

Serial
Territory Coordinator Bill 2024
Mrs Finocchiaro

A Bill for an Act to establish the Office of the Territory Coordinator to facilitate the undertaking of certain projects, to provide for the designation of Territory development areas and for related purposes

CONSULTATION DRAFT ONLY

**PREPARED FOR THE DEPARTMENT OF THE CHIEF MINISTER
AND CABINET**

NORTHERN TERRITORY OF AUSTRALIA

TERRITORY COORDINATOR ACT 2024

Act No. [] of 2024

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2024

An Act to establish the Office of the Territory Coordinator to facilitate the undertaking of certain projects, to provide for the designation of Territory development areas and for related purposes

[Assented to [] 2024]
[Introduced [] 2024]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Territory Coordinator Act 2024*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice.
- (2) If a provision of this Act does not commence before 10 February 2027, it commences on that day.

3 Definitions

In this Act:

applicant, for Part 5, see section 50.

approved program of works means a program of works specified in a plan approved by the Minister under section 26.

condition variation notice, for Part 5, see section 70(2).

decision request, for Part 5, see section 54(1).

Deputy Territory Coordinator means the person holding or occupying the office of Deputy Territory Coordinator mentioned in section 85(1).

economic significance, see section 4.

environment means all aspects of the surroundings of humans, including physical, biological, economic, cultural and social aspects.

exemption notice, see section 64(1).

infrastructure coordination plan, see section 19.

interested party, see section 5(1).

Land Council means an Aboriginal Land Council established by or under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

native title holder, see section 224 of the *Native Title Act 1993* (Cth).

original entity, for Part 5, see section 59(c).

OTC means the Office of the Territory Coordinator.

plan area:

- (a) for a TDA plan – means the Territory development area to which it relates; or
- (b) for a proposed TDA plan – means the area to which it relates.

prioritisation request, for Part 5, see section 52(1).

progression request, for Part 5, see section 53(1).

proponent, of a project, means the person who proposes the project and includes a person who assumes conduct of the project under an agreement or other arrangement with a previous proponent of the project.

public body means any of the following:

- (a) an Agency;
- (b) a local government council;

- (c) a Government owned corporation as defined in section 3 of the *Government Owned Corporations Act 2001*;
- (d) any other body, whether incorporated or not, performing a public function on behalf of either:
 - (i) the Territory; or
 - (ii) a body mentioned in paragraph (a), (b) or (c).

public entity, see section 6(1).

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

responsible entity means:

- (a) for a statutory decision – the entity that may make the decision under the relevant law for the decision; or
- (b) for a statutory process – the entity responsible for undertaking the process under the relevant law for the process.

Scheduled law means:

- (a) an Act listed in the Schedule; or
- (b) an Act prescribed by regulation; or
- (c) subordinate legislation made under an Act referred to in paragraph (a) or (b).

significant project means a project in relation to which a designation under section 17 is in effect.

statutory decision, see section 7(1).

statutory process means a process required to be undertaken under a Scheduled law.

Example for definition statutory process

Under section 71B of the Water Act 1992, the Controller of Water Resources must give notice of the Controller's intention to make a water extraction licence decision.

step-in notice, see section 56(2).

TDA activity means:

- (a) any activity undertaken by the Territory Coordinator to facilitate the implementation of a TDA plan; or
- (b) a project that is permitted under a TDA plan.

TDA plan, see section 34(1).

Territory Coordinator means the person holding or occupying the office of Territory Coordinator mentioned in section 11(2).

Territory development area means an area of land or water in relation to which a designation under section 28 is in effect.

works project, for Part 5, see section 50.

Note for section 3

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

4 Meaning of *economic significance*

A project or development is of ***economic significance*** to the Territory, or a region of the Territory, if the project or development facilitates any of the following in the Territory or region:

- (a) private sector investment;
- (b) job creation;
- (c) population growth;
- (d) development or advancement of an industry.

5 Meaning of *interested party*

- (1) Each of the following persons is an ***interested party*** for an area:
 - (a) a person registered under the *Land Title Act 2000* as the owner of land within the area or any adjoining land;
 - (b) a person who has a legal or equitable interest in the area;
 - (c) if any part of the area or any adjoining land is Aboriginal land – the Land Council and Land Trust for the land;
 - (d) a native title holder or registered native title claimant for any part of the area;
 - (e) the local government council for the area;

- (f) the Chief Executive Officer of an Agency that may have a specific interest in the area;
 - (g) a person who conducts business or industry in the area;
 - (h) a person prescribed by regulation.
- (2) In this section:

Aboriginal land, see section 3(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

Land Trust, see section 3(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

native title, see section 223 of the *Native Title Act 1993* (Cth).

registered native title claimant, see section 253 of the *Native Title Act 1993* (Cth).

6 Meaning of **public entity**

- (1) Each of the following is a **public entity**:
- (a) a public body;
 - (b) an executive officer of a public body that is a body corporate;
 - (c) the Chief Executive Officer of an Agency;
 - (d) a body corporate constituted for the purposes of any Act or that, being incorporated by the law of the Territory, is an instrumentality or agency of the Crown;
 - (e) an executive officer of a body corporate mentioned in paragraph (d);
 - (f) the holder of any office established by any Act;
 - (g) a person who is a public sector employee;
 - (h) a person who is employed by:
 - (i) a public body; or
 - (ii) a body corporate mentioned in paragraph (d); or
 - (iii) the holder of an office mentioned in paragraph (f) for the purposes of the Act that establishes the office.

(2) Despite subsection (1), a **public entity** does not include an entity prescribed by regulation not to be a public entity.

(3) In this section:

executive officer, of a body corporate, means a director or other person who is concerned with, or takes part in, the management of the body corporate.

7 Meaning of *statutory decision*

(1) A **statutory decision** is a decision to be made under a Scheduled law.

*Example for definition **statutory decision***

Under section 71C of the Water Act 1992, the Controller of Water Resources must make a water extraction licence decision.

(2) Despite subsection (1), a statutory decision does not include a decision of the Administrator that is to be made under a Scheduled law.

8 Primary principle of Act

(1) The primary principle of this Act is that, when exercising a key power under this Act, or when exercising a power or performing a function under any other Act in connection with the exercise of a key power, the Minister or the Territory Coordinator must have regard to following considerations:

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

(2) When exercising a power or performing a function under any other Act as mentioned in subsection (1), the Territory Coordinator or Minister must also have regard to the relevant objects, principles or considerations under the other Act but, to the extent of any inconsistency with the considerations mentioned in subsection (1), those considerations prevail.

(3) In this section:

key power means a power:

- (a) to make a designation under section 17; or
- (b) to approve a program of works under section 26; or

- (c) to make a designation under section 28; or
- (d) to make a decision under section 38; or
- (e) to vary the boundaries of a Territory development area under section 40; or
- (f) to make a decision under section 45; or
- (g) to give a request under section 53 or 54; or
- (h) to give a notice under section 56, 67 or 70.

9 Act binds Crown

This Act binds the Crown in the right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

10 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 10

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part 2 Office of Territory Coordinator

11 Establishment

- (1) The Office of the Territory Coordinator is established.
- (2) The Office of the Territory Coordinator consists of the Territory Coordinator and the Coordinator's staff.

