

Guide to the Territory Coordinator Bill

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Consultation

The Northern Territory Government is seeking feedback on the draft Territory Coordinator Bill.

This document is a guide to key clauses of the draft Bill, to assist readers to review the Bill and provide feedback.

You may notice that there are differences between what is contained in the draft Bill and some of the concepts described in the Territory Coordinator Consultation Paper that was circulated in October 2024. This is because we have refined aspects of the proposed model for the Territory Coordinator in light of feedback received in response to the Consultation Paper, and through the process of translating the proposed model into legislation.

We expect that there will be further amendments to Bill in light of the feedback that we receive through this public consultation process, and through further refinement of the model, including to identify amendments that may be required to other Acts (consequential amendments).

Feedback on the Bill can be emailed to OTC.Consultation@nt.gov.au by 17 January 2025.

Introduction

Establishing the Office of the Territory Coordinator is one of Government's key commitments to deliver on its priority to Rebuild the Economy.

While the Territory offers diverse opportunities for development and investment, particularly in relation to land availability and proximity to markets in Asia, the relatively low number of projects that are realised highlights the need to identify and mitigate barriers in order to unlock and accelerate critical investment and economic development.

The contemporary investment and development context is characterised by increasingly complex, multi-purpose and multi-proponent projects, with significant intersecting regulatory and procedural requirements. This reality requires a new approach to consolidate and coordinate processes, in order to be competitive, mitigate delays and associated costs.

Under current frameworks, individualised regulatory processes offer limited capacity for strategic and proactive planning and direction setting across government. This can lead to inefficiencies and lack of consistency in dealing with the processes required to progress projects that offer significant economic benefit.

While in practice the Territory has implemented a 'front door' to government approach for some time through Investment Territory, this has had limited success in cutting through the complexities of regulation and multi-agency processes without the support of an enabling legislative framework.

In addition, there is limited opportunity within the existing system to focus efforts around processes associated with activity in those geographic areas better-suited to development, taking into account economic, environmental and social impacts and benefits. This means that resources continue to be directed toward processes for high-risk areas that are less appropriate for certain types of industry development.

The Territory must offer a more competitive, streamlined regulatory and operational environment, in order to seize valuable investment opportunities and avoid being at a competitive disadvantage to other jurisdictions.

Key features of the Bill

The Territory Coordinator model contained in the Bill has been developed to reflect the opportunities, challenges and risks associated with the unique economic development context in the NT. It builds on similar frameworks that exist or are being considered in Queensland and South Australia, but adapted for the unique Territory context where appropriate.

The model proposes three project streams, relating to private and NTG-led projects:

1. Programs of work
2. Significant projects
3. Territory development areas.

The Territory Coordinator will have a number of general functions and powers to support the strategic facilitation of efficient, streamlined and effective assessment and approvals processes. It will also have specific powers that only come into effect after declaring a significant project, program of work, or Territory development area. This includes powers to:

- Request a public entity to prioritise a specific statutory process (prioritisation request)
- Request a public entity to start or complete a specific statutory process within a specified period, or to pause or continue to undertake a statutory process for a specified period (progression request)
- Request a public entity to make a statutory decision within a specified period (decision request)
- Issue a step-in notice to a public entity, advising that the Territory Coordinator will step-in to undertake a statutory process or make a statutory decision in the place of that entity.

The Minister for Territory Coordinator will have the power to:

- Issue a step-in notice in relation to a statutory process or statutory decision where a Minister is the decision maker, advising that the Minister for Territory Coordinator will step-in to undertake a statutory process or make a statutory decision in the place of the Minister
- Issue an exemption notice to a public entity, on the recommendation of the Territory Coordinator, which excludes or modifies the application of a relevant law in specified circumstances.

These powers are described further below, as are the checks and balances around their use.

This model is designed to maximise opportunities to streamline and coordinate processes, not cut corners. The Territory Coordinator's powers are intended to efficiently coordinate enabling frameworks to support development. The Territory Coordinator will ensure compliance remains a priority and will work closely with regulatory agencies so that projects meet necessary requirements without unnecessary delays.

The outcome is to have a strategic framework for transparent and accountable decision making that delivers investment certainty under an overarching principle that we deliver economic growth for the betterment of Territorians.

