and what was in it, and it was designed to elicit recommendations about how the Bill could be strengthened. It was not designed to be a plebiscite on the popularity of the Bill.

J DAVIS: Sure. I am particularly interested in the second part of that. What recommendations were taken on board from who in relation to the two versions of the Bill? I am wondering if that is information that you could share.

Mr LEEMING: That is certainly information we can share, but it is a long list so that will need to be ...

Mr HOWE: Would you like to take that on notice?

J DAVIS: If you could take that on notice, I would appreciate it; thank you.

Mr HOWE: A major concern we have heard over the last two days is environmental concerns. I am very keen to hear how is the department addressing those. How are they ensuring environmental safeguards and protections will still be met?

Mr LEEMING: It might be helpful if you were to be a bit more explicit about the nature of the concerns that people have expressed.

Mr HOWE: There have been large environmental concerns with the Bill. I am keen to hear how the Territory Coordinator, working with the departments, basically is ensuring that we are still meeting environmental safeguards that currently exist.

Mr LEEMING: I will pass to Mr Knowles in a moment to talk about what his approach to it would be. That is a bit of a hypothetical because it depends on whether the Bill is passed and how the appointment is made.

In terms of environmental protection and protections enshrined in any regulatory legislative setting that we have in the Territory, this Bill does not change those legislative and regulatory settings that we have at the moment. What it does is provide a toolkit to the future Territory Coordinator and Minister for Territory Coordinator to coordinate and streamline those legislative and regulatory settings.

Mr HOWE: To reinforce that point, the Territory Coordinator is not changing any current environmental regulations.

Mr LEEMING: No, and nor can the Territory Coordinator in future change any environmental legislation or regulations. The minister may, on the recommendation of the Territory Coordinator, consider exempting certain provisions of certain Acts in certain circumstances with a range of safeguards around it for a particular project to streamline the approvals processes for that project, but at no point in this Bill are we changing the underlying legislation.

Mr HOWE: When that happens, that final approval is by an elected member in the minister?

Mr LEEMING: In the case of exercising the exemption power, which is the only bit of this that changes the application of an existing piece of Territory legislation, it is only a minister that can make that decision, and that decision is subject to disallowance by parliament.

Mr HOWE: Fantastic; thank you.

Stepping out of that, when you were speaking about other states we heard today a concerning figure of some of the low rates we are getting, especially with mineral projects getting through. And I think what is clear—I have my opinion—it seems to be an uncompetitive environment, especially compared to other jurisdictions. Could you please give your thoughts on where we currently sit and with this Bill being introduced, how will we be more competitive especially in the Australian, or even in the world environment, in creating a framework for investment?

Mr KNOWLES: With the other experiences around Australia where similar models are in place, one of the key factors in making final investment decisions on large-scale investments is certainty around approvals and timeframes to get them. That is really where this legislation can provide that certainty to investors, remembering that this toolkit will only be available on the designation of a significant project in the case of a

mine or a Territory development area or a program of works. If you are talking about a mine of a large scale that is providing jobs, business opportunities and revenue return to the Territory and it fits into a significant project designation, the toolkit is open to Tom's earlier description of the multiple layers of complexity through different agencies' legislation to be able to overarch, find where the duplication is in processes, and look for those efficiencies that you can then provide a timeframe—which importantly, for investors—is the shortest path to getting return on that investment they are making.

If we can bring in timeframes through cutting the red tape and reducing duplication and saving six or even 12 months or more on some of these approval processes, then that is really attractive to the investors.

Mr HOWE: A follow-on question—would you say with the passing of this Bill the Northern Territory would have the most competitive regulatory framework in Australia for investment?

Mr KNOWLES: I cannot specifically answer that right here and now. I think this provides an absolute opportunity to demonstrate that we will be the best, but I have not compared in absolute detail each jurisdiction to give you a firm answer on that here today.

J DAVIS: Can I come back to something that you referenced earlier. You said you realised there was no need for the Territory Coordinator to make a project exempt from the *Nuclear Waste Act*. It sounds like there is a very specific idea of where and when the Territory Coordinator will be using their powers. Can you list the projects that you currently have in mind?

Mr LEEMING: The short answer is no, because we just do not know which projects will be designated through this approach and the criteria in the Bill about the designation to provide some criteria and scopes of what those are. In drawing on the feedback and considering which Acts should and should not be on the schedule, we drew on a number of experiences from the past for examples of how project approvals might intersect with the various acts and therefore the Territory Coordinator and the Minister for the Territory Coordinator's powers might intersect with those various Acts, but there is no list of projects in mind to develop that.

