NORTHERN LAND COUNCIL

Central Land Council

Joint Northern and Central Land Council

Feedback to the Northern Territory Department of Industry, Tourism and Trade:

Draft Northern Territory Minerals Industry Plan – Pathway to 2030

May 2024

ACKNOWLEDGEMENT

The Central Land Council and Northern Land Council acknowledge 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. Executive summary

1. The Central and Northern Land Councils (the Land Councils) welcome the opportunity to comment on the Northern Territory Minerals Industry Plan – Pathway to 2030 Consultation Draft prepared by the Department of Industry, Tourism and Trade (**DITT**). The Land Councils have actively engaged in the Territory's process of reforming its environmental, and particularly mining, legislation since 2017.[1]

2. The Land Councils are the primary advocate for the interests of Aboriginal peoples in the Territory. Much of the land that the Northern Territory government (**NTG**) wishes to open for mineral development is customarily and legally under the control of Aboriginal landowners and cannot be developed without their consent. As such, the NTG and the minerals sector must demonstrate a credible commitment to inclusive economic development, environmental and heritage protection, and respect for self-determination.

3. The Land Councils' engagement is tempered by the reality that previous input to government reform has largely been ignored by the NTG. To date, the minerals industry and the NTG have failed to demonstrate the value proposition of exploration and mining to Aboriginal Territorians; woeful royalties, risks to sacred sites, weak native title rights, limited employment prospects, insufficient engagement, and poor management of legacy mines mean some Traditional Owners are reluctant to allow exploration and mining on their land.

[1] Central Land Council and Northern Land Council 2017. *Joint Submission to the Northern Territory Department of Environment and Natural Resources: Environmental Regulatory Reform Discussion Paper.*

4. The history of NTG engagement with the Land Councils as representatives of Traditional Owners on the mining reforms suggests an unwillingness by NTG to adopt all but a few suggestions and recommendations the Land Councils have made in recent years. There must be a change in the way that the NTG works with the Land Councils and our constituents to ensure that any growth in the minerals sector occurs in a way that is environmentally and socially sustainable and economically inclusive. We need a shift from ad hoc engagement to a genuinely consultative and collaborative way of working together.

5. We are concerned by the NTG's ongoing unwillingness to listen to and work with the Land Councils in relation to many significant policy reforms in recent years. Given the statutory responsibilities, duties, and obligations of the Land Councils under the *Aboriginal Land Rights (Northern Territory) Act 1976* Cth (**ALRA**) and the *Native Title Act* 1993 Cth (**NTA**), this is a significant oversight on the part of government.

6. The Land Councils acknowledge there are regulatory issues that affect efficiency and inhibit the development of the industry. In multiple submissions, we have highlighted issues in relation to insufficient engagement, land rights, cultural heritage management, financial benefit negotiations, mine planning, rehabilitation planning, socio-economic development opportunities for communities, and legacy mines. However, recent policy developments in the Territory prioritise cutting 'red and green tape', without due consideration for the rights and interests of Aboriginal landowners and affected communities. The Mineral Development Taskforce Final Report, for example, contains multiple references to 'speedy development', eliminating barriers to investment, and the need to "eliminate barriers" to investment and "unequivocally embrace [mining] industry growth".[2]

7. For its part, the NTG's three stated objectives regarding mining reform were: "improved investor certainty, better environmental outcomes, building community confidence".[3] In rolling out the reforms, the government's focus has almost exclusively been on, in the first instance, the separation of "environmental regulation of mining from resource and development functions, with environmental regulation managed through the *Environment Protection Act 2019* (**EP Act**) and resource and development through the *Mineral Titles Act 2010* (**MT Act**) and new legacy mines legislation" and, secondly, introducing a "new environmental mining framework focusing on delivering long term environmental

[2] Northern Territory Government 2022. *Mineral Development Taskforce Final Report*, Northern Territory Government. 7-8.
[3] Northern Territory Government 2020. *Department of Environment, Parks and Water Security & Department of Industry, Tourism and Trade Discussion paper : Regulation of mining activities: Environmental regulatory reform*. 1

outcomes, transparency of decision making and regulation of mining activities, and provision of industry certainty and flexibility". [4]

8. It appears it was never the government's intention to broaden the reform agenda beyond a narrow, interpretation of work required to achieve the regulatory separation from DITT and the establishment of a new environmental mining framework. While these objectives were long overdue, a unique opportunity for dialogue to improve relations with Traditional Owners and Land Councils and address key issues was missed. These include cultural heritage protection and management, financial benefit, mine planning, rehabilitation planning and mine closure, socio-economic development opportunities for communities, and mine legacy.

9. Our message to the NTG, through this latest submission is to engage directly and respectfully with Traditional Owners via the Land Councils to ensure their rights and interests are acknowledged and upheld and to enable genuine discussion and negotiation on issues of disagreement as well as areas of common cause.

10. Despite deficiencies in the current reform process, the Land Councils remain prepared to negotiate with both the government and industry to ensure the rights and interests of Traditional Owners are protected, and to see real improvement in their quality of life. To these ends, the Land Councils believe that the resources sector can play a greater role in addressing key targets in the National Agreement on Closing the Gap. In this respect, the Land Councils agree with the Productivity Commission that significant progress can be gained by improving engagement with Aboriginal organisations, aligning the Agreement framework with existing policies and programs, and addressing the stretched resources of organisations such as the Land Councils.[5]

11. Traditional owners have a deep and abiding custodial relationship with their land and waters that forms, via the kinship system and Aboriginal lore, the basis of being and relationship with both the natural and human realms. Evidence to date, from Kakadu, suggests that this relationship dates back at least 65,000 years.[6]

12. Traditional Owners have a range of views with respect to mining though in common to all is the paramount importance of sacred site and cultural heritage protection.

