

Auditor-General's Report to the Legislative Assembly

Territory Coordinator Radio Advertisement Review

Public Information Act 2010

Report 2 of 2025



**Northern Territory
Auditor-General's Office**
Auditing for Parliament

At the Northern Territory Auditor-General's Office we acknowledge the Aboriginal and Torres Strait Islander people as the traditional Owners, Custodians of Country throughout Australia and their connection to land, seas and community.

We pay our respects to their cultures,
and to their Elders past and present.



Northern Territory
Auditor-General's Office
Auditing for Parliament

10 February 2025

Speaker
The Legislative Assembly of the Northern Territory
Parliament House
Darwin

Dear Speaker

Report on a Review under the *Public Information Act 2010*

In accordance with the requirements of section 7(3)(a) of the *Public Information Act 2010* and section 24 of the *Audit Act 1995* I submit my report on a review of a radio advertisement relating to the Territory Coordinator.

I ask that you table the report in the Legislative Assembly.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Jara K Dean'.

Jara K Dean
Auditor-General



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**Territory
Coordinator Radio
Advertisement
Review**

Preface

Territorians have the right to know the policies and activities of their government and the information provided by the government to the public must be sufficiently detailed, factual and free of political bias. In other words, the public should be able to make informed choices based on the information provided.

In 2010, the Legislative Assembly passed the *Public Information Act 2010* (the Public Information Act) that provides for the review of information provided to the public using taxpayer funds. The Public Information Act sets the principles in relation to the content of public information, but it does not prevent the publishing of information or government advertising that does not meet those principles. The Public Information Act merely provides mechanisms for referral and review of public information by the Auditor-General. The implementation of recommendations made by the Auditor-General, which are limited to the withdrawal or changing the content of the information, is solely at the discretion of the authority who gave the information in the first place.

It should come as no surprise that these days, more Australians are choosing social media as their primary source of news content, with media outlets dependant on press releases to source their stories. Yet, the Public Information Act excludes ministerial media releases and, in my view, has not kept pace with the adoption of digital technologies to communicate with large numbers of the population.

An assessment of whether information contravened the Public Information Act can often be problematic and I acknowledge that my assessment may be different from the assessments of my predecessors. I believe that the task of reviewing public information requires me to consider not only the words, but to view those words in their context and consider the purpose for which the information was given.

The Public Information Act limits what recommendations I can make. But I feel that I would not be doing my duty if I did not call out the lack of specific guidelines on government information and advertising campaigns that would provide clarity and greater certainty on how to stay within the rules. It would also be remiss of me if I did not suggest that it would be prudent for agencies to self-assess each piece of information and advertising campaign planned to be given to the public against the principles contained in the Public Information Act before their launch in the absence of specific guidelines.

I thank the staff from the Department of the Chief Minister and Cabinet who provided information and assistance to help me and my staff complete this review.



Jara K Dean
Auditor-General

Contents

Summary of the Review	8
Introduction	8
Background	8
Conclusion	8
Recommendations and observations	9
Comments and submissions	9
Review of Territory Coordinator Radio Advertisement	12
Why and how we conducted this review	12
Content of the advertisement	12
Was the advertisement political?	13
Was the advertisement misleading or inaccurate?	13
Did the advertisement meet the public interest test?	14
Findings	14
APPENDIX A	16
Public Information Act overview	16
APPENDIX B	18
Public Information Act referrals	18

Summary of the Review

Introduction

The *Public Information Act 2010* (the Public Information Act) requires the Auditor-General, upon receipt of a written request of an Assembly member, or on the Auditor-General's own initiative, to conduct a review of particular public information to determine whether the Public Information Act is contravened in relation to the information. If a review of the information suggests a contravention, a preliminary opinion is issued to the public authority that gave the relevant public information. When preparing the report about the review, any comments provided by the public authority following the preliminary opinion are taken into consideration. The final report must be provided to the Speaker and to the member who requested the review and the Auditor-General must table the report in the Legislative Assembly. The Speaker is also required to table a copy of the report within six sittings days after receiving it.

