



CENTRAL LAND COUNCIL

Submission to
Department of Industry, Science and Resources
Critical Minerals Strategy 2023
Discussion Paper

February 2023

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Recommendations

Recommendation 1: Efforts by the Australian Government to accelerate the critical minerals industry include support for States and Territories to ensure they have the necessary regulations in place to ensure sustainable management of water resources, in line with the requirements of the National Water Initiative. This could include conditions on Australian Government investment.

Recommendation 2: The Northern Territory Government 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 Northern Territory as a matter of urgency.

Recommendation 3: The Australian Government should accelerate its review of the *Native Title Act 1993* (Cth) and, consistent with its commitments in response to the Juukan Gorge inquiries, urgently address inequalities in the negotiating position of Aboriginal and Torres Strait Islander peoples, as a precondition for the development of the critical minerals industry.

Recommendation 4: The Strategy should establish a principle that government support for critical minerals development will be contingent on an agreement having been made with traditional owners.

Recommendation 5: The Australian Government should amend the current provisions in the *Native Title Act 1993* (Cth) regarding mining-related infrastructure to ensure that First Nations Peoples have adequate control, to the standard of Free Prior and Informed Consent, over infrastructure development on their lands.

Recommendation 6: The Australian Government should provide additional resourcing arrangements to Native Title Representative Bodies (NTRBs)/Native Title Service Providers (NTSPs) and Prescribed Bodies Corporate (PBCs) in relation to critical minerals projects to ensure they can conduct their roles effectively.

Recommendation 7: The Australian Government must promote the active implementation of agreements in partnership with First Nations Peoples, including regular agreement reviews and the establishment of standing liaison committees for new critical minerals projects, to ensure a sustained dialogue between project proponents and traditional owners.

Recommendation 8: The Australian Government should require all applicants for public funding through programs such as the National Reconstruction Fund, Critical Minerals Facility, and Critical Minerals Development Program to submit an Indigenous Engagement Strategy in addition to an agreement with traditional owners.

Recommendation 9: All Governments should set expectations that companies adopt appropriate, enforceable, local Aboriginal employment targets for critical minerals projects that increase over time, and companies identify specific measures they will implement to achieve these targets.

Recommendation 10: The Australian Government 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.

Recommendation 11: Noting the Australian Government's commitment to higher ESG outcomes, including local Aboriginal community benefits, for critical minerals projects, the Australian Government take a proactive role in coordinating, with state and territory governments, local Aboriginal workforce development strategies for critical minerals projects.

Recommendation 12: The Australian Government should consider partnering with specific critical minerals companies to provide support to ensure higher than average local Aboriginal employment outcomes, and position the critical minerals sector as a leader in local Aboriginal employment.

Recommendation 13: The Australian Government should ensure the new post-CDP program is focused on real jobs and that providers of future remote employment services perform far better in engaging and adequately preparing people for job pathways in their community.

Recommendation 14: All governments must set expectations that companies adopt appropriate, enforceable, local Aboriginal procurement targets for critical minerals projects and specific measures they will implement to achieve these targets.

Recommendation 15: The Critical Minerals Office should work with the Northern Territory Indigenous Business Network (NTIBN), Industry Capability Network NT (ICN) and NT Chamber of Commerce to support existing Aboriginal businesses to build their capacity to meet tender conditions and complete tender documents.

Recommendation 16: The Australian Government should provide capital or start-up funds to local Aboriginal businesses in the services sector to enable local Aboriginal service provision to the critical minerals industry, and fund an appropriate body such as NTIBN to support Aboriginal businesses to apply for funds.

Recommendation 17: The Australian Government must provide permanent and adequate resourcing to NTRBs and PBCs to support capacity building for community-led development projects that can result from critical mineral developments.

About the Central Land Council

The Central Land Council (CLC) is a Commonwealth corporate entity established under the Aboriginal Land Rights (Northern Territory) Act 1976 (ALRA), with statutory responsibilities for Aboriginal land acquisition and land management in the southern half of the Northern Territory (NT). The CLC is also a Native Title Representative Body established under the Native Title Act 1993 (NTA).