Guidance on relevant parts

Part 1 – Preliminary matters

This part includes the short title, provides details of the commencement, and contains definitions of key terms that are used throughout the Bill. Where appropriate, it draws on concepts used in related legislation. For example, the definition of ‘environment’ in clause 3 is drawn from the *Environment Protection Act 2019*.

Some of the key terms defined in this Part are set out below:

- **Economic significance** – a project or development is of economic significance if it facilitates private sector investment, job creation, population growth or development or advancement of an industry.
- **Interested party** – a person or group that has a specific interest in an area governed under this Bill (e.g. native title holders, pastoralists or land owners within a Territory development area). The Bill includes requirements to notify and consult with interested parties for different matters, for example developing a Territory development area plan.
- **Public body** – this describes a public body, which is relevant for the development and implementation of Infrastructure Coordination Plans. For example, a public body must be consulted on the plan, and must comply with the plan once approved.
- **Public entity** – this describes those individuals or organisations that are a public entity, which is relevant as the Territory Coordinator has powers to direct a public entity to undertake or coordinate activities.
- **Relevant law** – this is a law that is included in the Schedule of this Bill. The Territory Coordinator can only use powers to intervene in decisions and processes that are included in a relevant law.
- **Responsible entity** – this is the entity responsible for making a decision or undertaking a process under the relevant law. The Territory Coordinator has powers to request a responsible entity to prioritise, progress or make a decision and can step-in to make a decision in the place of the responsible entity.
- **Scheduled law** – this means Acts included in the Schedule of this Bill, and any regulations these Acts prescribe. The Territory Coordinator can only use powers to intervene in decisions and processes under a Scheduled law.
- **Statutory decision** – a decision provided in a Scheduled law that can be subject to the powers in this Bill.
- **Statutory process** – a process provided in a Scheduled law that can be subject to the powers in this Bill.

Primary principle

The concept of a ‘**primary principle**’ is introduced in **clause 8**. This is the overarching principle that will guide the Territory Coordinator or the Minister when using the key powers contained in the Bill or performing a function or exercising a power under a relevant law.

‘Key powers’ are outlined in **clause 8(3)** but, broadly, they incorporate all key decisions or actions contained in the Bill, such a designating a significant project or Territory development area, making a

request to an entity to prioritise or progress an identified statutory process, or issuing an exemption or step-in notice.

To demonstrate the application of the primary principle, when ‘stepping into’ a relevant law, the Territory Coordinator or the Minister must consider any principles, requirements, or criteria contained in that law. However, the primary principle enables the Territory Coordinator or Minister a slightly broader basis for their decision-making because they can have regard to:

- (a) the primary objective of driving economic prosperity for the Territory or a region of the Territory;
and
- (b) the potential social and environmental outcomes for the Territory or a region of the Territory.

This means that while decisions are still made according to the criteria established under law, the Territory Coordinator or the Minister can take into account other benefits or impacts, including for local stakeholders, regional communities and the Territory as a whole.

Part 2 – Office of Territory Coordinator

Clause 11 establishes the Office of the Territory Coordinator. The Office of the Territory Coordinator consists of the Territory Coordinator and their staff. In practice, the Office of the Territory Coordinator will be housed administratively within the Department of the Chief Minister and Cabinet.

Clause 12 provides the Territory Coordinator’s functions. The functions are the key activities required for the effective and strategic coordination of major projects and development to support significant economic development in the Territory.

Powers

Clause 13 provides that the Territory Coordinator has the powers that are necessary to perform their functions, but also provides the Territory Coordinator with overarching powers to:

- Request information, documents or assistance from public entities (which includes NT Government departments, local government councils and statutory bodies);
- Direct public entities to work together or share information with another public entity or a proponent;
- Undertake public consultation.

These powers are designed to ensure that the Territory Coordinator has access to the information and advice required to make informed decisions and to properly exercise their functions and powers.

These are in addition to the specific powers granted to the Territory Coordinator in relation to significant projects, programs of work, and Territory development areas. These powers are contained in **Part 5**.