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[4] Northern Territory Government 2023. *Department of Environment, Parks and Water Security: Regulation of mining activities: Feedback summary report*. 4

[5] Productivity Commission 2023. *Review of the National Agreement on Closing the Gap: draft report*, Productivity Commission.

[6] Clarkson, Jacobs, Marwick, Fullagar, Wallis, Smith, Roberts, Hayes, Lowe, Carah, Florin, McNeil, Cox, Arnold, Hua, Huntley, Brand, Manne, Fairbairn, Shulmeister, Lyle, Salinas, Page, Connell, Park, Norman, Murphy and Pardoe 2017. "Human occupation of northern Australia by 65,000 years ago", *Nature*.

13. A working understanding of these complex issues and a respect for Indigenous self-determination, including early application of Free Prior and Informed Consent (**FPIC**) principles and practice, is critical for both project proponents and the Territory government.

14. As the concerns and recommendations raised in this submission are consistent with those raised in previous submissions on mining industry reforms over recent years. The Land Councils invite the NTG to initiate a legitimate ongoing dialogue on the issues raised in this submission and others. We need to work together to develop mutually workable solutions to shared problems and put the rights and aspirations of Aboriginal Territorians at the forefront of decision making going forward.

2. Recommendations

The Land Councils make the following eight (8) key recommendations.

1. With ongoing closure of productive mines and a corresponding decline in Aboriginals Benefit Account (**ABA**) funds and growing interest in critical minerals development, it is in all stakeholders' interests that Land Councils are adequately resourced to respond to land use applications in a timely way. Therefore, the implied costs to Land Councils' of keeping pace with landowner consultations and negotiations must be modelled alongside predicted changes in the Territory's exploration and mining landscape. This will also enable the Land Councils can support the implementation of the range of initiatives proposed in DITT's plan.

   As a first step, DITT must establish a working group with the Land Councils on the Territory's new royalty regime, to address adverse impacts on the ABA.

2. DITT must engage with the Land Councils to provide feedback on this submission to explore issues of concern and collaborative opportunities. This submission is foremost an invitation for discussion.

3. The NTG should engage with the Land Councils to develop both industry-wide standard conditions and risk criteria as well as tailored licence conditions particular to each major project.

4. In collaboration with the Land Councils, the NTG should mandate new Aboriginal designed and led cultural competency training for all mining project proponents irrespective of the scale of the project, including from the exploration stage.

5. Cultural heritage and sacred site clearances should be required prior to any co-funding of exploration activity by the NTG, and independent cultural heritage management plans mandated for all exploration license and mineral lease holders.

6. DITT must consult the Land Councils with respect to any future amendments of the MTA.

7. DITT should establish mine site technical committees (MTCs) for major terrestrial mines and gas projects and for all offshore oil and gas projects, modelled on the Ranger Uranium Mine MTC to provide Traditional Owners and Land Councils information on environmental performance, timely notice of applications for works, reportable incidents, progressive rehabilitation and closure plans, and other information so as to more meaningfully include Aboriginal landowners' interests and input.

8. The NTG should properly mandate genuine and quality (with external standards oversight) Social Impact Assessments (**SIA**) and associated socioeconomic plans, to provide evidence of true engagement, Environmental, Social and Governance (**ESG**) and Corporate Social Responsibility (**CSR**). This mandate could be considered a socioeconomic equivalent to the JORC Code that specifies ASX reporting obligations with respect to deposits.

3. Background

15. The Land Councils' statutory functions extend to resources exploration and development agreements under the ALRA and the NTA. They also have responsibilities with respect to the protection of sacred sites, environmental management and permitting arrangements under various Commonwealth and Northern Territory statutes.[7] Acting on behalf of Traditional Owners, the Land Councils are responsible for the protection of sacred sites, culture, and country which in areas of the Territory that are not protected by ALRA have experienced significant damage due to mining. For example, during the Senate Inquiry into the destruction of Indigenous heritage sites at Juukan Gorge in the Pilbara, Mrs Joy Priest, a Yanyuwa Garrwa Gurdanji woman, described her community's multigenerational frustration at the appalling environmental and cultural performance of the McArthur River Mine:

> *The spiritual connection that Aboriginal people have, the ties that they have, to the environment that's to be destroyed—it has a total effect on the health of all Indigenous people, particularly Borroloola people. They've seen with their own eyes the changes. Even now, they do not recognise or respect the rights of traditional owners—the governments, the mining companies, the damage that has been done. There hasn't been any penalty or anything like that given to them. They just continue to destroy. They're not willing to negotiate. No-one has sat at that table to negotiate, to talk to them.*[8]

[7] For example, under s203BB(1)(b)(v) of the NTA the Land Councils must facilitate and assist on matters relating to native title. S. 23(1)(a) ALRA grants functions of ascertaining and expressing the wishes and the opinion of Aboriginal people living in its region as to the management of Aboriginal land.

[8] Australian Parliament Joint Standing Committee on Northern Australia 2021. *A Way Forward: Final report into the destruction of Indigenous heritage sites at Juukan Gorge*, Parliament of the Commonwealth of Australia. 219.

16. The past seven years have seen an overhaul of environmental, and particularly mining, regulation in the Northern Territory, beginning with the release in May 2017 of the Department of Environment and Natural Resources discussion paper on Environmental Regulatory Reform.[9]

17. However, no substantive recommendations by the Land Councils have been adopted to date. The following are joint submissions by the CLC and NLC on the legislative reform provided to date.