Pursuant to ALRA, more than 50 per cent of the NT and more than 85 per cent of the NT coastline is now held by Aboriginal Land Trusts on behalf of traditional owners. A further 253,886 square kilometres of land and water is also held under native title.

Of the 780,000 km² of land covered by the CLC region, more than half (417,318 km²) is Aboriginal land under the ALRA. In addition, rights have been asserted and won under the NTA, and traditional owners unable to claim land under the ALRA have succeeded in obtaining rights to small areas known as Community Living Areas, under NT legislation.

Through its elected representative Council of 90 community delegates, the CLC represents the interests and aspirations of approximately 20,000 traditional landowners and other Aboriginal people resident in its region. We advocate for our people on a wide range of land-based, economic and socio-political issues to ensure that our families can continue to survive and thrive on their land.

1. Introduction

The CLC welcomes the opportunity to provide input to Australia's Critical Minerals Strategy 2023 (the Strategy). The CLC cannot comment on the extent to which First Nations peoples have been actively engaged by the Australian Government in the development of the Strategy, however we note the commitment to ensuring they have a seat at the table in the consultations. If the Strategy is to reflect the Government's commitment to the Uluru Statement from the Heart and the National Agreement on Closing the Gap (under which formal partnerships and shared decision-making with Aboriginal and Torres Strait Islander people is a priority reform¹), traditional owners (whether under ALRA or the NTA) and Aboriginal communities must be key partners in shaping and growing Australia's critical minerals sector and as such must sit at the centre of the Strategy not only in its development, but also its implementation.

The development of a strong critical minerals industry offers substantial economic and social opportunity for Central Australia. At the same time, it presents a new set of challenges, particularly in relation to the protection of scarce water resources and management of waste streams. Ensuring that industry demonstrates Australia's highest environmental, social and governance (ESG) standards will determine the extent to which it makes a positive contribution to the lives of First Nations peoples, local communities, and Australia's unique and diverse physical environment.

Below we detail how the Australian Government and industry can ensure meaningful engagement with and deliver benefits to traditional owners and other local Aboriginal people. We also highlight the importance of ensuring water resources are protected by the Strategy. These outcomes cannot be achieved without ensuring that traditional owners participate and negotiate from a strong, equitable position. This will require a strong institutional framework that protects and empowers First Nations peoples without becoming administratively onerous.

2. Ensuring strong water laws and governance

Water rights and law reform is a priority for the CLC, affirmed by our delegates at the full meeting of the Council at Kalkarindji in August 2022. Given the known demand on and risk to water resources from increased mining and processing of critical minerals, the absence of any reference to water security and water regulation in the discussion paper is a glaring omission. The only mention of water is in relation to industry's call for support for enabling infrastructure, which includes access to water.²

The mining of critical minerals generally requires large volumes of water for operation and has been a known and potential source of water contamination, including through acid mine drainage, wastewater discharge and tailings. Water use in the mining of lithium and rare earths in particular is substantial.³ Given that the intent of the Critical Minerals Strategy is to see more domestic downstream processing, the industry's demand on water will be even higher. By way of example, Arafura Resources initially sought an allocation of 2.7-3.2GL in 2016 for their Nolan's Project rare earths mine near Aileron in Central Australia. Having changed the project to include on-site

¹ See <https://www.closingthegap.gov.au/national-agreement/priority-reforms>

² Page 10 of Discussion Paper.

³ International Energy Agency, The Role of Critical Minerals in Clean Energy Transitions: Sustainable development and responsible development of minerals – *Indicators for water use for selected minerals* ([weblink](#)) Licence: CC BY 4.0

processing, they have now requested 4.8GL per year for 40 years for their water licence.⁴ For scale, the entire Darwin region uses 44 GL per year.⁵

This is concerning nationally, but particularly concerning in Central Australia given the completely inadequate and widely critiqued state of water laws and governance in this jurisdiction.⁶

While the Northern Territory Government has notionally committed to strengthening its water laws through the draft Territory Water Plan, the draft Plan indicates this legislation is not intended to be developed until 2026.⁷ The considerable lack of detail regarding the nature and objectives of the reform is concerning, and given the nature and scale of the deficiencies in our current water laws and governance arrangements, and the increasing demands on our water resources under the Territory Economic Reconstruction Commission agenda,⁸ this timeframe is far too long. The Territory Minister has granted large water licences for terms of up to 30 years, committing water to industrial use in advance of the required reforms.

