

# Explanatory Statement

## Solar Project (Australia-Asia Power Link) (Special Provisions) Bill 2022

SERIAL NO. 47  
LEGISLATIVE ASSEMBLY OF THE  
NORTHERN TERRITORY

MINISTER FOR MAJOR PROJECTS AND TERRITORY ECONOMIC  
RECONSTRUCTION

### GENERAL OUTLINE

The purpose of this Bill is to make special provision in connection with the Australia-Asia Power Link Project (solar project).

The object of this Bill is to provide certainty for the solar project. In particular, it provides certainty for the solar generation site by creating a legislative framework that allows for the extension of the maximum term for a non-pastoral use permit for the solar project to 70 years and protecting the site from mineral, petroleum, geothermal activities that may interfere with project infrastructure.

It enables the Territory to fulfil its commitments related to the grant of land tenure that is essential for the Project and provides further certainty to parties with an interest in the solar project that the Territory and Ministers will meet those commitments.

It brings together requirements under a number of Northern Territory Acts into a single piece of legislation and removes ambiguity in respect of how certain provisions of an Act would apply to the solar project.

The Bill provides flexibility for the negotiation of commercial terms by dis-applying sections of the *Crown Lands Act 1992* and *Law of Property Act 2000* and enabling agreement (with the Territory or a Minister as a party) as to certain matters for the solar project having effect as if those matters were a provision of the Act.

### NOTES ON CLAUSES

#### **Part 1 Preliminary Matters**

##### **Clause 1. Short Title**

This is a formal clause which provides for the citation of the Bill. The Bill when passed may be cited as the *Solar Project (Australia-Asia Power Link) (Special Provisions) Act 2022*.

##### **Clause 2. Commencement**

This clause establishes the commencement of the legislation on a date fixed by the Administrator by *Gazette* notice. If the Act does not commence before 21 March 2027, the Act will commence on that day.

##### **Clause 3. Definitions**

This clause sets out the meaning of specific terms used in the Bill, including reference to where those terms are fully defined in other clauses of the Bill, or other Acts.

##### **Clause 4. Act Binds the Crown**

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

## **Part 2 Implementation of Agreement and key terms**

The purpose of this Part is to authorise implementation of the Agreement and make it clear that the relevant Ministers have the power to grant or consent to the grant of tenure when it is required under the Agreement. It also operates to prevent dealings in Crown land in a way that is inconsistent with commitments in the Agreement.

### **Clause 5. Implementation of Agreement**

This clause authorises implementation of the Agreement.

### **Clause 6. Power to grant or consent to grant of project tenure**

Subclause (1) provides that the Crown Lands Minister and the Pastoral Land Minister have the power to grant or consent to the grant of project tenure when it is required under the Agreement.

Subclause (2) provides that the appropriate Minister's power to grant or consent to the grant of project tenure may be exercised on the appropriate Minister's own initiative, or in response to being directed by the Project Minister.

Subclause (3) establishes the validity of the grant or consent to the grant of project tenure even without obtaining any approvals or following any procedures set out in the *Crown Lands Act 1992*, *Pastoral Land Act 1992* or any other Act.

Subclause (4) provides that any grant or consent to grant of project tenure in accordance with a requirement of the Agreement is deemed to have been made under the provisions of the *Crown Lands Act 1992*, *Pastoral Land Act 1992* or this Act as specified in the instrument evidencing the grant or consent.

### **Clause 7. Restraint on dealing with Crown lands**

This clause operates to restrain the Territory and the appropriate Minister from dealing with Crown land in a way that is inconsistent with their commitments in the Agreement.

### **Clause 8. Direction by Project Minister**

Subclause (1) provides the Project Minister with power to direct the appropriate Minister to exercise their power to grant or consent to the grant of project tenure where necessary to give effect to a requirement of the Agreement.

Subclause (2) provides that the appropriate Minister must comply with a direction properly given under subclause (1) unless doing so would contravene Commonwealth law.

Subclause (3) provides that there must be a non-pastoral use permit (NPUP) in place for all pastoral lease land to be subleased, that the NPUP enables the land to be used for the required sublease purpose and that the NPUP is for the full term of the sublease before the Project Minister can direct the Pastoral Land Minister to consent to the sublease.

## **Part 3 Solar generation site**

### **Division 1 Location of solar generation site**

#### **Clause 9. Meaning of solar generation site**

This clause defines the term *solar generation site*.

#### **Clause 10. Declaration of alternative site**

This clause provides the Project Minister with the power to declare an alternative site (to that defined in Clause 9) to be the solar generation site by *Gazette* notice.