Date	Description
June 2017	Joint submission to the NT Department of Environment and Natural Resources: Environmental Regulatory Reform Discussion Paper
1 March 2021	Joint submission on Regulation of mining activities – environmental regulatory reform
11 August 2023	Joint feedback on the Mineral Development Taskforce – Final Report
18 August 2023	Joint feedback on the Mineral Royalty Scheme Review – Consultation Paper dated 22 June 2023
12 October 2023	Joint submission on Environment Protection Legislation Amendment (Mining) Bill and Legacy Mines Remediation Bill 2023

18. When responding to the 2023 Environmental Protection Legislation Amendment (Mining) Bill and the Legacy Mines Remediation Bill, the Land Councils found the timeframe of just one month for community comment unreasonable. Furthermore, despite receiving a comprehensive 65-page submission from the Land Councils, including a total of 53 recommendations[10], it is significant that not a single change was made to the Mineral Development Task Force Draft Report suggesting the Task Force's disregard for the Land Councils' opinion and Aboriginal people they represent.

19. Similarly, with royalty scheme reform the NTG provided just 19 days to comment on the draft bill and gave 10 days' notice to examine the underlying economic and financial modelling, without the Land Councils being provided the model.[11]

20. The present document before us, the 'Northern Territory Minerals Industry Plan – Pathway to 2030 Consultation Draft', flows directly from the Mineral Development Task Force Final Report.

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[9] Northern Territory Government 2017. *Department of Environment and Natural Resources Environmental Regulatory Reform Discussion Paper.* This 31-page discussion paper completely overlooked the rights, roles, and responsibilities of the Territory's Traditional Aboriginal Landowners and included only cursory reference to "traditional knowledge" and "cultural protocols".

[10] These are, now, the *Environment Protection Legislation Amendment Act 2023* (**EP Act**) and *Legacy Mines Remediation Act 2023* (**LMR Act**), both passed in November 2023 and commencing on 1 July 2024, and Northern Territory Government 2022. *Mineral Development Taskforce Final Report* Northern Territory Government.

[11] Although the model itself was not provided to the Land Councils, it is acknowledged that there was an opportunity to discuss the scheme with the modellers.

21. Previous advice to the government has highlighted the need for true collaboration, more transparent and inclusive regulation reflecting contemporary practice, improving financial flows to Traditional Owners, regulatory capacity, social licence, mine closure and legacy, cultural heritage protection, skills and workforce, mineral title administration, and much more.

22. From early in the mining reform process the Land Councils have called for greater community engagement, including early access to project design Environmental Impact Assessment (**EIA**) documentation to, among other matters, secure early FPIC where possible. These recommendations reflect the practice adopted in related Australian government policies, including the Critical Minerals Strategy 2023-2030:

> *The Government recognises First Nations peoples and communities have cultural responsibilities to care for Country, and that they play an important role in the conservation and sustainable use of Australia's environment and heritage. We expect proponents to engage meaningfully with, and consider opportunities to partner with, First Nations peoples and businesses. Broadly, respectful and effective engagement includes, but is not limited to ensuring cultural capability, building and maintaining trust and respect, engaging early and often, negotiating suitable timeframes, and building productive partnerships.*[12]

23. On the main, these calls have been either acknowledged and not acted upon or ignored despite a commitment from Land Councils to engage in the reform design process.[13]

24. The Land Councils acknowledge that their input has been incorporated into feedback summaries over the reform period.[14] However, to ensure that Land Councils remain compliant in carrying out their functions concerning exploration and mining and related provisions under ALRA and the NTA, it is crucial that this high-level engagement continues. This should also help ensure that NTG's statutory processes continue to function well.

25. For completeness, the recommendations of the most recent comprehensive advice to government, the CLC and NLC Joint Submission on the Mineral Development Task Force Final Report Dated December 2022, are **annexed** to this submission.[15]

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[12] Australian Government 2023. *Critical Minerals Strategy 2023-2030*, Australian Government Department of Industry, Science and Resources. 32.
[13] Calls for input into the design of the mining reforms are found as early as 2017 in, Central Land Council and Northern Land Council 2017. *Joint Submission to the Northern Territory Department of Environment and Natural Resources: Environmental Regulatory Reform Discussion Paper*. 6-8
[14] See Northern Territory Government 2023. *Department of Environment, Parks and Water Security: Regulation of mining activities: Feedback summary report*. & Northern Territory Government 2023. *Department of Industry, Tourism and Trade: Legacy Mines Remediation Bill: Feedback summary report*.
[15] Central Land Council and Northern Land Council 2023. *Joint feedback on Northern Territory Mineral Development Taskforce - Final Report dated December 2022*.

4. Deliverables commentary

Deliverable	CLC & NLC comment
Deliverable 1 Industry development strategies with focussed attention, among other things, on growing the Territory mineral processing industry, and supply and value chain opportunities	As some mineral processing occurs at the mine site, this strategy will disproportionately affect those custodians upon whose land this occurs as processing increases environmental risks. In addition to onsite and downstream impacts of processing, the transportation infrastructure needs of projects and their impact on regional communities must be considered. Under the new mining scheme, this would presumably trigger tailored licence applications. The Territory should engage directly with the Land Councils as representatives of landowners to cooperatively develop both industry-wide standard conditions and risk criteria as well as tailored licence conditions particular to each major project. The NTG must work with the Land Councils and our constituents to ensure that the economic development opportunities arising from industry development uphold the rights and aspirations of Aboriginal Traditional Owners and their communities.
Deliverable 2 Baseline the mineral industry skills and undertake gap analysis recognising the mine of the future	One of the reasons Aboriginal participation in the mining industry is low today is because the socioeconomic conditions required for a viable workforce in remote communities are largely absent. This is widely attributed to policies that have increased overcrowding and community dysfunction alongside reduced expenditure and rationalisation of basic services to communities. Additionally, the view of what training and employment opportunities mining projects can create or sustain is usually narrow as companies typically focus on Indigenous employment targets and / or Indigenous contract opportunities exclusively at the mine site. Instead, for instance, there is potential employment in programs that reverse community dysfunction and increase employability or potential downstream opportunities that the project can offer communities.

