



CENTRAL LAND COUNCIL



**NORTHERN
LAND COUNCIL**

Our Land, Our Lore, Our History

CENTRAL LAND COUNCIL

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Joint feedback on the Mineral Development Taskforce – Final Report dated December
2022

11 August 2023

To: Mr Shaun Drabsch

Chair – Mineral Development Taskforce

Chief Executive Officer - Department of Industry, Tourism and Trade

By email: MDT@nt.gov.au

ACKNOWLEDGEMENT

The Central Land Council and Northern Land Council acknowledge the Territory's traditional owners, who were the first miners in the Territory and remain the first and most important stewards of the Territory's resources.

No-one is telling us what's happening on the river. We need to know. We're the people living down there, so we need to know what's going on the river. Our old people are all dying, and we're here, and we want to talk to someone. We need that mine to be closed, because we are living down there, and we don't want our people to get sick. We're the ones who will be copping it down here.¹

Nancy McDinny, Traditional Owner of McArthur River Mine Site

We have grandchildren and kids coming up, we need a future. The mine needs to do the right thing by the people. Our young kids need to get on the country, hunting and fishing. They can't be frightened of contamination. We need to make sure that the country is safe for our young people to go back, to work, hunt and live on their grandfather's and grandmother's country.²

Keith Rory – Traditional Owner of Redbank Mine Site

¹ Submission 41 to the Commonwealth Environment and Communications References Committee (2019) Rehabilitation of Mining and Resources Projects and Power Ash Dams as it relates to Commonwealth responsibilities.

² From the archived DITT website – www.industry.nt.gov.au/industries/mining-and-energy/mine-rehabilitation-projects/redbank-mine/traditional-owners <accessed 17 February 2021>

TABLE OF CONTENTS

<i>ACKNOWLEDGEMENT</i>		<i>2</i>
<i>TABLE OF CONTENTS</i>		<i>3</i>
<i>EXECUTIVE SUMMARY</i>		<i>4</i>
<i>RECOMMENDATIONS BY TOPIC</i>		<i>5</i>
<i>KEY TERMS</i>		<i>13</i>
<i>INTRODUCTION</i>		<i>14</i>
<i>1.1 DEVELOPING A SHARED VISION</i>		<i>15</i>
<i>1.2 ROYALTY REFORM</i>		<i>17</i>
<i>1.3 BUILD COMMUNITY TRUST IN THE REGULATOR AND INDUSTRY</i>		<i>18</i>
<i>1.4 WATER</i>		<i>27</i>
<i>1.5 CULTURAL HERITAGE</i>		<i>30</i>
<i>1.6 SECURE BROADER OUTCOMES FOR TRADITIONAL OWNERS</i>		<i>31</i>
<i>Annexure 1 - LEGAL CONTEXT</i>		<i>55</i>
<i>Annexure 2 – The NLC’s Approach to Social Impact Statements (SIAs) and Aboriginal Impact Assessments: A Guidance Document</i>		<i>57</i>

EXECUTIVE SUMMARY

1. Traditional owners and Aboriginal communities located near mines are the Territorians most significantly impacted by negative aspects of mining. Yet the MDT Report inadequately represents their voices. This creates social licence risk for implementation of the MDT Report and has led to a report that inadequately deals with:
 - The need for better regulation of the mining industry, from exploration licence applications through to mine closure and rehabilitation;
 - Making a case for a new royalty regime;
 - Improved social licence for explorers and miners by engagement with traditional owners.
2. These deficiencies must be rectified. This submission sets out a set of recommendations to address these issues. The NTG must work with Land Councils towards a common goal of sustainable and responsible mining practices that benefit the community, especially traditional owners and Aboriginal communities located near mines. Effective engagement aligns with the stated political narrative of responsible mining industry participants. It also recognises that when Aboriginal people have a genuine say in the design and delivery of laws and policies that affect them, better outcomes are achieved. This is consistent with the National Closing the Gap Agreement signed by the NTG in July 2020.
3. The Northern Territory is culturally, ecologically and minerally rich and diverse. Mining regulation and practices must be of the highest standard, to ensure that the positive impacts of mining outweigh the negative. A key component is best practice within the mining industry. However, this must be supported by effective regulation. Effective regulation improves community confidence in the regulator and industry. It also supports social licence to operate. The NTG must demonstrate its ability to adequately regulate the social and environmental impacts of mining.
4. In this submission the Land Councils have set out extensive recommendations that are designed to support confidence in the regulator and industry. Many of the recommendations echo the findings of the recent study of regulation of resource sector by the Productivity Commission (Productivity Commission Resources Sector Regulation, Study Report (2020)). Recommendations relate to problems that have historically been common in the Northern Territory; inadequate regulatory oversight during operations, abandoned mines and inadequate rehabilitation. Implementation of the Land Councils' recommendations for regulatory reform will be more effective at counteracting negative public perceptions and risk to social licence than the strategic communications and public relations recommendations set out in the MDT Report.
5. The Land Councils have serious concerns about the proposal to reform the royalty system, given the significant impact reforms will have on Land Councils and our constituents through the Aboriginals Benefit Account (ABA). The NTG has not yet made a convincing case for royalty reform. If the NTG persists in reforming the royalty system, it must commit to ensuring there are no adverse impacts on the ABA. Independent modelling of any proposed changes is required and must be provided to the Land Councils. Land Councils must have genuine input into design and delivery of the new regime.

6. This submission sets out recommendations about how to generate better outcomes for traditional owners. The NTG must abandon its policy of blanket application of the expedited procedure under the *Native Title Act 1993* for exploration licences on native title lands, which puts sacred sites at risk. Traditional owners involved in the mining industry should be empowered to drive the development agenda, including in relation to employment, contracting and training. These outcomes will also benefit the industry and the NTG. The Land Councils have nearly 50 years' experience in this field.
7. The Land Councils look forward to the NTG's consideration of our recommendations. We welcome further discussions regarding next steps and look forward to working with the NTG to ensure that the NT's mining industry is profitable yet environmentally and culturally sustainable, and benefits traditional owners and impacted Aboriginal communities.

RECOMMENDATIONS BY TOPIC

(MDT Report recommendations being responded to appear in brackets. These are non-exhaustive. Many Land Council recommendations go to multiple recommendations in the MDT Report)

Recommendations applicable to all sections

Recommendation 1: Land Councils and the NTG and industry must work together to achieve a shared vision to ensure the prosperity of Aboriginal communities through sustainable and responsible mining practices. (All sections)

Recommendation 2: The NTG must as a matter of priority progress regulatory reforms that support sustainable and responsible mining practices, including environmental regulatory reform. (All sections)

Recommendation 3: Before further regulatory reform to encourage mining in the Territory, the NTG should commission an independent study into the health, lifespan, wealth, well-being, education of Aboriginal communities that host mining projects to assess how these projects have impacted their lives. This study should not hold up much needed regulatory reforms that support sustainable and responsible mining practices. (All sections)

Recommendations about Section 2(a) – Royalties

Recommendation 4: Due to the serious risks that changes to the royalty regime pose for Land Councils, traditional owners, Aboriginal communities and the ABA:

- (a) *before committing to royalty reform, the NTG must establish that royalty reforms are justified;*
- (b) *independent modelling of the impacts of the proposed changes, whether the type of royalty, rate of royalty, methodology or change in administration must be provided to Land Councils for their analysis and comment;*
- (c) *the NTG and Land Councils must work together to design any new royalty scheme, as per the*

Closing the Gap principles; and

(d) the NTG must commit to ensuring there are no adverse impacts on the ABA (2.a).

Recommendations that relate to regulatory capacity and reform and social licence (1.c.1, 1.f.1)

Recommendation 5: *The NTG should take steps to build capacity in all mining industry regulators, and ensure:*

(a) the regulator is accountable and transparent, follows clear and predictable processes, continues to build technological and staff capabilities, collects, uses and disseminates data effectively, and works to inform the community about their activities; and

(b) the NT EPA is independent and adequately resourced with its own dedicated staff. (1.c.1, 1.f.1)

Recommendation 6: *The NTG should ensure an effective regulatory environment, including by ensuring that regulatory reforms do not dilute requirements to avoid or mitigate impacts on the environment, heritage, worker safety, and landowners (including traditional owners) and locally impacted Aboriginal communities. (1.c.1, 1.f.1)*

Recommendation 7: *Annual reports on regulatory compliance activities and regulated sites should extend to reporting about enforcement activity. In addition, the adequacy of conditions must be fed back to regulators setting those conditions, so that this information can be taken into account. (1.c.1, 1.f.1)*

Recommendation 8: *Traditional owners and affected members of the community should be able to enforce rehabilitation regulations to prevent environmental and community health risks where the regulator fails. (1.c.1, 1.f.1)*

Recommendation 9: *The NTG must take steps to increase transparency and accountability. For example, there should be public reporting of all applications to explore, extract and mine, including information about the applicant's technical and financial capacity, what they are looking for, the outcome of decisions, and estimates of reserves for all prospective mines (not just for ASX listed entities via the JORC system). Mining Management Plans and Authorisations for mining activities under the Mining Management Act 2001 NT should be publicly available. (1.c.1, 1.f.1)*

Care and Maintenance and Mine Closure

Recommendation 10: *The regulatory regime must allow traditional owners to be involved in mine rehabilitation and closure planning processes. The regulatory regime should require:*

- *all applications, reports, notices, audit reports, response to a request for information relevant to complying with or obtaining any approvals or authorisations under environmental or mining regime be provided to traditional owners;*
- *proponents must consult with Land Councils on behalf of traditional owners during the development and amendment of rehabilitation and closure plans;*

- *proponents must be required, as far as possible, to restore land to the standard agreed by traditional owners depending on the post-mining land use and based on agreed cultural closure criteria. For example, if land was fit for pastoral purposes prior to mining, it should be rehabilitated to at least this standard. Any lesser standard constitutes inadequate rehabilitation; and*
- *traditional owners should be able to complete an independent audit of all closure works prior to a certificate of closure being issued, and if that independent audit shows inadequate rehabilitation and closure, a certificate of closure should not be issued until rectification occurs. (1.c.1, 1.f.1)*

Recommendation 11: *Mines in care and maintenance must be actively managed. If the regulator is notified that mining activities will cease and this is not in accordance with the Mining Management Plan, the following should occur:*

- *the operator must be required to prepare and regularly review and update a care and maintenance plan that identifies and addresses how environmental risks should be managed;*
- *the care and maintenance plan should include an expected duration (no longer than 5 years), after which period the company must be required to either commence closure or submit for approval a comprehensive updated care and maintenance plan. The NTG should be able to reject the care and maintenance plan;*
- *traditional owners must be consulted in relation to the care and maintenance plan before it is approved, and, their submissions taken into consideration by the decision makers; and*
- *the regulator should actively and regularly consider the likelihood of the operations being a stranded asset and should have the ability to force the operator to decommission and rehabilitate if care and maintenance status is not genuine. (1.c.1, 1.f.1)*

Recommendation 12: *The NT Regulator needs to be better equipped to assess project economics before granting mineral licences, otherwise it is foreseeable that further mines will enter care and maintenance. (1.c.1, 1.f.1)*

Recommendation 13: *A fully costed rehabilitation and closure plan must be required as part of the approvals process for all mines, and reviewed regularly throughout the life of mine with the involvement of traditional owners. Existing extractive projects with closure plans that are insufficiently detailed or insufficiently costed should be required to prepare a detailed and fully costed closure plan. (1.c.1, 1.f.1)*

Recommendation 14: *Independent third-party audits of rehabilitation costs should be required before rehabilitation bonds are set or varied. (1.c.1, 1.f.1)*

Recommendation 15: *Environmental securities must not be released at mine closure if there is a requirement for environmental monitoring post closure and the possibility of maintenance or remediation post closure. The environmental security should be a residual risk bond against future*

liabilities. Traditional owners should be able to recommend whether a security should be released or revised, and these recommendations should be required to be taken into account by the decision maker. (1.c.1, 1.f.1)

Recommendation 16: *In order to increase public confidence and transparency, the following information in respect of residual risk bonds should be publicly available;*

- *the value of bonds;*
- *the methodology used to calculate liabilities; and*
- *the requirements, risks and expectations the bond is underpinning, and the terms upon which the residual risk bonds can be called upon. (1.c.1, 1.f.1)*

Recommendation 17: *The methodology used to calculate liabilities and the obligations that an environmental bond is underpinning in the Mining Management Plan, Extractive Management Plan and Environmental Impact Statement should be publicly available. In addition, the value of securities should be regularly reviewed with input from traditional owners, and the outcome of reviews made public. Traditional owners should be able to request a review of securities on the basis of their observations about environmental impacts or concerns. (1.c.1, 1.f.1)*

Recommendation 18: *The NT should enact chain of responsibility legislation that applies to mines. (1.c.1, 1.f.1)*

Expedited Procedures

Recommendation 19: *The NTG must cease its practice of blanket application of the expedited procedure to exploration tenements. The NTG should liaise with the Land Councils and PBCs on a case by case basis to assess whether the expedited procedure should apply, and consider sacred site concerns, including as advised by Land Councils and the register of sites held by the Aboriginal Areas Protection Authority (noting this register does not record all sacred sites). (1.c.1, 1.f.1)*

Recommendation 20: *The standard form conditions that apply to tenements granted through the expedited procedure should also apply to tenements on crown land, parks and reserves and perpetual pastoral lease areas where there is no current registered claim or determination, and should be updated in consultation with Land Councils. (1.c.1, 1.f.1)*

Water Management

Recommendation 21: *Efforts by the NTG to accelerate the minerals industry must be matched by regulations that ensure sustainable management of water resources in line with the requirements of the National Water Initiative. (1.c.1, 1.f.1)*

Recommendation 22: *The NTG must accelerate its efforts to comply with the National Water Initiative and implement mandatory and statutory-based water planning for all water resources in the NT as a matter of urgency. (1.c.1, 1.f.1)*

Recommendation 23: *The NTG and industry must engage with Land Councils about water use for*

projects so that water use does not impact culturally important groundwater dependent ecosystems. (1.c.1, 1.f.1)

Cultural Heritage Protection

Recommendation 24: *Best practice Aboriginal cultural heritage protection requirements must apply in the NT, these include:*

- *In the CLC's region, a Sacred Site Clearance Certificate (SSCC) issued by the CLC to be issued before any ground disturbing works; and*
- *In the NLC's region, a survey conducted either by the NLC or AAPA and an Authority Certificate issued by AAPA before any substantial disturbance activities. (1.c.1, 1.f.1)*

Recommendation 25: *The NT should amend its policies and regulations to allow proponents to formally use a CLC SSCC as a defence to prosecution under the NT Sacred Sites Act. (1.c.1, 1.f.1)*

Recommendations to secure good outcomes (including employment) for traditional owners

Recommendation 26: *The NTG should support a traditional owner led development agenda for mining projects. (1.b.3)*

Recommendation 27: *The NTG should adopt a policy approach that mineral leases will not be granted without an ILUA or section 31(1)(b) Agreement being entered into. (1.b.3)*

Recommendation 28: *NTG should require companies to adopt local Aboriginal employment targets for minerals projects that increase over time. (1.b.3) (1.d.2)*

Recommendation 29: *ESG Reporting: The NTG and other relevant bodies should update ESG reporting requirements to improve measurement and disclosure of local Aboriginal employment, not just First Nations employment in total. (1.b.3) (1.d.2)*

Recommendation 30: *Aboriginal Workforce Development: The NTG should take a proactive role in coordinating local Aboriginal workforce development strategies for mining projects. (1.b.3) (1.d.2)*

Recommendation 31: *The NTG should encourage mining companies to make legally binding agreements with Aboriginal organisations to meet targets for local procurement. (1.b.3) (1.d.1)*

Recommendation 32: *The NTG needs to provide seed funding to local Aboriginal businesses in the services sector to enable them to the mining industry via an appropriate body such as the NT Indigenous Business Networks. (1.b.3) (1.d.1)*