Ms CLOSE: My comment is more that, when you look at that Act and you are looking generally at what the regulatory framework is around a significant project or a significant development, under the provisions in that Act there are really no operative ones that normally would apply to significant projects—the general type that we know exists. It is more about that Act itself being for a particular purpose that does not apply to major economic developments.

J DAVIS: Given what you have just said about looking at Acts, can you list which NTG agencies and independent authorities you met with in relation to developing the Bill? I am happy to take that on notice.

Mr LEEMING: Yes, it is a long list. I can provide that on notice.,

J DAVIS: Did you, for example, in the consultation period—particularly in the latter part of it—meet with the Aboriginal Areas Protection Authority?

Mr LEEMING: I have met with the Aboriginal Areas Protection Authority on this at least twice.

J DAVIS: Did you meet with the Heritage Council prior to its inclusion in the new version of the Act?

Mr LEEMING: I would have to check. Some of the consultation on this we did not do from the department. We worked closely in collaboration with the other agencies—including the one the committee spoke to earlier—and asked them to engage with their key stakeholders and regulatory bodies because they are the ones that have the relationship and deep knowledge to have those conversations. I will have to check.

J DAVIS: We heard—correct me if I am wrong—from the Heritage Council that it had not had the opportunity to meet with you between the first and second draft of the Bill. They might have given ...

Mr LEEMING: I can get it.

J DAVIS: I have one other question going to what you are describing and what the Member for Drysdale was asking about regarding economic development. Can you give us a concrete example of a delay that you think this will remedy with us throughout the inquiry? We are yet to hear one concrete example, which makes it difficult to see the tangible need for this Bill—not a hypothetical?

Mr LEEMING: I will ask Stuart to reply. Again, there are the same challenges around commercial-in-confidence and naming specific proponents for us as it was for Mr Trier earlier. Stuart.

Mr KNOWLES: I will not name a specific project, but I will give you an example. For example, a large-scale solar farm on a pastoral property and the number of approvals required for that in primary and secondary approvals. There is a raft of them including the non-pastoral permits, the water extraction licence, the environmental approvals, other infrastructure approvals—and the list goes on.

All those different pieces of legislation, in various parts of it, have requirements for public consultation. This is just an example for you. If you look at a Gantt chart of those approvals, the public consultation will happen at different points in time and over different durations in time, to the point that if you are able to coordinate the public consultation so that you are addressing multiple layers of legislation in one public consultation, you are saving people's time by not continually engaging on different matters. But you can save significant amounts of time in the secondary approvals being issued just by pulling back the public consultation and coordinating it. That is one example of where this could be effective in that regard.

J DAVIS: I appreciate commercial-in-confidence. I also feel we have the weight of trying to evaluate and report back to parliament about this law. We had significant evidence before us that people are feeling concerned about the rights that they be giving up in relation to this law.

Going back to them and saying, 'Sorry, the reason for it is commercial-in-confidence' is not good enough. I am happy to take something on notice in a way that you could present it to us so we can report back to Territorians who we are trying to represent.

Mr KNOWLES: In terms of people's rights, Tom has spoken about the application of this Bill. At all times, compliance with the existing law is required during application of the Bill, even the power to step in. The Territory Coordinator can step in to an agency. It cannot operate outside of the law in doing that; it still must comply with that agency's law.

To answer the Member for Gwoja's earlier question about the individual who is the Territory Coordinator not having necessarily the skills or experience, in the step-in situation, the department that the Coordinator steps into, the resources and the information in that department are available then to the Territory Coordinator. It is not making decisions in isolation of all of the information available in doing that. We are not stepping outside of the existing legislative framework in the Northern Territory in the execution of this Bill.

J DAVIS: In that role you would receive advice, but you are not compelled to follow it; is that right; you would still have the authority to make whatever decisions you wanted to in the role?

Mr LEEMING: The role can make decisions consistent with the combination of the underlying Act and this Act, including the primary principle, so the position cannot make any decision they like. They have to make decisions bound by legislation that is in place and informed by the assistance and recommendations and analysis provided by the responsible minister.

J DAVIS: To my initial point, I would still appreciate come concrete examples. I am happy to take that on notice and we could keep that confidential. I would like to see some real examples of current unnecessary delay that this Bill will address.

Mr LEEMING: One point on that, we will endeavour to find a way of providing something confidential that provides more concrete examples. I would say that it is not just about delay; it is about coordination, to the point that Stuart Knowles was making around it and I was making around sometimes 15 to 25 more regulatory processes on top of each other and the compounding impact of them. Time is certainly a factor because if you lay those 15 to 25 approvals factors end-to-end, then that is a really long time.