Deliverable 3 Mineral industry workforce capability development strategy	There is a need for government and industry to bridge the 'opportunity gap' and support Aboriginal Territorians to identify business opportunities in mining. With a sustained focus on capacity building and appropriate support throughout the business cycle, Indigenous mining businesses may thrive. Industry must also be more creative and flexible in the types of employment they are offering to ensure that work is compatible with cultural obligations. This is best achieved via an inclusive approach to socioeconomic planning, with obligations on government and industry to jointly coordinate their efforts with host communities. Joint planning is also fundamental to lifting Traditional Owner participation rates in mining projects. This was recognised by the NT's Mineral Development Taskforce which recommended that government: *Work with industry to establish apprenticeship programs, targeted at Territorians, to mentor, develop and train a workforce for the future with specific emphasis on Traditional Owners of the land on which their projects are located.*[16]
Deliverable 4 Government policies and strategies promoting and incentivising expenditure on leases	Despite reduction provisions in the *Mineral Titles Act 2010* (**MTA**) requiring the halving of exploration licence (**EL**) title areas "at the end of each period of 2 operational years", what is essentially in many cases the warehousing of ELs continues. Across each Land Council's jurisdiction significant numbers of ELs have been routinely exempted by the Minister (under s.29(4) MTA) from reduction. This has a direct and dampening effect on investment. Policing these provisions would both act as a stimulus for investment and ensure that those holding exploration licences do so with a mind to genuine developmental and partnership with Traditional Owners. Occasionally, government incentives include financial grants to miners to promote their expenditure on leases. There have been some instances where companies have been awarded grants from the Territory to undertake exploration on Aboriginal Land without having secured a sacred site clearance. This has created problems for both the companies and for the Land Councils as the companies need to undertake the co-funded works but cannot get on ground in a timely manner.

[16] Northern Territory Government 2022. *Mineral Development Taskforce Final Report* Northern Territory Government. 13

	Cultural heritage and sacred site clearances should be required prior to any co-funding of exploration activity by the Territory. In addition, more prudent analysis should be given to fully determining a proponents' financial capacity to undertake proposed exploration and related activities.
Deliverable 5 Regional hubs and mining industry infrastructure requirements, with an emphasis on common-use, mapped and delivered	Aboriginal Territorians may play a significant role in assisting to deliver, and benefiting from, renewables projects and telecommunication connectivity projects on remote communities. Early and ongoing consultation with Traditional Owners and affected communities through Land Councils to inform the design of infrastructure can help ensure it is culturally appropriate, accessible, and useful. In terms of renewable projects, significant practical guidance is provided in the work of the First Nations Clean Energy Network, including its response to the 2023 Department of Climate Change, the Environment and Water (**DCCEW**) consultation paper on a first nations clean energy network.[17] DCCEW's consultation paper itself provides direction on capturing the economic benefits for Traditional Owners from renewable projects and associated workforce development, both of which can be effectively aligned to resource development with proper planning and Traditional Owner consent.[18]
Deliverable 6 Enhanced proactive major projects facilitation framework	The long-term and multi-stakeholder planning of major projects is well suited to major resource development in the Territory, particularly from the perspective of regional and remote living Traditional Owner landowners. In order to fully realise the multiplier effects of major mining operations, a broad regional framework is required, incorporating stakeholders both directly associated with the mining and others in an ancillary downstream capacity.

[17] See First Nations Clean Energy 2024. *Submission in response to the First Nations Clean Energy Strategy Consultation Paper.* This includes references to aligning Commonwealth policy on critical minerals development with renewable projects.
[18] DCCEW 2023. *First Nation Clean Energy Strategy: Consultation Paper.* Department of Climate Change, Energy, the Environment and Water.

	The increasing sophistication and prevalence of Environmental, Social and Governance (**ESG**) criteria in the mining sector is translating to a willingness from proponents for formal agreements with Traditional Owners. Such agreements are best developed in the context of the broader economic benefits that mining can bring to regions. Formal major project status by government should rightly bring additional resources to achieve effective planning and activation of opportunities for Traditional Owners, by drawing in senior policy support and helping to secure additional investment beyond mining companies.
Deliverable 7 Efficient and timely environmental regulatory approvals processes supported by transparent and clear procedures and guidelines	While the Land Councils continually seek to streamline their approvals processes, albeit with limited resources and a significant backlog, this deliverable raises a number of key issues. 1. 'Preliminary' exploration, such as rock chipping, does not qualify as a significant disturbance, yet it can cause outrage to site custodians of affected areas. NT legislation should, as a minimum, recognise that all exploration has the potential to cause significant social impact. 2. The continuing blanket application by the Territory government of the (s.237) NTA expedited procedures for exploration licence applications creates unreasonable pressure on communities and Land Councils and ignores the socio-cultural impacts of ELs on community, in contrast to leading practice. It actively denies native title holders any opportunity of free, prior and informed consent to exploration and is contrary to the best practice ideals espoused elsewhere. 3. A timeframe for implementing the Territory government's stated commitment to introduce *Northern Territory Aboriginal Sacred Sites Act* amendments that recognise Land Council Sacred Sites Clearances would demonstrate a genuine commitment to efficient and timely approvals processes by the Territory government.
Deliverable 8 Introduction of an ad valorem royalty scheme	The Land Councils have separately and earlier provided detailed joint feedback to the Territory on changes to the Mineral Royalty Scheme.[19] The primary recommendations of previous comment remain unchanged, namely:

[19] Central Land Council and Northern Land Council 2023. *Joint feedback on the Mineral Royalty Scheme Review – Consultation Paper dated 22 June 2023.*

	1. The NTG must commit to ensuring there are no adverse impacts on the ABA. 2. Independent modelling of the impacts of 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. 3. The NTG must not rely on policy and administrative changes to offset adverse impacts on the ABA. Instead, the NTG must commit to avoiding adverse impacts to the ABA in any new royalty regime. 4. The NTG and Land Councils must work together to design a new royalty scheme, as per the Closing the Gap principles. The Land Councils maintain that the Territory has not made the case for reforming royalties. Notwithstanding this, the Mineral Royalties Bill 2024 recently passed the NT Parliament. The ABA was originally established in 1960 as the Aborigines (Benefits from Mining) Trust Fund and in 1977it was incorporated into the ALRA. In January 1998, the ABTA became the Aboriginals Benefit Reserve and from July 1999 the Aboriginals Benefit Account (ABA). The ABA is a cornerstone of the Australian government's policy framework on mining on Aboriginal land, specifically aimed at delivering economic benefit to Traditional Owners and other Territory Aboriginal people represented by the Land Councils.[20] Today it accounts for some 60% of the funding received by the Central and Northern Land Councils. In every sense, historical and economic, impacts on the ABA are existential to the Land Councils and have direct and significant consequences for Traditional Owners affected by mines on their land. The Territory has, in the final report of the Minerals Development Taskforce, acknowledged the reform will have "adverse effects on the Aboriginal Benefits Account" that "may be able to be addressed through policy and administrative changes".[21] The Taskforce goes on to call for a collaborative effort to, "ensure ongoing financial sustainability and to preserve the significant broader economic benefits able to be achieved through the ABA":

[20] Australian Government 2003. *Northern Territory Land Councils and the Aboriginals Benefit Account.* 37-38
[21] Northern Territory Government 2022. *Mineral Development Taskforce Final Report* Northern Territory Government. 69

	Land councils and governments, Territory and Australian, need to collaborate to identify and implement strategies that will determine and create opportunities for ongoing ABA revenue. [22] The Land Councils recommend this collaboration commence as soon as practicable. The Land Councils do not consider that either policy or administrative changes can be used to effectively address adverse impacts on the ABA but must be part of any dialogue regarding the implementation of the new scheme. Matters such as compensation or top up for adverse impacts on the ABA and grandfathering of existing mines for their lifetime need to form part of that discussion.
Deliverable 9 Targeted funding opportunities which expedite project final investment decisions delivered in collaboration with the Commonwealth Government	Two key considerations arise from this deliverable. Firstly, while the government may work to expedite "final investment", there is a limit to how other approvals can be accelerated, if at all. This includes cultural heritage and environmental assessments, which if hastened would compromise Traditional Owner engagement and run counter to FPIC principles. As highlighted in deliverable 6, the NTG must work with the Land Councils to build a framework to manage major projects in a way that is robust, efficient, and centred on the rights and aspirations of Traditional Owners. Secondly, it is critical that the Land Councils join the NTG in identifying ways that mutually agreed duplication and delays and other measures can be addressed to streamline investment on land and waters wherever Traditional Owners consent to development. Regardless, such engagement should not constrain FPIC and must reflect internationally accepted standards such as those captured in the relevant International Council on Mining and Metals position statement: *Adopt and apply engagement and consultation processes that ensure the meaningful participation of Indigenous communities in decision making, through a process that is consistent with their traditional decision-making processes and is based on good faith negotiation.*[23]

[22] Ibid. 74
[23] ICMM 2013. *Indigenous Peoples and Mining Position Statement.* 1

Deliverable 10 Legislative enhancements – *Mineral Titles Act 2010* (NT)	More information is required with respect to all the proposed amendments to the *Mineral Titles Act* (**MTA**). At present the only known amendments provide the following: - Only fit and proper applicants will be granted mineral titles in the Northern Territory - Proposed technical work programs are to be provided early in the application process for all mineral titles; and - A formal authority to commence or continue activities is to be issued once the security has been provided. It is further understood that s.187(3) MTA, which relates to prescribed substances (i.e. uranium and thorium), was amended in December 2023 with respect to the definition of 'Commonwealth Minister' and that DITT may be working on additional amendments over time. The Land Councils must be consulted with respect to any future amendments of the MTA. They need to be involved in development of the policy leading to amendments of the MTA, not just invited to make a submission in a short timeframe after the agenda has been set.
Deliverable 11 Enhanced mining regulatory policies, guidelines, and templates which promote clarity and transparency	The Land Councils have previously highlighted the opportunities the reform provides for the practical improvement of the environmental regulation of mining in the Territory. Reflecting this, our joint submissions have recommended ways and means of the government building the regulator's capacity, making it stronger, increasing its transparency, among other measures. Other proposals have addressed the long-standing problems of inadequate mine closure planning and legacy mines and made recommendations regarding managing abandoned mines, comprehensive and accurately costed closure plans, and ensuring government securities are adequate.[24]