12 Functions

The Territory Coordinator has the following functions:

- (a) to identify and investigate projects that may be suitable to be designated as significant projects and make recommendations to the Minister;
- (b) to identify and investigate areas of the Territory that may be suitable to be designated as Territory development areas and make recommendations to the Minister;

- (c) to coordinate processes required for the facilitation of significant projects and TDA activities;
- (d) to provide a single point of contact, coordination and support for proponents of significant projects in their engagement with government through case management;
- (e) to facilitate collaboration and coordination between stakeholders including proponents, the Territory, local communities, Land Councils and native title holders, in relation to projects and the designation of Territory development areas, with particular consideration of:
 - (i) integrated strategic planning; and
 - (ii) impacts of, and community benefit considerations relating to, projects and Territory development areas;
- (f) to provide strategic advice and advocacy to the Minister in relation to factors that impact the effective delivery of the Coordinator's functions;
- (g) to investigate, plan, coordinate and implement programs of works in the Territory in accordance with Part 3, Division 2;
- (h) to perform any other functions conferred on the Coordinator by this Act or any other Act or by the Minister.

13 Powers

- (1) The Territory Coordinator has the powers necessary to perform the Coordinator's functions.
- (2) Without limiting subsection (1), the Territory Coordinator may do any of the following:
 - (a) request information, documents or assistance from a public entity in relation to a significant project, program of works, Territory development area or TDA activity;
 - (b) direct a public entity to coordinate actions or share information with another public entity or a proponent in relation to a significant project, program of works, Territory development area or TDA activity;
 - (c) undertake public consultation regarding a significant project, approved program of works, Territory development area or TDA activity.

14 Limitation on exercise of powers

- (1) Despite any other provision of this Act, the Territory Coordinator may not exercise a power under this Act in a manner that would:
- (a) interfere with an agreement between the Territory and the Commonwealth; or
 - (b) interfere with or modify any of the following:
 - (i) the protection of sacred sites under the *Northern Territory Aboriginal Sacred Sites Act 1989*;
 - (ii) the protection of heritage places or heritage objects under the *Heritage Act 2011*;
 - (iii) the operation of the *Aboriginal Land Act 1978*;
 - (iv) the full and free exercise by Aboriginal persons of rights reserved in favour of those persons under a pastoral lease as mentioned in section 38(1)(n) of the *Pastoral Land Act 1992*;
 - (v) the recognition and protection of native title rights and interests under a law of the Territory.
- (2) In this section:

native title rights and interests, see section 223 of the *Native Title Act 1993* (Cth).

15 Impartiality and independence

- (1) The Territory Coordinator must perform the functions and exercise the powers of the office impartially and independently.
- (2) The Territory Coordinator is not subject to direction by any person, other than the Minister in accordance with this Act, about the way in which the Coordinator performs the functions or exercises the powers of office.

16 Cooperation with Territory Coordinator

- (1) Each public entity has a duty to cooperate with the Territory Coordinator in the performance of the Coordinator's functions, to the extent that is reasonable and within the scope of the entity's functions.

- (2) Despite subsection (1), a public entity is not required to give information or documents to the Territory Coordinator if doing so would constitute an offence against another Act.
- (3) If a public entity fails to cooperate with the Territory Coordinator, the Coordinator may, after informing the public entity:
 - (a) report the failure to the Minister or the Chief Minister; or
 - (b) include details of the failure in the annual report prepared under section 90.

Part 3 Significant projects and programs of works

Division 1 Significant projects

17 Designation of significant project

- (1) The Minister may, in writing, designate a project to be a significant project for the Territory if the Minister believes on reasonable grounds that the project:
 - (a) is of economic significance to the Territory, or a region of the Territory; or
 - (b) is of major importance when considered in conjunction with one or more other projects being undertaken or proposed to be undertaken in the Territory or a region of the Territory; or
 - (c) is complex in nature and is of regional significance in terms of scale and impact; or
 - (d) meets the criteria prescribed by regulation.
- (2) The designation remains in effect until it is revoked.

18 Notice of designation or revocation

- (1) The Minister must give written notice in accordance with subsection (2) if the Minister:
 - (a) designates a project under section 17; or
 - (b) revokes the designation of a project.
- (2) The notice must include the information prescribed by regulation and be:
 - (a) published in the manner prescribed by regulation; and

- (b) given to the proponent of the project.

19 Meaning of *infrastructure coordination plan*

An ***infrastructure coordination plan*** is a plan in relation to a significant project that does one or more of the following:

- (a) defines the outcomes the infrastructure must achieve;
- (b) identifies the public bodies or public entities that are responsible for delivering the works;
- (c) identifies governance and finance frameworks for delivering the plan.

20 Preparation of infrastructure coordination plan

- (1) The Territory Coordinator must, if directed to do so by the Minister, or may, on the Coordinator's own initiative, prepare a proposed infrastructure coordination plan.
- (2) In preparing a proposed infrastructure coordination plan, the Territory Coordinator:
 - (a) may direct a public entity to assist the Coordinator with the preparation; and
 - (b) must consult with:
 - (i) the Agency responsible for administering the *Financial Management Act 1995*; and
 - (ii) each public body and public entity identified in the plan; and
 - (c) may consult with any other person the Coordinator considers appropriate.

21 Submission to Minister and decision

- (1) The Territory Coordinator must give the proposed infrastructure coordination plan to the Minister for approval.
- (2) The Minister may decide to:
 - (a) approve the proposed infrastructure coordination plan; or
 - (b) refer the proposed plan back to the Territory Coordinator for amendment; or
 - (c) refuse to approve the proposed plan.

- (3) If the Minister refers the proposed infrastructure coordination plan back to the Territory Coordinator the Coordinator must:
 - (a) amend the proposed plan as requested by the Minister; and
 - (b) notify the Agency, public body and public entities consulted under section 20(2)(b) of the amendments; and
- (4) This section applies in relation to the amended infrastructure coordination plan as if it were the original proposed infrastructure coordination plan.

22 Effect of approval

- (1) If an infrastructure coordination plan is approved by the Minister, the Territory Coordinator must give a copy of the approved plan to each public body and public entity identified in the plan.
- (2) Each public body and public entity identified in the infrastructure coordination plan must comply with the plan to the extent it is reasonably able to.
- (3) If a public body or public entity fails to comply with the requirements of the infrastructure coordination plan, the Territory Coordinator may, after informing the public body or public entity:
 - (a) report the failure to the Minister or the Chief Minister; or
 - (b) include details of the failure in the annual report prepared under section 90.

Division 2 Programs of works

23 Meaning of *program of works*

A ***program of works*** is the coordination of an aggregation of any work, project, service, utility, undertaking or function to be undertaken by a public entity or a proponent of a project, over a set period of time.

24 Planning of program of works

- (1) The Territory Coordinator must, if directed to do so by the Minister, plan in relation to a particular period:
 - (a) a program of works for the Territory or for any part of the Territory; and

- (b) the carrying out during that period, or any part or parts of that period, of the whole or any part of the works included in the program.
- (2) The Territory Coordinator may also, on the Coordinator's initiative, take the action mentioned in subsection (1).
- (3) For the purpose of planning a program of works, the Territory Coordinator may require any public entity that has a duty under section 16 to cooperate with the Coordinator to give to the Coordinator:
 - (a) particulars of all works proposed to be carried out by or under the authority or supervision of that entity during the period in relation to which the program of works is being planned; and
 - (b) any other information the Coordinator considers necessary to enable the Coordinator to plan the program of works.