Background

In November 2024, the Department of the Chief Minister and Cabinet (the Department) placed a radio advertisement outlining the benefits of the Territory Coordinator and inviting feedback on a draft legislation. The advertisement was played on three commercial radio stations in the Territory 96 times between 11 November 2024 and 22 November 2024.

The following is a transcript of the radio advertisement:

The Northern Territory Government is delivering its election commitment for a Territory Coordinator. The Territory Coordinator will facilitate development projects and activities across the NT to drive economic growth, bringing jobs and opportunities to Territorians. Visit cmc.nt.gov.au forward slash Territory Coordinator to share your feedback on the draft bill. Together, let's drive future growth and opportunity in the Territory. Authorised by the Northern Territory Government, Darwin.

Conclusion

I was satisfied that the content of the Territory Coordinator radio advertisement promoted particular party political interest, included statements that were misleading, included facts that were not presented accurately and failed to specify the source or a means for identifying a source or those facts.

Therefore, in accordance with section 6(2) of the Public Information Act, I have determined that the Public Information Act was contravened in relation to the radio advertisement.

Whilst a breach of one section means that the Public Information Act was contravened, I found that the part of the radio advertisement which called for feedback and raised awareness of the proposed legislation was in the public interest.

Reasons for my conclusion are detailed in the *Review of Territory Coordinator Radio Advertisement* section of this Report.

Recommendations and observations

Section 8(3) of the Public Information Act allows the Auditor-General to make recommendations. However, any recommendations are limited to:

- the withdrawal of the public information; or
- that specified changes be made to the content of the public information.

Given the advertising campaign has concluded, no recommendations were made in relation to the radio advertisement.

However, I made the following observations:

Advertising is a legitimate way of communicating government policies and connecting with the public. Except for a guide on the use of ministers' images or messages, there are no specific guidelines to provide a framework for taxpayer funded information and advertising campaigns by the Northern Territory Government. Information published on the Northern Territory Government's intranet is too broad to guide and inform public authorities in the preparation of public information to ensure compliance with the Public Information Act.

In the absence of sufficiently detailed guidelines, it would be prudent for agencies to self-assess each piece of information and advertising campaign planned to be given to the public against the principles contained in the Public Information Act and the related *Public Information Regulations 2017* before their launch. Such an assessment should be endorsed by the Chief Executive Officer or their delegate.

Comments and submissions

Comments received pursuant to section 8(2)(b) of the *Public Information Act 2010*

In accordance with section 8(2) of the Public Information Act, a draft report was provided to the Department as the authority that gave the public information to the public on 17 January 2025. The Department was requested to provide comments by 3 February 2025, being 10 working days as required under section 8(2)(b). The Department wrote to the Auditor-General on 22 January 2025, requesting an extension of time for comments until 14 February 2025.

In considering the request, I took both the need to provide a thorough response and my obligation under the Public Information Act to report as soon as practicable after the review is completed into account. As a result, the initial period for comments was extended by a further four working days until 7 February 2025. The Department's

executives discussed the findings with me prior to finalising the response, which was provided by the extended closing date.

I have considered the comments provided during the meeting with the Department's executives and in the written response when finalising the report as required under section 8(5) of the Public Information Act. Any amendments to the report because of those comments were communicated to the Department prior to finalising the report.

Response from the Department of the Chief Minister and Cabinet

Section 24(4)(b) of the *Audit Act 1995* requires the Auditor-General to include in reports to the Legislative Assembly and supplementary reports any submissions or comments received.

The submission received from the Department of the Chief Minister and Cabinet is included below.

The Department of the Chief Minister and Cabinet notes the findings that the advertisement was in the public interest.

The department received the draft report on this matter on 17 January, and was asked to provide feedback to the Auditor General on the draft report by 3 February 2025. The Department requested an extension of time to the 14 February 2025, in order to adequately consider the matter including the legal validity of the draft findings and conclusion reached. The Auditor General agreed to an extension of time to 7 February and the Department submitted its response on the draft report by this agreed date. Subsequently on Monday 10 February, the Auditor General provided the department with an updated draft report, which amended certain findings, and requested the department provide an updated agency comment, as appropriate, by 1pm on the same day, which it has endeavored to do, in the short time frame provided.