Limitation on exercise of powers

Clause 14 provides that the Territory Coordinator may not use their powers in a way that interferes with:

- an agreement between the Territory and Commonwealth governments;
- the protection of sacred sites under the *Northern Territory Aboriginal Sacred Sites Act 1989*, and heritage places or heritage objects under the *Heritage Act 2011*;

- the rights of Aboriginal people under a pastoral lease, as mentioned in section 38(1)(n) of the *Pastoral Land Act 1992*.
- The operation of the *Aboriginal Land Act 1978*, or the recognition and protection of native title rights and interests under Territory law.

These limitations are included to uphold legislation that seeks to protect Aboriginal rights, interests and cultural values and places of historical importance for the Northern Territory; and, to uphold intergovernmental agreements with the Commonwealth Government.

While the limitation currently applies to the *Heritage Act 2011*, we would welcome your feedback on whether this should remain in the final Bill.

Clause 15 requires the Territory Coordinator to perform their functions and exercise their powers impartially and independently. The Territory Coordinator is not subject to direction by any person about how they perform the functions and exercise powers, except by the Minister in limited circumstances and in accordance with this Bill.

Clause 16 establishes that public entities have a duty to cooperate with the Territory Coordinator. This is the corollary of the Territory Coordinator's power to request information and assistance. An exception to this duty is where giving information or documents would be offence under another law. This provision signals the importance of public entities working with the Territory Coordinator to expedite economic development.

Part 3 – Significant projects and programs of works

This Part provides for the designation by the Minister of significant projects and programs of works, which triggers the potential application of the specific powers under **Part 5**.

Significant projects are generally led by private sector proponents, while programs of work may be led by either a public entity or a private sector proponent.

Division 1 – Significant projects

Clause 17 allows the Minister to designate a 'significant project' where they reasonably believe the project is of economic significance or of major importance when considered in conjunction with one or more other projects being undertaken or proposed to be undertaken or is complex in nature and of regional significance in terms of scale and impact.

Other criteria for designating significant projects can be included in regulations. A significant project may be a single but complex project in the renewable energy or agriculture sector, for example, with the potential for significant Territory benefit, with associated significant complexity in terms of diverse regulatory processes.

Clause 20 allows the Territory Coordinator to prepare a proposed infrastructure coordination plan in relation to a significant project.

The infrastructure coordination plan must define the infrastructure outcomes, identify the responsible public bodies or entities to implement the plan, and identify the governance and finance frameworks for delivering the plan.

When preparing the plan, the Territory Coordinator must consult with the Department of Treasury and Finance, as the agency responsible for administering the *Financial Management Act 1995*, and the public bodies and entities identified in the plan.

Clause 21 grants the Minister the power to approve, refuse to approve, or request amendments to the infrastructure coordination plan.

If the Minister approves the infrastructure coordination plan, the public bodies and entities identified in the plan must comply with the plan (**Clause 22**).

Division 2 – Programs of works

The Division enables the develop and implementation of a plan for a program of works, which is defined as the coordination of any work, project, service, utility, undertaking or function to be undertaken by a public entity or project proponent over a set period of time but not necessarily limited to a specific geographic area.

These programs are likely to involve delivery of significant infrastructure by private proponents or government, requiring strategic whole-of-government coordination. An example may be a government-led remote water infrastructure program, involving multiple works across different locations and requiring a degree of cross-government coordination, but not necessarily in one geographic area.

Part 4 – Territory development areas and TDA plans

This part enables the effective investigation, declaration and management of Territory development areas to support cohesive, coordinated development of areas in the Territory that are identified as being valuable to support economic development.

An example of where a Territory development area and associated TDAP may be appropriate is in relation to a defined geographic area where multiple onshore gas developments operated by multiple companies are expected to result in increased energy security outcomes and benefits for Territorians. Such a scenario may involve diverse competing interests and development timelines, yet a mutual goal of realising gas production. Critical interdependencies include common user infrastructure, roads, aerodromes, logistics hubs, industrial storage, and future planning for community services.

Division 1 – Territory development areas

Clause 28 provides that the Minister may designate an area of land or water to be a Territory development area. The Minister can only make this designation if they consider that the area has potential for:

- development of economic significance to the Territory, or a region of the Territory; or
- infrastructure that would enable or be enabled by development of economic significance to the Territory.

Clause 29 provides that, once the Minister designates a Territory development area, the Territory Coordinator has powers to direct a public entity to undertake or coordinate activities required to develop a proposed Territory development area plan (TDA plan).