[24] Central Land Council and Northern Land Council 2023. *Joint feedback on Northern Territory Mineral Development Taskforce - Final Report dated December 2022.* 18-19

	A consistent theme throughout has been the need to strengthen regulations that apply to all mining projects at all stages of mine life. In their joint 2021 submission on Regulation of Mining Activities the Land Councils recommended "a more rigorous environmental control system".[25] Land Councils have been encouraged by many of the findings of the Productivity Commission 2020 review of Resources Sector Regulation, which highlighted the effectiveness of strong and transparent regulation and in large part concur with the analyses and recommendations provided to the Territory. Indeed, Land Councils have particularly called for public reporting of all applications to explore, extract and mine, as well as the outcome of government decisions, for all prospective mining ventures, not just for ASX-listed companies subject to the JORC mining reporting system. In 2020, the Commission described leading regulatory practice in the following terms: *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 the community about their activities*.[26]
Deliverable 12 Protocols for information sharing agreed between stakeholders	To give practical effect to the proposed protocols, a dialogue between government and the Land Councils should precede any definitive settling of government policy. Prior to developing discussion papers and / or drafting of required legislation, the NTG must engage with the Land Councils and determine jointly agreed information sharing protocols. Not all information held by either the Land Councils or the government can be included in such an initiative. Some information is of a secret and culturally sensitive nature to Traditional Owners and cannot be shared.
Deliverable 13 Contemporary information technology architecture through a	The Land Councils make no comment on this deliverable as it is outside their jurisdiction.

[25] Central Land Council and Northern Land Council 2021. *Joint Submission to Northern Territory Government Regulation of Mining Activities - Environmental Regulatory Reform Discussion paper.* 5
[26] Productivity Commission 2020. *Resources Sector Regulation, Study Report*, Productivity Commission. 2.

single Northern Territory Government online portal for submission and real-time tracking of regulatory process status	Additionally, given the ongoing digital transformation of the mining industry, consideration should be given to how Indigenous (and other stakeholder) engagement practices could be integrated into a mining company's modernisation strategy to deliver, among other things, a transparent and accountable social licence to operate (**SLO**). Responsible mining modernisation, if properly guided in partnership with host communities, has the potential to deliver on social and ecological sustainability targets, delivering: *... a SLO and a brighter promise for ESG compliance at a time when the mining industry is under increasing scrutiny. Specifically, we show that the mining industry may leverage several strategies including technology-driven initiatives to engage with their stakeholders.* [27]
Deliverable 14 Embed an "engage early and engage often" approach to mineral resource development activities, recognising the role of the Territory Government to develop public policy, and the community and industry expectation of continued independence and rigour in regulatory activities	Early engagement is important to both Land Councils. However, the Territory government must match this commitment with practical recognition of the special significance of Traditional Owners as the landowning hosts of most mining ventures in the Territory. While Traditional Owner communities vary widely in their views on mining, all are committed to preserving and transmitting their cultural heritage, including protection of important sites. Citing the 2020 destruction of the Juukan Gorge rock shelters in the Pilbara, the Productivity Commission underscored the critical importance of early and informed engagement jointly with Traditional Owners: *The destruction of Juukan Gorge has focussed attention on the inadequacy of Indigenous heritage protection regimes. Early engagement with traditional owners as part of the project assessment process is critical, centring them in decisions affecting their heritage.* [28] The Land Councils consider that with its restrictive view of the mining reform objectives (see Executive Summary) the Territory has in fact missed both an historical moment and a significant opportunity to place cultural heritage management at the centre of its mining regulatory system.

[27] Chipangamate, Nwaila, Bourdeau and Zhang 2023. "Integration of stakeholder engagement practices in pursuit of social licence to operate in a modernising mining industry", *Resources Policy*. 9

[28] Productivity Commission 2020. *Resources Sector Regulation, Study Report* Productivity Commission. 2

	The Australian Parliament Joint Standing Committee on Northern Australia 2021 Report on Juukan Gorge provides clear and concrete direction for both governments and mining companies on best practice Indigenous cultural heritage management. These include decision-making powers for Traditional Owners, ensuring that Free, Prior, and Informed Consent (**FPIC**) both guides planning and is adhered to, and ensuring culturally appropriate and Traditional Owner-inclusive consultation processes are robust.[29] These principles are inconsistent with continued blanket application of the expedited procedure (s237 NTA) to exploration licences on pastoral leases. The blanket application of that procedures ought to be abandoned.
Deliverable 15 Deliver pilot of geospatial information to de-risk projects for selected highly prospective regions in consultation with Land Councils.	The intention of the Territory Government to de-risk projects in highly prospective regions should not in any way impact the statutory requirement to consult Traditional Owners about a specific project and the impacts of that project with respect to cultural values and sacred sites. This is not a one-off process that can be conducted at a regional level to give security to industry. More information is required about the mechanics of the de-risking process. For example, not all information held by either the Land Councils or the government can be included in such an initiative. Some information is of a secret and culturally sensitive nature to Traditional Owners and cannot be shared but may impact upon the approvals and management agreement for a specific project. The Land Councils hold some concerns about who would be engaged to undertake this work. To consult with all communities across the Territory's 'prospective' regions would add to already considerable workloads.
Deliverable 16 Improved publicly available guidance information on access to land requirements and processes prepared	This deliverable offers a concrete means of collaboration and is agreed. The Land Councils are regularly dealing with poorly informed applicants who do not understand the land rights system and have unrealistic expectations about land access, particularly in relation to application timeframes. A well