There is a role for that coordination in bringing that back, doing some parallel processing, collaborating across regulatory agencies so that those timeframes are not end-to-end, so the total process is shorter. There is also value in the reduced cost both for the NT Government, for the proponent and for external stakeholders who have an interest in that. There is a substantial cost and risk associated with that compounding in many processes that a coordinator can help simplify and bring more certainty and streamlining to which has a benefit too.

It is not just about time.

J DAVIS: I would be happy to see an example that addressed that as well.

Mr HOWE: On that point, for the record the Minerals Council did provide an example of a salt mine today that did have to move to, I believe it was, WA but I still welcome ...

J DAVIS: I want to note that everyone who has appeared before us has said that they support the idea of development and economic growth, and that is very important for them, the community and for the stakeholders, and that they want to look—and as people on this committee have said—for the long-term future. I understand the primary principle of economic growth. You may not be able to answer this, but what is your working definition of economic growth, and how are you measuring that?

Mr LEEMING: Economic growth or economic development?

J DAVIS: The primary principle.

Mr LEEMING: The primary principle has the two considerations; it has economic development, and it has social and environmental outcomes. Are you talking about how we define economic development?

J DAVIS: I am.

Mr LEEMING: The definition of economic development technically means what it generally means, but in terms of specifying that in the application of primary principle—is that something that has come up?

Ms CLOSE: Economic development is not defined in the Bill. It would be determined in the context of the Bill and its ordinary meaning. What I imagine will be done—but this is a matter for the Territory Coordinator—is guidance might be provided around a range of things including about factors that would be considered when determining what economic development is.

Stuart, did you have anything you wanted to comment on about how that might be determined?

Mr KNOWLES: I mentioned earlier the creation of jobs, which could be population increase, the creation of business opportunities as a result of investments flowing through. To Margaret's point, it is not specifically defined, but the general meaning of economic development in terms of what is the return to the Territory, are we seeing a revenue return, are we seeing population growth, are we seeing job creation, are we seeing infrastructure being built; that is a return to the Territory.

J DAVIS: With all due respect, it is concerning to me that the primary principle of this Bill is undefined. You have given some examples, thank you, but saying, 'It is the general understanding' does not feel good enough to me in terms of a Bill that has very far-reaching powers.

Mr PAECH: You talk about the primary focus of this Bill being coordination, but has that not been the role or the function of major project status and Territory development? I want that confirmed.

Mr Knowles, given we are looking at this piece of legislation, what is the reporting and accountability mechanism every time you use powers under this Act? Who do you have to report to around those activities, and how often will that be published or presented to parliament?

Mr LEEMING: Just to remind ourselves, Stuart Knowles is the Interim Territory Coordinator and is not ...

Mr PAECH: I am asking him as the interim coordinator. Surely, he has understood what is in the legislation.

Mr LEEMING: Yes, but he has not been appointed Territory Coordinator.

Mr PAECH: I will direct the question to you, as the deputy chief executive.

Mr LEEMING: The first part of your question I think was about how is this different to the major projects environment.

Mr PAECH: Yes.

Mr LEEMING: The big difference is that this provides an enabling legislative framework. The major projects framework never had any enabling legislation to give it teeth or the toolkit that we are talking about. This Bill provides an enabling legislative framework that provides that function with a toolkit to make some decisions and some directions and some requests to give effect to that coordination.

To date—it is still the case until this Bill does or does not pass—the various teams over the years that have done major projects have relied on collaboration and the goodwill of agencies to engage and so on, rather than any legislative powers or toolkits, so that is the big difference.

The second part of your question was about ...

Mr PAECH: I am interested in the reporting. Every time, whether it is the interim or the actual, Territory Coordinator uses powers under this Act who do they report to, when do they report after they have used their powers and will that be presented to parliament?

Mr LEEMING: I point you to clauses 89 and 90 of the Bill that talk about those key powers, the three request powers and the three notice powers. Clauses 89 and 90 are exactly about that, the Territory Coordinator giving the minister a report about that request and a statement of reasons for exercising that power. Certainly, the Territory Coordinator will need to provide the minister with that. There is clause 96 that says that all of those things have to be kept on a register which has been made available to the public.

Mr PAECH: Are you aware of any other exceptional circumstance that may be exercised?

Mr LEEMING: Exceptional circumstance for ...

Mr PAECH: Are you aware of any other circumstance in which the controller may use power and not have to follow those as prescribed in the legislation?