Recommendation 33: *Companies should be encouraged to involve Aboriginal Ranger Groups and land management services for mining projects. (1.b.3) (1.d.2)*

Recommendation 34: *Encouraging Participatory Community Development: To support good outcomes, the NT needs to encourage companies, through agreement making, to support and resource locally-led, participatory community development. (1.b.3)*

Recommendations about Section 1(a) – mineral titles

Recommendation 35: *Improving synergies between Industries competing for land and resources: The NT's mining strategy should be informed by, and supplement, strategies for other Territory industries that will compete for resources and land. This includes the pastoral industry, renewable energy industry, fisheries, tourism and agriculture industries. (1.a.1)*

Recommendation 36: *The NTG should cease its practice of automatically consenting to the grant of a new exploration licence application where the Land Councils have, under section 42(13) ALRA, not extended the negotiating period of the original exploration licence. This practice encourages land-banking and disincentivizes the proponent engaging in constructive negotiation. (1.a.1)*

Recommendation 37: *Terms of Aboriginal impact assessments to be determined by affected communities leading to social impact management plans that have appropriate local governance and oversight. (1.a.1.)*

Recommendation 38: *Land Councils should work with the NT EPA to draft guidance on social and cultural impacts. (1.a.1)*

Recommendation 39: *Proponents need to provide sufficient information to Land Councils to enable them to assess a project and for traditional owners to make decisions based on the principle of free, prior and informed consent. (1.a.3)*

Recommendation 40: *The NT regulatory regime should include mechanisms to ensure that the financial and technical capacity of miners to deliver rehabilitation requirements is assessed during the approvals process. Regulators should consider:*

- *whether the applicant has previously failed to comply with licence conditions or health, safety, cultural heritage and environment legislation (whether in the same jurisdiction, or in other domestic and international jurisdictions);*
- *past criminal conduct and any findings of corrupt activity, and past insolvency, including of related corporate entities (whether in the same jurisdiction, or in other domestic and international jurisdictions);*
- *financial and technical competency; and*
- *the applicant's track record of Aboriginal engagement, including whether tenure arrangements were granted through agreement (rather than through National Native Title Tribunal or arbitrated processes), any breaches of agreements and the company's track record of Aboriginal employment and contracting. Due diligence investigations in relation to this aspect must involve inquiries with the relevant Land Council. (1.a.4)*

Recommendation 41: *The NT regulatory regime should include provisions that ensure that the financial and technical capacity of purchasers to deliver rehabilitation requirements is assessed prior to any owner being allowed to transfer tenements. (1.a.4)*

Recommendation 42: *New mineral lease categories designed to encourage smaller explorers should not enable poor standards of compliance with legislation. (1.a.4)*

Recommendation 43: There needs to be a risk-based assessment of activities that may appear ecologically low risk (such as rock chipping) but may cause substantial disturbance to the way traditional owners perceive their environment. (1.a.4)

Recommendations about Section 1(b) – Access to land

See recommendations 26-34 above.

Recommendation 44: NTG guidance about miners and ALRA Processes must be approved by Land Councils. (1.b.1)

Recommendation 45: Mining should not proceed without the support of traditional owners and impacted communities. (1.b.1)

Recommendations about Section 1(c) – Regulatory reforms

See recommendations 5 to 25 above.

Recommendation 46: Land Councils must be involved in policy and legal reforms in the NT mining sector. (1.c.1)

Recommendation 47: NTG Policies must reflect Land Council responsibilities to consult traditional owners and other impacted groups; (1.c.1)

Recommendation 48: Environmental reforms must be accompanied by adequate regulator funding and resourcing for rigorous and continuous monitoring while allowing for the future cost consequences of climate change. (1.c.2)

Recommendation 49: Efforts to streamline mining regulations should not undermine the independence and role of the EPA and other regulators involved in approvals for project development. (1.c.3)

Recommendation 50: Administrative procedures setting out the roles and responsibilities of regulators should be publicly available. (1.c.3)

Recommendations about Section 1(d) – Skills and workforce

See recommendations 28-33 above.

Recommendations about Section 1(e) – Enabling infrastructure

Recommendation 51: Prioritising mining infrastructure should not be at the expense of remote community infrastructure. Mining infrastructure should also benefit remote communities (such as better telecommunications, power, water services). (1.e.2)

Recommendations about Section 1(f) – Social licence

See recommendations 5-25 above.

Recommendation 52: The NTG must promote excellence in mine closure by ensuring regular, systematic and independent assessments of miners' closure plans, including closure costings that are

provided to Land Councils for comment. (1.f.3)

Recommendations about Section 2(a) – Royalties

See recommendation 4 above.

Recommendations about Section 3 (Downstream value-add opportunities)

***Recommendation 53:** Secure, reliable and cost-competitive energy should be aligned with the NTG's Climate Change Response, net-zero commitments and prioritisation of renewable energy with greater access for Aboriginal communities. (3.3.)*

KEY TERMS

Aboriginal Land	Land granted as Aboriginal Land under the ALRA.
ALRA	<i>Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)</i>
CLC	Central Land Council (ABN: 71 979 619 393), a Commonwealth statutory authority created under the ALRA
ILUA	Indigenous Land Use Agreement under the Native Title Act.
Land Councils	The CLC and the NLC
NTSSA	<i>Northern Territory Aboriginal Sacred Sites Act 1989 (NT)</i>
NTA	<i>Native Title Act 1993 (Cth)</i>
NLC	Northern Land Council (ABN: 56 327 515 336), a Commonwealth statutory authority created under the ALRA
NTG	Northern Territory government
traditional owners	The use of the term ‘traditional owners’ is used to include all types of Aboriginal land owners including traditional Aboriginal owners as defined in the <i>Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)</i> and native title holders as defined in the <i>Native Title Act 1993 (Cth)</i> .

INTRODUCTION

1. The Central Land Council and Northern Land Council (the *Land Councils*) welcome the opportunity to provide feedback to the Northern Territory Government (*NTG*) in respect of the Mineral Development Taskforce (*Taskforce*) Final Report (the *MDT Report*). The Land Councils would be pleased to provide any further assistance required by the NTG in relation to the MDT Report.
2. The MDT Report confirms the NTG's commitment to supporting and encouraging the growth of the resources industry to build a stronger economy for all Territorians. However, the MDT Report does not include important voices. Traditional owners and Aboriginal communities located in proximity to resource projects are the Territorians most significantly impacted by negative externalities associated with the resources industry. Yet the Taskforce inadequately represents their interests. This creates social licence risk for implementation of the MDT Report.
3. A sustainable resources industry cannot operate without regard to the important roles and responsibilities of traditional owners and impacted Aboriginal communities, and the social, cultural, environmental and economic impacts on them. Land Councils must be involved in design and vision. Regulation of mining in the NT must be of the highest standard, to ensure that the positive impacts of mining outweigh the negative. Further information about the legal context and the deep experience of Land Councils with the Territory's mining industry is set out in Annexure 1 - Context.
4. This document sets out general feedback in Part A. The key issues outlined in Part A are:
 - 1.1. Developing a shared vision
 - 1.2. Royalty reform
 - 1.3. Building trust in the regulator and industry
 - 1.4. Water
 - 1.5. Cultural heritage
 - 1.6. Securing broader outcomes for traditional owners
5. Part B of this report consists of specific feedback in relation to many of the proposed recommendations of the MDT Report. The Land Councils have focused their feedback to responding to the recommendations of section 1 of the MDT Report, entitled 'Increasing the Territory's Global Competitiveness'. Many of the recommendations made in later sections of the MDT Report were too broad and general in nature to answer at this early stage. However, the information in Part A, provides general information that is relevant to the later recommendations.
6. Although the Land Councils have not provided specific responses to some recommendations from the MDT Report, this does not mean the Land Councils accept those matters. If and when the NTG provides more detail on the proposed reforms, the Land Council will provide further comment.

PART A – GENERAL FEEDBACK

1.1 DEVELOPING A SHARED VISION

1.1.1. Traditional Owners and Aboriginal communities experience detriment

7. The negative externalities associated with resources projects primarily impact traditional owners and remote Aboriginal communities located near the operations.
8. Impacts on traditional owners can be particularly acute because of the relationship between Aboriginal values and identity and the natural environment. Negative impacts of mining and damage to country can have implications across a range of elements including livelihoods, health and wellbeing, community relationships, cultural obligations and cultural heritage. These impacts may be direct impacts (such as disruption to ceremonial sites or hunting grounds) or indirect environmental impacts (for example, downstream impacts such as those experienced at McArthur River or impacts on sacred trees due to lowering of the water table can occur many kilometres from the mine site). These significant negative externalities are deeply felt and often not addressed.
9. In addition, traditional owners generally resume the land at end of project life, and stay living near the mine during periods of care and maintenance. Environmental management and the quality of remediation and rehabilitation will impact traditional owners at site and in neighbouring areas.
10. In this way, traditional owners bear significant risk and share the NTG's concerns about adequate and safe rehabilitation. Their interests extend beyond those of the general public or even pastoral landowners who do not have the same cultural ties nor responsibilities. Traditional owners and remote communities who are impacted by mining should benefit from projects affecting them.

1.1.2. The Territory's vision for mining should be a shared vision with Aboriginal Territorians

11. The National Closing the Gap agreement signed by the NTG in July 2020 recognised that when Aboriginal and Torres Strait Islander people have a genuine say in the design and delivery of laws and policies that affect them, better outcomes are achieved. It championed shared decision-making on the design, implementation, monitoring and evaluation of policies and programs impacting Aboriginal people.³
12. Paragraph 59(f) of the National Closing the Gap Agreement states:

Improve engagement with Aboriginal and Torres Strait Islander people – Ensure when governments are undertaking significant changes to policy and programs that primarily impact on Aboriginal and Torres Strait Islander people, they engage fully and transparently. Engagements should be done in a way where Aboriginal and Torres Strait Islander people: have a leadership role in the design and conduct of engagements; know the purpose and fully understand what is being proposed; know what feedback is provided and how that is being taken account of by governments in making decisions; and are able to assess whether the engagements have been fair, transparent and open. The engagements on the National Agreement, led by the Coalition of Peaks in partnership with Government parties, demonstrated the benefit of this approach.⁴

³ National Closing the Gap Agreement dated July 2020.

⁴ National Closing the Gap Agreement dated July 2020 paragraph 59.

13. To ensure that the interests of traditional owner and Aboriginal communities are served, it is essential to establish a shared vision and value proposition for mining development. While large global companies have the financial resources and expertise to drive mining operations, it is crucial that the benefits generated by these activities are distributed equitably. This means that the opportunities created by the dynamics of markets (critical minerals and energy demands) should not solely benefit the mining companies but also contribute to the prosperity of traditional owners and impacted Aboriginal communities.
14. Traditional owners and other community representatives and organisations are important stakeholders and any mining industry development and investment attraction strategy developed without their needs being understood and included in the design phase will be one sided and risk future damage to there being a social licence to operate. As outlined in the MDT Report on page 6, this would be risky as the success of the mining industry relies on its ability to align with community expectations.
15. One of the key components to achieving this shared vision is the implementation of best practices within the mining industry. Mining value propositions should go beyond solely maximising profits (and reducing royalty payments) and include considerations for social and environmental sustainability. By prioritising responsible mining practices, companies can minimise their negative effects and contribute positively to the development of surrounding communities. These efforts should be matched by, and reflect, effective regulatory regimes to support these outcomes.
16. The political narrative of large global mining companies and the International Council on Mining and Metals (ICMM), focuses on concepts such as just transition, nature-based mining, and commitment to communities. Responsible companies actively promote sustainable mining practices and strive to contribute positively to the areas in which they operate. Responsible governments ensure that regulatory regimes support these outcomes.
17. To align the interests of mining companies and communities, a shared vision and value proposition are necessary. By implementing best practices, considering mining value propositions, and actively engaging Land Councils, it is possible to create a more inclusive system that ensures the prosperity of the NT and traditional owners. It is crucial for all stakeholders to come together and work towards a common goal of sustainable and responsible mining practices that benefit both the companies and the communities they operate in.

***Recommendation 1:** Land Councils and the NTG and industry must work together to achieve a shared vision to ensure the prosperity of Aboriginal communities through sustainable and responsible mining practices. (All sections)*

***Recommendation 2:** The NTG must as a matter of priority progress regulatory reforms that support sustainable and responsible mining practices, including environmental regulatory reform. (All sections)*

18. Mining has now been occurring in Groote Eylandt, at Gove and near Jabiru for many decades. These projects have been large and lucrative. The NTG could learn from these existing mines in the NT about the impacts on traditional owners and Aboriginal communities. In particular, research conducted independently of the mining companies may shed light on how mining has impacted these communities, and therefore how it may impact other Aboriginal groups in the Territory as new mines are opened.

***Recommendation 3:** Before further regulatory reform to encourage mining in the Territory, the NTG should commission an independent study into the health, lifespan, wealth, well-being, education of Aboriginal communities that host mining projects to assess how these projects have impacted their lives. This study should not hold up much needed regulatory reforms that support sustainable and responsible mining practices. (All sections)*

1.2 ROYALTY REFORM

19. The MDT Report considers royalty reform in section 2a. Since the release of the MDT Report, the NTG has released a Mineral Royalty Scheme Review – Consultation Paper dated 22 June 2023 (**Consultation Paper**). The Land Councils will provide a more comprehensive response in relation to royalty reform in response to the Consultation Paper. The key recommendations of the Land Councils include that:

- 1.2.1. The case for royalty reform is not yet made;
- 1.2.2. The ABA must not be adversely impacted, and independent modelling is required
- 1.2.3. Land Councils must actively be engaged in design of any new scheme.

Each of these will be further detailed in the Land Councils response to the Consultation Paper, but are summarized below.

1.2.1. The case for royalty reform is not yet made.

20. The MDT Report establishes conclusions and recommendations based on:

- Inadequate understanding of the role of a royalty in terms of mining competitiveness and as an investment driver;
- a limited analysis regarding future mining development scenarios for estimating royalty payments;
- a weak multi-criteria assessment to obtain ‘multi-stakeholder’ opinions;
- an inadequate comparative analysis with other jurisdictions to establish that the current royalty regime is uncompetitive and that the NT needs ‘a modern’ royalty;
- limited participation of traditional owners and Land Councils, which is a methodological issue and contradictory to the corporate values established by reputable mining companies; and
- concluding that the current royalty system is complex in accounting and administration without any analysis.

21. The NTG’s aim or objectives in terms of revenue generation have not been outlined. Neither have the envisaged equity and distributional impacts or economic impact at the NT level. These factors are required to evaluate the proposed new regime as against the current regime.

1.2.2. Aboriginals Benefit Account (ABA) must not be adversely impacted. Independent modelling is required.

22. The Land Councils, traditional owners and Aboriginal communities will be impacted by any change to the royalty regime through impacts to the ABA. The ABA was established to distribute financial benefits from mining and resource extraction on Aboriginal lands. If adverse effects on the ABA arise, it indicates that the underlying resource extraction activities are posing risks to Land Councils, traditional owners

and Aboriginal communities. Reforms that have negative impacts on payments to the ABA cannot be supported.

23. Any changes, whether to the type of royalty, rate of royalty, methodology or change in administration, must be extensively modelled to ensure there will be no adverse impacts on the ABA. This modelling must be provided to the Land Councils given the direct impacts on them of changes. This reflects recommendations of the Closing the Gap Agreement⁵, which states the following at item 69:

Shared access to location specific data and information will support Aboriginal and Torres Strait Islander communities and organisations to support the achievement of the first three Priority Reforms through:

Priority Reform One: Participating as equal partners with government, with equal access to all processes and information to support shared decision-making.

Priority Reform Two: Driving their own development by making evidence-based decisions on the design, implementation and evaluation of policies and programs for their communities in order to develop local solutions for local issues.

Priority Reform Three: Measuring the transformation of government organisations operating in their region to be more responsive and accountable for Closing the Gap.