This comment provides the following information for clarification on the final report.

The department has an alternative view regarding the use of the term *election commitment*. Use of this term has previously been deemed non-political in the February 2015 Report to the Legislative Assembly by the former Auditor General, and its inclusion in the advertisement was therefore factual rather than promotional.

The department maintains that the use of the phrase “*The Territory Coordinator will facilitate development projects and activities*’ in the radio advertisement is appropriate, as it accurately reflects the role of the Territory Coordinator, in accordance with the description in the *Territory Coordinator Bill 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”.

The department asserts that the omission of further detail in the advertisement is not misleading, as it aligns with the legislative intent outlined in the Bill. The stated outcome of the role is *‘to drive economic growth, bringing jobs and opportunities to Territorians’* and this reflects the Territory Coordinator’s focus on projects of significant economic, regional, or strategic importance, rather than all general development projects.

The department notes the finding that the Territory Coordinator advertisement did not refer the listener to further information on the draft Bill. However, the radio advertisement did include a weblink which referred the listener to share their feedback on the draft Bill, and this weblink contained the draft Bill, as well as further information regarding the role of the Territory Coordinator.

The department is committed to collaborating with the Office of the Auditor-General with its statutory responsibilities under the *Public Information Act 2010*, to support the development of specific guidelines to establish a clear framework for government information and advertising campaigns by the Northern Territory Government.

Luccio Cercarelli PSM
Chief Executive Officer

10 February 2025

Review of Territory Coordinator Radio Advertisement

Why and how we conducted this review

A member of the Legislative Assembly wrote to the Auditor-General on 25 November 2024, alleging that the radio advertisement contravened several sections of the Public Information Act.

We notified the Department of the request to review the advertisement on 6 December 2024. Based on the documentation provided by the Department, we concluded that the radio advertisement was public information as defined by the Public Information Act and therefore the Auditor-General was required to conduct a review for the purpose of determining if the Public Information Act was contravened.

On 19 December 2024, we requested that the Department respond to the allegations that the content of the radio advertisement:

- promoted particular party-political interests as per section 6(2)(a)
- included statements that were misleading as per section 6(2)(b)
- included facts, statistics or data that were not presented accurately as per section 6(2)(e)
- failed to specify the source or a means for identifying a source or any facts, statistics or data as per section 6(2)(f)
- did not meet the criteria prescribed by regulation for public interest under section 6(2A).

The Department responded to the allegations on 8 January 2025.

In conducting the review, we used a transcript of the radio advertisement obtained from a recoding provided by the Department, examined the draft of the *Territory Coordinator Bill 2024* (the draft Bill), the *Guide to the Territory Coordinator Bill* (the Guide) and attended a virtual Territory Coordinator community information forum (the forum) held on 8 January 2025. We also obtained clarification from the Solicitor-General on what criteria must be present for a project to be considered under the draft Bill and sought responses to the allegations from the Department.

Content of the advertisement

The radio advertisement appeared to contain three prominent messages:

- At the start, listeners were presented with a statement that the Government was delivering on its election commitment by setting up the role of a Territory Coordinator.
- The advertisement then went on to explain what the role will do, specifically that: '...the Territory Coordinator will facilitate development projects and activities across the NT to drive economic growth, bringing jobs and opportunities to Territorians.'

- At the conclusion, the advertisement invited listeners to visit a website to share their feedback on the draft Bill.

We summarised the alleged contraventions as follows:

- Firstly, did the advertisement promote particular party political interests by referring to an election commitment?
- Secondly, was the claim that the Territory Coordinator will do all of the things listed while omitting that the Territory Coordinator's specific functions are mainly to facilitate significant projects misleading? This information was made clear in the material published on the advertised website and during the forum.
- And thirdly, was the advertisement in the public interest?

Was the advertisement political?

The referral alleged that the advertisement referenced the fulfilment of an election commitment which may reasonably be interpreted as promoting the interests of the political party currently in government. The Department stated that the script used neutral non-political language and focused on the administrative and public benefit aspects of the role and was seeking alternative and diverse views from members of the public.

