CENTRAL LAND COUNCIL

Central Land Council submission to the Legislation Scrutiny Committee

Inquiry into the *Mineral Titles Legislation Amendment Bill 2026*

27 March 2026

ACKNOWLEDGEMENT

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

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1. **About the Central Land Council.**

   The Central Land Council (**CLC**) is a corporate Commonwealth entity established under the *Aboriginal Land Rights (Northern Territory) Act* 1976 (Cth) (**ALRA**) with responsibilities across the southern half of the Northen Territory. ALRA has enabled the grant of approximately 423,000km^2 of inalienable freehold title to Aboriginal people through Aboriginal Land Trusts, more than half of the land in the CLC's region.

   Amongst other functions, the CLC has statutory responsibilities to express the wishes of traditional owners as to management of Aboriginal land and legislation affecting Aboriginal land, to protect the interests of traditional owners and other Aboriginal people, to consult with traditional owners about proposals to use Aboriginal land, to assist traditional owners to manage that land and to assist Aboriginal people to protect their sacred sites on any land within the CLC's region.

   The CLC is also a Native Title Representative Body established under the *Native Title Act 1993* (Cth) (**NTA**) and assists native title holders to claim native title and respond to land use proposals that affect their native title. The Federal Court has determined that native title exists across a significant portion of the pastoral estate in the CLC's region, and claims are being brought progressively over remaining areas.

   Through its elected representative Council of 90 Aboriginal community delegates, the CLC represents the aspirations and interests of approximately 17,500 traditional Aboriginal landowners and other Aboriginal people resident in its region on a wide range of land, social and economic issues. The CLC's representative nature and its statutory functions give it a keen interest in ensuring that legislation is fit for purpose and supports Aboriginal people's rights in relation to their land.

2. **Mining and petroleum legislation serve an important purpose and should not be rushed.**

   Mining and petroleum legislation serve an extremely important purpose. They regulate some of the Territory's most significant public resources and allow private proponents to obtain exclusive rights to profit and benefit from those public resources. The legislation is complex and intersects with the operation of ALRA and the NTA.

   The substantial changes proposed in the *Mineral Title Legislation Amendment Bill 2026* (**Mineral Bill**) are rife with the possibility for unintended consequences which would create uncertainty to investors. The uncertainty could diminish investment in the Northern Territory. A mismanaged regulatory framework for mining and petroleum production could impact on the Territory's economic development, culture and environment.

   CLC understand that a discussion paper was published in 2024 about proposed amendments to the *Mineral Titles Act 2010* (NT) (**MTA**). The summary of consultations indicates that land councils were invited to participate in consultation about that discussion paper. The CLC has not found records of receiving an invitation and unfortunately was unaware that consultation was occurring. Had CLC been aware, it would have made significant and robust submissions in relation to the discussion paper.

Many of those matters are raised now, in response to the Bill, but the curtailed timeframe for this Inquiry, and holding it alongside inquiries into other major reforms, reduces CLC's ability to contribute to the most meaningful extent possible. One week for public consultation on the drafting of important legislation does not allow the time needed to consider all the potential implications of it or to listen to the concerns and ideas of Territorians, especially Aboriginal Territorians. Approximately 47% of the Northern Territory's land mass is held as Aboriginal land and much of the remaining land is subject to native title determinations and native title claims. Mineral and petroleum extraction usually occur on land where Aboriginal people have rights and interests, whether through ALRA, the NTA or traditional law and custom.

The Legislative Assembly should allow a more substantial period for consultation and public debate about these laws rather than rushing ahead with complex and detailed changes.

In response to the specific questions asked in the terms of reference for this Inquiry:

a. whether the Assembly should pass the Bill – *No.*
b. whether the Assembly should amend the Bill – *The Assembly should not pass the Bill at all, and should allow more time for the text of the Bill to be considered by affected Territorians. If the Assembly intends to pass a version of this legislation, amendments addressing the matters raised in these submissions would represent a stronger outcome than presented by the current Bill.*
c. whether the Bill has sufficient regard to the rights and liberties of individuals – *No, not through either the consultation process for the Bill nor the substantive rights of affected traditional owners and native title holders.*
d. whether the Bill has sufficient regard to the institution of Parliament. – *No, due to the manner of consultation about the Bill and that it is in conflict with overriding Commonwealth legislation.*

3. **All forms of exploration and mining activities on Aboriginal land must be governed by Part IV of ALRA.**

Exploration and mineral activities have been recognised as the form of access which would have the greatest impact on Aboriginal culture and use of their land.