1.2.3. Land Councils must be actively engaged in design

24. Land Councils must be actively engaged in the design and decision-making processes regarding the new royalty scheme. Their input and perspectives must be valued and considered a core part of any discussions. This also reflects the requirements of the Closing the Gap Agreement – see discussion at paragraph [12].

Recommendation 4: Due to the serious risks that changes to the royalty regime pose for Land Councils, traditional owners, Aboriginal communities and the ABA:

- (a) before committing to royalty reform, the NTG must establish that royalty reforms are justified;*
- (b) independent modelling of the impacts of the proposed changes, whether the type of royalty, rate of royalty, methodology or change in administration must be provided to Land Councils for their analysis and comment;*
- (c) the NTG and Land Councils must work together to design any new royalty scheme, as per the Closing the Gap principles; and*
- (d) the NTG must commit to ensuring there are no adverse impacts on the ABA (2.a).*

1.3 BUILD COMMUNITY TRUST IN THE REGULATOR AND INDUSTRY

25. The MDT Report contains multiple recommendations about increasing community trust in regulators and the mining industry. See, for example, recommendations 1.c.1 and 1.f.1. Recommendations for building community trust in the regulator and industry is set out in the sections below:

⁵ National Closing the Gap Agreement dated July 2020. Item 69.

- 1.3.1. Build the regulator's capacity
 - 1.3.2. Make regulation strong, and enforce it
 - 1.3.3. Increase transparency
 - 1.3.4. Manage abandoned mines
 - 1.3.5. Manage mines in care and maintenance
 - 1.3.6. Ensure mines have comprehensive closure plans that are costed
 - 1.3.7. Ensure government securities are adequate
 - 1.3.8. Apply the law
26. The recommendations in the MDT report appear to be focused on strategic communications and public relations, rather than any substantial reforms that would actually increase public confidence in the regulator. The Land Councils suggest that improving the community's confidence in the regulator requires substantive reforms, not just a public relations campaign.
27. The biggest step the NTG can take towards improving community confidence in the regulator, and associated social licence of companies, is demonstrating its ability to adequately regulate social and environmental impacts of mining. This section sets out the Land Council's recommendations for substantive reforms that would assist to build community trust of the regulator and industry. Reforms related to water and Aboriginal cultural heritage are dealt with separately in sections 0 (Water) and 0 (Aboriginal cultural heritage) given their particular importance to traditional owners.
28. There is a wealth of publicly available evidence demonstrating the NT's difficulty regulating the local mining industry. Examples of regulatory failures and missed opportunities can be seen in the Supreme Court proceedings in relation to failures associated with Frances Creek Mine⁶ and the employee death at Bootu Creek Mine.⁷
29. The recent overhaul of the NT's environment protection regime, and specifically how it applied to mining, recognised the inadequacy of the mining regulatory regime. Land Councils supported the reforms and would strongly oppose any attempts to reverse them or weaken regulation.

1.3.1. Build the regulator's capacity

30. Land Councils acknowledge that specialised knowledge is required for effective regulation, particularly where the NT mineral sector is not dominated by a single commodity. The Land Councils support measures designed to increase regulator capacity.
31. Leading regulatory practice has been described by the Productivity Commission as follows:⁸

Leading regulatory practice supports an effective risk- and outcomes-based approach by regulators who: are accountable and transparent; follow clear and predictable processes; build fit-for-purpose technological and staff capabilities; collect, use and disseminate data effectively; and work to inform

⁶ *Territory Iron Pt Ltd v Minister for Mines and Energy* [2019] NTSC 28, ([weblink](#))

⁷ Australasian Mine Safety Journal, Investigation reveals Bootu Creek Mine Accident Waiting to Happen (2019) ([weblink](#)); see also Australasian Mine Safety Journal, *Bootu Slope Failure* (2020) ([weblink](#)).

⁸ Productivity Commission, Resources Sector Regulation, Study Report. (2020) p. 2.

the community about their activities.

32. Leading regulatory practices should be implemented in the Territory.

Recommendation 5: The NTG should take steps to build capacity in all mining industry regulators, and ensure:

(a) the regulator is accountable and transparent, follows clear and predictable processes, continues to build technological and staff capabilities, collects, uses and disseminates data effectively, and works to inform the community about their activities; and

(b) the NT EPA is independent and adequately resourced with its own dedicated staff. (1.c.1, 1.f.1)

1.3.2 Make regulation strong, and enforce it

33. Evidence shows that the rigor of the regulatory regime does not have a negative impact on resource activity.⁹ Reforms to the NT's legislative architecture must not be at the expense of good governance and regulations designed to mitigate impacts on the environment, Aboriginal cultural heritage and sacred sites, worker safety, landowners and impacted communities. This is supported by the recent findings of the Productivity Commission report:¹⁰

There is considerable scope to improve regulatory processes and reduce unnecessary burdens to encourage resources investment without diluting requirements to mitigate impacts on the environment, heritage, worker safety, landowners and communities.

34. For example, the Productivity Commission has made findings that exemptions from normal licensing requirements aimed at attracting investments have questionable merit. The Land Councils would resist such reforms. The Productivity Commission found:¹¹

FINDING 4.2

No evidence has been presented to this study indicating that differences between jurisdictions' approaches to licensing have created impediments to investment, or that any particular regime for the allocation of tenements is 'leading practice' in all circumstances. However, exemptions from normal licensing requirements aimed at attracting investment have questionable merit.

35. Competent regulators are also resourced and supported to take enforcement action in relation to breaches. This means they have sufficient data to monitor compliance, and enforce compliance.

Recommendation 6: The NTG should ensure an effective regulatory environment, including by ensuring that regulatory reforms do not dilute requirements to avoid or mitigate impacts on the environment, heritage, worker safety, and landowners (including traditional owners) and locally impacted Aboriginal communities. (1.c.1, 1.f.1)

Recommendation 7: Annual reports on regulatory compliance activities and regulated sites should extend to reporting about enforcement activity. In addition, the adequacy of conditions must be fed

⁹ Productivity Commission, Resources Sector Regulation, Study Report. (2020) Finding 4.2.

¹⁰ Productivity Commission, Resources Sector Regulation, Study Report. (2020) p. 2.

¹¹ Productivity Commission, Resources Sector Regulation, Study Report. (2020) Finding 4.2.

back to regulators setting those conditions, so that this information can be taken into account. (1.c.1, 1.f.1)

Recommendation 8: *Traditional owners and affected members of the community should be able to enforce rehabilitation regulations to prevent environmental and community health risks where the regulator fails. (1.c.1, 1.f.1)*

1.3.3. Increase transparency

36. Confidence in regulators is undermined by low levels of transparency. Regulators grant rights to explore, extract or mine minerals that belong to the Crown. All Territorians should have the right to know who is applying for tenements and what they are looking for, information about the applicant's capacity, and the outcome of regulator's decisions. In addition, to increase transparency and accountability there should be public reporting of estimates of reserves for all prospective mines (not just for ASX listed entities via the JORC (Joint Ore Reserves Committee) system).
37. There is currently no legislative requirement to publish Mining Management Plans and Authorisations for mining activities under the *Mining Management Act 2001 (NT)*. This would be a simple legislative reform that would support transparency.

Recommendation 9: *The Territory must take steps to increase transparency and accountability. For example, there should be public reporting of all applications to explore, extract and mine, including information about the applicant's technical and financial capacity, what they are looking for, the outcome of decisions, and estimates of reserves for all prospective mines (not just for ASX listed entities via the JORC system). Mining Management Plans and Authorisations for mining activities under the Mining Management Act 2001 NT should be publicly available. (1.c.1, 1.f.1)*

1.3.4. Manage abandoned mines

38. Abandoned mines and legacy sites are evidence of previous regulatory failure. While these may not be the fault of the current regulator, they create a perception that NT regulators are not up to the job. There are many legacy sites and abandoned mines and shafts in the NT. These include Mt Palmer Mine and Rex Mines, Redbank, Peko, Goodall, Rum Jungle, Kathleen, several areas around Tennant Creek, Hatches Creek, Arltunga and Winnecke Goldfields.
39. Traditional owners and nearby Aboriginal communities, are significantly impacted by legacy mine issues. Involvement of traditional owners and affected Aboriginal communities at every step of the mine rehabilitation and closure planning closure processes would go some way to mitigating the potential for the creation of legacy sites by including the oversight and input of Aboriginal Territorians with a strong interest in environmental sustainability and the ongoing health of land and waters for future generations. From a consultation and input perspective, closure should be treated similarly to opening and require the involvement of traditional owners for planning and managing post mining land uses and monitoring.

Recommendation 10: *The regulatory regime must allow traditional owners to be involved in mine rehabilitation and closure planning processes. The regulatory regime should require:*

- *all applications, reports, notices, audit reports, response to a request for information relevant to complying with or obtaining any approvals or authorisations under environmental or*

mining regime be provided to traditional owners;

- *proponents must consult with Land Councils on behalf of traditional owners during the development and amendment of rehabilitation and closure plans;*
- *proponents must be required, as far as possible, to restore land to the standard agreed by traditional owners depending on the post-mining land use and based on agreed cultural closure criteria. For example, if land was fit for pastoral purposes prior to mining, it should be rehabilitated to at least this standard. Any lesser standard constitutes inadequate rehabilitation; and*
- *Traditional owners should be able to complete an independent audit of all closure works prior to a certificate of closure being issued, and if that independent audit shows inadequate rehabilitation and closure, a certificate of closure should not be issued until rectification occurs. (1.c.1, 1.f.1)*

1.3.5. Manage mines in care and maintenance

40. Mines in care and maintenance are common in the Territory, and often a prelude to insolvency and unmanaged closure. They present a long-term imposition on the environment, traditional owners, taxpayers and the NTG.
41. There are already multiple mines in care and maintenance in the Territory. In the CLC's region some of these include:
- Nobles Nob (Aboriginal Land)
 - Warrego (native title);
 - Gecko (native title);
 - Harts Range Garnet Mine (native title);
 - Jervois Mine (native title);
 - Edna Beryl Gold Mine (Aboriginal Land);
 - Twin Bonanza gold mine (Aboriginal Land);
 - L6 Surprise Oil Field (Aboriginal Land); and
 - Tanami Mine (ALRA).
42. In the NLC's region these include the following projects or parts of projects:
- Browns Oxide (Aboriginal Land);
 - Esmeralda Gold Project (native title);
 - Kazi Gold Project (native title);
 - Mt Porter (native title);
 - Nathan River Resources Project (native title); and
 - Roper Valley Iron Ore (Aboriginal Land and native title).

43. The number of mines that are in care and maintenance in the NT indicates previous regulatory failure. Former regulators appear to have approved mines on the basis they will generate income and jobs, only to have operators develop uneconomic mines that are then sold to an unsuspecting purchaser.¹²
44. Mines in care and maintenance do not engender confidence in the regulator's competence or capacity, particularly in relation to the assessment of the economics of the project. Capable regulators do not approve mines that are not economic. This means that regulators must have a good understanding of project economics, including the cost of rehabilitation and closure, ***before*** the mine is approved.
45. The Productivity Commission recently recommended a requirement to notify the regulator when a site is placed into care and maintenance, which can lead to further conditions, and the preparation of care and maintenance plans.¹³ Movement into a care and maintenance phase should trigger a review of the value of the environmental security.

LEADING PRACTICE 7.8

Resources sites that are placed into care and maintenance can create particular risks for the environment, and the operator may be at greater risk of default. These risks can be managed by a requirement to notify the regulator when a site is placed into care and maintenance, which can lead to further conditions. The preparation of care and maintenance plans that identify and address how environmental risks will be managed (such as those required in Western Australia) and the option to modify a site's financial assurance requirements (as available to the regulator in Queensland) are leading practice examples.

46. There is a real risk that if the Territory undertakes reforms to encourage exploration and mining, without ensuring the regulator is better equipped to assess project economics, that more marginal projects will end up in care and maintenance.

Recommendation 11: *Mines in care and maintenance must be actively managed. If the regulator is notified that mining activities will cease and this is not in accordance with the Mining Management Plan, the following should occur:*

- *the operator must be required to prepare and regularly review and update a care and maintenance plan that identifies and addresses how environmental risks should be managed;*
- *the care and maintenance plan should include an expected duration (no longer than 5 years), after which period the company must be required to either commence closure or submit for approval a comprehensive updated care and maintenance plan. The NTG should be able to reject the care and maintenance plan;*
- *traditional owners must be consulted in relation to the care and maintenance plan before it is*

¹² Page 86 of the MDT Report indicates that of 720 granted mineral leases only about 68 relate to operating mines. This indicates that there are many unviable projects in the Territory.

¹³ Productivity Commission, Resources Sector Regulation, Study Report. (2020) (Leading Practice 7.8).

approved, and, their submissions taken into consideration by the decision makers; and

- *the regulator should actively and regularly consider the likelihood of the operations being a stranded asset and should have the ability to force the operator to decommission and rehabilitate if care and maintenance status is not genuine. (1.c.1, 1.f.1)*

Recommendation 12: *The NT Regulator needs to be better equipped to assess project economics before granting mineral licences, otherwise it is foreseeable that further mines will enter care and maintenance. (1.c.1, 1.f.1)*

1.3.6. Ensure mines have comprehensive rehabilitation and closure plans that are costed

47. Principle 2 of the National Principles for Managing Rehabilitation Financial Risks which was endorsed by Energy Council Ministers in August 2018 is set out below:

*Robust mine rehabilitation and closure plans are established before project commencement and endorsed by the state/territory body administering mine/petroleum site compliance.*¹⁴

48. There are existing projects in the Land Councils' regions that do not have a comprehensive and costed closure plan that is publicly available. For these projects, it is not possible for regulators to assess the long-term economic viability of the project, nor the adequacy of the environmental bond.

49. Third party audits of rehabilitation and closure costs would give the public greater confidence that they know what the full costs of rehabilitation and closure are. Internal cost estimates by companies often do not accord with reported liabilities (whether calculated using the NTG's spreadsheet or otherwise). The real costs of closure may be seen as commercially confidential for operators, and publicly available numbers can be subject to various accounting treatments such as discounts for NPV such that the amount that is declared is many multiples less than the actual cost, particularly if the mine closes early before progressive rehabilitation has been undertaken.

Recommendation 13: *A fully costed rehabilitation and closure plan must be required as part of the approvals process for all mines, and reviewed regularly throughout the life of mine with the involvement of traditional owners. Existing extractive projects with closure plans that are insufficiently detailed or insufficiently costed should be required to prepare a detailed and fully costed closure plan. (1.c.1, 1.f.1)*

Recommendation 14: *Independent third-party audits of rehabilitation costs should be required before rehabilitation bonds are set or varied. (1.c.1, 1.f.1)*

1.3.7. Ensure government securities are adequate

50. Traditional owners and local Aboriginal communities often bear the brunt of negative externalities associated with poorly managed resources projects. Traditional owners should have the ability to recommend whether a security should be released or revised, and these recommendations should be required to be taken into account by the decision maker.

51. After mine closure there is a long period of post closure monitoring and maintenance. For example, the

¹⁴ National Principles for Managing Rehabilitation Financial Risks, endorsed by Energy Council Ministers (August, 2018) (weblink)

Ranger mine is legally required to ensure radioactive tailings do not enter the environment for 10,000 years and the operator at McArthur River Mine has committed to a 1000 year period of ensuring safety post closure. These time spans significantly exceed the life of any corporate entity or government system. The NT legislative regime does not currently ensure that regulation and monitoring and long-term environmental challenges are managed appropriately, undermining confidence in the regulator.

52. A common experience of traditional owners is that mines are shut up (whether in care and maintenance or left as legacy sites) and never rehabilitated. The following testimony from Garawa man Jack Green reflects common experiences.

We've got that mine just left there without fixing it. We know what happens when a mining company walks away. It's happening in front of our eyes. So we worry about that with other mines like the McArthur River Mine.

When mining companies find out the big problems at Redbank they just sell it again and again, recycle it you know. Government allows that but nothing happens to fix the site.