## **Division 2 Consent requirements for activities of interest holders**

This purpose of this Division is to prevent the holders of mineral, petroleum or geothermal rights and interests from exercising certain rights that interfere with the construction, operation or maintenance of the solar generation plant, without consent from the appropriate Minister which may be on conditions that the Minister thinks fit. It also includes provision for enforcement against holders of the interests for contravention of a provision or conditions of consent under this Division, and to cease operation of the Division upon the happening of specified events.

### **Clause 11. Consent required for activities of holders of interests under *Mineral Titles Act 2010***

Subclause (1) provides that this clause applies to a mineral title or access authority.

Subclause (2) limits the requirement to obtain Ministerial consent to activities in subclause (3) to only activities that are being carried out on an interest area where part of the interest area is within the solar generation site.

Subclause (3) provides that a holder of a mineral title or access authority must obtain Ministerial consent prior to undertaking activities on the interest area that would interfere with the construction, operation or maintenance of the solar generation plant.

Subclause (4) provides that the holder of a mineral title must not exercise a right under section 83(1) of the *Mineral Titles Act 2010* over or in relation to the solar generation site, without the consent of the Mineral Titles Minister.

Subclause (5) clarifies that the rights of holders of mineral titles and access authorities under the *Mining Management Act 2010* and *Mineral Titles Act 2010* continue to apply insofar as they are not inconsistent with this section or the conditions of a consent given by the Mineral Titles Minister.

Subclause (6) defines *access authority*, *interest area* and *mineral title* for the purposes of this clause.

### **Clause 12. Consent required for activities of holders of interests under *Petroleum Act 1984***

Subclause (1) provides for this clause to apply to a petroleum interest or petroleum title.

Subclause (2) limits the requirement to obtain the Ministerial consent to activities in subclause (3) to only activities that are being carried out on an interest area where part of the interest area is within the solar generation site.

Subclause (3) provides that the holder of a petroleum interest must obtain Ministerial consent prior to undertaking activities on the interest area that would interfere with the construction, operation or maintenance of the solar generation plant.

Subclause (4) provides that the holder of a petroleum title must not exercise a right under section 65(1) of the *Petroleum Act 1984* over or in relation to the solar generation site without the consent of the Petroleum Minister.

Subclause (5) clarifies that the rights of holders of petroleum interests under the *Petroleum Act 1984* continue to apply insofar as they are not inconsistent with this section or the conditions of a consent given by the Petroleum Minister.

Subclause (6) defines *interest area*, *petroleum interest* and *petroleum title* for the purposes of this clause.

**Clause 13. Consent required for activities of holder or authority under *Geothermal Energy Act 2009***

Subclause (1) provides that this clause applies to a holder of a geothermal authority.

Subclause (2) limits the requirement to obtain the Ministerial consent to activities in subclause (3) to only activities that are being carried out on an interest area where part of the authority area is within the solar generation site.

Subclause (3) provides that a holder of a geothermal authority must obtain Ministerial consent prior to undertaking activities on the interest area that would interfere with the construction, operation or maintenance of the solar generation plant.

Subclause (4) provides that the holder of a geothermal authority must not exercise a right under section 42(1) of the *Geothermal Energy Act 2009* over or in relation to the solar generation site.

Subclause (5) clarifies that the rights of holders of a geothermal authority under the *Geothermal Energy Act 2009* continue to apply insofar as they are not inconsistent with this section or the conditions of a consent given by the Geothermal Energy Minister.

Subclause (6) defines *authority area* and *geothermal authority* for the purposes of this clause.

**Clause 14. Appropriate Minister's consent**

Subclause (1) provides that title, authority or interest holder mentioned in clause 11, 12 or 13 may apply to the Minister for consent to engage in an activity or exercise a right mentioned in those sections.

Subclause (2) sets out the processes that the Minister must follow in deciding an application for consent from a title, authority or interest holder made under subclause (1). This clause requires the appropriate Minister to consult with the site occupier and take the occupier's views into consideration in deciding the outcome of the application.

Subclause (3) provides that no compensation is payable by the applicant as a result of a consent given under this Division, except to the extent compensation would have been payable in the absence of this Act. It also allows the Minister to disclose to the site occupier or any other project participant the conditions on which the consent was given.

Subclause (4) provides that a person may not seek an injunction to prevent, delay or interfere with the Minister's consideration of an application or the giving of consent.

Subclause (5) defines *appropriate Minister* for the purpose of this clause.