A Territory development area can include Aboriginal land and waters. This is important to make sure the Territory Coordinator has the ability to support economic development on Aboriginal land. The Territory Coordinator will work collaboratively with Traditional Owners and Land Councils to support and unlock the economic aspirations of Aboriginal Territorians.

If the Minister designates a Territory development area that includes Aboriginal land or water, the Territory Coordinator will be required to follow the processes set out in the *Aboriginal Land Act 1978* when carrying out Territory development area activities.

Powers to enter land

Under clause 30, the Territory Coordinator has powers to authorise a person to enter land within a Territory development area to carry out work that is required to develop a proposed TDA plan.

The powers in this Bill are similar to provisions in the *Mineral Titles Act 2010* and the *Petroleum Act 1984*.

A person who is authorised by the Territory Coordinator to enter land does not require the consent of the land owner or occupier, but must give them written notice. The notice must:

- be given 7 days before the proposed entry
- specify what land is proposed to be entered
- specify the name and address of the person/s who will enter the land
- specify the work that the person has been authorised to carry out on the land.

A person who is authorised to enter land must not enter any premises without the consent of the landowner or occupier.

If the Territory Coordinator authorises a person to enter land, **clause 31** allows that person to do the following things:

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

Clause 32 provides that the Territory Government must pay compensation to the land owner or occupier for any damage caused.

Applications in relation to Territory development areas

Under clause 33, anyone who submits an application for a statutory decision or process in relation to land within a Territory development area must give a copy of the application to the Territory Coordinator. This provides the Territory Coordinator with the ability to comment on the application, and the relevant decision-maker must take the Territory Coordinator's views into account.

This provision ensures the Territory Coordinator is aware of proposed activities that could impact on planning for a Territory development area. In many cases, the applicant's proposed activities will be able to continue as the provision is not intended to stop development within a Territory development area. In situations where there is the potential for conflicting uses, this clause will allow the Territory Coordinator to work with the applicant to coordinate activities.

Division 2 – Making of a TDA plan

A Territory development area plan (TDA plan) may identify:

- the activities, land uses, development outcomes and environmental and social values and outcomes for the plan area;
- the infrastructure and services required for the activities, land uses and development proposed for the plan area;
- land that may be acquired.

Clause 35 requires the Territory Coordinator to prepare a proposed TDA plan for each Territory development area. The Territory Coordinator must consult on the proposed TDA plan, and publish the plan on the Office of the Territory Coordinator or Agency website for this purpose (**clause 36**).

After public consultation is complete, the Territory Coordinator must submit the proposed TDA plan, a summary of submissions, and a recommendation to the Minister. If the Minister approves the proposed TDA plan, the plan becomes the TDA plan for the plan area and must be published on the OTC or Agency website.

Division 3 – Variation and revocation of Territory development area

The Minister may vary the boundaries of a Territory development area. The inclusion of additional land and water can only occur if the Minister determines that the same criteria for designating the Territory development area are met (**clause 40**).

The Minister for Territory Coordinator may revoke the designation of a Territory development area. If the Minister revokes a Territory development area designation where a TDA plan is in effect, the TDA plan is automatically revoked (**clause 41**).

Division 4 – Variation and revocation of TDA plans

The Territory Coordinator may propose a variation of a TDA plan (**clause 42**). The Territory Coordinator must undertake public consultation on the proposed variation, unless they consider that the variation will not create a material change to the TDA plan or result in any new impacts to the plan area.

The Territory Coordinator must give the Minister a copy of the proposed variation, a summary of public consultation submissions (if applicable), and a recommendation in relation to the proposed variation. If the variation is approved, it takes effect on the date specified in the notice.

Division 5 – Notices

This Division provides that the Minister must give written notice in relation to designating, varying or revoking a Territory development area or a TDA Plan.

Part 5 – Requests and notices relating to projects, activities and Territory development areas

Part 5 sets out the specific powers that the Territory Coordinator and the Minister can exercise in relation to significant projects, programs of work, and Territory development areas.