The government has responsibility for that site now, but there's not enough money coming in to fix it all up. In fact it's already ruined, can never be fixed. They just put a fence around it – that's it.¹⁵

53. The Productivity Commission recently considered residual risk payments, and made the following best practice finding:¹⁶

LEADING PRACTICE 7.13

Residual risk payments allow governments to be compensated for foreseeable residual risks after the surrender of a mine site, while allowing companies to surrender their liability for the site. These payments should be proportionate to the remaining level of risk and determined at the point of surrender. Risks should be assessed, and payments calculated, through a formalised process. As a focus on residual risk issues is relatively new, no jurisdiction has been identified as having a leading-practice approach, although recent reforms in Queensland look to be moving in this direction.

54. The entire environmental bond should not be released at the time a closure certificate is issued if there is a long period of environmental monitoring post closure, and remediation work may be required (for example, due to floods, cyclones or geological failure). Instead, the environmental bond should be transferred to become a residual risk bond, without limiting the ability of the NTG to seek a greater bond from the operator when the original bond has not been sufficient for the environmental impact of the project. Traditional owners should have the ability to recommend whether securities should be released and revised, including the value of any residual risk payment.

¹⁵ Submission 41 to the Commonwealth Environment and Communications References Committee (2019) Rehabilitation of Mining and Resources Projects and Power Ash Dams as it relates to Commonwealth responsibilities

¹⁶ Productivity Commission, Resources Sector Regulation, Study Report. (2020) (Leading Practice 73)

55. In addition, Land Councils continue to support the introduction of chain of responsibility legislation applicable to the NT mining industry. This reform is urgently required to shore up rehabilitation and remediation to all extractives projects in the NT (not just onshore oil and gas).

***Recommendation 15:** Environmental securities must not be released at mine closure if there is a requirement for environmental monitoring post closure and the possibility of maintenance or remediation post closure. The environmental security should be a residual risk bond against future liabilities. Traditional owners should be able to recommend whether a security should be released or revised, and these recommendations should be required to be taken into account by the decision maker. (1.c.1, 1.f.1)*

***Recommendation 16:** In order to increase public confidence and transparency, the following information in respect of residual risk bonds should be publicly available;*

- *the value of bonds;*
- *the methodology used to calculate liabilities; and*
- *the requirements, risks and expectations the bond is underpinning, and the terms upon which the residual risk bonds can be called upon. (1.c.1, 1.f.1)*

***Recommendation 17:** The methodology used to calculate liabilities and the obligations that an environmental bond is underpinning in the Mining Management Plan, Extractive Management Plan and Environmental Impact Statement should be publicly available. In addition, the value of securities should be regularly reviewed with input from traditional owners, and the outcome of reviews made public. Traditional owners should be able to request a review of securities on the basis of their observations about environmental impacts or concerns. (1.c.1, 1.f.1)*

***Recommendation 18:** The NT should enact chain of responsibility legislation that applies to mines. (1.c.1, 1.f.1)*

1.3.8. Apply the law

56. The NT should stop the blanket issuing of exploration licences pursuant to expedited procedure applications. This approach undermines confidence in the NT regulator as it appears the regulator will approve applications despite the low quality of the applicant, or the impact of the exploration licence. The Productivity Commission has recently made findings that exploration activities have differing impacts on native title land, and a case by case approach by States and Territories to assessing whether the expedited procedure applies is necessary.¹⁷ This has now been adopted by Western Australia¹⁸ and Queensland.¹⁹

FINDING 5.5

¹⁷ Productivity Commission Report, *ibid.* – Finding 5.5.

¹⁸ See <https://www.dmp.wa.gov.au/Minerals/Expedited-Procedure-Reforms-30446.aspx>.

¹⁹ See <https://www.business.qld.gov.au/industries/mining-energy-water/resources/minerals-coal/authorities-permits/applying/native-title/expedited/understanding>

Exploration activities have differing impacts on native title land. Consequently, a case-by-case approach by States and Territories to assessing whether the expedited procedure under the *Native Title Act 1993* (Cth) applies is necessary to give effect to the intention of the Act.

57. The NT should also ensure that conditions, particularly standard form conditions, that attach to a tenement granted pursuant to the expedited procedure are publicly and easily available, as occurs in Queensland. Conditions are not publicly or easily available in the NT which undermines confidence in the regulator. Such conditions should be updated in consultation with key stakeholders, including Land Councils working collaboratively with the NTG.
58. In addition, native title likely exists over all pastoral land in the NT, so there should be a requirement to consult native title holders even when there is no determination or registered claim. Consultation can occur through the native title representative body for the area.

Recommendation 19: The NTG must cease its practice of blanket application of the expedited procedure to exploration tenements. The NTG should liaise with the Land Councils and PBCs on a case by case basis to assess whether the expedited procedure should apply, and consider sacred site concerns, including as advised by Land Councils and the register of sites held by the Aboriginal Areas Protection Authority (noting this register does not record all sacred sites). (1.c.1, 1.f.1)

Recommendation 20: The standard form conditions that apply to tenements granted through the expedited procedure should also apply to tenements on crown land, parks and reserves and perpetual pastoral lease areas where there is no current registered claim or determination, and should be updated in consultation with Land Councils. (1.c.1, 1.f.1)

1.4 WATER

59. Water security, rights and law reform is a major concern and top priority for the Land Councils. This was reaffirmed by the Joint CLC and NLC Full Council meeting at Barunga in June 2023, with a joint resolution articulating the critical importance of water to the future survival of Aboriginal people and culture and reiterating demands for bold and overdue water reforms that recognise and secure Aboriginal water rights.
60. As climate change makes our water resources more precarious, the demands of industry increasingly compete with water needs for human, environmental and cultural health. The land councils submit that any acceleration of the minerals industry must be accompanied as a matter of urgency by reforms of NT's water governance to ensure sustainable management of water resources.
61. On 1 August 2023 the *Water Legislation Amendment Bill 2023* became law. It amended the *Water Act 1992* (NT) (the **Water Act**) and the *Water Regulations 1992* (NT), including with respect to how mining activities are regulated. Previously, mines with a Mining Management Plan approved (or applied without changes) before 1 July 2019 did not require a water license for any water take that related to their mining activities. The Bill incorporated all these previously excluded mining activities into the water licencing framework, by requiring operators to apply for a water licence within 2 years. While bringing all mining operations in the NT into the water licensing framework is supported, the Land Councils have the following concerns:

- two years is too long to bring existing mining operations under the regime given the increasing pressure on water resources and urgency of protecting drinking water supplies and environmental and cultural values;
- previously excluded mining operations are subject to less stringent licence application requirements than those for ordinary water license applications. When making a decision to grant a license for a previously excluded activity, the Water Controller is not required to consider various fundamental factors for assessing the environmental impacts of the water take and the impacts on other current and likely future users (set out in s. 90(1) of the Water Act). Important factors such as the availability of water in the area, any relevant water allocation plan, existing and likely future demand for drinking water do not have to be taken into account;
- water licenses for previously excluded activities are not subject to the same opportunities for public scrutiny, as Part 6A of the Water Act does not apply. This means there is no requirement to publish the license application and no opportunity for the public to provide written comments about the application to the Controller;
- where the volume of water approved in a water extraction licence and under the Mining Management Plan are inconsistent, the water extraction licence prevails. However, this is difficult to scrutinise as Mining Management Plans are not publicly available. See comments at [31]-[32]ff regarding transparency; and
- third parties, such as traditional owners, cannot seek ministerial review of a licence decision. Only licence applicants can seek review of water licensing decisions (Under 71R(6)).

62. This occurs in the context of a water regime that is manifestly inadequate and operates without recourse to the necessary science. The NT Water Controller has granted large water licences against the advice of traditional owners and many stakeholders for terms of up to 30 years, committing unprecedented volumes of water to industrial use in advance of critically required reforms.
63. To illustrate the paucity of the NT's water management regime: only approximately five per cent of the NT's landmass and 28 per cent of licensed entitlements are subject to Water Allocation Plans (WAPs). WAPs should be the central organising device through which the national standards set by the National Water Initiative are delivered. Further, notwithstanding Land Councils' concerns with the amendments to the Water Act as outlined above, until these recent changes mining activities were not subject to water licencing at all. In comparison, most other Australian jurisdictions have more than 80 per cent of water use managed under water plans.²⁰
64. This means that in the absence of WAPs, the vast majority of water use in the NT is governed by a two page policy document, the Water Allocation Planning Framework, which is more than 20 years old and not legally binding. This framework allows for licences to be issued in the arid zone on the basis that 80 per cent of water to a depth of 150 metres is available for extraction. This threshold has no scientific basis and allows for water mining, which occurs when groundwater extraction exceeds recharge rates. Even where WAPs are in place, they contain few, if any, binding provisions – in contrast to other

²⁰ See Productivity Commission, National Water Reform 2020, Draft Report, p 23 (weblink). Further information on the breakdown of water plan coverage, refer to Table 1.2 on page 20 of the Productivity Commission, Draft Assessment of National Water Initiative (2017-2020) (February 2021)

jurisdictions whose water plans generally contain extensive, legally-binding rules governing water sharing and use²¹

65. In addition to our lack of statutory water planning, the NT lags far behind all other Australian jurisdictions with respect to adequate science to underpin decision-making. According to best practice, water use should be subject to enforceable limits of acceptable change, based on scientifically-robust, precautionary and agreed estimated sustainable yields for the resource in question. In the NT, limits of acceptable change to groundwater in WAPs are left to the discretion of the NTG, with no requirement to demonstrate they are informed by adequate scientific evidence or consultations with stakeholders. For example, at the time of writing acceptable limits to change are identified in a guideline policy document without any discernible scientific basis and developed without any consultation, which assumes 30% of all groundwater dependent ecosystems can be destroyed, regardless of their relative cultural or environmental value.
66. Nor are there enforceable measures in the NT for protecting groundwater-dependent ecosystems and species, or water metering and monitoring. There is also currently no framework for water pricing in the NT which could contribute to funding regulation and research. The Land Councils note the NTG have committed to developing a water charging framework through the Territory Water Plan by the end of 2023 and look forward engaging with the NTG to ensure it is well- and equitably designed, and covers the costs for improved regulation, scientific research and consultation with traditional owners. In the NT, we already have water extraction on a large scale without a sound understanding of our water resources, with the consequent risks to human health and Aboriginal cultural values as drinking water and groundwater dependent ecosystems are placed under threat. Significant environmental features of the arid landscape, including Aboriginal sacred sites, are dependent on access to groundwater or relying on flowing springs.
67. This regulatory regime is not fit for purpose and exists in a jurisdiction where water security is an omnipresent and growing concern. The NT is dependent on groundwater aquifers accessed via bores for ninety percent of its water supply.²² With the exception of Papunya – all remote communities in the CLC region are at a high, very high or extreme risk rating in relation to drinking water quality and security.²³ Water resources in the arid zone of Central Australia are almost entirely ancient groundwater systems where water has been accumulating for hundreds or thousands of years. Recharge of these groundwater systems occurs on the time scale of decades, and most industrial uses of water involve managed ‘mining’ of the available water resource, which is not expected to be replenished for centuries. As the effects of climate change accelerate, recharge events are likely to be even more intermittent and unreliable.²⁴
68. Action to strengthen the NT’s water management regime cannot be delayed.

Recommendation 21: Efforts by the NTG to accelerate the minerals industry must be matched by regulations that ensure sustainable management of water resources in line with the requirements of the

²¹ Analysis by the Environmental Defenders Office (2021) submission to the National Water Reform Inquiry: Deficiencies in the existing water law and governance framework in the Northern Territory, p.2.

²² Grealy, L and Howey, K (2020) Securing supply: governing drinking water in the Northern Territory, Australian Geographer.

²³ Ibid.

²⁴ Ibid.

National Water Initiative. (1.c.1, 1.f.1)

Recommendation 22: *The NTG must accelerate its efforts to comply with the National Water Initiative and implement mandatory and statutory-based water planning for all water resources in the NT as a matter of urgency. (1.c.1, 1.f.1)*

Recommendation 23: *The NTG and industry must engage with Land Councils about water use for projects so that water use does not impact culturally important groundwater dependent ecosystems. (1.c.1, 1.f.1)*

1.5 CULTURAL HERITAGE

69. Over many years, the Land Councils have developed robust processes for sacred site protection. Under section 23(1)(ba) of ALRA, the Land Councils have a function to assist Aboriginal people to protect their sacred sites on all land, not just Aboriginal land. The Land Councils request that proponents of mining related development proposals (including exploration, mining, infrastructure and related road works) undertake surveys of sacred sites (referred to in the CLC's region as sacred sites clearances) prior to commencement of works.
70. Clearance certificates issued by the CLC prevent damage to and interference with Aboriginal sacred sites by setting out conditions in relation to entering and working on subject land. The CLC's view is that they serve to protect the applicant against prosecution for entering, damaging or interfering with sites under the *Northern Territory Aboriginal Sacred Sites Act 1989 (NTSSA)* and ALRA by providing the applicant with documentary evidence that the custodians and traditional Aboriginal owners of the subject land have been consulted and agree that the applicant's proposed works can go ahead without damage to sacred sites on the basis of the conditions in the certificate.
71. Ensuring that sacred site clearances are required before any ground disturbing work is consistent with best practice sacred site protection principles. These were recently set out by the Productivity Commission – see below.²⁵ If explorers only request a search of the sites register from the AAPA, this often occurs late in the piece (contrary to leading practice in the first dot point below) and does not centre traditional owners in decision making about their sacred sites (contrary to leading practice in the second dot point below). In addition, there will be risks to sacred sites as well as the explorer or miner as many sacred sites are not on the AAPA sites register.

LEADING PRACTICE 8.2

Leading-practice heritage regimes:

- embed heritage engagement in the project assessment process, so that heritage is considered in the earliest stages of, and throughout the life of, a project, rather than being a 'final box to check' when other approvals have been obtained
- centre traditional owners in decision making about their heritage. This means, in the first instance, that project proponents seek agreement from traditional owners on how heritage impacts will be managed
- provide a process where both traditional owners and project proponents can seek dispute

²⁵ Productivity Commission, Resources Sector Regulation, Study Report. (2020) (Leading Practice 8.2)

resolution or appeal a heritage decision.

Leading-practice examples include:

- the Victorian *Aboriginal Heritage Act 2006*, under which a cultural heritage management plan must be approved by the Registered Aboriginal Party before planning approval can be given
- the Queensland *Aboriginal Cultural Heritage Act 2003* which requires a negotiated agreement on heritage issues before a project can go ahead.

72. The CLC's sacred site clearance process was endorsed in the Mineral Council of Australia's MCA's submission to the Juukan Gorge Inquiry.²⁶

Recommendation 24: Best practice Aboriginal cultural heritage protection requirements must apply in the NT, these include:

- *In the CLC's region, a Sacred Site Clearance Certificate (SSCC) issued by the CLC to be issued before any ground disturbing works; and*
- *In the NLC's region, a survey conducted either by the NLC or AAPA and an Authority Certificate issued by AAPA before any substantial disturbance activities. (1.c.1, 1.f.1)*

Recommendation 25: The NT should amend its policies and regulations to allow proponents to formally use a CLC SSCC as a defence to prosecution under the NT Sacred Sites Act. (1.c.1, 1.f.1)

1.6 SECURE BROADER OUTCOMES FOR TRADITIONAL OWNERS

73. This section responds to sections of the MDT Report related to outcomes for traditional owners, including employment, contracting and training. These include section 1.b.3 of the MDT report (Secure broader outcomes for traditional owners). Recommendations are divided into the following sections:

- 1.6.1. Ensure the development agenda is led by traditional owners
- 1.6.2. Change NTG policy so that ILUAs or Section 31(1)(b) Agreements are required on native title land
- 1.6.3. Support employment and training
- 1.6.4. Require companies to commit to Indigenous business
- 1.6.5. Support implementation of agreements

1.6.1. Ensure the development agenda is led by traditional owners

74. The Land Councils support a traditional owner led development agenda. Aligning opportunities with the values, interests and aspirations of traditional owners will produce stronger outcomes and build positive relationships between proponents and communities.

