CENTRAL LAND COUNCIL

Central Land Council submission to the Legislation Scrutiny Committee

Inquiry into the *Pipelines and Petroleum Legislation Amendment (Industry Development) 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.

Committee Secretariat
GPO Box 3721
Darwin NT 0801
Telephone: (08) 8946 1485
Email: LSC@nt.gov.au

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 changes proposed in the *Pipelines and Petroleum Legislation Amendment (Industry Development) Bill 2026* (**Bill**) contain the possibility for unintended consequences which would create uncertainty to investors. The uncertainty could diminish investment in the Northern Territory. A misaligned regulatory framework for mining and petroleum production could impact on the Territory's economic development, culture and environment.

The CLC received a briefing about reforms contained in the Bill shortly before it was introduced into the Legislative Assembly, but not at a time nor in a manner that allowed considered input into development of the reforms. The curtailed timeframe for this Inquiry, and holding it alongside inquiries into other major reforms, reduces our ability to contribute to the most meaningful extent possible. One week for public consultation on the drafting of such an important piece of legislation does not allow the time needed to consider all the potential implications for such legislation and 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.

3. Questions in Terms of Reference

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 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, particularly in relation to access to Aboriginal land.*
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 may conflict with Commonwealth legislation.*

Amendments to the Energy Pipelines Act

4. Access to Aboriginal land

The purpose of ALRA was and is to provide for Aboriginal people to obtain and retain their traditional land under a form of title which is inalienable. The CLC is concerned that the Bill, as drafted, weakens traditional owners' control over Aboriginal land.

Section 4(3) of the *Energy Pipelines Act* (**Pipelines Act**) provides that it applies to Aboriginal land within the meaning of ALRA to the extent that it is capable of so applying. This general drafting, while accurate, will create uncertainty of application and implementation to particular clauses of the Bill. For sections that could be interpreted as allowing access to Aboriginal land without a permit under the *Aboriginal Land Act 1978* (NT) (**ALA**) or interest under ALRA, those sections should expressly state that they do not apply to Aboriginal land.

Clauses 9-11 of the Bill (which amend sections 5, 6 and 8 of the Pipelines Act) allow for the grant of a permit by the Minister to determine the route of a pipeline and location of apparatus and works on the basis of an application, notice to specified persons, and the Minister considering any comments made in a 28 day period.

Ordinarily, access to Aboriginal land for inspection or surveying purposes would require a permit under the ALA. Further, if a pipeline is to be constructed on Aboriginal land the consent of traditional owners to the grant of an interest under s19 of ALRA is essential. There is no reason of policy or law why those ordinary provisions should not continue to apply. In fact, the grant of a permit contemplated in amended s8 may be inconsistent with

ALRA. Even it if were not, it would be beneficial for long term working relationships with traditional owners for the pipeline proponent to access land only via a permit granted under the ALA and / or an interest granted under ALRA. Any ability for the Minster to grant a permit on Aboriginal land under s8 of the Pipelines Act should be removed.

The new Part 5C introduced by the Bill purports to allow entry onto Aboriginal land without a permit in order to comply with a direction. This is said to apply to the person to whom the notice is directed, their employees and contractors. It also applies not just to emergency situations, but in circumstances where that person could give 7 days' notice of entry. CLC raises no concern about entry being authorised by the Pipelines Act in emergency situations. However if a notice period is possible, then the person should also be applying for a permit under the ALA.

Clause 20 of the Bill, which introduces the new section 21A(4), requires notice to certain people in the event of an application to vary a pipeline licence area. Notice is only required to native title representative bodies like the CLC if the act is a future act. A variation that includes new areas not covered by the original licence will be a future act and notice must be given. For clarity, the Bill should be amended to require unconditional notification to the representative body if the licence area is varied.

The CLC also observes that the "suitable arrangements for the acquisition of land" of which the Minister must be satisfied (section 21A(7)(a)(iii)) must be either a s19 ALRA agreement on Aboriginal land or an indigenous land use agreement (or similar) on areas where native title exists, whether declared on not.

5. Transport of dangerous goods

The expansion of the definition of regulated substance to include toxic and potential toxic materials like hydrogen compounds increases risks to health, culture and environment. Given the suspension of the *Dangerous Goods Act*, a robust regulatory framework must be in place prior to any licences being granted that permit the transmission of toxic or novel compounds.

6. Review rights

The Bill represents a missed opportunity to afford review rights to landowners affected by decisions, permits and licences. Only applicants and holders of permits and licences are able to seek merits review of decisions. Any landholder would instead have to apply to the courts, seeking judicial review if they consider their rights affected contrary to law. Approaching the court in such circumstances should be the option of last resort; more efficient merits review should be made available to affected landowners to avoid that.

Amendments to the Petroleum Act

7. Impact of fragmentation and industrialisation

The new rights for operators to:

- Subdivide retention licences (**RLs**) under the *Petroleum Act 1984* (NT) (**Petroleum Act**);
- Transfer petroleum products between titles for processing, refining, storing or transporting; and
- Stockpile extractive materials (under the amendments proposed to the *Mineral Titles Act 2010* (NT)),

could lead to increased fragmentation of the landscape and industrialisation of otherwise undeveloped areas. The risk of that increases when combined with the existing right to sell appraised gas.

These changes could see networks of pipelines, roads and other infrastructure corridors between titles, including expanded safety exclusions zones and restricted access areas. Such fragmentation and industrialisation of the landscape will have an impact on traditional owners, for whom the landscape does not exist solely in physical terms – it is also a living cultural system, with ecological, cultural and spiritual values. As well as restricting physical access to land, these amendments risk disrupting cultural and spiritual connections to country.

For traditional owners' rights and interests to be protected in these circumstances it is critical that proponents engage with Land Councils, including by seeking a sacred site clearance certificate from the Land Council or Aboriginal Areas Protection Authority prior to undertaking any work. The legislation should mandate that this be a condition on titles granted under the Petroleum Act.

If proponents only request a search of the sites register from the AAPA, there will be risks to sacred sites (as well as prosecution of the proponent) as many sacred sites are not on the AAPA sites register. AAPA publicly acknowledges that its sites register is not comprehensive[1].

Over many years, the CLC has developed robust processes for sacred site and cultural heritage protection. Under section 23(1)(ba) of ALRA, CLC has 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.

Further, in order to assess the impact of fragmentation and industrialisation on the environment (including on culture and heritage), the Northern Territory Environment Protection Authority should be properly resourced and strengthened so it can undertake independent assessments of the impacts of projects as well as the cumulative impacts across multiple projects. In particular, proponents should be required to fund and cooperate with Indigenous Impact Assessments, led by the Aboriginal people affected by a project about the impact of the project on them. Independent academic research (see for example the work of Professor Ciaran O'Faircheallaigh of Griffith University[2]) has identified that the best outcomes usually occur when Indigenous Impact Assessments occur early and empower Aboriginal people. Such processes should be adopted to minimise negative impacts to traditional owners and native title holders arising from fragmentation and industrialisation of land.

[1] https://www.aapant.org.au/services/request-for-information
[2] Ciaran O'Faircheallaigh | Research outputs | Griffith University

Finally, by lowering barriers to entry, appraisal gas from subdivided RLs could become a financial product in and of itself, rather than its primary purpose of scientific assessment and evaluation. That may have an unintended consequence of attracting short-term investment rather than the long-term development that the Bill seeks to encourage. Rigorous application of the appropriate person assessment in s15A of the Petroleum Act will be important to avoid that risk eventuating.

Amendments to the Petroleum (Submerged Lands) Act

Given its location, the CLC makes no submissions in relation to this part of the Bill.