[29] Australian Parliament Joint Standing Committee on Northern Australia 2021. *A Way Forward: Final report into the destruction of Indigenous heritage sites at Juukan Gorge* Parliament of the Commonwealth of Australia.

in consultation with Land Councils and Aboriginal Territorians	communicated industry education campaign would improve industry certainty and eliminate the risk of pressure or intimidation on the Land Councils from industry. Materials need to be genuinely collaborated on and co-designed, not just prepared by the Territory government and submitted to the Land Councils for approval or comment.
Deliverable 17 Storyboard information prepared in collaboration with Land Councils, published and used in land access negotiations	This proposed collaboration should be extended beyond 'storyboards' and include the joint development of key guidance material targeting industry and regulators.
Deliverable 18 Contemporary, accessible, and integrated AAPA business systems	The Land Councils reiterate the urgent need for the NTG to act to remove duplication caused by failure to recognise the statutory role of Land Councils in sacred sites protection under the ALRA which we argue should be recognised in an amended *Northern Territory Aboriginal Sacred Sites Act*. A formal acknowledgement and timetable to undertake this long-awaited reform will demonstrate to Land Councils the NTG's desire for a comprehensive sacred sites protection regime. This request does not detract from the need for the NTG to adequately resource AAPA and its business systems, to allow AAPA to perform its statutory functions.
Deliverable 19 Strategies for Aboriginal participation and economic self-determination in mining projects developed in collaboration with Land Councils, Aboriginal Territorians, and industry	The Land Councils agree that mining projects, where supported by Traditional Owners, may provide significant opportunities to advance Aboriginal economic participation and self-determination. Decades of experience have shown that such opportunities are best realised with genuinely inclusive and culturally appropriate socioeconomic planning. Integrated regional socioeconomic planning across industries is required, including both inside and well outside the mine gate, for the true multiplier value of mining to be realised by Traditional Owners at a regional level. Enabling this planning and assuring its quality is critical. While this planning is not the responsibility of the Land Councils per se, the success of such planning is directly contingent on the

	willingness of project proponents to meaningfully and regularly engage with Traditional Owners, as well as on a strong flow of mining related inputs to the ABA. The capacity of regional Indigenous organisations, typically at the coalface when it comes to the administration of mining receipts and socioeconomic programs, is one of a series of a long-standing constraints on Indigenous intergenerational wealth creation. This was recognised by the Productivity Commission in its review of Resources Sector Regulation: *Resource limitations in some prescribed bodies corporate (PBCs) inhibit their ability to engage effectively with the resources sector and maximise benefits to Indigenous communities.* [30] Importantly, the best guarantee of successful socioeconomic planning is when stakeholders communicate and collaborate to achieve common objectives. The Productivity Commission report again provides guidance as to how communities can best benefit from such joined-up policy and practice. In particular, it cites examples of communities which have levered off mining projects to create broad regional benefits, protect cultural heritage and sacred sites, guide the differing roles and responsibilities of governments and companies, and much more.[31] The Commission went on to recommend the creation of standard templates for land access agreements (which the Land Councils have similarly argued for) and called for greater coordination between industry, local governments, and communities to, "improve the effectiveness of companies' benefit-sharing activities".[32]
Deliverable 20 Social licence campaign	Genuine social licence to operate (**SLO**) in the resource sector requires a respectful working relationship with Land Councils and other stakeholders to scope out works and devise means of assessing whether companies meet locally agree criteria.

[30] Productivity Commission 2020. *Resources Sector Regulation, Study Report* Productivity Commission. 30
[31] Productivity Commission 2015. What is productivity and how is it measured? Australian Government. See especially section 11.1 'Understanding Indigenous community engagement and benefit sharing.'
[32] Productivity Commission 2020. *Resources Sector Regulation, Study Report* Productivity Commission. 32 & 34

	Analysis of SLO in the Canadian mining sector found that while, "the social license term has succeeded in bringing local social challenges into the consciousness of mining proponents, [it] has provided little direction to solve them. In Canada, SLO terminology sometimes conflates dire social issues of many Indigenous communities into a risk reduction exercise focussed on continuing mine operations." This research demonstrates that, "mining companies operating in Canada should have tailored, comprehensive, and collaborative approaches to create trusted relationships with communities and should avoid using general terminology such as social risk and social license to operate".[33] Currently, regional socioeconomic planning in the NT resource sector is self-regulated and performance is highly variable. SIAs and ESG generally requires precise and consistent regulation and enforcement, otherwise patchy company performance will continue, doing both Traditional Owners and the resource sector a disservice. This is in stark contrast to contemporary cultural heritage management best practice in mining, which emphasises genuine engagement with First Nation communities as a first order of business. In its 2020 review of resources regulation the Productivity Commission stated that "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 resolution or appeal a heritage decision.*[34]

[33] Collins and Kumral 2021. "A critical perspective on social license to operate terminology for Canada's most vulnerable mining communities", *The Extractive Industries and Society*.
[34] Productivity Commission 2020. *Resources Sector Regulation, Study Report* Productivity Commission. 50. This is the Commission's Leading Practice 8.2.