75. Joint ventures and partnerships are a matter for negotiation during ALRA or NTA negotiations. These

²⁶ Minerals Council of Australia, submission to the Inquiry into the destruction of 46,000 year old caves at Juukan Gorge in the Pilbara region of Western Australia, p 9, sub 104.

arrangements are not always supported by traditional owners.

Recommendation 26: The NTG should support a traditional owner led development agenda for mining projects. (1.b.3)

1.6.2. NTG policy should require ILUAs or Section 31(1)(b) Agreements for mines on native title land

76. ALRA already requires robust negotiations for mining and exploration on Aboriginal land. However, the ability of agreements to deliver strategic opportunities that secure enduring economic outcomes for traditional owners and impacted Aboriginal communities depends on the wishes of those traditional owners. Not all groups wish to participate economically in projects they perceive are desecrating their land. Some groups prefer alternative economic outcomes, self-designed as community development initiatives and funded through royalties.
77. When poor outcomes for traditional owners and local Aboriginal communities are reached in native title negotiations, it is usually because proponents have pressured traditional owners into accepting a weak agreement by threatening to take the matter for determination before the National Native Title Tribunal (*NNTT*). Matters which are in the right to negotiate stream may be decided by the NNTT, and if so the NNTT will not make any determination regarding compensation. For this reason, traditional owners nearly always prefer agreement over an NNTT determination which involve important negotiated outcomes to protect the environment and sacred sites, even if the terms offered by the company are less than best practice and will not secure enduring economic outcomes for traditional owners and impacted Aboriginal communities.

Recommendation 27: The NTG should adopt a policy approach that mineral leases will not be granted without an ILUA or section 31(1)(b) Agreement being entered into. (1.b.3)

1.6.3 Employment and Training

78. The NT's Indigenous employment rate continues to be the lowest in the country²⁷ and the gap is widening. Over the last decade we have seen a decline from 42.8 per cent of Indigenous people aged 25-64 employed in 2011, to 35.4 per cent in 2016 and 34.3 per cent in 2021.²⁸ The Indigenous employment rate is even worse in remote areas.
79. This is well below the national Indigenous employment rate of 55.7 per cent²⁹ and even further below the Closing the Gap target to see 62 per cent of Aboriginal and Torres Strait Islander people aged 25-64 employed by 2030.³⁰
80. Mining projects in the CLC region employ on average 10 per cent Indigenous staff. The majority of these workers are fly-in-fly-out from major cities outside our region. A very small number of traditional owners and other local Aboriginal people from Central Australia are employed on these projects. The CLC is working to address this through negotiating stronger agreements between companies and traditional owners and the CLC. However, this often requires committed companies who are willing to make real investments in measures to attract, train and support local Aboriginal people. A similar

²⁷ While for non-Indigenous people, the NT has the highest employment rate in the country (86.2 per cent of non-Indigenous people aged 25-64 employed, based on analysis of 2021 ABS Census data by the Centre for Aboriginal Economic Policy Research (unpublished).

²⁸ Ibid.

²⁹ Ibid.

³⁰ Closing the Gap Socioeconomic Outcomes and Targets, Target 8 ([weblink](#)).

situation exists in the NLC's region.

81. Achieving stronger local Aboriginal employment outcomes requires that companies commit, through legally-binding agreements, to appropriate targets for local Aboriginal employment that increase over time and have consequences if they are not met. It also requires that they commit, again through legally-binding agreements, to specific measures they will implement to achieve these targets. At minimum, this includes:
- Dedicating specific financial and human resources to local Aboriginal employment and training.
 - Committing to supporting local Aboriginal people who have expressed interest to obtain the training and qualifications they need to gain employment on the project.
 - Committing to an explicit preference in favour of local Aboriginal applicants.
 - Providing work readiness training to local Aboriginal people to bridge skills gaps, or partnering with government and other stakeholders to do so.
 - Partnering with Aboriginal-run employment service providers who can support local Aboriginal people into jobs.
 - Undertaking active outreach and stakeholder engagement in local communities and with local service providers, providing a clear picture of employment pathways, roles and opportunities.
 - Collaborating with others in the region to develop local workforce strategies.
 - Ensuring company employment conditions are suitable to the needs of local Aboriginal people including:
 - Provision of Aboriginal mentors for all Aboriginal staff.
 - Providing specific support to Aboriginal employees to identify and pursue career paths.
 - Flexible leave policies to take account of cultural obligations.
 - Commitments to not tolerate racism.
 - Cross cultural awareness training for all employees, delivered by local traditional owners.
 - Having cultural advisers to the company based within communities.
 - Integrating their commitment to local Aboriginal employment, training and procurement, and relationships with local Aboriginal communities across their whole organisation and operations – not just confined to a social responsibility or external relations department.
82. Implementing these types of measures to support employment of traditional owners and local Aboriginal people requires a genuine commitment from companies and expectation-setting from the NTG. Expectation-setting can take the form of requiring that mining projects set legally binding targets for local Aboriginal employment, making such targets and measures conditions of government financing, statements from Ministers and the NTG about expectations, and the sharing and promoting of best-practice guidelines.
83. Currently, many ESG frameworks do not specify targets or reporting on local Aboriginal employment (as opposed to Indigenous employment generally, or local employment but not Indigenous-specific).

Where NTG frameworks do require reporting on local Aboriginal employment – such as through the NTG’s Territory Benefits Plan – these must be monitored and enforced, with specific resources dedicated to this monitoring role.

84. The CLC has an economic participation program that works with mining companies that have agreements with traditional owners by:
- running job information sessions in communities and towns,
 - providing referrals to companies,
 - connecting companies with CDP providers to identify and support local workers,
 - supporting individual applicants with pre-employment checks, resumes and job applications,
 - connecting companies to local training providers, and
 - advocating for strong local workforce development plans.
85. However, more investment and coordination from NTG is needed to develop targeted local Aboriginal workforce development strategies specific to the needs of upcoming mining projects.
86. Access to high quality and appropriate training in Language, Literacy and Numeracy is essential if we are to support greater workforce participation among our constituents. Sufficient and consistent funding for foundation skills appropriate for Aboriginal people living in remote communities is vital. Funding needs to be restored to vocational education and training programs, and funding and policy settings reviewed to better facilitate the delivery of appropriate high-quality training in remote communities.
87. Proponents should be encouraged to adopt strong local Aboriginal employment targets and demonstrate outcomes against them. One way this can be achieved is through regulatory approval processes for major projects. Environmental impact assessments; other regulatory approvals; and NTG support for projects, including grants, should include specific minimum targets and requirements that proponents must document in public Aboriginal procurement plans. Note for example, the review of the Northern Australia Infrastructure Facility recommended that the facility consider how they might encourage proponents to be ambitious in their Indigenous Engagement Strategies and that these strategies should be published.²⁷
88. Land Councils recommend plans be developed in conjunction with local Aboriginal groups, as part of an Aboriginal social impact assessment (SIA). As with NTG contracts, monitoring, public reporting and consequences for non-compliance are crucial.
89. Greater provision of quality work-readiness programs are also critical. Quality work-readiness programs help people understand what is required for work, setting them up to succeed. The provision of work-readiness training is a core function of the CDP program and should be delivered by CDP providers, but is often is not done well or at all.

Recommendation 28: *NTG should require companies to adopt local Aboriginal employment targets for minerals projects that increase over time. (1.b.3) (1.d.2)*

Recommendation 29: *ESG Reporting: The NTG and other relevant bodies should update ESG reporting requirements to improve measurement and disclosure of local Aboriginal employment, not just First*

Nations employment in total. (1.b.3) (1.d.2)

***Recommendation 30:** Aboriginal Workforce Development: The NTG should take a proactive role in coordinating local Aboriginal workforce development strategies for mining projects. (1.b.3) (1.d.2)*

1.6.4. Require companies to commit to Aboriginal businesses

90. NTG must invest in long term, sustained supports and funding to enable Aboriginal businesses to increase their share of the market providing services to mining projects. Guidelines exist and form a valuable precedent that can be built on, for example, see the Northern Australian Infrastructure Fund – Indigenous Engagement Strategy Guideline dated September 2020.³¹

***Recommendation 31:** The NTG should encourage mining companies to make legally binding agreements with Aboriginal organisations to meet targets for local procurement. (1.b.3) (1.d.1)*

***Recommendation 32:** The NTG needs to provide seed funding to local Aboriginal businesses in the services sector to enable them to the mining industry via an appropriate body such as the NT Indigenous Business Networks. (1.b.3) (1.d.1)*

91. ***Recommendation 33:** Companies should be encouraged to involve Aboriginal Ranger Groups and land management services for mining projects. (1.b.3) (1.d.2)*

1.6.5. Support Implementation of agreements

92. Enabling traditional owners who wish to direct monetary benefits towards community development usually requires significant facilitation, governance, planning and project management support. In the absence of well-resourced local Aboriginal corporations, this support can be most efficiently and effectively provided by the Land Councils. The NLC and CLC have community development programs which facilitate Aboriginal people to drive their own development by using their own resources. At the heart of the community development approach is processes that ensure local participation and control over assets, projects and programs. Community development involves a flexible way of working and a set of principles and strategies aimed at building individual and collective capacity, self-reliance, good governance and stronger communities.
93. Since it started in 2005, the CLC's community development program has continued to expand with groups committing \$33.8 million to 240 new community benefits projects in 2022/2023. Since 2005 Aboriginal people in the CLC's region committed over \$116 million of their money to projects ranging from multi-million dollar multiyear projects to small infrastructure projects. These investments have in turn attracted millions of dollars in co- contributions from government and hundreds of thousands from Newmont Granites Gold Mine.
94. Mining related income makes up the majority of the money that comes through the CLC community development program. This is largely due to Newmont's Granites Gold Mine which funds the Granites Mine Affected Area Aboriginal Corporation (**GMAAAC**) through affected areas income and the Warlpiri Education and Training Trust (**WETT**) through royalty income. There is also a growing number of smaller sources of income mostly consisting of mining exploration benefits. The CLC Program is instrumental to

³¹ NAIF Indigenous Engagement Strategy Guideline dated September 2020. Available at <https://naif.gov.au/wp-content/uploads/2020/09/FINAL_IESGuideline_2020.pdf> (Accessed 7 August 2023).

supporting Aboriginal people maximise their benefits from agreements.

95. The NLC's Community Planning and Development Program is very similar to that of the CLC and has been operation since 2016. To date, the Community Planning and Development Program is working with 22 Aboriginal groups across all regions in the Top End. More than 460 Aboriginal people have been actively involved in the program, learning skills in visioning, planning, budgeting and managing projects.
96. Collectively, those groups have committed nearly \$12.5 million of their income from various land use agreements to local projects. More than 78 community projects have been initiated by Traditional Owner groups with 51 now complete while 27 are under implementation, planning or feasibility stages. Projects strongly focus on maintaining language and culture, supporting youth, employment and business development and small-scale infrastructure projects.

Recommendation 34: Encouraging Participatory Community Development: To support good outcomes, the NT needs to encourage companies, through agreement making, to support and resource locally-led, participatory community development. (1.b.3)

PART B – FEEDBACK ON TASKFORCE RECOMMENDATIONS

This section sets out feedback in relation to specific recommendations made by the Taskforce.

SECTION 1 – INCREASING THE TERRITORY’S GLOBAL COMPETITIVENESS

MDT Report Recommendation	Land Councils Response
1.a.1 Secure a pipeline of new mines mapped to deliver \$40bn by 2030	
<p>Publish a mining industry development and investment attraction strategy, developed in collaboration with industry.</p>	<p>Industry and the NTG cannot collaborate to create a satisfactory mining industry development and investment attraction strategy without the involvement of civil society groups, particularly traditional owners and Land Councils. See section 1.1 (Developing a shared vision).</p> <p>In addition, a strong economy is a diversified economy. The NTG should not focus on mining at the expense of other industries. Hydrogen and renewable energy projects account for more than half the value of pipeline priority projects in the NT going forward, and digital technology projects are also important.</p> <p><i>Recommendation 35: Improving synergies between Industries competing for land and resources: The NT’s mining strategy should be informed by, and supplement, strategies for other Territory industries that will compete for resources and land. This includes the pastoral industry, renewable energy industry, fisheries, tourism and agriculture industries. (1.a.1)</i></p>
<p>Activate existing mineral leases and secure new investment by introducing incentives to encourage</p>	<p>Companies regularly make applications for tenements on Aboriginal Land for which they don’t have the resources to explore. They then refuse to productively engage with, or intentionally delay the negotiating process set out in the ALRA. The Land</p>

MDT Report Recommendation	Land Councils Response
<p>activity on ELs and mineral leases, and minimise opportunities for land banking.</p>	<p>Councils' experience is that there are a significant volume of exploration companies "landbanking" or "warehousing" tenements. This occurs when companies seek to maximise the number of titles they hold without having to pay rent to the NT or land access fees to traditional owners, or incur exploration costs.</p> <p><i>Recommendation 36: The NTG should cease its practice of automatically consenting to the grant of a new exploration licence application where the Land Councils have, under section 42(13) ALRA, not extended the negotiating period of the original exploration licence. This practice encourages land-banking and disincentivizes the proponent engaging in constructive negotiation. (1.a.1)</i></p>
<p>Institute a more aggressive mining project facilitation stance to drive investment opportunities.</p>	<p>The Land Councils do not support a more aggressive approach to facilitating mining projects to drive investment opportunities if this occurs at the expense of good governance, worker safety or the protection of the environment and cultural heritage. These measures are crucial safeguards designed to protect people, local communities and the environment. See discussion at section 1.3 (Build community trust in the regulator and industry).</p> <p>A more aggressive mining project facilitation stance must be tempered by a requirement for participatory social impact assessments. Social impact assessments (SIAs) are often inadequate, do not include appropriate engagement with Aboriginal people, are not started early enough, and do not differentiate between impacts on Aboriginal communities and the particular impacts on traditional owners.</p> <p>Wherever possible, the terms of Aboriginal impact assessments should be determined by affected Aboriginal communities and their representative bodies. Where representative bodies report that they have capacity, they should be funded to lead this component of the social impact assessment process to ensure genuine community engagement and ownership of the process. Social impact assessments</p>

MDT Report Recommendation	Land Councils Response
	<p>must be complemented by social impact management plans that have appropriate local governance and oversight. The NLC has developed a guidance paper on Aboriginal Impact Assessments, which is attached to this submission at Annexure 2.</p> <p><i>Recommendation 37: Terms of Aboriginal impact assessments to be determined by affected communities leading to social impact management plans that have appropriate local governance and oversight. (1.a.1)</i></p> <p>The MDT's vision is to expedite mining in the NT. This is also a stated vision of the Commonwealth. Commensurate with this increase in mining and exploration activity will be increased demands on Land Councils as Land Councils are required to respond to Aboriginal Land and Native Title Act applications.</p>
1.a.3 - Increase transparency in mineral title processes	
<p>Engage with applicants earlier on in the mineral title process to ensure a clear understanding of processes and associated costs.</p> <p>Ensure clear and concise fact sheets, guides and template documents are readily accessible.</p>	<p>The Land Councils note that there is a strong industry perception that NT mineral title processes are complex. According to the MDT Report, this not supported by evidence.</p> <p>The Land Councils support early and ongoing engagement between Land Councils, traditional owners and mineral title applicants. Some proponents seek native title or ALRA agreements before the project configuration is well enough understood to provide grounds for free prior and informed consent. Once agreement is reached companies materially change the configuration, requiring further consultations and negotiations. This is inefficient. Other companies seek to obtain environmental approvals without consulting the Land Councils, depriving traditional owners of opportunities to be involved in processes, including environmental offset proposals.</p> <p>There must be engagement with Land Councils and traditional owners about project impacts, sacred site protection, employment and economic opportunities and</p>