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 livelihoods, health and wellbeing, community relationships, cultural obligations and cultural heritage.

Part IV of ALRA provides specifically for the processing and administration of applications for mineral exploration and mining on Aboriginal land. All forms of exploration and mining activities contemplated under the *Mineral Titles Act 2010* (NT) (**MTA**) and the Mineral Bill must be governed by Part IV of ALRA if they occur on Aboriginal land. This includes preliminary exploration, small scale mining (**SSM**) and all forms of fossicking (ranging from fossicking undertaken pursuant to a fossicking permit, a mineral lease for fossicking (**MLF**) and a mineral lease for tourist fossicking (**MLTF**)).

CLC considers that the proposed changes in the Mineral Bill, which provide that a permit under the *Aboriginal Land Act 1978 (NT)* (**ALA**) constitutes consent for preliminary

exploration[1] and a fossicking permit[2], is inconsistent with the operation of ALRA and rendering elements of the Mineral Bill are invalid.

4. **Entry to Aboriginal land to conduct scientific geological investigations must comply with ALRA**.

   Entry onto Aboriginal land to conduct scientific geological investigations on the basis of mere written notification[3] is inconsistent with ALRA.

   As the conduct of scientific geological investigations will involve ground-based geophysical or geochemical sampling, mapping, investigation or survey, a permit under ALA to undertake such activities will not suffice. Such investigations must be subject to ALRA.

5. **The right for a holder of an exploration licence to conduct bulk sampling, without clear guidelines, could lead to de-facto mining.**

   The inclusion of the right for the holder of an exploration licence to conduct bulk sampling using a mobile crusher and explosives[4] goes beyond the purpose of an exploration licence. There is no need for such a large bulk sample to be obtained, via these means, to assess the metallurgical characteristics and economic potential of an area.

   We consider that this is a backdoor to allow mining without complying with the necessary provisions under ALRA and NTA.

6. **A mineral lease for fossicking (MLF) and a mineral lease for tourist fossicking (MLTF) create a right to mine under the NTA.**

   Both MLF and MLTF create a right to mine under the NTA. Any failure by the Northern Territory Government to comply with the procedural requirements of the NTA will render the MLF and MLTF invalid to the extent that they affect native title. Accordingly, native title rights and interests will prevail over the rights conferred by the MLF and MLTF.

7. **It should be a condition of all mineral leases that surveys of sacred sites, through a CLC sacred site clearance certificate or an authority certificate, be undertaken before commencing works.**

   We consider that all holders of mineral tenements, including exploration licences, MLF, MLTF and mineral leases for small scale mining (**MLSSM**), should undertake surveys of sacred sites (referred to in the CLC's region as sacred sites clearances) prior to commencement of works, such surveys to be done either through the Aboriginal Areas Protection Authority (**AAPA**) or the relevant Land Council.

   If explorers only request a search of the sites register from the AAPA, there will be risks to sacred sites (as well as prosecution of the explorer or miner) as many sacred sites are not on the AAPA sites register. AAPA publicly acknowledges that their sites register is not

[1] Clause 11, Mineral Bill
[2] Clause 49, Mineral Bill
[3] Clause 55, Mineral Bill
[4] Clause 15, Mineral Bill

comprehensive[5].

Over many years, the CLC has developed robust processes for sacred site protection. Under section 23(1)(ba) of ALRA, we have a function to assist Aboriginal people to protect their sacred sites on all land, not just Aboriginal land. Clearance certificates issued by the CLC prevent damage to and interference with sacred sites by setting out conditions in relation to entering and working on subject land. These clearance certificates protect the applicant against prosecution for entering, damaging or interfering with sites under the *Northern Territory Aboriginal Sacred Sites Act 1989* (NT) and ALRA by providing the applicant with documentary evidence that the custodians 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.