25 Selection of works for program and performance of works

- (1) Works to be included in a program of works are at the discretion of the Territory Coordinator.
- (2) A program of works may include works that:
 - (a) have been submitted to the Territory Coordinator by the Minister, a public entity or other person for inclusion in a program of works; or
 - (b) are included on the initiative of the Coordinator in addition to or instead of works submitted under paragraph (a).
- (3) The Territory Coordinator may decide that works included in a program of works must be undertaken by any public entity or person who is required or permitted by any Act to do so.

26 Approval of plan of program of works

- (1) The Territory Coordinator must submit a plan for a program of works to the Minister for approval.
- (2) If the Minister approves the plan, the Minister must give written notice on the OTC or Agency website that the Minister:
 - (a) approves the plan for the program of works; and
 - (b) authorises its implementation by the Territory Coordinator.

- (3) On publication of the notice on the OTC or Agency website, the program of works is an approved program of works.
- (4) If the Minister does not approve the plan, the Minister must return the plan, together with the Minister's objections to and comments on the plan, to the Territory Coordinator.
- (5) The Territory Coordinator must:
 - (a) consider the Minister's objections and comments and alter the plan in the way the Coordinator considers appropriate in the circumstances; and
 - (b) resubmit the plan to the Minister.
- (6) Subsections (2) to (5) apply in relation to a resubmitted plan as if it were the original plan submitted under subsection (1).

27 Implementation of approved program of works

- (1) The Territory Coordinator must, on the direction of the Minister, undertake and commission investigations, prepare plans, give directions and take any other actions, that the Coordinator considers necessary or desirable to secure the proper planning, preparation, coordination and control of an approved program of works.
- (2) The Territory Coordinator may also, on the Coordinator's own initiative, take an action mentioned in subsection (1).

Part 4 Territory development areas and TDA plans

Division 1 Territory development areas

28 Designation of Territory development area

- (1) Subject to subsections (2) and (3), the Minister may, in writing, designate an area of land or water to be a Territory development area.
- (2) The Minister may make the designation only if the Minister considers that:
 - (a) the area has potential for development of economic significance to the Territory, or a region of the Territory; or
 - (b) the area has potential for infrastructure that would enable, or be enabled by, development of economic significance to the Territory; or

- (c) the area meets any other criteria prescribed by regulation.
- (3) The designation must:
 - (a) assign a name to the Territory development area; and
 - (b) specify:
 - (i) the intended development of economic significance of the area to the Territory, or region of the Territory; or
 - (ii) the other reason why the area is being designated.
- (4) The designation:
 - (a) takes effect on the date specified in the notice published under section 48(2); and
 - (b) has effect for 4 years.

29 Powers of Territory Coordinator in relation to Territory development area

The Territory Coordinator may do any of the following in relation to a Territory development area:

- (a) direct a public entity to undertake or coordinate investigations or studies or prepare reports required for the development of a proposed TDA plan;
- (b) engage a person to undertake investigations or studies or prepare reports required for the development of a proposed TDA plan;
- (c) give an authorisation under section 30(1).

Note for section 29

The Territory Coordinator may also give a prioritisation request under Part 5 in relation to a Territory development area.

30 Power to enter land

- (1) The Territory Coordinator may, in writing, authorise a person to enter land within a Territory development area to carry out work required for the development of a proposed TDA plan.
- (2) A person who is authorised by the Territory Coordinator to enter land must give the owner or occupier of the land written notice of the person's intention to enter at least 7 days before the proposed entry.

- (3) The notice must specify the following:
 - (a) the land proposed to be entered;
 - (b) the name and address of the person and any other person who will enter the land;
 - (c) details of the work the person is authorised to carry out on the land.
- (4) The person must not enter premises under this section without the consent of the owner or occupier of the land.
- (5) The person must show the written authorisation to enter the land to the owner or occupier of the land on request.

31 Powers on entry

- (1) A person who is authorised under section 30(1) to enter land may, on entry, do any of the following in relation to the development of a proposed TDA plan:
 - (a) inspect the land and anything on the land;
 - (b) bring vehicles, equipment, machinery and materials onto the land and install and maintain any equipment, machinery or materials;
 - (c) take photographs and make sketches or other records of the land;
 - (d) measure anything, or take samples of anything, on the land;
 - (e) take any other action reasonably required for the development of the plan.
- (2) The person must:
 - (a) ensure that any work done has minimal impact on the land; and
 - (b) once the work is complete, remove all things brought onto the land and, to the extent possible, leave the land in the same condition it was in immediately before the person entered.

32 Compensation for damage

- (1) If, in the performance of a person's work under section 31, damage is caused to land, the Territory must pay to the owner or the occupier of the land, as the case requires, the amount, if any, that is determined by the Minister to be the amount of the damage.

- (2) For this section, damage to land includes loss suffered as a result of any of the following:
- (a) deprivation of the possession of the surface of the land;
 - (b) damage to the surface of the land or to improvements on the land;
 - (c) damage to a crop on the land;
 - (d) damage to stock on the land;
 - (e) all consequential damage.

33 Requirements for applications made in relation to Territory development area

- (1) This section applies in relation to an application for a statutory decision or statutory process that is made in relation to any part of a Territory development area.
- (2) Within 2 days of making the application, the applicant must give a copy of the application to the Territory Coordinator.
- (3) The responsible entity for the statutory decision or statutory process must not accept the application unless the applicant has complied with subsection (2).
- (4) When considering the application, the responsible entity must take the Territory Coordinator's views on the application into account.
- (5) This section applies despite any other law of the Territory.

Division 2 Making of TDA plan

34 Territory development area plans

- (1) A Territory development area plan (a ***TDA plan***) is a plan for the Territory development area to which it relates that may identify the following:
 - (a) the activities, land uses, development outcomes and environmental and social values or outcomes for the plan area;
 - (b) the infrastructure and services required for the activities, land uses and development proposed for the plan area;
 - (c) land that may be acquired.

- (2) A TDA plan may set out requirements for activities, land uses or development undertaken in the plan area including:
 - (a) the recovery from proponents of projects of reasonable costs relating to the process of preparation and approval of the plan; and
 - (b) requirements relating to any other matter prescribed by regulation.
- (3) A TDA plan may provide for the establishment of an authority for the plan area and include provisions regarding the membership of the authority, how it will operate and the powers and functions of the authority.

35 Preparation of proposed TDA plan

- (1) The Territory Coordinator must prepare a proposed TDA plan for each Territory development area.
- (2) The Territory Coordinator may prepare a proposed TDA plan for any other area.

36 Public consultation

After preparing a proposed TDA plan, the Territory Coordinator must:

- (a) publish the proposed TDA plan on the OTC or Agency website; and
- (b) undertake public consultation on the proposed plan in accordance with the regulations.

37 Recommendation to Minister

After public consultation has been undertaken on a proposed TDA plan, the Territory Coordinator must give the Minister the following:

- (a) a copy of the proposed TDA plan;
- (b) a summary of the submissions received during the public consultation;
- (c) a recommendation in relation to the proposed plan.