**Clause 15. Compliance and enforcement**

Subclause (1) provides that the conditions of a consent given to an interest holder by the appropriate Minister under this Division must be complied with.

Subclause (2) provides that the Territory may take the action necessary to ensure compliance with clauses 11, 12 or 13 or the conditions of a consent given under this Division, and provides that the Territory may recover, from the non-compliant interest holder, the reasonable costs and expenses incurred by the Territory in doing so, as a debt due to the Territory.

Subclause (3) provides for a process of judicial enforcement, where the Supreme Court may, upon request of the Territory or relevant Minister, grant an injunction to enforce compliance or award damages against an interest holder for non-compliance with any of clauses 11, 12 or 13 or with the conditions of a consent given under this Division.

Subclause (4) provides for a process of judicial enforcement, where the Supreme Court may, upon request of the site occupier, grant an injunction to enforce compliance or award damages against an interest holder for non-compliance with any of clauses 11, 12 or 13.

Subclause (5) clarifies the meaning of *interest holder* for the purpose of this clause.

#### **Clause 16. Cessation of Division**

Subclause (1) provides that the Project Minister may declare by *Gazette* notice that the Division ceases to have effect on a specified day.

Subclause (2) limits the Project Minister's power to cease the Division to the circumstances specified in this subclause.

Subclause (3) provides that this Division and any consents granted under it will cease to have effect on and from the specified day.

### **Division 3 Non-pastoral use permit**

#### **Clause 17. Extended term of non-pastoral use permit**

This clause allows the grant of a non-pastoral use permit to use pastoral land for the purposes of constructing, operating and maintaining project infrastructure for a term of 70 years.

## **Part 4 Easements in gross and mortgages**

### **Division 1 Definitions**

#### **Clause 18 Definitions**

This clause includes defined terms for Part 4.

### **Division 2 Easements in gross**

The purpose of this Division is to clarify that easements in gross can be granted (and registered on the land titles register) over any type of lease for the solar project and set out the instrument and consent requirements for the grant and registration, amendment, transfer and extinguishment of the easements in gross.

#### **Clause 19. Creation of easements in gross for solar project over leasehold lots and leases**

Subclause (1) provides that an easement in gross may be granted over a leasehold lot or Crown or pastoral land under-lease, or any other type of lease (all being a Part 4 easement in gross).

Subclause (2) provides that, *the Land Title Act 2000* applies to easements in gross granted under subclause (1), subject to the matters specified in this subclause.

Subclause (3) clarifies that this section does not prevent an easement in gross being created for the solar project over a lot that is not mentioned in subsection 1.

#### **Clause 20. Requirements of instrument**

Subclause (1) specifies the requirements for an instrument of easement in gross mentioned in clause 19(1) (all being a Part 4 easement in gross).

Subclause (2) clarifies that the requirements listed in subclause (1) do not limit the matters that the form for an instrument of easement in gross may require.

#### **Clause 21. Consents for creation**

Subclause (1) specifies the consents required for the grant of an easement in gross created over a leasehold lot.

Subclause (2) specifies the consents required for an easement in gross created over a Crown or pastoral land under-lease.

Subclause (3) specifies the consents required for creating an easement in gross over any other type of lease to those mentioned in subclauses (1) and (2).

#### **Clause 22. Transfer**

Subclause (1) provides that a Part 4 easement in gross may be transferred by the party with the benefit of the easement by registering an instrument of transfer of easement in gross.

Subclause (2) specifies the requirements for an instrument of transfer of an easement in gross, including for its valid execution and consents that it must include or have lodged with it.

Subclause (3) provides that a mortgagee in possession of a leasehold lot or lease must sign the instrument of transfer for an easement in gross in place of the lessee.

#### **Clause 23. Instrument of amendment or extinguishment**

Subclause (1) specifies the requirements of an instrument of amendment or instrument of extinguishment of a Part 4 easement in gross, including for its valid execution and consents that it must include or have lodged with it.

Subclause (2) provides that a mortgagee in possession of a leasehold lot or lease must sign the instrument of amendment or extinguishment for an easement in gross in place of the lessee.

#### **Clause 24. Consents for transfer, amendment or extinguishment**

Subclause (1) specifies the consent requirement for the transfer a Part 4 easement in gross over a leasehold lot or a Crown or pastoral lease under-lease.

Subclause (2) specifies the consent requirement for the transfer a Part 4 easement in gross over any other type of lease to those mentioned in subclause (1).