Before exercising any of the powers in this Part, the Territory Coordinator (or Minister for Territory Coordinator if applicable) must consult with the responsible entity. For example, if the Territory Coordinator proposes to issue a request for the Water Controller to prioritise consideration of an identified application for a water licence, they would first need to consult with the Water Controller. This process allows the Water Controller to identify any key information or issues the Territory Coordinator

needs to be aware of. The requirement to consult with the original decision maker is important for ensuring balanced and informed decision making and collaboration.

Division 1 – General matters

Requests and notices under this Part can only be given in relation to significant projects, the implementation of an approved program of works (a works program), or activities relating to a Territory development area or Territory development area plan (TDA activities).

Division 2 – Requests

This division allows the Territory Coordinator to give prioritisation, progression and decision requests to responsible entities. These requests are intended to coordinate statutory processes and decisions to facilitate efficient approval processes and economic development.

If the Territory Coordinator is the applicant for a statutory decision or statutory process, only the Minister can give a prioritisation, progression or decision request (**clause 55**).

Prioritisation requests

Clauses 51 and 52 allow the Territory Coordinator to give a prioritisation request to an entity that is responsible for a statutory process, in relation to significant projects, works projects or TDA activities and Territory development.

A prioritisation request will be used to request the entity to prioritise a specified statutory process and may be issued after the consulting with the relevant entity.

Once a responsible entity receives a prioritisation request, it must prioritise undertaking the statutory process for the specified significant project, works project, TDA activities or Territory development area, over all other projects or activities that are not the subject of a prioritisation request.

Example 1

The Territory Coordinator could request the NT Environment Protection Authority (NT EPA) to prioritise the assessment of an Environmental Impact Statement for a significant project. Prioritising the assessment process would ensure resources are allocated to the assessment of the significant project to reduce processing time and resolve the approval as soon as possible, while ensuring the assessment is conducted to the standard required by legislation.

Progression requests

Clauses 51 and 53 allow the Territory Coordinator to give a progression request to an entity that is responsible for a statutory process in relation to significant projects, works projects, or TDA activities.

A progression request will be used to request an entity to start or complete a specific statutory process within a specified period, or to pause or continue to undertake a statutory process for a specified period. The Territory Coordinator might choose to issue a progression request where an entity is waiting for the outcome of one process, but could reasonably start work on a second process in the meantime.

Once a progression request is received, the responsible entity must perform the action within the time period specified, and notify the Territory Coordinator after this action occurs.

Example 2

The Territory Coordinator may issue a progression request to the Department of Lands, Planning and Environment (DLPE), following consultation with the Department, to commence work to process a Planning Application for a significant project, even though a decision cannot be made until an environmental approval is granted.

In this example, there is no barrier preventing the two regulatory processes from occurring at the same time, but the progression request will assist the department to manage competing demands. Requesting that the two processes proceed at the same time will ensure that, once the environmental approval is granted, the Planning Application (which will be near completion) can be decided soon after.

Decision requests

Clause 51 and 54 allow the Territory Coordinator to give a decision request to an entity that is responsible for a statutory decision in relation to significant projects, works projects, or TDA activities.

By giving a decision request, the Territory Coordinator requests the responsible entity to make the specified statutory decision within the specified timeframe. This must be at least 20 days after the request is given, or the time period that the decision maker would normally have to make the decision (if less than 20 days).

Once a decision request is received, the responsible entity must make the statutory decision within the time period specified, and notify the Territory Coordinator.

Example 3

After consultation with the Department of Infrastructure and Logistics (DLI), the Territory Coordinator may issue a decision request to DLI to make a decision on a proponent's traffic management plan within three months, to allow the proponent to commence on-site operations. This gives the Department ample notice and a timeframe to resolve all the issues involved and make a decision, and provides greater certainty for the proponent.

Division 3 – Notices

Step-in notices

Step-in notices are intended to ensure statutory processes and decisions are made in a timely way, in situations where delays in decision making have occurred or a decision request has not resolved the issue. It is not intended that this power would be used to assume decision-making responsibility for compliance and enforcement activities.

Clauses 51 and 56 establish the Territory Coordinator may give a step-in notice to the responsible entity and the applicant for a statutory decision or statutory process in relation to a significant project, works project or TDA activities. Before issuing a step-in notice, the Territory Coordinator must consult with the responsible entity.

The step-in notice advises the responsible entity and the applicant that the Territory Coordinator will step-in to make the statutory decision or undertake the statutory process, in the place of the responsible entity.