MDT Report Recommendation	Land Councils Response
	<p>environmental offsets early in the development of the project, so that the project configuration can take sacred site requirements into account and traditional owners can be involved in economic opportunities, including offsets. Examples of more proactive cultural heritage approaches exist elsewhere in Australia, such as in Victoria, where cultural heritage management must be addressed before certain approvals and authorisations can be granted. These processes must be separate and prior to native title or ALRA consents.</p> <p><i>Recommendation 38: Land Councils should work with the NT EPA to draft guidance on social and cultural impacts. (1.a.1)</i></p> <p><i>Recommendation 39: Proponents need to provide sufficient information to Land Councils to enable them to assess a project and for traditional owners to make decisions based on the principle of free, prior and informed consent. (1.a.3)</i></p>
<p>Invest in digitisation for all mining title and authorisation applications, with readily accessible information on progress through assessment processes and supported by a contemporary and secure minerals IT system.</p>	<p>The Land Councils support digitization if it reflects enhanced transparency. See section 1.3 (Build community trust in the regulator and industry) under the heading “Increase transparency” paragraphs [36] to [37].</p>
<p>1.a.4 - Enhance the Northern Territory’s legislative architecture to better target mining industry investment and development</p>	
<p>Review and amend the legislative architecture for the Territory’s mining industry to make it simpler and more transparent, and to increase focus on sustainable mining industry development.</p>	<p>The MDT Report does not indicate which aspects of the NT’s legislative architecture could be improved, nor makes comparisons with other jurisdictions to provide evidence that the NT’s regime is limiting investment and development. The Land Councils do not support amendments that are designed to attract investment at the expense of reducing scrutiny or legislative oversight over projects, given their potential for significant environmental and social impacts. This is further discussed</p>

MDT Report Recommendation	Land Councils Response
	at section 1.3 (Building community trust in the regulator and industry) under the heading “make regulation strong”. See paragraph [33] and following.
Enhance the Department of Industry, Tourism and Trade’s industry intelligence capability to improve monitoring of exploration activity and inform promotion of upstream investment opportunities.	As set out in paragraphs [33] and following, capable regulators must have sufficient intelligence capability to monitor exploration activity for compliance. This mechanism is supported insofar as it relates to building capability to enforce compliance.
Implement a detailed framework for assessments and renewals of EL applications, including to secure rigour in assessment of proponent capacity and capability, with associated annual reporting of performance against licence commitments.	<p>The Land Councils support a transparent and rigorous assessment of proponent capacity through annual public reporting of performance against licence commitments, with failure to comply impacting future applications. Any finding of non-compliance should impact the outcome of future applications whether the application is made through the same corporation or another corporation controlled by or involving related persons. Additional matters for consideration should include the proponent’s financial and technical capabilities, any history of environmental breaches, any litigation and relationships with Aboriginal communities and traditional owners. Leading practice was recently discussed in the Productivity Commission, reproduced below.³²</p> <div data-bbox="981 1086 2051 1299" style="background-color: #e6f2ff; padding: 10px;"> <p>LEADING PRACTICE 7.12</p> <p>Smaller companies that acquire a resource extraction site that is nearing the end of its life may struggle to meet their rehabilitation obligations. Leading practice suggests that governments account for this risk in financial assurance frameworks. Governments can also consider the financial strength of companies in tenement</p> </div>

34 Productivity Commission, Resources Sector Regulation, Study Report. (2020) (Leading Practice 7.12)

MDT Report Recommendation	Land Councils Response
	<p data-bbox="981 212 1955 244">licensing approvals, as has been implemented in Queensland's recent reforms.</p> <p data-bbox="947 292 2040 411">As set out in the Productivity Commission report, thorough assessments of potential licence holders, particularly at the transfer or assignment phase addresses the risk of non-compliance. Leading practice is replicated below.³³</p> <p data-bbox="981 483 2040 627">Leading Practice 4.2. Thorough assessments of potential licence holders address the risk of repeated non-compliance. Leading practice involves regulators taking a risk-based approach to due diligence when granting, renewing or transferring tenements and considering:</p> <ul data-bbox="981 651 2018 810" style="list-style-type: none"> • whether the applicant has previously failed to comply with licence conditions or health, safety and environment legislation (whether in the same jurisdiction, or in other domestic and international jurisdictions) • past criminal conduct, technical competency and past insolvency. <p data-bbox="981 834 2040 866">While all jurisdictions undertake some due diligence, none fully follows leading practice.</p> <p data-bbox="947 962 1944 1034">These checks and balances should also be undertaken during approvals for an acquisition.</p> <p data-bbox="947 1066 2033 1185">Recommendation 40: <i>The NT regulatory regime should include mechanisms to ensure that the financial and technical capacity of miners to deliver rehabilitation requirements is assessed during the approvals process. Regulators should consider:</i></p> <ul data-bbox="1137 1217 2018 1292" style="list-style-type: none"> • <i>whether the applicant has previously failed to comply with licence conditions or health, safety, cultural heritage and environment</i>

³³ Productivity Commission, Resources Sector Regulation, Study Report. (2020) (Leading Practice 4.2)

MDT Report Recommendation	Land Councils Response
	<p><i>legislation (whether in the same jurisdiction, or in other domestic and international jurisdictions);</i></p> <ul style="list-style-type: none"> • <i>past criminal conduct and any findings of corrupt activity, and past insolvency, including of related corporate entities (whether in the same jurisdiction, or in other domestic and international jurisdictions);</i> • <i>financial and technical competency; and</i> • <i>the applicant’s track record of Aboriginal engagement, including whether tenure arrangements were granted through agreement (rather than through National Native Title Tribunal or arbitrated processes), any breaches of agreements and the company’s track record of Aboriginal employment and contracting. Due diligence investigations in relation to this aspect must involve inquiries with the relevant Land Council. (1.a.4)</i> <p>Recommendation 41: <i>The NT regulatory regime should include provisions that ensure that the financial and technical capacity of purchasers to deliver rehabilitation requirements is assessed prior to any owner being allowed to transfer tenements. (1.a.4)</i></p>
<p>Introduce new mineral lease categories that take a risk-based approach to better recognise and encourage smaller explorers, miners and prospectors.</p>	<p>New mineral lease categories designed to encourage smaller explorers, miners and prospectors may reflect lower standards, including in relation to proponents’ financial and technical capacity. The Land Councils are concerned that the changes may increase the number of poor operators or marginal projects, and increase the likelihood of more legacy and abandoned mines.</p> <p>In addition, a risk-based approach needs to be assessed on physical and cultural and environmental grounds. For example, an activity such as rock chipping may not</p>

MDT Report Recommendation	Land Councils Response
	<p>constitute a substantial disturbance to the physical environment (low ecological risk) but may constitute a substantial disturbance to the socio-cultural and spiritual environment if the targeted outcrop is culturally significant.</p> <p><i>Recommendation 42: New mineral lease categories designed to encourage smaller explorers should not enable poor standards of compliance with legislation. (1.a.4)</i></p> <p><i>Recommendation 43: There needs to be a risk-based assessment of activities that may appear ecologically low risk (such as rock chipping) but may cause substantial disturbance to the way traditional owners perceive their environment. (1.a.4)</i></p>
<p>Introduce additional enforcement practices to encourage meaningful activity and progress towards development of the resource.</p>	<p>Additional enforcement practices should be encouraged, and outcomes of investigations should be publicly reported. See paragraphs [33] and following.</p>
<p>1.b.1. - Increase process for clarity and transparency for access to land</p> <p><i>See recommendations 26-34 above.</i></p>	
<p>Publish information on all requirements covering access to land to facilitate early applicant engagement.</p> <p>Collaborate with land councils, industry and regulators to publish guidance on how proponents should engage, including with native title parties and pastoralists.</p>	<p>Under ALRA and the NTA, it is for the Land Councils to consult with traditional owners and provide information about processes and applications in relation to mining. The NTG should not interfere with these processes nor allow them to be dictated by industry.</p>
<p>Collaborate with land councils to develop and publish guidance notes on land access negotiation scope.</p>	<p>The Land Councils do not support the NTG publishing guidance notes on land access negotiation scope. The scope of negotiations is a function of the wishes of traditional owners in each case, in relation to the scope of each individual project. Scope may</p>

MDT Report Recommendation	Land Councils Response
	be informed by legal considerations and requirements, but these are never the sole determinant.
<p>Progress development and rollout of simple graphics (storyboard communications) to support broader understanding of mining industry and activities.</p> <p>Collaborate with land councils to digitise storyboard communications and create multi-media information, utilising common indigenous languages, to increase information accessibility.</p>	<p>Any materials for the purposes of communicating with Aboriginal communities and groups should be developed by the Land Councils for that area, in conjunction with their anthropologists.</p> <p><i>Recommendation 44: NTG guidance about miners and ALRA processes must be approved by Land Councils. (1.b.1)</i></p>
<p>For highly prospective mineral provinces, collaborate with land councils, AAPA and heritage council to secure publicly available baseline information to geospatially overlay geoscientific data, recognising confidentiality requirements.</p> <p>Coordinate sharing of data and secure agreement on a consistent and efficient process for sacred site authorisations and certificates.</p> <p>Invest in modernisation of AAPA business systems to increase sacred sites clearance efficiency.</p>	<p>The Land Councils do not support any proposal that results in dissemination or “sharing of data” about sacred sites. The location of sacred sites is confidential and whether activity can occur within the vicinity of sacred sites depends on the nature of the project and the site, and must be assessed on a case by case basis.</p> <p>CLC has its own sacred site clearance process which applies under its agreements. The process does not involve AAPA.</p>
<p>Strengthen co-existing land use policies and practices to minimise mining industry vulnerability to specific interest group frustration of project and investment opportunities.</p>	<p>It is unclear what is being referred to by “strengthen co-existing land use policies and practices to minimize mining industry vulnerability to specific interest group frustration of project and investment opportunities.” However, mining industry projects should not proceed without broad based community support, particularly of</p>

MDT Report Recommendation	Land Councils Response
	<p>traditional owners and impacted Aboriginal communities. See further see section 1.1 (Developing a shared vision).</p> <p><i>Recommendation 45: Mining should not proceed without the support of traditional owners and impacted communities. (1.b.1)</i></p>
<p>1.c.1 - Build trust in mining industry regulators</p>	
<p>See further discussion in section 1.3 (Build community trust in the regulator and industry).</p>	
<p>Produce and publish annual reports on regulatory compliance activities and regulated sites.</p>	<p>This proposal is supported but should be extended beyond compliance monitoring to reporting about enforcement activity. This reflects findings by the Productivity Commission:¹⁴</p> <div data-bbox="1025 738 2040 943" style="background-color: #e6f2ff; padding: 10px;"> <p>FINDING 7.2</p> <p>In most jurisdictions public reporting about the effectiveness of compliance monitoring and enforcement activity is limited, <u>putting public confidence in the regulation of projects at risk.</u></p> </div>
<p>Take timely and proportionate action on regulatory breaches and make actions public.</p>	<p>This proposal is supported. Mining regulators should be adequately supported to enforce regulatory breaches.</p>
<p>Embed stakeholder and community engagement functions as a core responsibility of all staff.</p>	<p>The Land Councils are key stakeholders in the resources industry with experience with all major resources projects in the NT over 40 years. Legislative reforms and policies are best made collaboratively. The Land Councils would welcome further input into NTG policies and legislative requirements.</p> <p><i>Recommendation 46: Land Councils must be involved in policy and legal reforms in the NT mining sector. (1.c.1)</i></p>

MDT Report Recommendation	Land Councils Response
	<i>Recommendation 47: NTG policies must reflect Land Council responsibilities to consult traditional owners and other impacted groups; (1.c.1)</i>
1.c.2. - Prioritise and implement risk based and proportionate mining industry regulation focused on outcomes	
See further discussion in section 1.3 (Build community trust in the regulator and industry).	
<p>Commit to implement less prescriptive and more risk-based outcomes focussed mining regulations.</p>	<p>Risk-based assessment requires rigorous and continuous monitoring processes for early identification of risk. For example, continuous assessment through mechanisms to monitor whether a company may not be able to fulfil its financial obligations for rehabilitation and closure obligations. This reflects the following principles of the National Principles for Managing Rehabilitation Financial Risks that was endorsed by Energy Council Ministers in August 2018.³⁴</p> <p>Any “risk-based” assessment proposal must not be used as a way to dilute environmental laws or bonds held by the Territory for mining projects. Strong regulatory environmental protections are essential to ensuring confidence of all Territorians in the industry. Where risk based approaches are used, Land Councils and traditional owners should have a role in risk identification and assessment.</p> <p><i>Recommendation 48: Environmental reforms must be accompanied by adequate regulator funding and resourcing for rigorous and continuous monitoring while allowing for the future cost consequences of climate change. (1.c.2)</i></p>
<p>Ministers issue statements of expectations reflecting broader industry policy drivers and strategic objectives that establish the authorising environment for mining industry regulators and how performance will be</p>	<p>Regulation plays an important role in ensuring social licence, and weakening regulation does not lead to increased investment. See paragraph [33] and following. A regulatory regime is critical; mining cannot be “authorized” through ministerial</p>

³⁴ National Principles for Managing Rehabilitation Financial Risks, endorsed by Energy Council Ministers (August, 2018), ([weblink](#))

MDT Report Recommendation	Land Councils Response
measured, and that is tabled in the Legislative Assembly for transparency and accountability.	statements tabled in the Legislative Assembly – such policies cannot be properly enforced and are not open to effective legal scrutiny.
Introduce environmental regulatory reforms which are risk based to balance the potential seriousness of an adverse outcome and the likelihood of it occurring, and which remove administrative overlap and provide certainty to business and industry.	<p>As set out above, Land Councils do not support any “risk-based” assessment proposal being used as a way to dilute environmental laws or bonds held by the NTG for mining projects. Strong regulatory environmental protections are essential to ensuring confidence of all Territorians in the industry. In addition, risk-based regulation requires adequate regulator funding and resourcing.</p> <p>The NT undertook regulatory reform in 2018. It is unclear what the Taskforce still considers is outstanding. For risk based environmental regulatory outcomes the precautionary principle indicates that a conservative approach must be taken, reflective of the unknowns associated with climate change.</p>
1.c.3 – Streamline mining industry regulatory processes to secure a red carpet approach to project development and facilitation	
<p>General Feedback</p> <p>The MDT report recommends a ‘red carpet approach’ for the mining industry without establishing what this will entail, and whether it is in the interests of Territorians. The push for “streamlining” and “efficiency” should not be used to undermine the independence and role of individual regulators involved in approvals for project development, especially the EPA. Nor should this occur without proper input from and consideration of the needs of Aboriginal Territorians and civil society groups. See further section 1.1 (Developing a shared vision). See also discussion in section 1.3 (Build community trust in the regulator and industry).</p>	

MDT Report Recommendation	Land Councils Response
<p>Take a lead agency approach to regulatory approvals with processes led by sectoral agency.</p>	<p>Many jurisdictions require resources projects to obtain assessments and approvals by multiple regulators within a jurisdiction. The Productivity Commission has made findings in respect of this issue:³⁵</p> <div data-bbox="1070 379 2038 718" style="background-color: #e6f2ff; padding: 10px;"> <p>FINDING 6.8</p> <p>Resources projects typically require a range of assessments and approvals by multiple regulators within a jurisdiction. While regulatory coordination has improved over the past decade, proponents still report difficulties navigating the regulatory landscape. Lack of coordination can cause costly delays and liaising with multiple agencies can also give rise to significant compliance costs.</p> </div> <p>Lack of regulatory coordination in the NT affects more than proponents; it affects Land Councils and Aboriginal parties too. Lack of coordination can cause duplication of work and delays liaising with multiple departments. It can lead to inefficiencies and uncertainties and contribute to reduced confidence in the regulator. Leading practice was discussed by the Productivity Commission:³⁶ While the Land Councils support improved coordination, it is essential that mining environmental approvals are given by the environment minister, on advice from the EPA, rather than the mining department / minister.</p> <div data-bbox="1070 1157 2038 1225" style="background-color: #e6f2ff; padding: 10px;"> <p>LEADING PRACTICE 6.12</p> </div>

³⁵ Productivity Commission, Resources Sector Regulation, Study Report. (2020) (Finding 6.8)