Subclause (3) specifies the consent requirement for amendment of a Part 4 easement in gross over a leasehold lot or a Crown or pastoral lease under-lease.

Subclause (4) specifies the consent requirements for amendment of a Part 4 easement in gross over any other type of lease to those mentioned in subclause (3).

Subclause (5) specifies the consent requirements for extinguishment of an easement in gross.

#### **Clause 25. Extinguishment and removal from land register**

Subclause (1) provides for when a Part 4 easement in gross extinguishes.

Subclause (2) provides that the lessee of a leasehold lot or lease over which a Part 4 easement in gross has been created, may lodge a written request to the Registrar-General to remove an easement in gross from the land register if the lessee considers that the easement has been extinguished in accordance with its terms.

Subclause (3) provides for when the Registrar General may remove a Part 4 easement in gross from the land register, without notice to any person.

#### **Clause 26. Consent not required from person with benefit of easement in gross**

This clause makes it clear that consent of persons having the benefit of a Part 4 easement in gross is not required for the registration of any other dealings in respect of the leasehold lot or leased land burdened by the easement in gross or any other interest in that land.

#### **Clause 27. Form of consent**

This clause establishes flexibility for the format of a consent under this Division, unless the Registrar-General requires it to be in a particular form.

### **Division 2 Mortgages over project easements in gross**

The purpose of this Division is to make it clear that an easement in gross for the solar project may be mortgaged (and that the mortgage can be registered) and sets out the requirements for the grant and registration, amendment and discharge of a mortgage of an easement in gross created for the solar project.

#### **Clause 28. Project easements in gross may be mortgaged**

Subclause (1) provides that a project easement in gross may be mortgaged by registering an instrument of mortgage of the easement in gross.

Subclause (2) provides that the *Land Title Act 2000* applies to a mortgage of a project easement in gross as if it were a mortgage of an interest in a lot and clarifies that this Act prevails to the extent of any inconsistency between it and the *Land Title Act 2000*.

Subclause (3) provides that a project easement in gross cannot be mortgaged in any other way.

#### **Clause 29. Requirements of instrument**

Subclause (1) specifies the requirements for an instrument of mortgage for a project easement in gross.

Subclause (2) clarifies that subclause (1) does not limit the matters that the form for an instrument of mortgage of easement in gross may require.

#### **Clause 30. Instrument of amendment**

This clause specifies the requirements for an instrument of amendment of mortgage of a project easement in gross, including execution and consent requirements.

#### **Clause 31. Discharge and removal from land register when easement in gross ends**

Subclause (1) provides for how a registered mortgage over a project easement in gross is discharged.

Subclause (2) provides that the person having benefit of a project easement in gross subject to a registered mortgage may, if it considers that the mortgage has been discharged in accordance with its terms, lodge a written request for the Registrar-General to remove the mortgage from the land register.

Subclause (3) provides for when the Registrar General may remove a registered mortgage over a project easement from the land registrar, without notice to any person.

#### **Clause 32. Consent not required from mortgagee**

This clause makes it clear that consent of the mortgagee of a project easement in gross is not required for the registration of any other dealings in respect of the land subject to the lease or lot over which the easement in gross was created.

#### **Clause 33. Form of Consent**

This clause establishes flexibility for the format of consents required under this Division, unless the Registrar-General requires it to be in a particular form.

#### **Clause 34. Liability of mortgagee in possession under easement in gross**

This clause provides that a mortgagee of a project easement in gross who enters into possession under the easement is liable under the easement to the same extent as the person with the benefit of the easement before entering possession, and that the mortgagee must comply with the terms of the easement as if it were the easement holder.

#### **Clause 35. Application of laws**

Subclause (1) provides that Part 7, Division 3 of the *Law of Property Act 2000* and section 80 of the *Land Title Act 2000* do not apply in relation to a mortgage over a project easement in gross.

Subclause (2) provides that Part 7, Divisions 1, 2 and 4 of the *Law of Property Act 2000* applies to a mortgage over a project easement in gross as if it were a mortgage under that Act.

Subclause (3) clarifies that this Division prevails to the extent of any inconsistency between it and the *Law of Property Act 2000*.

### **Part 5 Provisions relating to relevant leases and Crown lands**

#### **Division 1 Relevant leases**

The purpose of this Division is to set out the provisions of the *Crown Lands Act 1992*, *Law of Property Act 2000* and *Business Tenancies (Fair Dealings) Act 2003* that apply (or do not apply) to Crown leases and other relevant leases granted for the solar project.