38 Minister's decision

After receiving a recommendation in relation to a proposed TDA plan under section 37 and considering the submissions received during the public consultation undertaken under section 36(b), the Minister may decide to:

- (a) approve the proposed plan and, if the plan area is not a Territory development area, designate the area to be a Territory development area; or
- (b) refer the proposed plan back to the Territory Coordinator for amendment; or
- (c) refuse to approve the proposed plan.

39 Effect of decision

- (1) If the Minister approves the proposed TDA plan:
 - (a) from the date specified in the notice published under section 48(2), the plan is the TDA plan for the plan area; and
 - (b) the Territory Coordinator must publish the plan on the OTC or Agency website.
- (2) If the Minister refers the plan back to the Territory Coordinator, the Coordinator must amend the proposed TDA plan as requested by the Minister.
- (3) Sections 36 to 38 apply in relation to the amended plan as if it were the original proposed TDA plan.

Division 3 Variation and revocation of Territory development area

40 Variation of boundaries of Territory development area

- (1) Subject to subsection (2), the Minister may, in writing, vary the boundaries of a Territory development area.
- (2) The Minister may vary the boundaries in a manner that results in additional land or water (the **new area**) being incorporated into the Territory development area only if the Minister considers that:
 - (a) the new area has potential for development of economic significance to the Territory, or a region of the Territory; or

- (b) the new area has potential for infrastructure that would enable, or be enabled by, development of economic significance to the Territory; or
 - (c) the new area meets any other criteria prescribed by regulation.
- (3) If the Minister varies the boundaries of a Territory development area, the variation takes effect on the date specified in the notice published under section 48(2).

41 Revocation of designation of Territory development area

- (1) The Minister may, in writing, revoke the designation of a Territory development area.
- (2) If the Minister revokes the designation of a Territory development area:
 - (a) the revocation takes effect on the date specified in the notice published under section 48(2); and
 - (b) if a TDA plan is in effect for the area – when the revocation takes effect, the plan is automatically revoked.

Division 4 Variation and revocation of TDA plans

42 Preparation of variation of TDA plan

The Territory Coordinator must, if directed to do so by the Minister, or may, on the Coordinator's own initiative, prepare a proposed variation of a TDA plan.

43 Public consultation

- (1) After preparing a proposed variation of a TDA plan, the Territory Coordinator must:
 - (a) publish the proposed variation on the OTC or Agency website; and
 - (b) undertake public consultation on the proposed variation in accordance with the regulations.
- (2) Subsection (1) does not apply in relation to a proposed variation of a TDA plan if the Territory Coordinator considers that:
 - (a) the variation will not effect a material change to the TDA plan; or

- (b) the variation will not result in any new impacts to the plan area; or
- (c) public consultation on the content of the variation has already occurred.

44 Recommendation to Minister

After preparing a proposed variation of a TDA plan in relation to which section 43(2) does not apply or, after undertaking public consultation on a proposed variation as required under section 43(1)(b), the Territory Coordinator must give the Minister the following:

- (a) a copy of the proposed variation;
- (b) a summary of the submissions received during the public consultation (if applicable);
- (c) a recommendation in relation to the proposed variation.

45 Minister's decision

After receiving a recommendation in relation to a proposed variation of a TDA plan under section 44 and considering the submissions received during the public consultation undertaken under section 43(1)(b) (if applicable), the Minister may decide to:

- (a) approve the proposed variation; or
- (b) refer the proposed variation back to the Territory Coordinator for amendment; or
- (c) refuse to approve the proposed variation.

46 Effect of decision

- (1) If the Minister approves a proposed variation of a TDA plan, the variation takes effect on the date specified in the notice published under section 49(2).
- (2) If the Minister refers the proposed variation back to the Territory Coordinator, the Coordinator must amend the proposed variation as requested by the Minister.
- (3) Sections 43 to 45 apply in relation to the amended variation as if it were the original proposed variation.

47 Revocation of approval of TDA plan

- (1) The Minister may, in writing, revoke the approval of a TDA plan.

- (2) The revocation takes effect on the date specified in the notice published under section 49(2).

Note for section 47

A TDA plan may be automatically revoked under section 41.

Division 5 Notices

48 Notices in relation to Territory development areas

- (1) The Minister must give written notice in accordance with subsection (2) if the Minister:
- (a) designates an area of land to be a Territory development area; or
 - (b) varies the boundaries of a Territory development area; or
 - (c) revokes a designation of a Territory development area.
- (2) The notice must include the information prescribed by regulation and be:
- (a) published in the manner prescribed by regulation; and
 - (b) given to each interested party for the Territory development area.

49 Notices in relation to TDA plans

- (1) The Minister must give written notice in accordance with subsection (2) if the Minister:
- (a) approves a proposed TDA plan or proposed variation of a TDA plan; or
 - (b) revokes the approval of a TDA plan.
- (2) The notice must include the information prescribed by regulation and be:
- (a) published in the manner prescribed by regulation; and
 - (b) given to:
 - (i) each interested party for the plan area for the TDA plan that is approved, varied or revoked; and

- (ii) in relation to an approval of a proposed TDA plan or a proposed variation of a TDA plan – each person who made a submission on the proposed TDA plan or variation.

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

Division 1 General matters

50 Definitions

In this Part:

applicant, in relation to a statutory decision or statutory process, means the person seeking the decision or undertaking of the process under the relevant law for the decision or process.

condition variation notice, see section 70(2).

decision request, see section 54(1).

original entity, see section 59(c).

prioritisation request, see section 52(1).

progression request, see section 53(1).

works projects means a project undertaken as part of the implementation of an approved program of works.

51 Operation of Part

- (1) This Part provides for the following:
- (a) prioritisation requests to be given in relation to significant projects, works projects or TDA activities and Territory development areas;
 - (b) progression requests and decision requests to be given in relation to significant projects, works projects or TDA activities;
 - (c) step-in notices to be given in relation to significant projects, works projects or TDA activities;
 - (d) exemption notices to be given in relation to significant projects, works projects or TDA activities if a step-in notice has been given;

- (e) condition variation notices to be given in relation to significant projects, works projects or TDA activities.
- (2) This Part, and any request or notice given under it, applies despite any other law of the Territory to the contrary.

Division 2 Requests

52 Prioritisation request

- (1) Subject to subsection (2) and section 55, the Territory Coordinator may, by written notice (a **prioritisation request**) given to a responsible entity for a statutory process, request the entity to prioritise undertaking the process for one or more specified:
 - (a) significant projects, works projects or TDA activities; or
 - (b) Territory development areas for which a TDA plan is not in effect.
- (2) Before giving the prioritisation request, the Territory Coordinator must consult the responsible entity about the proposed request.
- (3) On receiving the prioritisation request, the responsible entity must give priority to undertaking the statutory process for the significant projects, works projects, TDA activities or Territory development areas specified in the request over all other projects, activities or areas in relation to which the entity has not received a prioritisation request.
- (4) Subsection (3) does not apply to a responsible entity who is a Minister.
- (5) Subject to this section, the relevant law for the statutory process continues to apply to the process.

53 Progression request

- (1) Subject to subsection (2) and section 55, the Territory Coordinator may, by written notice (a **progression request**) given to the responsible entity for a statutory process, request the entity:
 - (a) to start or complete the process in relation to a significant project, works project or TDA activity within the period specified in the request; or
 - (b) to pause, or to continue to undertake, the process in relation to a significant project, works project or TDA activity for the period specified in the request.