To illustrate the paucity of the NT's water management regime: only approximately five per cent of the NT's landmass and 28 per cent of licenced entitlements are subject to Water Allocation Plans (WAPs), which should be the central organising device through which the National Water Initiative is delivered. Further, until recent changes to the Water Act 1992,⁹ mining activities were not subject to water licencing. In comparison, most other Australian jurisdictions have more than 80 per cent of water use managed under water plans.¹⁰

This means the vast majority of water use in the NT is governed by a two page policy document, the *Water Allocation Planning Framework*, which is more than 20 years old and not legally binding. This guideline allows for licences to be issued in the arid zone on the basis that 80 per cent of water to a depth of 150 metres is available for extraction. Even where WAPs are in place, they contain few, if any, binding provisions – in contrast to other jurisdictions whose water plans generally contain extensive, legally-binding rules governing water sharing and use.¹¹

In addition to our lack of statutory water planning, the NT lags far behind all other Australian jurisdictions with respect to the lack of enforceable limits to water extraction based on estimated sustainable yields informed by rigorous scientific evidence, enforceable measures to protect groundwater-dependent ecosystems and species, water metering and monitoring, the funding of regulation and research, water pricing, and more.¹²

⁴ Arafura Rare Earths Limited ASX Announcement: Nolan's Project Update, 11 November 2022 ([weblink](#))

⁵ Power and Water Corporation, Darwin Water Supply ([weblink](#))

⁶ See open letter from 18 Australian water experts to the NT Chief Minister Natasha Fyles (23 November 2022) expressing concerns about the NT's approach to water planning and regulation. They state that the NT's record of water planning does not meet national standards, and departs from the principles of national water policy ([weblink](#)).

⁷ Territory Water Plan, p.30, access via the NT Government Office of Water Security website ([weblink](#))

⁸ To reach a \$40 billion economy by 2030. See Territory Economic Reconstruction Commission final Report ([weblink](#))

⁹ December 2018, with transitional arrangements now in place.

¹⁰ See Productivity Commission, National Water Reform 2020, Draft Report, p 23 ([weblink](#)). Further information on the breakdown of water plan coverage, refer to Table 1.2 on page 20 of the Productivity Commission, Draft Assessment of National Water Initiative (2017-2020) (February 2021)

¹¹ Analysis by the Environmental Defenders Office (2021) submission to the National Water Reform Inquiry: *Deficiencies in the existing water law and governance framework in the Northern Territory*, p.2.

¹² See the CLC's submission on the draft Territory Water Plan (November 2022), provided as an attachment to this submission.

This regulatory regime is not fit for purpose and exists in a jurisdiction where water security is an omnipresent and growing concern. The NT is dependent on groundwater aquifers accessed via bores for ninety percent of its water supply.¹³ Water resources in Central Australia are almost entirely ancient groundwater systems where water has been accumulating for hundreds or thousands of years. Recharge of these groundwater systems occurs on the time scale of decades, and most industrial uses of water involve managed ‘mining’ of the available water resource, which is not expected to be replenished for centuries. As the effects of climate change accelerate, recharge events are likely to be even more intermittent and unreliable.¹⁴ In the NT, we already have water extraction on a large scale without a sound understanding of our water resources, with the consequent risks to human health and Aboriginal cultural values as drinking water and groundwater dependent ecosystems are placed under threat. Significant environmental features of the arid landscape, including Aboriginal sacred sites, are dependent on access to groundwater, and – with the exception of Papunya – all remote communities in our region are at a high, very high or extreme risk rating in relation to water safety and security.¹⁵ Action to strengthen the NT’s water management regime cannot be delayed.

We have attached for reference a copy of the CLC’s submission on the draft Territory Water Plan which outlines our concerns and recommendations with respect to water planning and legislation in detail (**Attachment A**). It can also be accessed [here](#). A priority recommendation in the submission is to see mandatory and statutory-based water planning for all water resources in the NT. New water legislation must be designed with traditional owners and include strong protection for cultural values.