#### **Clause 36. Disapplication of statutory provisions**

Subclause (1) specifies the provisions of the *Crown Lands Act 1992* that do not apply to Crown leases granted for the solar project, unless otherwise agreed in the terms of the lease, a declared agreement or declared provision to which the lessee is a party.

Subclause (2) specifies the provisions under the *Law of Property Act 2000* that do not apply in relation to a relevant lease, unless otherwise agreed in the terms of the lease, a declared agreement or declared provision to which the lessee is a party.

Subclause (3) provides for the provisions of the *Business Tenancies (Fair Dealings) Act 2003* that do not apply in relation a relevant lease, unless otherwise agreed in the terms of the lease, a declared agreement or declared provision to which the lessee is a party.

#### **Clause 37. Application of statutory provisions**

This clause provides that sections 137, 138 and 140 of the *Law of Property Act 2000* apply in relation to a Crown lease (in addition to other leases) granted for the solar project, subject to Clause 38 and any modifications prescribed by regulation.

#### **Clause 38. Relief against forfeiture of relevant leases**

Subclause 1 provides that relief against forfeiture of a relevant lease is not available if a relevant lease is being terminated as a consequence of the matters specified in the subclause.

Subclause 2 defines agreement for this purposes of this clause.

#### **Division 2 Crown lands matters**

The purpose of this Division is to make it expressly clear that certain arrangements may be entered into for the grant of tenure for the solar project, despite provisions or the absence of an express provision in the *Crown Lands Act 1992*.

**Clause 39. Crown Lands Minister’s power to enter into certain agreements**

Subclause (1) confirms that the Crown Lands Minister has the power to grant tenure for the solar project over Crown land on terms that include rights for the Territory or a project participant to extend the period or term of the tenure or to renew the tenure for a further term.

Subclause (2) confirms that the Crown Lands Minister has the power to enter into an agreement for the solar project that includes an option exercisable by either the Territory or a project participant for the grant of tenure over Crown land for the solar project.

**Clause 40. Power to enter into agreement about rent, termination or forfeiture**

Subclause (1) provides that the Territory, Crown Lands Minister or Project Minister may enter into agreements that provide for the determination, payment or re-appraisal of rent and the termination or forfeiture of any agreement, in respect of tenure over Crown land for the solar project.

Subclause (2) clarifies that the powers in subclause (1) apply despite provisions in the *Crown Lands Act 1992*.

Subclause (3) defines agreement for the purposes of this clause.

**Clause 41. Disapplication of statutory provision in relation to project licence**

Subclause (1) provides that section 61(4) of the *Crown Lands Act 1992* does not apply in relation to a project licence.

Subclause (2) restricts the Crown Lands Minister from granting a lease or estate in fee simple in relation to land affected by a project licence, unless a new licence of the same nature and benefit is offered to the licensee by the new lessee or freehold owner, including where the new licence may not be over Crown land or granted under the *Crown Lands Act 1992*.

Subclause (3) defines the term *project licence* for the purpose of this clause.

**Part 6 Other land and infrastructure matters**

**Division 1 Roads and waterways**

The purpose of this Division is to provide for the grant of Ministerial approvals for works for the solar project within roads and Northern Territory waters and that interfere with waterways, which approvals may be on conditions the Minister thinks fit. It also includes provisions for enforcement against project participants for contravention of a provision or condition of an approval given under this Division.

**Clause 42. Construction on or across road**

Subclause (1) provides that a project participant may, in accordance with the written approval of the Transport Minister, construct, operate and maintain project infrastructure on or across a road.

Subclause (2) provides that a project participant may apply for the approval mentioned in subclause (1).

Subclause (3) clarifies that an approval under this clause is subject to conditions that the Transport Minister considers to be appropriate and specifies in the approval or notifies to the approval holder, and in any event includes the condition described in subclause 3(a) unless the approval specifies otherwise.

Subclause (4) provides examples of conditions for an approval, but does not limit what those conditions may be, preserving the discretion of the Minister to grant an approval on or subject to conditions that the Minister thinks fit.

Subclause (5) provides that the exercise of a right to construct, operate or maintain project infrastructure on or across a road under an approval of the Transport Minister is taken to be permitted under the *Control of Roads Act 1953*, only if the conditions of the approval granted under this clause are complied with.

Subclauses (6) and (7) provide that project infrastructure constructed on or across a road does not merge with the road or vest in or belong to the Territory or a local government council (unless otherwise agreed in a declared agreement or a declared provision).