- (2) Before giving the progression request, the Territory Coordinator must:
 - (a) consult the responsible entity about the proposed request; and
 - (b) have regard to the requirements and timeframes, if any, under the relevant law for the undertaking of the process.
- (3) On receiving the progression request, the responsible entity must:
 - (a) start or complete the statutory process within the period specified in the request or pause or continue to undertake the process for the period specified in the request; and
 - (b) notify the Territory Coordinator of the start, completion, continuation or pause of the process as soon as practicable after it occurs.
- (4) Subsection (3) does not apply to a responsible entity who is a Minister.
- (5) Subject to this section, the relevant law for the statutory process continues to apply to the undertaking of the process.

54 Decision request

- (1) Subject to subsections (2) and (3) and section 55, the Territory Coordinator may, by written notice (a **decision request**) given to the responsible entity for a statutory decision, request the entity to make the decision in relation to a significant project, works project or TDA activity within the period specified in the notice.
- (2) Before giving the decision request, the Territory Coordinator must:
 - (a) consult with the responsible entity about the proposed request; and
 - (b) have regard to the requirements, if any, under the relevant law for the decision about public notification of information or other matters in relation to the decision.
- (3) The period specified in the decision request must be at least:
 - (a) 20 business days after the request is given; or
 - (b) if, under the relevant law for the statutory decision, the responsible entity would, other than for this section, be required to make the decision within a period that is less than 20 business days after the request is given – the lesser period.

- (4) On receiving the decision request, the responsible entity must:
 - (a) make the statutory decision specified in the request within the period specified in the request; and
 - (b) notify the Territory Coordinator of the decision as soon as practicable after it is made.
- (5) Subsection (4) does not apply to a responsible entity who is a Minister.
- (6) Subject to this section, the relevant law for the statutory decision continues to apply to the making of the decision.

55 When Minister may make request

- (1) If the Territory Coordinator is the applicant for a statutory decision or statutory process in relation to a works project or TDA activity:
 - (a) the Coordinator cannot make a prioritisation request, progression request or decision request in relation to the decision or process; and
 - (b) the Minister may instead make the request under this Division.
- (2) If the responsible entity for a statutory decision or statutory process in relation to a significant project, works project or TDA activity is a Minister:
 - (a) the Territory Coordinator cannot make a prioritisation request, progression request or decision request in relation to the decision or process; and
 - (b) the Minister may instead make the request under this Division.
- (3) If the Minister makes a prioritisation request, progression request or decision request under this Division in accordance with subsection (1)(b) or (2)(b), a reference to the Territory Coordinator in section 52, 53 or 54 is taken to be a reference to the Minister.

Division 3 Notices

Subdivision 1 Step-in notices

56 Territory Coordinator may give step-in notice

- (1) This section applies, subject to sections 57 and 58, in relation to a statutory decision to be made, or statutory process to be undertaken, in relation to a significant project, works project or TDA activity.
- (2) The Territory Coordinator may give the responsible entity and the applicant for the statutory decision or statutory process a written notice (a ***step-in notice***) advising that the Coordinator will step-in to make the statutory decision or undertake the statutory process in place of the responsible entity.
- (3) The step-in notice must state that the Territory Coordinator is the responsible entity for the statutory decision or statutory process from the time the notice is given until the Coordinator finishes making the decision or undertaking the process.

57 When Minister may give step-in notice

- (1) If the Territory Coordinator is the applicant for a statutory decision or statutory process in relation to a works project or TDA activity:
 - (a) the Coordinator cannot give a step-in notice in relation to the decision or process; and
 - (b) the Minister may instead give a step-in notice under section 56.
- (2) If the responsible entity for a statutory decision or statutory process in relation to a significant project, works project or TDA activity is a Minister:
 - (a) the Territory Coordinator cannot give a step-in notice in relation to the decision or process; and
 - (b) the Coordinator may recommend that the Minister gives a step-in notice under section 56; and
 - (c) the Minister may instead give a step-in notice under section 56.

- (3) If the Minister gives a step-in notice under section 56 in accordance with subsection (1)(b) or (2)(c), a reference to the Territory Coordinator in sections 58 to 63 is taken to be a reference to the Minister.

58 When step-in notice may be given

The Territory Coordinator may give a step-in notice for a statutory decision or statutory process only if the Coordinator has consulted the responsible entity for the decision or process about the proposed notice.

59 Effects of step-in notice

If the Territory Coordinator gives a step-in notice for a statutory decision or statutory process:

- (a) the Coordinator becomes the responsible entity under the relevant law for the decision or process from the time the step-in notice is given until the Coordinator finishes making the decision or undertaking the process; and
- (b) for making the decision or undertaking the process, the Coordinator has all the powers of the responsible entity under the relevant law for the decision or process; and
- (c) the entity (the **original entity**) that was the responsible entity for the decision or process before the step-in notice was given must comply with section 60; and
- (d) despite paragraph (a), the making of the decision or undertaking of the process by the Coordinator is taken to be the exercise of a power or performance of a function of the Coordinator under this Act.

60 Original entity to give assistance or recommendations

- (1) The original entity must give the Territory Coordinator all reasonable assistance and materials that the Coordinator requires to act under this Subdivision, including:
- (a) all material about the statutory decision or statutory process that the entity had before the step-in notice was given; and
 - (b) all material received about the decision or process by the entity after the step-in notice was given.
- (2) Subsection (1) does not apply in relation to material that is subject to legal professional privilege.

- (3) Without limiting subsection (1), the Territory Coordinator may, by written notice, require the entity to give the Coordinator, within the reasonable period specified in the notice, a written report containing:
- (a) an assessment of matters, specified in the notice, relevant to the statutory decision or statutory process; or
 - (b) recommendations about the assessment mentioned in paragraph (a).

Example for subsection (3)(b)

Recommendations about proposed conditions relevant to the statutory decision.

- (4) This section does not limit section 16.

61 Conditions that may apply to statutory decision

- (1) When making a statutory decision under this Subdivision, the Territory Coordinator may impose conditions that the Coordinator considers necessary or desirable for any of the following purposes:
- (a) promoting the considerations mentioned in section 8(1);
 - (b) facilitating benefit to the Territory, including regional and local areas.
- (2) Subject to this Subdivision, the relevant law for the statutory decision applies in relation to the making of the decision by the Territory Coordinator.

62 Effect of statutory decision made under step-in notice

- (1) A statutory decision made by the Territory Coordinator under this Subdivision, including a decision to impose a condition:
- (a) is taken to be a decision of the original entity, but a person may not apply for a review of, or appeal against, the Coordinator's decision under this Act or the relevant law; and
 - (b) takes effect when the applicant for the decision and the original entity are given notice, under section 63(1), of the Coordinator's decision.
- (2) If the original entity subsequently imposes a condition in relation to the statutory decision, it is of no effect to the extent that it is inconsistent with a condition imposed by the Territory Coordinator.

- (3) Any other statutory decision made by the original entity for the significant project, works project or TDA activity to which the step-in notice relates must not be inconsistent with the Territory Coordinator's decision.
- (4) Subsection (1)(a) does not affect a person's right to seek judicial review of the Territory Coordinator's decision.