³⁶ Productivity Commission, Resources Sector Regulation, Study Report. (2020) (Leading Practice 6.12)

MDT Report Recommendation	Land Councils Response
	<p>Effective coordination among agencies within a jurisdiction reduces uncertainty, facilitates timely processing and minimizes overlaps and inconsistencies. This can occur through:</p> <ul style="list-style-type: none"> • a lead agency or major project coordination office that provides guidance to proponents and coordinates processes across agencies (without overriding the decision-making capacity of other regulators). The coordination models in Western Australia and South Australia, and the case management system in NT have been highlighted as leading practice by study participants • co-operative arrangements between agencies. These include the use of memorandums of understanding, inter-agency working groups or taskforces such as those in Western Australia. South Australia's approach of using costs recovered from resources companies to pay staff in multiple regulatory agencies also supports faster approvals and better inter-agency communication. <p>The Land Councils support effective regulatory coordination between agencies to improve approval processes for all parties, including Land Councils and Aboriginal people.</p> <p><i>Recommendation 49: Efforts to streamline mining regulations should not undermine the independence and role of the EPA and other regulators involved in approvals for project development. (1.c.3)</i></p>
<p>Urgently develop and implement strategic communications and messaging on the role of the regulator in securing responsible and sustainable mining activity – mining activity will result in environmental</p>	<p>This statement reflects the interests of industry without adequate reflection of the needs of the community and civil society organisations. There are times when disturbance must not occur because the cost to the environment, and therefore our society, may be so high that we do not accept the damage. See further section 1.1 (Developing a shared vision).</p>

MDT Report Recommendation	Land Councils Response
disturbance and environment regulation must proportionately manage, not prevent, disturbance.	
Implement and publish administrative agreements that define the roles and responsibilities of regulators so that legislative and procedural responsibilities are discharged in an efficient, fair, transparent and consistent manner.	<p>The Land Councils support administrative procedures setting out the roles and responsibilities of regulators being publicly available. (1.c.3)</p> <p><i>Recommendation 50: Administrative procedures setting out the roles and responsibilities of regulators should be publicly available. (1.c.3)</i></p>
<p>Invest in modern digital architecture to deliver a central Territory Government portal covering all mining related regulatory processes and</p> <p>provide transparency on the status of applications and seamless regulatory engagement.</p> <p>Publish user-friendly guidance material and template documents that comprehensively identify and capture all across-governments mining regulatory requirements.</p>	<p>As set out at paragraphs [36] to [37], transparency is supported. However, the NTG must avoid providing guidance or advice about requirements related to processes involving Land Councils.</p>
Implement open data policies and protocols that enable release of collected data to reduce duplication of effort and investment, and facilitate efficiencies in regulatory approvals processes and compliance.	<p>These initiatives are supported provided data is publicly available.</p>

MDT Report Recommendation	Land Councils Response
<p>Adequately resource regulatory functions, potentially through reprioritisation, to secure engineering, regulatory and technical expertise.</p>	<p>This is supported.</p>
<p>1.e.2 – Ensure infrastructure planning and delivery recognize and address the evolving nature of the mining industry.</p>	
<p><i>Recommendation 51: Prioritising mining infrastructure should not be at the expense of remote community infrastructure. Mining infrastructure should also benefit remote communities (such as better telecommunications, power, water services). (1.e.2)</i></p>	
<p>1.f.1 - Balance negative public commentary on mining industry development</p>	
<p>Develop and implement targeted strategic media and communications that include proactive campaigns to inform public commentary.</p> <p>Take pre-emptive action to deal with issues – real or perceived – and get off the back foot and onto the front foot to dispel myths and promote facts-based industry discourse.</p> <p>Create a platform to share positive stories.</p>	<p>The Territory needs to be mindful that balancing negative public commentary on mining industry development is not perceived as the use of public funds for the mining industry. As set out in out in section 1.3, substantive changes to the regulatory regime, compliance and enforcement, transparency, environmental management and working with civil society institutions, including Land Councils and traditional owners, are required to develop trust.</p>
<p>1.f.2 - Build mining industry credibility, legitimacy, and acceptance in collaboration with industry</p>	
<p>Campaign to promote industry alignment with a sustainable future, focussed on proven ESG credentials.</p> <p>Promote industry benefits and make it real – creates jobs for your mother, uncle, daughter, brother and</p>	<p>The Land Councils query whether a “campaign to promote industry alignment with a sustainable future, focused on proven ESG credentials” is a role for the industry rather than the NTG. As set out in section 1.3, the Territory should focus on its regulatory regime, compliance and enforcement, transparency, environmental</p>

MDT Report Recommendation	Land Councils Response
<p>friend; increases opportunities and builds regional communities and leads to improved infrastructure in remote and regional Australia.</p> <p>Partner with industry to demonstrate commitment to and embed practices that optimise resource extraction, minimise waste generation and deliver closed lifecycle use of resources.</p> <p>Investigate and partner with industry to implement block chain and distributed ledger technologies to enable provenance tracing through chain of custody.</p>	<p>management and working with civil society institutions, including Land Councils and traditional owners.</p> <p>See section 1.3 (Build community trust in the regulator and industry).</p>
<p>1.f.3 Harness expertise, commitment and experience to be a mine rehabilitation centre of excellence</p>	
<p>Establish the Northern Territory as a centre of excellence for mining remediation, rehabilitation and closure, including through investigating establishing a Mining Remediation and Rehabilitation Cooperative Research Centre, in partnership with the Charles Darwin University, traditional owners and industry.</p> <p>Territory Government to collaborate with private sector to develop models to identify and embed innovation opportunities in the rehabilitation and remediation of end-of-life mines and legacy mine sites based on science and evolving community expectations.</p>	<p>The Land Councils support a greater focus on end of mine life and remediation. However, immediate steps that the Territory could take to promote excellence in mine closure is requiring a much more extensive and independent assessment of miners' closure plans, including costings, to ensure they are fit for purpose and reasonable and ensuring environmental bonds, including residual risk bonds are adequate.</p> <p><i>Recommendation 52: The NTG must promote excellence in mine closure by ensuring regular, systematic and independent assessments of miners' closure plans, including closure costings that are provided to Land Councils for comment. (1.f.3)</i></p>
<p>3.3 Secure the availability of reliable and cost-competitive energy</p>	

MDT Report Recommendation	Land Councils Response
<p>Ensure electricity infrastructure and system planning and design recognise and cater for the energy required to underpin and attract new industry growth, with a focus on renewable energy.</p> <p>Collaborate with industry to develop and implement strategies to encourage and support mine plant designs and engineering flowsheets to maximise the use of renewables power.</p>	<p><i>Recommendation 53: Secure, reliable and cost-competitive energy should be aligned with the NTG's Climate Change Response, net-zero commitments and prioritisation of renewable energy with greater access for Aboriginal communities. (3.3.)</i></p>
<p>Recommendation 3.6 – Accelerate the development of telecommunications infrastructure and digital connectivity across regional and remote Northern Territory</p>	
<p>Engage the Australian Government to develop and implement a digital connectivity solution for regional and remote areas of the Northern Territory.</p> <p>Engage with the Australian Government to develop and implement a plan to ensure a minimum standard of reliable 4G broadband to all regional and remote areas of the Northern Territory.</p> <p>Collaborate with telecommunications network service providers to increase network redundancy, strengthen network fault tolerance and establish high telecommunications availability levels across the Territory.</p>	<p>Reliable internet and phone services are essential to increased industry investment and employment opportunities in remote areas, but in many NT remote communities phone coverage and access to the internet is far from reliable. There are examples where outages of telecommunication services have lasted for days, with serious impacts for both residents and businesses.</p> <p>These measures are supported.</p>

Annexure 1 - LEGAL CONTEXT

1. Aboriginal Territorians and Land Councils have a long history and experience working with the mining industry beginning with indigenous owned ochre and clay extraction operations that have been ongoing for tens of thousands of years. In 1963 opposition to bauxite mining on the Gove peninsula in East Arnhem Land and in 1966 exodus from the Wave Hill cattle station paved the way for the modern indigenous land rights movement in Australia that, along with other catalysts for change, led to the enactment of the *Aboriginal Land Rights (NT) Act 1976 (Cth) (ALRA)*. Since their inception in 1974 (NLC) & 1975 (CLC) the Land Councils have been heavily involved with the mining industry, including in relation to oversight of the Ranger Uranium Mine near Jabiru.
2. The Land Councils have statutory functions in relation to protecting the interests of Aboriginal people in the Northern Territory. These responsibilities include a significant role in resources developments in the region. The Land Councils have extensive experience with all major resource projects in the Northern Territory, having performed their functions for over 40 years.
3. Agreements between Land Councils, traditional owners and industry underpin every major mine in the Northern Territory other than McArthur River Mine, many exploration and extraction projects and facilitate working relationships for industry and Aboriginal parties. Under the agreements negotiated for its region, the Land Councils impose obligations on operators in relation to environmental management and rehabilitation.
4. The largest of these mining projects in the CLC region is the Newmont Tanami Operations on Aboriginal Land 550 km north-west of Alice Springs which employs close to 1000 people and in 2020 produced almost 500,000 ounces of gold. It is the result of a Part IV ALRA agreement negotiated in 1983 with the CLC. Recently, Newmont's board agreed to expand the mine's life beyond 2040 at a cost of more than \$1 billion. This is a significant contribution to the Northern Territory economy.
5. Other projects on Aboriginal Land that are underpinned by a Part IV Agreement negotiated by the CLC include Edna Beryl gold mine near Tennant Creek, Twin Bonanza gold mine 520 km west of Tennant Creek, the L6 Surprise Oil field and Mereenie and Palm Valley oil fields. Mereenie and Palm Valley fields were the sole providers of gas to the entire Northern Territory for nearly 30 years until offshore gas became available. Recently, production in Central Australia has increased, with gas being provided to the east coast of Australia via the new Northern Gas Pipeline and to the Newmont Tanami Operations via the new Tanami Gas Pipeline.
6. The CLC has recently negotiated agreements for the Nolan's Bore Project, which is in the process of raising further finance and could be a major operation. Also, the CLC has negotiated and entered ILUAs / Section 31(1)(b) Agreements for Molyhil Mine (2007) 240km north east of Alice Springs, Harts Range garnet mine 200km north east of Alice Springs (2012), Jervois Mine (copper-silver) 380 km north east of Alice Springs (2016)

and L7 Dingo gas field which supplies Alice Springs. Some of these mines are in care and maintenance.

7. In the NLC's region there are over 50 granted tenements on Aboriginal land. Fifteen of these are mineral production agreements and two are petroleum exploration agreements. The NLC agreement negotiated in 1978 for the Ranger Uranium Mine was the very first mining agreement of its kind in Australia; a new agreement for the Ranger Uranium Mine was negotiated in 2012. An agreement in relation to the Gove bauxite mine was negotiated by the NLC and traditional owners in 2011. This agreement laid the foundations for the most recent mineral production agreement finalised in the NLC's region, the Gulkula Mine agreement in 2017. The Gulkula Mine is on Aboriginal land in East Arnhem Land and is Australia's first Indigenous owned and operated bauxite mine. The mine is 100% owned by the Gumatj clan and currently employs 27 indigenous staff. There are also agreements in place in relation to Northern Territory Iron Ore Project, part of which is located on Aboriginal land near Minyerri and which is currently in care and maintenance.
8. Various agreements for mining projects have also been negotiated in the area of the NLC on behalf of native title holders. ILUAs/Section 31(1)(b) Agreements have been finalised for the Former Merlin Diamond Mine near Borroloola; the Frances Creek Gold Mine (2007); and the Mt Porter gold mining project (2004) both located in the Pine Creek region. All these mines are currently in care and maintenance due to factors unrelated to tenure arrangements. The NLC has also negotiated three agreements with Kirkland Lake Gold Australia for their gold projects in the Pine Creek region (2015, 2018, 2019); and various agreements are in place with other operating mines and mines in care and maintenance, for example the Bootu Creek Manganese Mine near Tennant Creek; the Sill80 Ilmenite Mine near Minyerri and the Nathan River Resources (formerly Roper Bar) iron ore project (2012).

Annexure 2 – The NLC’s Approach to Social Impact Statements (SIAs) and Aboriginal Impact Assessments: A Guidance Document

CONTENT

ISSUE AND CONTEXT	
APPROACHES.....	
PARTNERSHIP APPROACH: PARTICIPATORY ABORIGINAL IMPACT ASSESSMENT	
Benefits of Partnering in SIAs	
Principles Guiding SIAs	
The Partnership Approach in Practice	
Resourcing	
Definition of roles	
Planning and preparation	
Scope of Aboriginal Impact Assessment	
Methodology and maximising local Aboriginal participation	
Social Impact Monitoring Plans	
Grievances	
NON-PARTNERSHIP MODEL: INDEPENDENT ABORIGINAL IMPACT ASSESSMENTS	
The Non-Partnership Model in Practice.....	
SUBMISSION APPROACH	

ISSUE AND CONTEXT

Many of the NLC’s Aboriginal constituents are affected by large-scale projects in diverse and complex ways. To maximise benefit and minimise harm from these projects it is imperative that the Aboriginal people and communities that host them are supported to better understand and influence the associated socioeconomic risks and opportunities. One of the best ways to achieve this is by participating in the proponent’s social impact assessment (SIA) or an independent Aboriginal impact assessment. In other words, in the context of large projects, SIAs are a pre-requisite for free, prior and informed decision-making by indigenous people.

The purpose of an SIA is to predict and assess the likely social, cultural and economic impacts of a project on directly and indirectly affected populations and to identify ways to monitor and manage those impacts.

Ideally, an SIA incorporates a participatory socioeconomic baseline study which documents the existing socio-economic conditions without the project, a SIA report that is informed by stakeholders including affected Aboriginal people and communities who help to identify potential project impacts against the baseline conditions, and a methodology for monitoring and managing these, which is then detailed in a Social Impact Management Plan (SIMP).

Proponents of large-scale projects in the NLC region are often required to undertake an SIA as part of the environmental approvals process under the *Environmental Protection Act 2019*, the *Environmental Protection Regulations 2019* or the *Petroleum (Environment) Regulations 2016*. Even where not strictly required under legislation, some proponents choose to undertake an SIA because it is a requirement of company policy or project financing arrangements.

The NLC is often invited to participate in the SIA process though generally it is not able to influence the scope of the study, the timing or to ensure Aboriginal constituents have the opportunity to participate in,

and benefit from, the SIA process. This is largely due to a lack of dedicated resources and a lack of experience in SIAs amongst key staff members. This can lead to the following issues:

1. Scope related issues
 - affected people (including people with traditional rights and interests in the land who do not live in the vicinity of the project area) are not consulted or considered part of the SIA process;
 - affected communities (towns) are not considered part of the SIA process (because the proponent does not recognise their connection to the project);
 - key project impacts are not considered part of the SIA process, for example the construction of workers' camps, impacts on cultural sites connected to the sites in the project area etc.
2. Participation issues
 - Aboriginal engagement in SIA processes is unsatisfactory because of relationships and trust;
 - information about the research process and findings is not delivered or discussed in a way that local Aboriginal people can understand;
 - disputation arises because key persons are not acknowledged or included in the consultation process.
3. Quality-control and implementation issues
 - inadequate scope and/or methodology;
 - key risks and opportunities are overlooked;
 - potential solutions are overlooked; and
 - limited buy-in from affected Aboriginal people around the SIMP.
4. Inefficiencies
 - where Aboriginal groups and representative organisations do not have full confidence in the SIA process it is unlikely that they will have sufficient information to make informed decisions about potential impacts. In view of this, affected groups may choose to commission or undertake their own SIAs, which is a costly, time and resource intensive process. For this reason, the NLC strongly encourages the proponents of land and sea-based developments in the NLC region to enter into 'a partnership approach' for SIAs.