#### **Clause 43. Interference with waterway or erection structures**

Subclause (1) provides that a project participant must not do any of the things mentioned in the subclause without the approval of the Water Minister.

Subclause (2) provides that a project participant may apply to the Water Minister for approval to do any of the things mentioned in subclause (1).

Subclause (3) provides that the Water Minister's approval under this clause is subject to the conditions that the Water Minister considers appropriate and specifies in the approval or otherwise notifies to the approval holder.

Subclause (4) provides that an approval may be on conditions relating to transfer, but does not limit what those conditions may be, preserving the discretion of the Minister to grant an approval on or subject to conditions that it thinks fit.

Subclause (5) provides that an action taken by a project participant under an approval given under this clause for the things mentioned in subclause 1(a) or (b) is taken to be permitted under the *Water Act 1992*, if the conditions of the approval are complied with.

Subclause (6) provides that an action taken by a project participant under an approval given under this clause for the things mentioned in subclause 1(c) or (d) is taken to be permitted under the *Marine Act 1981*, if the conditions of the approval are complied with.

Subclause (7) defines *interfere with a waterway*, *Northern Territory waters*, and *waterway* for the purpose of this clause.

#### **Clause 44. Compliance with conditions of approval**

Subclause (1) provides that each project participant must comply with each condition of an approval given under this Division.

Subclause (2) provides that the Territory may take the action necessary to ensure compliance with a condition of an approval given under this Division, and provides that the Territory may recover from, a non-compliant project participant or the approval holder (at the Territory's discretion), the reasonable costs and expenses incurred by the Territory in doing so, as a debt due to the Territory.

Subclause (3) provides for a process of judicial enforcement, where the Supreme Court may, upon request of the Territory, the Transport Minister or the Water Minister or any other person with a proper interest, grant an injunction to enforce compliance or award damages against a project participant for non-compliance with the conditions of an approval given under this Division.

Subclause (4) clarifies that, if a project participant fails to comply with a condition of an approval given under this Division, action may be taken under the *Control of Roads Act 1953*, *Water Act 1992* and *Marine Act 1981* as if the approval had never been given.

#### **Division 2 Application of *Building Act 1993* and *Planning Act 1999***

The purpose of this clause is to modify the application of the *Building Act 1992* and *Planning Act 1999* to more practically and efficiently apply to the linear nature of transmission infrastructure.

#### **Clause 45. Application of *Building Act 1993***

This clause makes it clear that the *Building Act 1993* applies in relation to project infrastructure that is a building and is within a Building Area, for the purposes of that Act

#### **Clause 46. Certain easements and licences do not constitute subdivision**

Subclause (1) makes it clear that transmission easements or transmission licences with a term in excess of 12 years and that are predominantly for the purpose of constructing, maintaining and operating electricity transmission infrastructure, do not constitute a subdivision for the purposes of section 5 of the *Planning Act 1999*.

Subclause (2) defines Territory entity, transmission easement and transmission licence for the purposes of this section.

Applying these definitions, a transmission easement or transmission licence will get the benefit of this clause if granted by a Territory entity or if a Territory entity consents to the easement or licence, regardless of whether or not the consent is required under statute or otherwise to validate the grant.

#### **Clause 47. Certain restrictions not to apply to electricity transmission infrastructure**

Subclause (1) provides that provisions of the *Planning Act 1999* or *Building Act 1993* or of a statutory instrument made under those Acts that relates to the siting of buildings, or buildings constructed across lot boundaries, does not apply to the electricity transmission infrastructure constructed across the lot boundaries mentioned in subclauses (1)(a) to (c).

Subclause (2) allows the Project Minister to determine by *Gazette* notice that a lot is an exempt lot for this clause.

Subclause (3) defines building or planning provision and exempt lot for the purpose of this clause.

#### **Clause 48. Planning Minister is consent authority**

Subclause (1) provides that the Planning Minister is the consent authority in relation to any development on land, other than pastoral land, that is proposed for a purpose connected with the construction, operation or maintenance of electricity infrastructure, including subdivision and clearing of native vegetation.

Subclause (2) provides that Northern Territory Civil and Administrative Tribunal has no jurisdiction to review determinations made by the Planning Minister as the consent authority in relation to development applications for electricity infrastructure.

Subclause (3) defines the terms *development* and *Planning Minister* for the purpose of this clause.