Once the Territory Coordinator steps-in, they are the 'responsible entity' until they have finished making the decision or undertaking the process (**clause 59**). The entity that was the responsible entity before the

step-in notice must assist the Territory Coordinator, including by providing all material about the decision or process to the Territory Coordinator (**clause 60**).

When making a decision under a step-in notice, the Territory Coordinator must have regard for the primary principle and any principles, requirements or criteria for making the statutory decision they have 'stepped-into' (**clause 61**).

If the Territory Coordinator is the applicant for a statutory decision or process, only the Minister for Territory Coordinator can issue a step-in notice (**clause 57**). The Territory Coordinator cannot step-in to make a statutory decision or undertake a statutory process for which they are the applicant.

Example 4

Using the decision request example above, if the three-month period has expired without a decision being made and the Territory Coordinator has consulted with DLI, the Territory Coordinator can issue a step-in notice.

The Territory Coordinator will step into the shoes of the original decision maker to make a decision on the traffic management plan. The Territory Coordinator can use all the resources and information that the original decision maker had to ensure they are well informed.

The Territory Coordinator must make their decision using the same statutory criteria as the original decision maker, must also consider the primary objective of driving economic prosperity for the Territory or a region of the Territory and the potential social and environmental outcomes for the Territory or a region of the Territory.

Example 5

If the relevant decision maker is a Minister, or if the Territory Coordinator is the proponent, the Minister for Territory Coordinator may issue the step-in notice and make the decision. This requirement applies even if a Minister has delegated their decision making authority to department officials.

For example, the Minister for Territory Coordinator may issue a step-in notice in relation to a decision to grant a permit under the *Energy Pipelines Act 1981* to a person to enter land for the purpose of determining a pipeline route, proposed apparatus or works, and land to be used to gain access to the proposed pipeline. The Minister must have regard to the criteria in the *Energy Pipelines Act* (below), as well as the primary principles in the Territory Coordinator Bill.

Energy Pipelines Act 1981 – Clause 8(2)

In considering an application for a permit, the Minister must have regard to:

- (a) *whether carrying out survey works on the land specified in the application would interfere or be likely to interfere unnecessarily with:*
 - i. improvements on the land;*
 - ii. flora, fauna, fish, fisheries and scenic attractions on or in the vicinity of the land; or*
 - iii. features of architectural, archaeological, historical or geological interest on or in the vicinity of the land; and*
- (b) *the effect that the grant of the permit would have or be likely to have on registered native title rights and interests, or if there are no registered native title rights or interests in relation to any of the affected land or waters, any comments lodged by representative Aboriginal/Torres Strait Islander bodies in accordance with the statement referred to in clause 6(2)(b).*

Exemption notices

An exemption notice can exclude the application of a law, or part of a law, to a significant project, Territory development area or program of works.

In the first instance, all significant projects, programs of work and Territory Development Areas must adhere to Territory law.

Exemption notices are intended to be used infrequently, in extenuating circumstances where:

- there is duplication between different statutory processes under Northern Territory law, or
- an existing legislative requirement does not have any reasonable application for regulating a complex or novel significant project.

In particular, exemption notices are not intended to be used for:

- Compliance and enforcement activities.
- Bypassing regulatory processes that have a clear application to a project's activities.

Under **clause 67**, only the Minister for Territory Coordinator can issue an exemption notice. The Territory Coordinator may recommend that the Minister issues an exemption notice (**clause 66**).

The Minister can only issue an exemption notice if:

- they have consulted with the responsible entity;
- a step-in notice has already been given for the statutory process or decision related to the exemption notice;
- one of the following grounds exist:
 - it is necessary to modify or exclude the relevant law because the statutory process substantially duplicates another statutory process that has already been completed in relation to the project or activity;
 - it is necessary in order to make the statutory decision or undertake the statutory process specified in the notice, having regard to the primary principle.

An exemption notice cannot be issued in relation to a statutory process or statutory decision that involves a requirement under the *Environment Protection Act 2019* that relates to an assessment under a bilateral agreement with the Commonwealth (**clause 64**). This is because under the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), the Commonwealth and Northern Territory Governments have a bilateral agreement which enables the Commonwealth to accredit NT environmental assessment and approval processes. This means that the Northern Territory can assess proposed actions on the Commonwealth's behalf. If this process was exempted in relation to a particular project or TDA, it would trigger the requirement for the process under the EPBC Act.