Acknowledging that Australia’s performance in Environmental and Social Governance (ESG) should, in theory, be our competitive advantage, any efforts by the Australian Government to accelerate the industry must go hand-in-hand with efforts to ensure that all States and Territories, in particular the NT, have the necessary regulations in place to manage our water resources properly.

As made clear above, in the case of the NT, this requires substantive and urgent water law reform and resourcing to ensure there is the necessary expertise and capacity to better understand our water resources and effectively implement and enforce the laws to protect them. This could involve conditions on Australian Government investment.

Recommendation 1: Efforts by the Australian Government to accelerate the critical minerals industry include support for States and Territories to ensure they have the necessary regulations in place to ensure sustainable management of water resources, in line with the requirements of the National Water Initiative. This could include conditions on Australian Government investment.

Recommendation 2: The Northern Territory Government 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 Northern Territory as a matter of urgency.

¹³ Grealy, L and Howey, K (2020) *Securing supply: governing drinking water in the Northern Territory*, Australian Geographer.

¹⁴ See, for example, section 4.3.1 of the Western Davenport Water Allocation Plan for 2021-2022, which noted that groundwater recharge is highly episodic in the Western Davenport Water Control District.

¹⁵ See CLC submission to NT Strategy Water Plan Directions Paper, February 2022 ([weblink](#)). Papunya is rated at ‘medium’ risk. See also See for example ‘Yuendumu in Central Australia facing ‘severe risk’ of running out of water’, ABC, 13 August 2019 ([weblink](#)).

3. Ensuring meaningful engagement with First Nations Peoples: Supporting best practice governance

Traditional owners must be at the centre of decision-making throughout the full life-cycle of exploration, mining and value-adding projects on their lands. Central to this is the creation of strong agreements that are entered into with free, prior and informed consent (FPIC).

3.1 Create incentives for companies to enter into strong agreements with native title holders

The Australian Government must set high expectations for fair and participatory consultation and agreement making for all new critical minerals projects regardless of land tenure. Under ALRA and the NTA the CLC negotiates exploration and mining agreements on behalf of traditional owners. As a Native Title Representative Body (NTRB) the CLC promotes the benefits of making strong agreements on Native Title lands to protect the rights and interests of native title holders and ensure all parties are engaged and informed.

The benefits of entering into such an agreement include the protection of sacred sites, the establishment of good will and strong working relationships between companies and traditional owners, and the promotion of leading industry practice. Cultural heritage surveys in particular help to identify and protect sacred sites, create employment opportunities for local Aboriginal people, and reduce costly legal and reputational risks for industry.

The NTA as it stands fails to adequately ensure that FPIC is upheld; it relies too heavily on the good will of exploration and mining companies to reach agreement. The fact that native title holders have no power to withhold consent, and that proponents can apply for a determination from the National Native Title Tribunal (NNTT) in the event that an agreement is not reached, means that the negotiations cannot be said to be free from coercion. If there is no FPIC from traditional owners in respect to a project on their land, the project should not proceed.

The CLC acknowledges the Australian Government's response to the inquiries into the destruction of Juukan Gorge, which under Recommendation 4 calls for a review of the NTA to address inequalities in negotiation position of Aboriginal and Torres Strait Islander peoples under the current regime. It is critical that the Government expedites this review and ensures that a stronger, fairer regime is in place well in advance of the development of new critical minerals projects under the coming Strategy.

Recommendation 3: The Australian Government should accelerate its review of the *Native Title Act 1993* (Cth) and, consistent with its commitments in response to the Juukan Gorge inquiries, urgently address inequalities in the negotiating position of Aboriginal and Torres Strait Islander peoples, as a precondition for the development of the critical minerals industry.

Recommendation 4: The Strategy should establish a principle that government support for critical minerals development will be contingent on an agreement having been made with traditional owners.