#### **Clause 49. Use and development of land in railway corridor for project infrastructure**

This clause modifies the operation of the *AustralAsia Railway (Special Provisions) Act 1999*, which currently regulates how the railway corridor can be used

Subclause (1) provides that use and development (including clearing native vegetation) of unzoned land within the railway corridor for the purposes of construction, operation and maintenance of project infrastructure is permitted without the consent of the consent authority. Subclause (1) also provides that use and development of zoned land within the railway corridor for the purposes of construction, operation and maintenance of project infrastructure must have the consent of the consent authority.

Subclause (2) makes it clear that Division 2 of Part 5 of the *Planning Act 1999* (Development applications - notification and consultation) applies to development applications for project infrastructure.

Subclause (3) clarifies that subclause (1) prevails over any other provisions of the NT Planning Scheme, the *Planning Act 1999* or the *AustralAsia Railway (Special Provisions) Act 1999*, regardless of whether the provision was in force before or after the commencement of this section.

Subclause (4) defines the terms *NT Planning Scheme*, *unzoned land* and *zoned land* for the purpose of this clause.

### **Division 3 Extractive minerals**

#### **Clause 50. Extraction and use of extractive minerals**

Subclause (1) makes it clear that extracting extractive minerals without an extractive mineral permit is not an offence of s 148(1) of the *Mineral Titles Act 2010* if the extraction is incidental to construction of project infrastructure and not for sale of the extractive minerals, as contemplated by section 50(3) of the *Mineral Titles Act 2010*.

Subclause (2) defines the terms *extractive mineral*, *extractive mineral permit*.

### **Division 4 Sacred Sites**

The purpose of this Division is to allow project participants to rely on Authority Certificates issued for the solar project, subject to the conditions of the certificate and applicable laws as if they were granted the certificate. It also allows for the amalgamation of multiple certificates for the solar project into one certificate and removes the 60 day time period in section 19F of the *Northern Territory Aboriginal Sacred Sites Act 1989* (the Sacred Sites Act) for consultations relating to applications for a certificate made by a project participant for the solar project.

#### **Clause 51. Interpretation**

The purpose of this clause is to define the term Sacred Sites Act, and to provide that if a word used in this Division is defined in the Sacred Sites Act, the word has the same meaning.

#### **Clause 52. Consultation period**

This clause provides that the 60 day period under section 19F of the Sacred Sites Act does not apply in relation to applications by a project participant for the solar project.

#### **Clause 53. Authority Certificate applies to each project participant**

This clause provides that all project participants may rely upon Authority Certificates for the solar project, to take the same action on the land the subject of the certificate, subject to the same conditions, as if they were the person to whom the Certificate was issued.

#### **Clause 54. Amalgamation of Authority Certificates**

Subclause (1) provides that the Authority may revoke two or more Authority Certificates for the solar project and issue a single certificate in place of the revoked certificates.

Subclause (2) clarifies that a replacement Authority Certificate under subclause (1) must be in respect of the same land over which the revoked certificates were issued and on conditions that are consistent with the conditions of the revoked certificate, and also provides that it is subject to the Sacred Sites Act.

#### **Clause 55. Failure to comply with conditions of Authority Certificate**

Subclause (1) provides that the Territory may take the action necessary to ensure compliance with a condition of an Authority Certificate, and provides that the Territory may recover from, a non-compliant project participant, the reasonable costs and expenses incurred by the Territory in doing so, as a debt due to the Territory.

Subclause (2) provides for a process of judicial enforcement, where the Supreme Court may, upon request of the Territory, the Authority or any other person with a proper interest, grant an injunction to enforce compliance or award damages against a project participant for non-compliance with the conditions of an Authority Certificate.

Subclause (3) clarifies that this clause does not operate to prevent or limit remedial action available under the Sacred Sites Act, or a judicial remedy for non-compliance with an Authority Certificate.

## **Part 7        Miscellaneous matters**

### **Clause 56.    Specific performance of Agreement**

This clause stipulates that an order for specific performance may be made and enforced against the Territory in relation to the Territory's obligations under the Agreement to restrain from dealing with Crown land in a particular way or to grant or consent to the grant of project tenure, in the same circumstances and on the same conditions as it may be made and enforced against an individual.

### **Clause 57.    Acquisition on just terms**

The clause provides that, if the operation of the Act would result in any acquisition of property, the Territory must pay compensation necessary to ensure the acquisition is on just terms, and provides that a court may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.

### **Clause 58.    Compensation not payable**

Subclause (1) provides that compensation is not payable by or on behalf of the Crown, AustralAsia Railway Corporation (AARC) or an officer, employee or agent of the Crown or AARC because of the enactment, commencement or operation of this Act or any statutory instrument made under it, or any consequence of, or statement, or conduct relating to that enactment, making, commencement or operation. Note that this is not intended to apply to compensation payable under or as a consequence of a grant of project tenure.