If the Minister gives an exemption notice, the law it relates to is modified or excluded for the purposes of the Territory Coordinator or the Minister making the decision or undertaking the process (**clause 68**).

After giving an exemption notice, the Minister must table a copy in the Legislative Assembly on the next sitting day. The Legislative Assembly may pass a resolution to disallow an exemption notice within 3 days after the notice was tabled (**clause 69**).

Example 6 – Territory development areas and Environmental Impact Assessment processes

An approved TDA Plan may include all of the environmental mapping and baseline studies for the area, clearly outline what is proposed to be developed, and seek public comment on the proposed development as part of the process to develop and approve the Plan.

The Territory Coordinator may request the Minister to issue an exemption notice to exempt the requirement for public consultation on the referral to the NT EPA for environmental impact assessment, because this would duplicate the consultation that was undertaken to inform the TDA Plan.

In this example, the exemption would fast-track NT EPA's consideration of the referral and its decision on the level of environmental impact assessment required, enabling the assessment process to commence sooner. The remainder of the environmental impact assessment and approval process would continue as normal.

In this example, using the exemption notice recognises the upfront work that has already been done. This reduces time and public resources when no value is being added, and where there is no detriment to the quality of the process or outcome.

Example 7 – Significant project involving a non-pastoral use permit, land clearing and water licence

A solar farm development that is a significant project requiring a non-pastoral use permit, land clearing permit and a water licence is required to conduct public consultation for each of those three processes.

If consultation is undertaken for one of these processes in a way that clearly covers consultation for the other processes, the Territory Coordinator may recommend the Minister issue an exemption notice to exempt the public consultation requirement for the other two processes.

The use of the exemption notice saves the proponent time and money in consulting multiple times. It also allows the proponent to hold a more comprehensive consultation process that supports all three processes. This gives the community a full picture of the project, so they are better informed when they make submissions.

Example 8 – Non-pastoral use permits for renewable energy projects

To develop a solar farm on a pastoral lease, a proponent would require a non-pastoral use permit under the *Pastoral Land Act 1992*. Under this legislation, a non-pastoral use permit cannot be granted for more than 30 years.

The Territory Coordinator may recommend the Minister issue an exemption notice to remove this limitation for the period of a non-pastoral use permit, to provide greater certainty for the development of a major energy infrastructure project.

Condition variation notices

The Territory Coordinator can give condition variation notices in relation to statutory decisions that have already been made for significant projects, works projects or TDA activities (**clause 51 and 70**).

A condition variation notice is intended to allow the Territory Coordinator to apply conditions on a decision in a way that the Territory Coordinator considers necessary to achieve particular objectives. For

example, this may occur when the Territory Coordinator considers that a condition is necessary to ensure a significant project proceeds in a way that is consistent with planned development in a Territory development area.

Conditions can only be varied in the circumstances outlined in **clause 71**.

If the Territory Coordinator is the applicant, only the Minister can issue a condition variation notice (**clause 73**).

Division 4 – Publication and reporting

After a prioritisation, progression or decision request, or a step-in, exemption or condition variation notice is given, the Territory Coordinator or Minister must publish a copy of the request or notice on the OTC or Agency website as soon as practicable.

After giving a request or notice, the Territory Coordinator must give the Minister a report about the request or notice within 5 business days. For exemption notices, or other requests or notices given by the Minister, the Minister must prepare the report within 5 business days.

The Minister must table a copy of these reports in the Legislative Assembly within 6 sitting days of receiving or preparing the report.

These provisions are designed to promote accountability and transparency, and enable public and parliamentary scrutiny of the Territory Coordinator's actions.

Part 6 – Administrative matters

Appointment

Clause 78 provides that the Administrator can appoint an eligible person to be the Territory Coordinator by a notice in the *Gazette*. The Territory Coordinator can be appointed for up to 5 years, and can be reappointed.