63 Notice of completion

- (1) When the Territory Coordinator finishes making a statutory decision or undertaking a statutory process under this Subdivision, the Coordinator must give written notice to the applicant and the original entity for the decision or process.
- (2) For a notice in relation to a statutory decision, the notice must include:
 - (a) the reasons for the Territory Coordinator's decision; and
 - (b) the conditions, if any, imposed under section 61 in relation to the decision.

Subdivision 2 Exemption notices

64 Exemption notice

- (1) Subject to subsections (2) and (3), an **exemption notice** is a notice that:
 - (a) relates to a statutory decision to be made, or statutory process to be undertaken, in relation to a significant project, works project or TDA activity; and
 - (b) states that, for the purposes of the decision being made or the process being undertaken, the application of the relevant law, or a provision of the relevant law, is modified or excluded in the manner specified in the notice.
- (2) An exemption notice cannot be given unless a step-in notice has been given for the statutory process or statutory decision to which the exemption notice relates.

- (3) An exemption notice cannot be given in relation to a statutory decision or statutory process that involves:
- (a) a requirement under the *Environment Protection Act 2019* or any regulations made under that Act that relates to an assessment under a bilateral agreement with the Commonwealth; or
 - (b) a matter prescribed by regulation.
- (4) An exemption notice must state the ground on which it is made.

65 Grounds for giving exemption notice

Each of the following is a ground for giving an exemption notice:

- (a) it is necessary to modify or exclude the relevant law specified in the notice because the statutory process, or part of the process, to which the notice relates substantially duplicates another statutory process, or part of a process, that has been or is to be completed in relation to the relevant project or activity;
- (b) it is necessary for the purposes of making the statutory decision or undertaking the statutory process to which the notice relates, having regard to the considerations mentioned in section 8(1).

66 Recommendation to Minister

- (1) Subject to subsection (2), the Territory Coordinator may recommend to the Minister that the Minister gives an exemption notice in relation to a statutory decision to be made, or statutory process to be undertaken, in relation to a significant project, works project or TDA activity if the Coordinator:
- (a) has given a step-in notice for the decision or process; and
 - (b) is satisfied that a ground mentioned in section 65 exists.
- (2) Before making the recommendation, the Territory Coordinator:
- (a) must consult with the responsible entity and the applicant for the statutory decision or statutory process; and
 - (b) may consult with any other person the Coordinator considers may be affected by the proposed exemption notice.

- (3) The recommendation must set out:
- (a) the ground on which the Territory Coordinator is satisfied the exemption notice can be issued; and
 - (b) details of who was consulted under subsection (2); and
 - (c) a summary of the views of those consulted.

67 Minister may give exemption notice

- (1) Subject to subsections (2) and (3), the Minister may give an exemption notice to the responsible entity and the applicant for the statutory decision or statutory process specified in the notice:
- (a) on the recommendation of the Territory Coordinator; or
 - (b) on the Minister's own initiative.
- (2) Before giving an exemption notice on the Minister's own initiative, the Minister:
- (a) must consult with the responsible entity and the applicant for the statutory decision or statutory process specified in the notice; and
 - (b) may consult with any other person that the Minister considers may be affected by the proposed exemption notice.
- (3) The Minister must not give an exemption notice unless the Minister is satisfied, on reasonable grounds, that a ground for giving the notice exists.

68 Effect of exemption notice

The application of the relevant law, or a provision of the relevant law, to the statutory decision or statutory process to which the exemption notice relates is taken to be modified or excluded in the manner specified in the notice for the purposes of the Territory Coordinator or Minister making the decision or undertaking the process.

69 Tabling and disallowance

- (1) The Minister must table a copy of an exemption notice in the Legislative Assembly on the next sitting day after it is made.
- (2) The Legislative Assembly may pass a resolution disallowing an exemption notice, or a specified provision of the notice, whether or not it has been tabled.

- (3) Notice of a resolution under subsection (2) must be given within:
- (a) if the exemption notice is tabled in accordance with subsection (1) – 3 sitting days after it has been tabled; or
 - (b) if the exemption notice has not been tabled in accordance with subsection (1) – 3 sitting days after the last day on which the notice was required to be tabled.
- (4) If a resolution disallows an exemption notice or provisions of it, the disallowance has, subject to subsection (5), the same effect as a revocation of the notice or provisions.
- (5) The disallowance of an exemption notice or provisions of it, does not affect anything done before the disallowance under the relevant law in relation to the significant project, works project or TDA activity to which the exemption notice relates.

Subdivision 3 Condition variation notices

70 Territory Coordinator may give condition variation notice

- (1) This section applies in relation to a statutory decision that has been made in relation to a significant project, works project or TDA activity.
- (2) Subject to subsections (3) and (4), the Territory Coordinator may give the responsible entity and the applicant for the statutory decision a written notice (a **condition variation notice**) varying the conditions imposed on the decision as mentioned in section 71.
- (3) Before giving the condition variation notice, the Territory Coordinator must:
- (a) consult with the responsible entity for the statutory decision about the proposed notice; and
 - (b) if the responsible entity is a Minister – obtain the consent of the Minister to the notice.

71 Permitted variations

- (1) The conditions imposed on a statutory decision may be varied by a condition variation notice only if:
- (a) the conditions are varied in accordance with the provisions of the relevant law under which the decision was made that relate to the variation of the conditions; or

- (b) the applicant for the decision has consented to the variation; or
- (c) for a decision that was the grant of an approval for a period of time – the variation is to take effect on renewal or extension of the approval for a further period; or
- (d) the Territory Coordinator is satisfied, on reasonable grounds, that the variation:
 - (i) provides for consistency between the conditions applying to the decision and any requirements or conditions applying under a law of the Commonwealth in relation to the significant project, works project or TDA activity; or
 - (ii) is likely to prevent harm to a person or material environmental harm as defined in section 8 of the *Environment Protection Act 2019*; or
 - (iii) is in connection with a failure by the applicant for the decision to comply with a requirement under a law of the Territory, or a condition of an approval under a law of the Territory; or
- (e) the Coordinator is satisfied, on reasonable grounds, that the circumstances prescribed by regulation exist.

(2) In this section:

approval includes an authorisation, a permission, a consent, a lease, a licence, a certificate or another authority.

72 Effect of condition variation notice and revocation of condition

- (1) A condition imposed on a statutory decision by a variation made by a condition variation notice is taken to be a valid condition operating under the relevant law under which the decision was made, whether or not the variation effecting the condition could have, but for the operation of this section, been validly made under the relevant law.
- (2) The Territory Coordinator may, at any time, revoke a condition imposed on a statutory decision by a variation made by a condition variation notice given by the Coordinator, by written notice given to the responsible entity and the applicant for the decision.

73 When Minister may give condition variation notice

- (1) If the Territory Coordinator was the applicant for a statutory decision in relation to a works project or TDA activity:
 - (a) the Coordinator cannot give a condition variation notice varying the conditions imposed on the decision; and
 - (b) the Minister may instead give a condition variation notice under this Subdivision.
- (2) If the Minister gives a condition variation notice under this Subdivision in accordance with subsection (1)(b), a reference to the Territory Coordinator in section 70, 71 or 72 is taken to be a reference to the Minister.