Subclause (2) provides that this clause does not extend to compensation payable under Clause 57, a declared agreement or a declared provision.

Subclause (3) defines the terms *compensation*, *conduct*, *Crown* and *statement* for the purposes of this clause.

### **Clause 59.    Declared agreements and declared provisions**

Subclause (1) provides that the parties to a Territory agreement may agree in writing the things specified in this subclause.

Subclause (2) provides that the parties to a third party agreement may agree in writing with the Territory or a minister the things specified in this subclause.

Subclause (3) defines Territory agreement and third party agreement for the purposes of this clause.

### **Clause 60.    Effect of provisions of declared agreements and declared provisions**

Subclause (1) provides that a provision of a declared agreement that deals with any of the matters specified in this subclause has effect as if it were a provision of this Act, despite anything to the contrary in any law.

Subclause (2) provides that a declared provision of an agreement has effect as if it were a provision of this Act.

### **Clause 61.    Delegation**

Subclause (1) provides that Project Minister may delegate the Minister's powers and functions under this Act to another Minister.

Subclause (2) provides that the Project Minister may delegate the Minister's powers and functions under clauses specified under this subclause to a public sector employee.

Subclause (3) provides that a minister, other than the Project Minister may delegate any of their powers or functions under this Act to a public sector employee.

#### **Clause 62. Directions**

Subclause (1) provides that a direction made under clause 8 will take effect at the beginning of the day it was made or at any later time specified in the direction.

Subclause (2) provides that a document purporting to be a direction made under Clause 8 is taken to be a properly made direction, unless the contrary is established.

Subclause (3) provides that, for the purpose of legal proceedings, a certificate purporting to be a direction under Clause 8 and signed by the Project Minister or a person prescribed under regulation, is admissible as evidence in any legal proceedings and is evidence of the matters certified.

#### **Clause 63. Regulations**

Subclause (1) provides that the Administrator has the power to make regulations under the Act.

Subclause (2) provides that the regulations may facilitate the carrying out and discharge of the Territory's obligations under the Agreement, and for the grant or consent to the grant of project tenure.

#### **Clause 64. Amendment or modification of Acts by regulation**

Subclause (1) provides that the Administrator may make regulations amending or modifying the operation of this Act or another Act to facilitate the implementation of the Agreement, the discharge of the Territory's obligations under the Agreement, or the grant, or consent to the grant, of the project tenure.

Subclause (2) specifies that regulations made under subclause (1) may be retrospective, but may not commence earlier than the commencement of this section and may only be made within two years after the commencement of this section of the Act.

Subclause (3) clarifies that the retrospective function of a regulation may not operate to the disadvantage of a person other than the Territory or a Territory authority.

### **Part 8 Consequential amendments**

#### **Division 1 *AustralAsia Railway Corporation Act 1996***

##### **Clause 65. Act amended**

This is a formal clause which provides that amendments are made to the *AustralAsia Railway Corporation Act 1996*.

##### **Clause 66. Section 17 amended (Functions of Corporation)**

This clause amends the *AustralAsia Railway Corporation Act 1996* to add, to the functions of the AARC, the function of facilitating access to, and use of the corridor for the solar project, and to negotiate and enter into agreements to facilitate other projects or arrangements in relation the corridor.

##### **Clause 67. Section 18 amended (Powers of Corporation)**

This clause amends the *AustralAsia Railway Corporation Act 1996* to add, to the powers of the AARC, the power to grant easements and accept payments.

##### **Clause 68. Section 33B inserted**

The clause inserts a new section in the *AustralAsia Railway Corporation Act 1996* after section 33A, which provides that a 'grant or purported grant of an easement by the AARC before the commencement of this section, is declared to be, and to always have been, a valid exercise of power by the Corporation'.

## **Division 2 *AustralAsia Railway (Special Provisions) Act 1999***

### **Clause 69. Act amended**

This is a formal clause which provides that amendments are made to the *AustralAsia Railway (Special Provisions) Act 1999*.

### **Clause 70. Section 8 amended**

This clause amends section 8 by inserting a note pertaining to the modification of this section by section 50 of the *Solar Project (Australia-Asia Power Link) (Special Provisions) Act 2022*.

## **Division 3 Repeal of Part**

### **Clause 71. Repeal of Part**

This is a formal clause to effect the repeal of this Part of the Act on the day after it commences.