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18 February, 2025

Secretary,
Legislative Scrutiny Committee,
GPO Box 3721, DARWIN NT 0801

Via email to: LA.Committees@nt.gov.au

To whom it may concern,

RE: Submission Territory Coordinator draft bill

I write to submit my deepest objection to the draft Territory Coordinator bill.

I object this draft legislation because of:

1) numerous reasons outlined in two previous submissions dated 5 November 2024 and 17 January 2025 (both attached), which I request you consider and publish;
2) serious new concerns regarding:
   a) poor and problematic consultation on the draft bill - specifically an inadequate and unbalanced consultation process; and an inadequate, non-transparent, unbalanced and misleading Consultation Report, that is an unsuitable basis for the Legislative Assembly to use in its decision making and has fundamentally compromised its ability to make a decision;
   b) the belated removal, without informing the public during the consultation phase, of limitations in the draft Territory Coordinator Bill's powers which protected Aboriginal people's rights, heritage places and sacred sites, and inclusion of *the Heritage Act 2011* in the Schedule.

I expand on these two new concerns below.

A. Poor and problematic consultation on the draft bill - specifically inadequate and unbalanced consultation process; and an inadequate, non-transparent, unbalanced and misleading Consultation Report that fundamentally compromises the Legislative Assembly's ability to make a decision on the draft bill

This Consultation report is misleading, done to an unacceptably low standard, is not impartial and omits key information about issues raised and the implications to the legislation. Given these shortcomings the Legislative Assembly's ability to make a sound decision on the draft bill has been fundamentally compromised.

I am concerned that the above shortcomings mean that the Consultation Report on the Draft Territory Coordinator Bill[1] and consultation process its describes do not meet the values and standards required by the NT Public Sector Code of Conduct[2]. This report and process were not impartial (fails clause 5.1.5); are not up to the expected standard (fails clause 5.1.3); does not afford natural justice (fails clause 5.1.6); and has not taken all reasonable steps to ensure that information and knowledge relied upon to make decisions or take actions is evidence based, transparent, correct and current (fails clause 5.1.7).

The shortcomings which have led me to the above conclusions are:

- the consultation report is superficial at just 8 pages and does not afford justice to those who made submissions;
- the consultation report is written in a manner that consistently frames views as mixed and equivocal
- It does not quantify the level of support and opposition;
- It is not transparent - it does not publish the submissions nor document with any specificity the concerns raised;
- it does not meaningfully and systematically address those concerns raised, assess and report on whether on any these are matters of substance, where natural justice and the public interest sits, and describe how these have been resolved;
- It does not appear to be an impartial report as it diminishes the extensive opposition to the Bill;
- It does not appear to have been an impartial process. It describes how 89 meetings were held with what appears to be industry groups. It seems the Acting Coordinator has spent his time meeting with industries and industry groups (intended to be the beneficiaries of the legislation) and not afforded the same opportunities to the broader community. Furthermore it does not report that the public feedback at the community meetings was scathingly critical.

Additional evidence:

- I attended a crowded public meeting in Alice Springs at which, over a two hour period, there were a very large number of questions and concerns raised and absolutely no support. The issues raised and level of concern is absolutely disappeared in the consultation report.

- My attached letters raises numerous issues. The report on consultation has not addressed many of the issues raised in my letter. For example I expressed concerns about this bill making the coordinator and minister positions vulnerable to corruption but this is not addressed.

The deficiencies in this report and process are especially alarming as the process involved the acting Territory Coordinator. The failure to properly report the feedback from the public and faithfully deal with information contained in submissions, raise serious questions as to how he will fulfil the “step in” duties of the Coordinator, which require accurately dealing with technical advice from decision-making entities, while working within the Public Sector Code of Conduct.

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1 https://parliament.nt.gov.au/__data/assets/pdf_file/0007/1482226/Consultation-Report-Draft-Territory-Coordinator-Bill-2025.pdf

2 https://ocpe.nt.gov.au/__data/assets/pdf_file/0006/379329/code-of-conduct-for-the-northern-territory-public-sector.pdf

B. The belated removal, without informing the public, on limitations to the Coordinator bill's powers which protected Aboriginal people's rights, heritage places and sacred sites and inclusion of the Heritage Act 2011 in the Schedule

The draft Bill as consulted included limitations on the exercise of powers (former clause 14) preventing the Territory Coordinator (TC) from exercising the powers under the Act in a manner that would interfere with an agreement between the Territory and the Commonwealth or interfere with or modify specified Territory legislation including the *Northern Territory Aboriginal Sacred Sites Act 1989*, the *Heritage Act 2011*, the *Aboriginal Land Act 1978*, exercise by Aboriginal persons of rights under the *Pastoral Land Act 1992.* **These limitations have been removed**

The amended draft bill **now includes the *Heritage Act 2011* in the Schedule**. This means that the full range of powers under the Bill could be applied to, for example, processes and decisions to approve work being carried out on a heritage place or object, including works which would impinge on Aboriginal and Macassan archaeological places and objects, which are automatically protected under the Heritage Act.

I am absolutely opposed and disappointed by the removal of these limitations and inclusion of the Heritage Act 2011 in the Schedule. It is profoundly disrespectful and hubristic to allow the Territory Coordinator to weigh in on matters, such as protection of sacred sites and Native Title rights which are of matters of timeless significance and give affect to legal rights respectively

Notwithstanding the injustice and disrespect in these changes, it creates a great risk of a Juukan Gorge scenario where sacred sites are tragically damaged and the Territory suffers immense reputational damage.

Conclusion

Thank you for the opportunity to make the submission.

I request the Legislative Scrutiny Committee:

1. Ignore the Consultation report on the draft Territory Coordinator Bill and obtain the public submissions and notes from all meetings on communications and engagement undertaken and consider and publish these.
2. Consider possible breaches of the Public Sector Code of Conduct
3. Recommend that this Bill be rejected and direct the Government to initiate a transparent and impartial consultation process starting with a green paper to develop legislation that is genuinely in the public interest
4. Consider the issues raised in this letter and my two previous submissions which are attached
5. Publish this letter and my two previous submissions which are attached.

Thank you for considering this submission.

Kind regards,

Adrian Tomlinson