Division 4 Publication and reporting

74 Publication of requests and notices

As soon as practicable after giving one of the following requests or notices, the Territory Coordinator or Minister must publish a copy of the request or notice on the OTC or Agency website:

- (a) a request under Division 2;
- (b) a step-in notice or notice under section 63;
- (c) an exemption notice;
- (d) a condition variation notice or notice under section 72(2).

75 Reports about requests

- (1) Within 5 business days after giving a prioritisation request, progression request or decision request, the Territory Coordinator must give the Minister a report about the request that includes:
 - (a) a copy of the request; and
 - (b) a summary of the reasons for giving the request.
- (2) If a prioritisation request is not complied with, the Territory Coordinator must give the Minister a report about the non-compliance within 5 business days after the Coordinator becomes aware of it.

- (3) If a progression request or decision request is not complied with, the Territory Coordinator must give the Minister a report about the non-compliance within 5 business days after the period specified in the request expires.

76 Reports about notices

- (1) Within 5 business days after giving a step-in notice or condition variation notice, the Territory Coordinator must give the Minister a report about the notice that includes:
 - (a) a copy of the notice; and
 - (b) a summary of the reasons for giving the notice.
- (2) Within 5 business days after giving notice under section 63(1), the Territory Coordinator must give the Minister a copy of the notice.
- (3) If the Minister gives a step-in notice, the Minister must prepare a report about the notice within 5 business days after giving notice under section 63(1).
- (4) A report under subsection (3) must include the following:
 - (a) a copy of the step-in notice;
 - (b) a summary of the reasons for giving the step-in notice; and
 - (c) a copy of the notice given under section 63(1).

77 Tabling of reports

The Minister must table a copy of a report given to the Minister under section 76(1) or (2), or prepared under section 76(3), in the Legislative Assembly within 6 sitting days after receiving or preparing the report.

Part 6 Administrative matters

78 Appointment of Territory Coordinator

- (1) The Administrator may, by *Gazette* notice, appoint a person to be the Territory Coordinator.
- (2) To be appointed as the Territory Coordinator, a person must be an eligible person under section 79.

- (3) If the Office of the Territory Coordinator is an Agency, the Territory Coordinator is the Chief Executive Officer of the Office of the Territory Coordinator for the *Public Sector Employment and Management Act 1993*.

79 Eligibility for appointment

- (1) A person is an eligible person if:
- (a) the person has suitable qualifications or experience relating to the Territory Coordinator's functions; and
 - (b) the person is not:
 - (i) a judicial officer; or
 - (ii) a member of an Australian parliament; or
 - (iii) a member of a local government council or of an equivalent body in a State or another Territory; or
 - (iv) a member of a political party; or
 - (v) an officer of a Territory controlled entity; and
 - (c) the person does not have a recent political affiliation.
- (2) For subsection (1)(c), a person has a recent political affiliation if, at any time during the previous 3 years, the person:
- (a) was a member of the Legislative Assembly or a local government council; or
 - (b) was an office holder or elected representative of a political party in the Territory or elsewhere in Australia; or
 - (c) was a member of staff of a minister; or
 - (d) made a reportable donation to a political party, or an associated entity of a political party, in the Territory or elsewhere in Australia.
- (3) For subsection (2)(d), a person made a reportable donation if it was made by the person or by a body corporate of which the person was an office holder or majority shareholder at the time the donation was made.
- (4) In this section:

associated entity, see section 176 of the *Electoral Act 2004*.

judicial officer, see section 4 of the *Independent Commissioner Against Corruption Act 2017*.

political party, see section 3 of the *Electoral Act 2004*.

reportable donation means a gift or loan that is required to be disclosed or reported under Part 10 of the *Electoral Act 2004* or under a similar law in force in the Commonwealth or in a State or another Territory.

Territory controlled entity, see section 3(1) of the *Audit Act 1995*.

80 Term of appointment

Subject to this Part, the Territory Coordinator holds office for the period, not exceeding 5 years, specified in the appointment and is eligible for reappointment.

81 Conditions of appointment

- (1) The Territory Coordinator holds office on the conditions, including conditions about remuneration, expenses and allowances, determined by the Administrator.
- (2) The Territory Coordinator's conditions of office:
 - (a) cannot provide any conditions that are contingent on the Coordinator's performance in office; and
 - (b) cannot be varied during the Coordinator's term in office.

82 Vacancy in office

The office of Territory Coordinator becomes vacant if:

- (a) the person appointed to the office resigns by giving written notice to the Administrator; or
- (b) under section 83, the Administrator terminates the appointment of the person appointed to the office; or
- (c) the person appointed to the office:
 - (i) is no longer eligible for appointment as the Coordinator under section 79; or
 - (ii) is found guilty of an indictable offence, whether in the Territory or elsewhere, for which the maximum penalty is imprisonment for a term of at least 12 months; or

- (iii) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors or compounds with creditors or makes an assignment of remuneration for their benefit.

83 Termination of appointment

- (1) The Administrator may terminate the appointment of a person as the Territory Coordinator if:
 - (a) the person breaches a condition of the person's appointment; or
 - (b) the person is concerned in any agreement made for the purposes of this Act except in the person's capacity as Coordinator; or
 - (c) the person, or an immediate family member of the person, holds shares in a body corporate that may or is likely to benefit from the activities of the person in the person's capacity as Coordinator and the shares are not held as part of a portfolio over which the person or family member has limited control or direction; or
 - (d) the person is absent from duty, without leave approved by the Minister under section 84 and without reasonable excuse, for 28 consecutive days or for 42 days in any period of 12 months; or
 - (e) the person engages in corrupt conduct as defined in section 10 of the *Independent Commissioner Against Corruption Act 2017*.
- (2) The Administrator may also terminate the appointment of a person as the Territory Coordinator on the ground of inability, inefficiency, misbehaviour or physical or mental incapacity.
- (3) A termination of a person's appointment under this section must be by written notice given to the person.
- (4) If the appointment of a person as the Territory Coordinator is terminated, the Minister must table in the Legislative Assembly a report regarding the termination that sets out the reasons for it within 3 sitting days after the termination.

84 Leave of absence

The Minister may grant the Territory Coordinator leave of absence on the conditions decided by the Minister.

85 Deputy Territory Coordinator

- (1) The Minister may, in writing, appoint a person to be the Deputy Territory Coordinator.
- (2) To be appointed as the Deputy Territory Coordinator, a person must be an eligible person under section 79.
- (3) The Deputy Territory Coordinator may act in the office of the Territory Coordinator:
 - (a) during all vacancies in the office; and
 - (b) during all periods when the Coordinator is unable to perform the duties of the office.
- (4) The appointment of a person as the Deputy Territory Coordinator is for a period of 3 years and the person may be reappointed.

86 Territory Coordinator's staff, consultants and facilities

- (1) The Territory Coordinator's staff consists of the following:
 - (a) the Deputy Territory Coordinator;
 - (b) public sector employees employed for the purposes of the Office of the Territory Coordinator;
 - (c) persons employed in an Agency made available by the Chief Executive Officer of the Agency under an arrangement with the Coordinator.
- (2) The Territory Coordinator may engage the consultants that the Coordinator considers necessary for the performance of the Coordinator's functions under this Act or any other Act.
- (3) The Chief Executive Officer must provide the Office of the Territory Coordinator with facilities to enable it to properly exercise its powers and perform its functions.