8. **All extractive mineral permits (EMPs) granted before the passing of the Mineral Bill, are invalid to the extent that they have affected native title rights and interests.**

The CLC has consistently maintained, in various letters to the NTG, that the grant of EMPs under the MTA is subject to the NTA on the following basis:

a) The NTA procedural rights apply where the NTG creates a "right to mine"[6].
b) While "mine" excludes the extraction of rocks, sand, gravel, etc. in some circumstances, it includes the extraction of rocks, sand, gravel etc. where processing is undertaken by non-mechanical means[7]
c) Under current law, EMPs give the title holder the right to "temporarily process", "extract" and "remove" these materials[8]. The activities which the holder of an EMP can carry out as of right include, and do not exclude, processing by non-mechanical means.
d) It follows that EMPs create a "right to mine", and as such the procedural rights under the NTA apply.

The change to section 53 of the MTA to prohibit the processing of extractive minerals by non-mechanical means[9] is recognition by the NTG that such a right was previously included under the MTA and the NTA applies. Accordingly, the failure of the NTG to comply with the NTA when granting EMPs in the past means that those EMPs are invalid to the extent that they affect native title.

9. **The addition of a right to construct a minimal track without an access authority is a future act under the NTA and inconsistent with the operation of ALRA.**

The holder of a mineral title having the right to construct a minimal track for access to a title area without an access authority or any form of consent required by a landowner[10] represents legislative overreach and does not respect the rights of landowners.

This right is inconsistent with the operation of ALRA and we take this opportunity to comment that any consent for access authorities on Aboriginal land is subject to ALRA where traditional Aboriginal owners are free, consistent with their rights under the United Nations Declaration on the Rights of Indigenous Peoples, to give or withhold consent.

[5] https://www.aapant.org.au/services/request-for-information
[6] Section 26(1)(c)(i), NTA
[7] Section 253, NTA
[8] Section 53, MTA
[9] Clause 23, Mineral Bill
[10] Clause 31, Mineral Bill

This right is also a future act which impacts on native title rights and interests and must be subject to the NTA.

10. **The proposed grant of a fossicking permit triggers procedural requirements under the NTA**.

    Our view is that a fossicking permit is a future act under the NTA which triggers procedural requirements under the NTA. As the fossicking permits allows the holder to fossick over large parts of the Northern Territory, the NTG will be required to notify every single registered native title body corporate in the Northern Territory about the proposed grant of a fossicking permit. This is unfeasible especially in the context of Central Australia and the NTG should consider limiting the fossicking permit to cover a designated area.

    (As to fossicking permits on Aboriginal land and their inconsistency with ALRA, see paragraph 3, above.)

11. **Conversion of non-compliant existing interests (NCEI) to other interests must comply with the NTA.**

    Any conversion of NCEI to another form of title, including:
    a) a mineral title[11];
    b) another interest in relation to land which it relates[12]; or
    c) a general lease (**GL**)[13],
    must comply with the requirements of the NTA. To ensure that there is no doubt about this, it should be made clear in the Bill that s 74 of the MTA applies to conversions.

    As the GL will only be granted if no other mineral title is appropriate and allow the holder to conduct activities specified by the Minister, CLC considers that there is a strong possibility that a GL will confer additional rights not currently provided under a NCEI. This will trigger procedural requirements in the NTA that the NTG must comply with.

12. **Conversion of NCEI on Aboriginal land to another mineral title will require an agreement under Part IV of ALRA.**

    The conversion of an NCEI on Aboriginal land to another form of mineral title constitutes the grant of a mining interest. Any such grant is subject to compliance with Part IV of ALRA. This means that an agreement between CLC and the holder of the NCEI in relation to such grant is required in advance. Section 74 of the MTA should be explicitly applied to conversions to avoid invalidity of the Bill.

13. **The Minister does not have the power to grant GLs on Aboriginal land.**

    As the Minister will convert a NCEI to a GL if no other mineral title is appropriate, the GL may fall outside the scope of Part IV of ALRA. In such circumstances, the Minister does not have the power to grant a GL on Aboriginal land. Only an Aboriginal Land Trust has the power to grant the rights covered by a GL on Aboriginal land in accordance with ALRA.

[11] Clause 56, Mineral Bill
[12] Clause 56, Mineral Bill
[13] Clause 57. Mineral Bill