Mr LEEMING: For the key powers, which is the six key powers I have articulated, sections 89, 90 and 96 are pretty clear about that with no exceptions. I note that clause ...

Ms CLOSE: Clause 91 also ...

Mr LEEMING: Clause 91 is about tabling, good point.

Ms CLOSE: The Territory Coordinator has to give reports to the minister after exercising the requests and the notices. Then the minister must, under clause 91, table a copy of those reports in the Legislative Assembly.

Mr PAECH: Is that at the next available sittings?

Ms CLOSE: Within six sitting days after receiving it.

J DAVIS: Which could be a month at least.

I have a more detailed follow-up question in relation to clause 96 and the register of information. Have you thought about how that will be made public?

I am also curious about whether the materials will be provided in First Nations languages for areas where decisions have been made that impact on people whose first language is not English.

Mr KNOWLES: In terms of publicly available information, we are looking at a dedicated website where that will be available.

J DAVIS: In relation to language accessibility for people? In particular where decisions are being made in areas where people's first language is not English but Aboriginal languages. Will there be translation available?

Mr KNOWLES: That is something, to be honest with you, I do not have the details on today. It is something we can look at. In the exercising of the powers, there is a requirement for consultation with interested parties. I would think that in circumstances where that is required for people in those areas being impacted, if it needs to have language translation that would be party of that.

J DAVIS: Not so far, but hopefully in the future. I have more questions but someone else can have a go.

The Chief Minister is on the record multiple times stating that the government is committed to the 135 recommendations from the Pepper inquiry. Can I confirm that is still the case?

Mr LEEMING: That is a policy question for government, not for department officials, I am afraid.

J DAVIS: Okay. You cannot answer that?

Mr PAECH: You are still adhering currently—unless otherwise directed—to the 135 recommendations? Yes?

Mr LEEMING: Sorry?

Mr PAECH: You have not been directed otherwise to not adhere to the 135 recommendations?

Mr LEEMING: No, I have not.

J DAVIS: I could keep going. Do we still have time?

Mr DEPUTY CHAIR: Yes, three more minutes.

J DAVIS: You talked about consultation. We heard from several witnesses about proposals for time frames for consultation. Articulating that more clearly, a few people have talked about making the minimum 60-day consultation time frame as they are doing in South Australia. I wonder what your thoughts are on an appropriate time frame for consultation, noting that you said that is one of the issues that you believe has delayed projects or made them more complex than they might need to be.

Mr LEEMING: The answer depends a bit on consultation on what? Consultation time frames are sometimes mandated in other pieces of legislation and sometimes not. As with everything, those underlying Acts remain valid and apply. Consultation requirements explicit to this Bill—are you talking about where consultation requirements for the powers in this Bill?

J DAVIS: Can I ask a clarification question? For example, from the previous witness, if there is a consultation requirement of 90 days, in this legislation the Territory Coordinator could not override that? That would still be in place? Is that correct?

Mr LEEMING: Unless there was an exemption notice issued for that that consultation. Margaret will answer.

Ms CLOSE: The only way you could get rid of that would be through an exemption. There are only the two grounds under which you can issue an exemption. One is that it substantially duplicates something else.

Yes, potentially, for example, if there was a requirement to consult under three different pieces of legislation and one of them was for 20 days and the other was for 90 and you are trying to do it altogether, you might exempt the 20 days on the balance that you have a 90-day consultation happening over there.

Otherwise, the second ground is that it is not required to achieve the efficiency of regulation. That is the only way you could do it—under those two grounds.

J DAVIS: How would they be determined—whether it was required or not? Sorry; is that question clear?

Ms CLOSE: Perhaps you could explain it a bit better?

J DAVIS: When you say, ‘determined that it is not required’, who is determining that?

Ms CLOSE: It would be the minister. Exemption notices are only issued by the minister, and it would be on advice or potentially on the minister’s own consideration to issue that. Those grounds, if it was the determination that it was not required for a particular reason, would need to be set out in a statement of reasons that would be given and tabled in parliament.

J DAVIS: We have noted that there could be a significant delay between when an exemption notice is issued, for example, and parliament gets to see it. Do you have any concerns about that?

Mr LEEMING: Do we have concerns? No.

J DAVIS: Okay, thank you.

Mr DEPUTY CHAIR: On behalf of the committee, thank you for appearing today. I acknowledge all those we have heard from across the last two days of this public hearing, all who have made submissions, my fellow

committee members, the public gallery and those viewing online and in person. I thank you and the parliamentary staff who have been tremendous in helping ensure this public hearing ran smoothly. I now close the public hearing on the Territory Coordinator Bill 2025.

The committee concluded.