Clause 79 establishes eligibility requirements for appointment as the Territory Coordinator. The eligibility requirements ensure the Territory Coordinator has the necessary experience and does not hold other positions or have political affiliations that would be inappropriate for the Territory Coordinator role. A person is eligible if:

- They have suitable qualifications or experience relating to the Territory Coordinators' functions.
- They are not a judicial officer, a member of an Australian parliament, a member of a local government council or equivalent body in a state or another territory, a member of a political party, or an officer of a Territory controlled entity.
- They do not have a recent political affiliation. This means that in the previous 3 years they were not a member of the Legislative Assembly or a local government council, an office holder or elected representative of a political party anywhere in Australia, a member of a minister's staff, or did not make a reportable donation to a political party or an associated entity anywhere in Australia.

Clause 83 sets out specific situations where the appointment of the Territory Coordinator can be terminated. These situations include breaches of employment conditions, corrupt conduct, inability, inefficiency, misbehaviour or incapacity. It also includes situations where the person or an immediate family member hold shares in a corporation that may benefit or is likely to benefit from the person's activities as the Territory Coordinator.

As part of their terms of appointment, the Territory Coordinator will be subject to requirements in relation to the disclosure of interest and managing conflicts of interest.

Clause 85 allows the Minister to appoint a Deputy Territory Coordinator, who can act when the Territory Coordinator's role is vacant or when the Territory Coordinator is unable to perform the duties of the office (including when the Territory Coordinator is on leave). This will be a 'springing' appointment, meaning that it is activated only in the circumstances that the Territory Coordinator is unable to perform their duties.

Appointment as the Deputy Territory Coordinator is subject to the same eligibility requirements as the Territory Coordinator.

Staff, consultants, and delegation

Clause 86 provides that the Territory Coordinator's staff consists of the Deputy Territory Coordinator and public sector employees who are employed in the Office of the Territory Coordinator, and allows agencies to second people into the Office.

This clause also allows the Territory Coordinator to engage consultants for the performance of the Territory Coordinator's functions, acknowledging that the technical and other expertise required to perform their functions may at times be held outside government.

Clause 87 provides that the Territory Coordinator may delegate their powers and functions under the Bill, except powers relating to step-in notices or condition variation notices, to a CEO of an Agency or to a member of the Territory Coordinator's staff. This will ensure the efficient operation of the Office of the Territory Coordinator, while making sure that powers to intervene in regulatory decisions and processes are maintained at an appropriate level.

Part 7 – Miscellaneous matters

This Part includes provisions about the Territory Coordinator:

- keeping a register of decisions made under the Bill in relation to significant projects, programs of work, Territory development areas, TDA plans, and step-in, exemption and condition variation notices (**clause 88**).
- recovering reasonable costs from the proponent of a significant project, in agreement with the proponent, including costs incurred by issuing a request or notice, or making a statutory decision or undertaking a statutory process if a step-in notice has been given (**clause 89**). This provision could allow, for example, the Territory Coordinator to enter into an agreement with a proponent to recover the costs of undertaking or facilitating studies to support an application on behalf of a proponent, to expedite a process. This is a standard practice to ensure the Territory does not unreasonably bear the cost of facilitating private sector investment.
- prepare a report for the Minister every financial year, by 31 October following the end of the financial year. The Minister must table a copy of the report in the Legislative Assembly (**clause 90**). This provision is included to promote transparency by ensuring there is parliamentary oversight of the Territory Coordinator's activities.
- conducting reviews into matters concerning the general operation of the Territory Coordinator's functions, or the proper performance of the functions under any Territory laws (**clause 91**).

Clause 94 provides it is an offence for a person to recklessly disclose confidential information they obtained while performing functions or exercising powers under the Bill.

Clause 95 protects the Territory Coordinator, Deputy Territory Coordinator, members of the Territory Coordinator’s staff, and any other person acting on behalf of the Territory Coordinator, against civil or criminal liability for actions or omissions during the exercise of a power or function under the Bill.

Schedule – Scheduled Acts

The Schedule to this Bill is a list of Northern Territory legislation to which the powers in the Bill to give prioritisation, progression and decision requests, and step-in and exemption notices apply. Application of these powers is limited to the legislation in this list, which reflects Northern Territory Acts that are relevant to the planning, authorisation and operations of significant projects and infrastructure development.

If an Act is not listed in this Schedule, or prescribed by regulation, it cannot be affected by the exercise of the powers and functions in the Territory Coordinator Bill.