While the primary intent of the advertisement might have been to achieve awareness of a new law and seek feedback, we did question the purpose of the introductory statement that the establishing of the role of the Territory Coordinator is delivering on the Government's election commitment.

If the main purpose of the advertisement was to inform the public of the new legislation and seek community feedback, then the statement about fulfilling an election commitment was not necessary.

Although no political party was specifically mentioned, the reference to the Northern Territory Government's election commitment and the fact the establishment of an Office of Territory Coordinator was one of the Country Liberal Party's (CLP) election commitments leaves no doubt that the audience would associate the delivery of the legislation with the CLP.

To this effect we concluded that the radio advertisement tried to foster a positive impression of the CLP and thus promote its political interests.

Was the advertisement misleading or inaccurate?

The referral alleged that although the advertisement did not present specific data or statistics, the claims about driving economic growth, jobs and opportunities were broad and may lack substantiation. We added that the radio advertisement was misleading because it omitted important facts about the role of the Territory Coordinator.

The Department stated that the script accurately stated the role and purpose of the Territory Coordinator, it made no claims or promises beyond the Territory Coordinator's remit and included a link directing the public to additional information and the draft legislation. The Department further stated that the advertisement did not present quantitative data, comparisons, or statistics and made only general statements about the Territory Coordinator's purpose.

We were concerned about how the advertisement explained the role, which gave the impression that the Territory Coordinator was to facilitate any or all kinds of development projects and activities. Both the draft Bill and the Guide, as well as information provided during the forum made it clear that the role of the Territory Coordinator was to facilitate projects of economic significance; or of major importance when considered in conjunction with one or more projects; or complex in nature and of regional significance in terms of scale or impact. Other development projects are to remain the responsibility of existing economic agencies.

The referral further alleged that the advertisement failed to specify the source, or a means for identifying a source, of any facts. The Department stated that the advertisement directed the public to additional information and the draft legislation.

We would expect that qualifying material would be sufficiently prominent or conspicuous to prevent the main statement from being misleading. In this case, the advertisement directed listeners to the website to share their feedback but not to specifically obtain additional information. We noted the advertised website contained additional information on the Territory Coordinator's role and included links to the draft Bill and the Guide, however this was not made clear in the radio advertisement.

To this effect, we concluded that the advertisement was misleading because it omitted important facts relating to the role of the Territory Coordinator and it did not state that further information can be obtained on the advertised website.

Did the advertisement meet the public interest test?

The referral alleged that, while the advertisement solicits public feedback, its emphasis on delivering an election commitment may not align entirely with the purpose of serving the public interest, as required by the Public Information Act. The Department stated that the advertisement met the public interest criteria by achieving awareness of a new law and by informing the public of a government policy.

As mentioned at the outset, there appeared to be three prominent messages in the radio advertisement. Despite concluding that the first message, which linked the introduction of the legislation to the election commitment was to promote the CLP's political interest and that the second message explaining the role was misleading, the third message served the public interest. We concluded that the advertisement raised the awareness of a new law and it did communicate the functions of government, in this case community engagement.

Findings

We found that the content of the radio advertisement contravened section 2(a) of the Public Information Act because it promoted the CLP's political interests.

Furthermore, we found that that content of the radio advertisement contravened sections 2(b) and 2(e) of the Public Information Act because it implied that the role of the Territory Coordinator was to facilitate any or all kinds of development projects and activities when in fact the purpose of the role is to facilitate the undertakings of projects of significance. The radio advertisement also contravened section 2(f) because it failed to specify the source of the facts. The reference to a webpage was to share feedback, not to provide additional information.

Despite the above contraventions, we found that the radio advertisement was for public interest because it aimed to achieve awareness of a new law and seek feedback, which was important to ensure the proposed legislation met community expectations before it was introduced into Parliament.

APPENDIX A

Public Information Act overview

The *Public Information Act 2010* (the Public Information Act), as in force at 10 April 2019, and the associated Regulations, provide for the review of public information provided by public authorities.