87 Delegation

- (1) Subject to subsection (2), the Territory Coordinator may delegate any of the Coordinator's powers and functions under this Act to:
 - (a) a Chief Executive Officer of an Agency; or
 - (b) a member of the Coordinator's staff.
- (2) The Territory Coordinator may not delegate a power or function under Part 5.

Part 7 Miscellaneous matters

88 Keeping of register

- (1) The Territory Coordinator must keep a register of information about the following:
 - (a) designations of significant projects;
 - (b) approvals of programs of works;
 - (c) designations of Territory development areas, variations of the boundaries of those areas and revocations of those designations;
 - (d) TDA plans approved under section 38 and variations and revocations of those plans;
 - (e) notices given under Part 5.
- (2) The register must include a copy of each document mentioned in subsection (1) and any other information prescribed by regulation.
- (3) The register must be available for inspection by the public.
- (4) The ICAC, or a person authorised in writing by the ICAC, may inspect and take a copy of, or extract from, the register at any time.

89 Recovery of costs

- (1) Subject to subsection (2), the Territory Coordinator may recover from a proponent of a significant project reasonable costs incurred by the Coordinator in:
 - (a) issuing a request or notice under Part 5; or
 - (b) if a step-in notice is given – making the statutory decision or undertaking the statutory process to which the step-in notice relates.
- (2) The Territory Coordinator may only do so in accordance with an agreement with the proponent.

90 Annual report

- (1) The Territory Coordinator must, by 31 October following the end of each financial year, prepare and give the Minister a report on the operation of this Act during that year.
- (2) The annual report must include a copy of each exemption notice given during the financial year.

- (3) The Minister must table a copy of the report in the Legislative Assembly within 6 sitting days after receiving it.

91 Review into matter relevant to Territory Coordinator's functions

- (1) The Territory Coordinator must, if directed to do so by the Minister, conduct a review into any matter that, in the opinion of the Minister, is one with which the Coordinator should be concerned in the general operation of the Coordinator's functions.
- (2) The Territory Coordinator may, on the Coordinator's own initiative, conduct a review into any matter that, in the opinion of the Coordinator, is one with which the Coordinator should be concerned in the proper performance of the Coordinator's functions under this or any other Act.
- (3) The Territory Coordinator must prepare a report on the outcome of a review under subsection (1) or (2) and give the report to the Minister.
- (4) The Minister must, as soon as practicable, but within 6 months after receiving the report:
 - (a) give the Territory Coordinator a written response to the report; and
 - (b) if the Minister has not followed, or does not intend to follow, the advice or any recommendation contained in the report – include in the response reasons why the Minister has not implemented, or does not intend to implement, the advice or recommendation.

92 Publication of review report and response

- (1) Subject to subsection (2), in relation to each review conducted under section 91, the Territory Coordinator must make the following available for inspection by the public in the manner the Coordinator considers appropriate:
 - (a) a copy of the report on the outcome of the review;
 - (b) the response from the Minister to the report.
- (2) Before making the report or response available, the Territory Coordinator:
 - (a) must redact all information that is commercial-in-confidence; and

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- (b) may redact any information that the Coordinator is satisfied is in the public interest to withhold or there are other reasonable grounds for withholding.

93 Offence to give misleading information

(1) A person commits an offence if:

- (a) the person intentionally gives information to another person; and
- (b) the other person is an OTC officer; and
- (c) the information is misleading and the person has knowledge of that circumstance; and
- (d) the OTC officer is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) A person commits an offence if:

- (a) the person intentionally gives a document to another person; and
- (b) the other person is an OTC officer; and
- (c) the document contains misleading information and the person has knowledge of that circumstance; and
- (d) the OTC officer is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(3) Strict liability applies to subsections (1)(b) and (2)(b).

(4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant, when giving the information or document:

- (a) draws the misleading aspect of the information or document to the OTC officer's attention; and

- (b) to the extent to which the person can reasonably do so – gives the OTC officer the information necessary to remedy the misleading aspect of the information or document.

- (5) In this section:

acting in an official capacity, in relation to an OTC officer, means the officer is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

OTC officer means the Territory Coordinator or a member of the Coordinator's staff.

94 Offence to disclose certain information

- (1) A person commits an offence if:

- (a) the person obtains information in the course of performing a function connected with the administration of this Act or exercising a power under this Act; and
- (b) the information is confidential and the person is reckless in relation to that circumstance; and
- (c) the person intentionally engages in conduct; and
- (d) the conduct results in the disclosure of the information and the disclosure is not:
 - (i) for a purpose connected with the administration of this Act, including a legal proceeding arising out of the operation of this Act; or
 - (ii) to a person who is otherwise entitled to the information; and
- (e) the person is reckless in relation to the result and circumstance referred to in paragraph (d).

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).

- (3) If the information referred to in subsection (1) relates to a person, it is a defence to a prosecution for an offence against that subsection if the person has consented to the disclosure of the information.

Note for subsection (3)

In addition to the circumstances mentioned in this section, a person who discloses information mentioned in this section will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

95 Protection from liability

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as:
- (a) the Territory Coordinator; or
 - (b) the Deputy Territory Coordinator; or
 - (c) a member of the Coordinator's staff; or
 - (d) any other person acting for or on behalf of the Coordinator.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
- (3) In this section:

exercise of a power includes the purported exercise of the power.

performance of a function includes the purported performance of the function.

96 Regulations

The Administrator may make regulations under this Act.

Note for section 96

See section 65 of the Interpretation Act 1978.

Schedule Scheduled Acts

section 3, definition **Scheduled law**,
paragraph (a)

- 1 *Building Act 1993*
- 2 *Control of Roads Act 1953*
- 3 *Crown Lands Act 1992*
- 4 *Darwin Waterfront Corporation Act 2006*
- 5 *Energy Pipelines Act 1981*
- 6 *Environment Protection Act 2019*
- 7 *Fisheries Act 1988*
- 8 *Geothermal Energy Act 2009*
- 9 *Land Development Corporation Act 2003*
- 10 *Land Title Act 2000*
- 11 *Lands Acquisition Act 1978*
- 12 *Local Government Act 2019*
- 13 *Mineral Titles Act 2010*
- 14 *National Gas (Northern Territory) Act 2008*
- 15 *Nuclear Waste Transport, Storage and Disposal (Prohibition) Act 2004*
- 16 *Off-shore Waters (Application of Territory Laws) Act 1985*
- 17 *Pastoral Land Act 1992*
- 18 *Petroleum Act 1984*
- 19 *Petroleum (Submerged Lands) Act 1981*
- 20 *Planning Act 1999*
- 21 *Port of Darwin Act 2015*
- 22 *Ports Management Act 2015*
- 23 *Radiation Protection Act 2004*
- 24 *Radioactive Ores and Concentrates (Packaging and Transport) Act 1980*
- 25 *Special Purposes Leases Act 1953*
- 26 *Territory Parks and Wildlife Conservation Act 1976*
- 27 *Traffic Act 1987*
- 28 *Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act 2010*

- 29 *Waste Management and Pollution Control Act 1998*
- 30 *Water Act 1992*
- 31 *Water Supply and Sewerage Services Act 2000*
- 32 *Weeds Management Act 2001*