Deliverable 21 Establish the Territory as a centre of excellence for mining remediation and rehabilitation	Major work is required in order for the Territory to establish itself as such a centre of excellence with any credibility. Australia's long history with mining suggests it should rightly host such a centre of excellence, as was identified in a global study of social responsibility in mining: *Long-established mining countries (e.g. Australia, Canada, USA, South Africa and Peru) should take a lead in ensuring appropriate regulation and monitoring of the closure transition journey*.[35] While the work required is not insurmountable, considerable practical redress and a thorough change of direction is required. The case studies of failure to adequately remediate and rehabilitate are notorious. The NT Environment Protection Authority has investigated the former Redbank mine at Sandy Flat on the Gulf of Carpentaria, where pollution has been detected more than 40 km downstream.[36] Erosion from the mine has also directly impacted on sacred sites. The failures in regulation at Redbank and other mine sites throughout the Territory have been highlighted by the NT EPA. Traditional owner of the Redbank Mine Site Keith Rory has said: *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.*[37] Despite the legacy of environmental degradation and lack of accountability at Redbank, Traditional Owners have current applications before them for copper and base metal exploration and mining on nearby Waanyi / Garawa Aboriginal Land Trust land. Given their long history with Redbank, it is highly unlikely Traditional Owners will consent to further exploration and mining, providing a salient example of the consequences of inadequate closure regulation.

[35] Everingham, Svobodova, Lèbre, Worden and Owen 2020. *University of Queensland Centre for Social Responsibility in Mining: Mining regions in transition – a global scan. Centre for Social Responsibility in Mining.* 31

[36] Australian Parliament 2019. *Senate Environment and Communications References Committee report on Rehabilitation of mining and resources projects and power station ash dams as it relates to Commonwealth responsibilities.* Senate. 57

[37] Central Land Council and Northern Land Council 2021. *Joint Submission to Northern Territory Government Regulation of Mining Activities - Environmental Regulatory Reform Discussion paper.* 17

	Remediation of smaller mines in the Territory has been poor to non-existent over a prolonged period. While the government is today making efforts through DITT's Legacy Mines Unit, it will be several decades before all current mines are rehabilitated. The number abandoned mines in the Territory is likely to increase in coming years, with the Territory's 'investor friendly' measures and the ability of mine owners to use 'care and maintenance' as grounds for bankruptcy and avoiding closure costs. Remediation activities should have prior environmental impact assessment and environmental approval, sacred site and cultural heritage approval, and requirements for public reporting of the effectiveness of compliance monitoring and enforcement activity. It is also unclear at present whether DITT even has a complete understanding of the status of legacy mines in the Territory, given there is no publicly available data set of all legacy mines and the fact that DITT has recently conducted an audit to determine this number. Mine closure planning remains a key concern to both Land Councils. One of the most critical controls over the operation, decommissioning, and rehabilitation of mining is the obligation on proponents to prepare and cost a fully formed mine closure plan reflecting contemporary standards and practice. Despite repeated recommendations from a range of stakeholders, including the Land Councils, the new mining legislation still lacks critical detail on life of mine closure planning for all projects. The *Environment Protection Legislation Amendment Act 2023* (**EP Act**) now requires, at s.124ZE(3)(g) applicants to submit, "a closure plan for the mining site and a costing of the proposed closure activities", however this only relates to tailored condition licenses and lacks any specific guidance on the nature and extent of such closure plans. In addition, the mining reforms have missed the opportunity, as the Land Councils and other stakeholders have argued, to effectively mandate progressive rehabilitation and to revise security bond settings, which should rightly be based on detailed and published mine closure modelling. There are numerous examples of mines in the Territory where security bonds were patently inadequate, creating long-term havoc, including McArthur River Mine, Frances Creek Mine, and Redbank.

	Drawing on experience and best practice in the Territory may well chart a new course for government and Land Council collaboration. For example, the Traditional Owners of the Ranger Uranium Mine today play a critical role in certain rehabilitation works at Ranger, especially revegetation. This engagement has been bolstered by the Traditional Owners' formal participation in the Ranger Minesite Technical Committee.[38]
Deliverable 22 Develop low/zero emissions and circular economy initiatives which support the mining industry and partner with industry to secure emissions reduction outcomes	Significant hurdles remain to the establishment of Indigenous-owned renewable power projects in the Territory. Much of this relates to the novelty of such projects and the absence of regulatory experience. The combined efforts of the Territory government, the resource sector, and the Land Councils have the potential to address and reverse this inertia. Projects such as Traditional Owner owned remote microgrids, for example, show great promise in both reducing emissions and offering a range of socioeconomic benefits to Aboriginal communities. As noted above, significant guidance on best practice development of such opportunities is found in the work of the First Nations Clean Energy Network.[39] This should assist to guide the development of relevant policy.
Deliverable 23 Sustainable water use initiatives developed in collaboration with industry	The Land Councils support sustainable water use but are concerned at any dialogue regarding water use initiatives developed with industry alone. The Territory's water regime has a poor track record of the Water Controller granting large water licences against the advice of Traditional Owners. The impacts of these decisions are intergenerational and directly affect Traditional Owner communities in regional and remote areas of the Territory. The Land Councils seek a new dialogue with the Territory in relation to sustainable water use initiatives in relation to mining. Such a dialogue with give effect to outstanding commitments made in the Territory Water Plan regarding Indigenous engagement.[40]

[38] See for example Brady, Christophersen and O'Brien 2021. "Incorporating Indigenous Knowledge in mine closure: Ranger Uranium Mine", *The Royal Society of Victoria*.
[39] See for example First Nations Clean Energy 2024. *Submission in response to the First Nations Clean Energy Strategy Consultation Paper.*
[40] Northern Territory Government 2023. *Territory Water Plan*. Office of Water Security.

Deliverable 24 Support industry leadership of product traceability as required	The Land Councils make no comment on this deliverable as it is outside their jurisdiction.

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CLC & NLC

August 2023

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

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.)*