Public Authority

A public authority is defined in section 5 as:

- an Assembly member;
- the holder or occupier of any of the offices of a Minister, the Speaker, the Leader of the Opposition or any other office of the Legislative Assembly;
- the holder or occupier of an office established by or under a law of the Territory;
- a person appointed or engaged to perform work for a public authority;
- an Agency;
- a body (whether incorporated or not) established by or under a law of the Territory;
- a body corporate to which one or both of the following apply:
- the capital of the body corporate is owned by one or more public authorities;
- one or more public authorities have a total of more than one-half of the voting power in the management of the body corporate;
- a body corporate that is a subsidiary of a public authority (whether or not through any interposed entity).

Exclusions

Excluded from the definition are:

- holders or occupiers of:
- judicial office;
 - an office as a member of a tribunal established under a law of the Territory;
 - the office of the Auditor-General;
 - a local government council;
- Jacana Energy;
- the Power and Water Corporation;
- Territory Generation; and
- a person or body prescribed by regulation.

Public Information

Section 4(1) defines public information as ‘information given by a public authority to the public by using money or other property of the Territory’. Exemptions from this definition are:

- information given to members of the electorate of an Assembly member if the preparation and giving of the information is funded by an allowance payable to the Member for the electorate under a law of the Territory; and
- a media release of a Member of the Legislative Assembly (whether or not in his or her capacity as an Assembly member); and
- information prescribed by regulation.

The Public Information Act does place a limit on the scope of what might be considered to be public information in that section 4(2) provides that a *‘public authority gives information to the public when it makes the information available to the public generally (rather than any particular members of the public) through any medium’*.

Contraventions

Section 6(1) provides that the Auditor-General must, upon the receipt of a written request of a Member of the Legislative Assembly, or may, on the initiative of the Auditor-General, conduct a review of that information to determine whether the provisions of the Act have been contravened, with regard to the Public Information Regulations.

The Auditor-General may determine that the Public Information Act is contravened in relation to particular public information if the Auditor-General is satisfied one or more of the following applies to the information:

- the information promotes particular party political interests;
- the information includes statements that are misleading;
- the information is an advertisement that includes an image of a minister or a minister's message;
- for public information that is not an advertisement – the information includes an image of a minister or a minister's message other than:
 - the Chief Minister; or
 - the relevant minister;
- the information includes facts (including comparisons), statistics or data that are not presented accurately; or
- the information fails to specify the source, or a means for identifying a source, of any facts (including comparisons), statistics or data.

The Auditor-General may also determine this Act is contravened in relation to particular public information if the Auditor-General is satisfied the content of the information is not for the purpose of the public interest.

APPENDIX B

Public Information Act referrals

Year	Matter	LA Report
2024-2025	New Homes Grants – Facebook Posts	November 2024
2023 2024	Curfew Laws	November 2024
2022-2023	Bail Amendment Bill 2023	November 2023
2021-2022	Achieving Equality in the Northern Territory	March 2022
2020-2021	COVID-19 Financial Report July 2020	December 2020
2019-2020	Building a Better Barkley Advertisement	March 2020
	Executive Contract Officer Pay Freeze	August 2019
	Waterfowl Population Medial Release	November 2019
2018-2019	ANZAC Precinct Flyer	March 2019
	<i>Another Job Creating Project</i> Signage	November 2018
	Email Relating to GST Funding	August 2018
	<i>New Tools to Assist Police</i> Email	August 2018
	<i>Uber Arrives in the Territory</i> Email	August 2018
	<i>More Jobs and Safer Communities</i> Email	August 2018
2017-2018	Federal budget Graphics	August 2017
	Federal budget Facebook	August 2017
	Advertisement Men's Health Expo	August 2017
2016-2017	Progress Report Year 3	November 2016
	Office of Aboriginal Affairs NT (OAA)	November 2016
2015-2016	On Track	February 2016
	ICE Advertisement	February 2016
	Glenti Advertising	February 2016
2014-2015	Territory Day and Country Liberals logos	February 2015
	<i>Casuarina by-election</i> message	February 2015
2013-2014	Power and Water Survey	August 2014
	Old Hospital Site Survey	August 2014
	TIO Not for Sale Survey	August 2014
	Territory Teachers Survey	August 2014
	Developing the North	August 2014

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