To avoid these problems in the future, the NLC has developed this guidance on approaches to participation in SIAs, which is intended to apply in relation to all large-scale projects proposed for the NLC region. These are projects that:

- impact on Aboriginal land rights or native title rights;
- involve capital expenditure of at least \$100 million; and/or
- are otherwise deemed likely to have significant impacts given the cultural, social and environmental sensitivity of the proposed location, the inherent risks associated with project operations and the technology to be employed.

APPROACHES

The NLC considers that there are two leading practice approaches to ensuring Aboriginal participation in an SIA. The first is a partnership approach whereby the NLC conducts the SIA jointly with affected Aboriginal groups and the proponent. The second is an Aboriginal impact assessment approach where the NLC works with affected Aboriginal groups independently of the project proponent and its SIA process (if any).

The best model will depend on the particular circumstances. The independent model may be more appropriate where it is the clear preference of affected Aboriginal groups, where the proponent is not

willing to negotiate a partnership approach to SIA, or where the proposed terms of partnership are, in the NLC's view, unlikely to deliver a robust and genuinely participatory SIA. It may also be more appropriate where there is a need to consider the potential cumulative impacts of multiple projects in a particular region. However, a partnership approach may have benefits where the proponent understands the value of genuine stakeholder engagement in their SIA process and is open to co-design and collaboration. Timing also needs to be considered, as it is always preferable for Aboriginal groups to have access to a thorough impact assessment and SIMP prior to the negotiation of an agreement.

A third approach, which does not involve partnership but may complement an independent Aboriginal Impact Assessment, is one where we focus on reviewing and influencing (through making submissions) the proponent's SIA, as part of the NT EPA's Environmental Impact Assessment approval process. Each of these approaches are described in detail below.

PARTNERSHIP APPROACH: PARTICIPATORY ABORIGINAL IMPACT ASSESSMENT

Under a partnership approach, the proponent supports the NLC to undertake, together with representatives of the affected Aboriginal people and communities, a thorough and participatory Aboriginal Impact Assessment, as a component of the SIA.

The following outlines the benefits of a partnership approach for developing and undertaking SIAs and a proposed process for how NLC can monitor SIAs and SIMPs.

Benefits of Partnering in SIAs

Leading practice in SIAs seeks to empower local people to influence the way projects are understood, how they are managed and, ultimately, how they will impact their lives. High quality SIAs also have significant benefits for project proponents, including:

- demonstrating to investors that project-related risks have been thoroughly identified and addressed;
- ensuring a strong foundation for a positive long-term relationship with affected Aboriginal people and communities — increasing the likelihood of achieving and maintaining a social license to operate; and
- ensuring value for money by involving local people and not just consultants in the SIA process.

In relation to the lives of Aboriginal people in the Top End, a partnership approach of SIAs will assist to ensure that:

- all stages of the SIA process (planning terms of reference, establishing baseline, predicting impacts and deciding on mitigation and management measures) involve affected Aboriginal people and communities;
- SIAs are prepared and implemented in accordance with 'leading practice' giving affected Aboriginal people increased opportunity to influence how projects will impact their lives;
- affected Aboriginal people and communities have access to SIA data, and SIA information is communicated in a way that suits their linguistic and cultural needs;
- any land use agreements such as indigenous land use agreements or benefit sharing agreements can be grounded in relevant data about traditional owners / native title holders and other affected Aboriginal people;
- affected Aboriginal people involved in agreement-making processes have better access to information to help them make more informed decisions about which issues need to be addressed, and how they should be addressed.
- local Aboriginal people have the opportunity to learn research skills and gain experience;
- SIAs and SIMPs are transparent; and
- SIMPs are understood, actively monitored and implemented at a local level.

Principles Guiding SIAs

The NLC supports the following guiding principles for SIAs:

- Free, prior and informed decision-making
- Informed consultation, participation and empowerment
- Culturally appropriate engagement
- Adequate resourcing
- Transparency and accountability
- Iterative process (SIAs and SIMPs are adapted as circumstances change)
- SIMPs are actively implemented
- SIMPs have transparent and accessible monitoring and accountability mechanisms

NLC Objectives in Promoting a Partnership Approach

- Mitigate negative impacts of proposed developments on NLC constituents and enhance any potential positive impacts.
- Enhance free, prior and informed consent. To be able to fulfil our statutory functions to consult and obtain free, prior, and informed views from traditional Aboriginal owners under the *Aboriginal Land Rights (Northern Territory) Act 1976* (ALRA), and from native title holders under the *Native Title Act 1993*, the NLC needs to obtain and present factual information objectively. For example, under Part IV of the ALRA, the NLC must be satisfied that the traditional Aboriginal owners both understand the “nature and purpose” of the terms and conditions to which exploration or production would be subject and “as a group consent to them”.
- Improve agreement making practices. SIAs can identify challenges and opportunities that need to be addressed in relation to project activities and associated land use agreements and governance frameworks. SIAs can also identify potential strategies to address minimise challenges and maximise opportunities.
- Support social policies endorsed by the NLC such as improving outcomes in closing the gap on Aboriginal disadvantage leading up to 2031.
- Enforce existing legal requirements. NLC agreements may require that proponents apply leading practice including in the implementation of measures to identify and minimise social impacts. We have the option to be more prescriptive in our agreements: e.g., SIA partnership approach in relation to major projects/ production.
- Ensure SIAs are relevant and SIMPs are implemented. The NLC would work in partnership to identify strategies to ensure that SIMPs are locally understood, implemented and monitored. This would include bringing the SIMP to the attention of relevant government regulators to ensure that regulatory decision-making takes impacts and proposed mitigation and management strategies into account.

The Partnership Approach in Practice

To realise a partnership approach, the NLC and the proponent enter into a memorandum of understanding (MOU) to formalise arrangements. The MOU should cover the following matters:

Resourcing

If the NLC is to participate in the SIA process this role must be adequately resourced. SIA consultations require significant preparation (appropriately worded materials, interpreters) and logistical support in order to be effective. This includes funding and other resources necessary for anthropological research to identify affected groups in advance to ensure none are excluded from the SIA.

Definition of roles

NLC suggests the following roles and responsibilities and other matters be defined in the MOU:

- Co-design and development of the scoping document/terms of reference.
- Joint research oversight committee.

- Sourcing and engagement of social and cultural impact assessment specialists who are suitably qualified is jointly agreed by the NLC, constituents and the proponent.
- NLC to facilitate consultations with constituents, including other affected Aboriginal communities and groups.
- Local Aboriginal representation in the research team and joint research oversight committee.

Planning and preparation

SIAs must be undertaken prior to impacts occurring. Timeframes for planning, preparation and undertaking the SIA are very important as enabling informed consultation and participation requires, among other things, setting aside adequate time. Further, assessment and planning should include relevant Aboriginal participants at the earliest possible opportunity.

Timeframes must provide for meaningful participation, this means:

- provide adequate time for party facilitating Aboriginal stakeholder consultation to review and communicate information to affected Aboriginal stakeholders (in culturally appropriate language, format etc.); and
- provide Aboriginal stakeholders with adequate time to review, digest and provide feedback.

Given the various stages involved in seeking approvals, and in the subsequent development of project, Projects must be presented as proposed. Projects should not be presented as if the project will definitely proceed.

Scope of Aboriginal Impact Assessment

Depending on the context of the project, the Aboriginal Impact Assessment will constitute the main body of the SIA, or a component of it.

Affected Aboriginal people must be given the opportunity to determine and prioritise the issues that impact them as non-Aboriginal value assumptions may not apply. For this reason, it is important to include the views of affected Aboriginal people in setting the research parameters. This includes capturing Aboriginal perspectives on what a healthy community looks like.

Topics for data collection/research and analysis are likely to include:

- Understanding of present community and identity
 - Population and demographics
 - Existing cultural, economic and social conditions for Aboriginal people in the area of impact, including:
 - Identity
 - Kinship and social organisation
 - Relationship to other communities/homelands/places (including community profiles)
 - Way of life
 - Culture and cultural practices
 - Livelihoods (sources of employment and income, average income)
 - Cost of living
 - Health status and access to health services
 - Experience with other industries (mining, cattle, tourism etc.)
 - Interaction with existing community programs and services
 - Existing strengths and capacities (including capacity for affected Aboriginal people to realise any potential benefits arising from the project (employment, community programs))

- Existing challenges
- Understanding likely project impacts of the project on Aboriginal people
 - Social impacts of population changes
 - Housing and cost of living
 - Employment and enterprise development
 - Health and wellbeing
 - Stress on decision makers within communities – both individuals and groups weighing spiritual responsibilities values around health of country against potential economic benefits (potential for internal conflict, and inter personal/group conflict)
 - Youth
 - Gender specific impacts
 - Culture and heritage
 - Intergenerational impacts
 - Loss of access to eco\system services
 - Cultural practices
 - Impact on intergenerational knowledge transfer
 - Regional (in)equality impacts
 - Potential to create local and regional discrepancies in wealth and access to benefits and flow on effects on relationships (potential for family/group conflict)
 - Mechanisms in place to allow groups who have access to financial benefits maximise sustained social benefits from those funds (can't assume financial flows alone will contribute to positive development).
 - Social cohesion
 - Aboriginal perspectives on opportunities
 - Ongoing management of likely impacts

Methodology and maximising local Aboriginal participation

SIAs should follow established participatory planning, research and analysis methodologies, conducted in accordance with leading practice standards. It is particularly imperative that baseline studies include **participatory field work** with Aboriginal groups. Among other concerns, census data/desktop data has been shown to be unreliable in many communities. This situation calls for steps to verify official data sources. To achieve this there must be provisions regarding:

- **Involvement of affected Aboriginal groups from the outset** in identifying and prioritising their values, concerns, aspirations etc.
- **Use of local researchers** ensures that local people derive new skills and experiences from the research process.
- **Survey and research design that captures diversity and marginalised groups.** It is important to ensure that more marginalised voices are captured: women, older people, young people, socially/economically disadvantaged groups, vulnerable groups. Ensuring diversity amongst local researchers (i.e. not all male/female) may assist. Any proposed survey models should be designed in a culturally and linguistically appropriate manner.
- **Appropriate research tools** such as those developed based on indigenous wellbeing models.
- **Anthropological advice** on appropriate design / structuring for group meetings (small groups vs large, separate consults for women).
- **Culturally appropriate** participation models and tools, which may include:
 - on-country consultations;
 - in language / linguistically appropriate materials;
 - visual / audio-video consultation aids; and
 - use of interpreters.

- **Ongoing participation in relation to the SIMP** (see discussion below). Aboriginal people should be able to contribute to both the identification and prioritisation of values, hazards and potential risks and the development of plans by which such risks can be avoided or mitigated. Analysis and mitigation of risks should be undertaken at the local level. Similarly, mechanisms to implement and monitor the SIMP should enable access and participation by local Aboriginal people.
- **Aboriginal knowledge protocol.** While the NLC strongly supports moves to incorporate Aboriginal knowledge, values and engagement, it is essential that this be supported by rigorous protocols, including for data management, publication and intellectual property, to ensure the protection of Aboriginal culture, knowledge, rights and interests.

Social Impact Monitoring Plans

Aboriginal participants in the SIA should come away with a clear understanding of monitoring and enforcement regime to be used in the SIMP. Leading practice involves establishing reference groups for each SIMP as the SIMP may need to be revisited as project issues and impacts change/develop overtime. NLC recommends the following members for the SIMP implementation reference group:

- Affected Aboriginal representatives (more than one)
- Corporation representative
- NLC representative

Ideally SIMPs are developed prior to the negotiation of an agreement, as the agreement can incorporate mechanisms to maximise opportunities and implement risk management measures identified in the SIMP.

Grievances

SIAs should aim to establish appropriate grievance mechanism to deal with failures to implement SIMPs.

NON-PARTNERSHIP MODEL: INDEPENDENT ABORIGINAL IMPACT ASSESSMENTS

An alternative option is that the NLC undertakes an independent Aboriginal Impact Assessment with the affected Aboriginal people and communities as part of its role in facilitating tenure-related negotiations. The benefits of this approach include guaranteeing much greater Aboriginal control over the scope, choice of consultants, methodology, higher levels of local Aboriginal participation and overall ownership.

An Aboriginal Impact Assessment can be crucial to ensuring an informed negotiation process. This is particularly the case where the NLC it is not satisfied that the proponent's SIA will adequately capture NLC constituents' interests, issues, concerns and potential strategies to address these. It is important to ensure that any costs agreements in relation to the negotiation of agreements in relation to large-scale projects include the provision of a budget for an Aboriginal Impact Assessment. Where existing cost agreements do not make such provisions, it is vital that the NLC seeks to negotiate for them.

The Non-Partnership Model in Practice

The considerations in relation to planning and preparation, scope and methodology for an Aboriginal Impact Assessment are similar to those for the Partnership Model above. In relation to the SIMP (or equivalent), the NLC may be able to influence the proponent to incorporate relevant SIMP components of the Aboriginal Impact Assessment into its own SIMP. Equally, it will be important to ensure that SIMP measures are used to guide the obligations in any negotiated agreements between the project proponent and affected Aboriginal groups.

SUBMISSION APPROACH

It is usually strategic for the NLC to make submissions on the SIAs of major projects within its region where ever possible, even if such submissions are high-level rather than comprehensive. Particularly in instances where the NLC does not have resources to undertake a partnership SIA or an Aboriginal Impact Assessment, there is significant value in reviewing and providing feedback on the draft terms of reference in relation to an environmental impact assessment, SIA reports and SIMPs. Depending on the time and resources available, this might be as straight-forward as undertaking or commissioning a two or three-day desktop review of the documents against NT EPA guidelines and best practice guidance from the International Association for Impact Assessment, to flag any pressure points for the NLC.

The value of this approach is significant. The quality of approved SIAs in the Northern Territory is highly variable — many proponents do not appear to take SIAs seriously and the regulator’s review for quality control is not very rigorous. Where SIAs/SIMPs do not meet NT EPA guidelines, or fall well short of leading practice, it is open for the NLC to submit that the NTG should not provide any project approvals until deficiencies in the SIA/SIMP are adequately addressed. This sends a strong message to the proponent, and the Northern Territory Government, that the NLC is serious about understanding both the potential impacts of the project as well as proposed measures to manage them. It alerts stakeholders that the NLC is willing to use available leverage to ensure that its constituents have access to credible and reliable information about the project as a part of consultations to obtain Free, Prior and Informed Consent. Further, it communicates the NLC’s expectation that there are meaningful mechanisms through which affected communities can hold proponents to account on SIMP commitments.

For large scale projects, it is recommended that the NLC keep a watching brief throughout the project’s lifecycle on how social impacts are monitored and managed.

Key questions

In reviewing a terms of reference, a basic approach would involve assessing whether its scope is adequate (see scope discussion above) and whether its methodology is adequate to ensure rigorous and meaningful local Aboriginal participation.

In reviewing a SIA, a basic approach would involve assessing scope and methodology (as above), as well as the extent to which the assessment of impacts is evidence-based, realistic and unbiased.

In relation to the SIMP, basic questions to ask include:

- Does it set out clear, measurable targets with timelines?
- Do proposed mitigation strategies make sense in relation to the identified impact? Is evidence provided to support them?
- Is there a monitoring mechanism?
- Is there a process for detecting and dealing with unanticipated impacts?
- Is there a process for identifying whether management strategies are effective?
- Is there a process for addressing management strategies that are ineffective?
- Is there adequate commitment to resource implementation?

Useful Resources

Gibson and the Firelight Group, *Culture And Rights Impact Assessment: A Survey Of The Field* (May 2017).
Gibson et al, *Impact Assessment in the Arctic: Emerging Practices Of Indigenous-Led Review* (April 2018).
International Association for Impact Assessment, *International Best Practice Principles: Impact Assessment Follow-up*, IAIA Special Publication Series No 6 (2022).
Kimberley Land Council, *Kimberley LNG Precinct Strategic Assessment Indigenous Impacts Report Volume 3: Aboriginal Social Impact Assessment Report* (September 2010).

Northern Territory Environment Protection Authority (NTEPA), *Guidelines for the Preparation of an Economic and Social Impact Assessment* (2013)