3.2 Strengthen native title holders' negotiating rights regarding mine-related infrastructure

The NTA fails to provide strong rights for native title holders to negotiate in relation to mine-related infrastructure. Whilst the right to negotiate for the creation of a right to mine provides some level of protection, native title holders are more limited in their avenues to negotiate agreements for the construction of related facilities. If Australia is going to prioritise bringing value-adding activities onshore such as processing, native title holders must be afforded stronger rights to negotiate the conditions under which this takes place on their lands. For some minerals, such as rare earths, processing can have greater impacts on native title holders and the environment than resource extraction. Processing and other value adding activities have the potential to create environmental and social risks, for instance relating to the treatment and storage of waste streams, and as such should be subject to the same conditions of FPIC as mining itself.

Recommendation 5: The Australian Government should amend the current provisions in the *Native Title Act 1993* (Cth) regarding mining-related infrastructure to ensure that First Nations Peoples have adequate control, to the standard of Free Prior and Informed Consent, over infrastructure development on their lands.

3.3 Ensure First Nations Peoples have access to the supports and resources required to negotiate and participate in exploration and mining

In order for an agreement to be reached with FPIC, all sides must have equal opportunity to debate any proposed development. Equal opportunity should be read to mean equal access to financial, human and material resources for communities for fully and meaningfully debate the project and its impacts.

In planning and carrying out a resources project, proponents draw on experts across a range of technical fields including geology, environmental science, hydrogeology, economics and engineering. As noted, NTRBs like the Central Land Council negotiate major resources agreements. Securing the best outcomes for traditional owners and Aboriginal communities requires significant time and resources. The processing of applications in a timely manner cannot come at the expense of the negotiation of robust and equitable agreements. It is important to ensure that all NTRBs are adequately resourced to manage the potential increase in administrative workload from an expansion in exploration and mining activity.

The Northern Territory is fortunate to have strong, relatively better resourced NTRBs to represent Aboriginal landholders and native title holders. However, the vast majority of PBCs in the CLC region are non-financial and lack the resources to consult and engage with native title holders, manage administrative functions, or work through the legal requirements of negotiation processes. They rely on relatively small amounts of funding to access independent external advice (including legal, environmental and economic advice) which is critical to satisfy the conditions of FPIC.

The CLC notes Recommendation 7 in its response to the Juukan Gorge Inquiry, which calls for the establishment of an independent fund to administer funding to PBCs. Adequate funding of NTRBs/NTSPs and PBCs across the nation not only improves the extent to which First Nations Peoples can participate meaningfully, but also can deliver efficiency savings for the resources industry in the long term.

Recommendation 6: The Australian Government should provide additional resourcing arrangements to Native Title Representative Bodies (NTRBs)/Native Title Service Providers (NTSPs) and Prescribed Bodies Corporate (PBCs) in relation to critical minerals projects to ensure they can conduct their roles effectively.

3.4 A voice for traditional owners throughout the project lifecycle

The need to engage closely with traditional owners does not end once an agreement has been reached. Projects inevitably change and evolve over time, and commitments made on paper need to be implemented through real world action. Agreement implementation often falls down because of insufficient engagement with traditional owners across the height and breadth of a proponent's organisation.

In the spirit of providing a voice for First Nations peoples, a key component of strong agreements is the establishment of permanent, paid liaison committees that meet regularly to keep traditional owners abreast of key developments and provide an avenue for joint decision-making. These consultations recognise traditional owners as legitimate landowners and treats them as competent persons capable of making complex decisions, delivering additional social, cultural and economic benefits. Liaison committees have been a feature in a number of major mining operations in the CLC region, and should be standard practice in the critical minerals sector.

Recommendation 7: The Australian Government must promote the active implementation of agreements in partnership with First Nations peoples, including regular agreement reviews and the establishment of standing liaison committees for new critical minerals projects, to ensure a sustained dialogue between project proponents and traditional owners.

3.5 Make sure publicly supported projects have robust Indigenous Engagement Strategies

All recipients of public funding for critical minerals developments should have to demonstrate their commitment to engage meaningfully with traditional owners and local Aboriginal communities. This is a fundamental first step in ensuring that publicly supported projects benefit First Nations peoples. It also helps demonstrate whether the projects are delivering value for public money by contributing to Australia's key social, economic and environmental objectives. An example is the current requirement for applicants for funding under the Northern Australia Infrastructure Facility, which requires applicants to outline plans for employment, procurement and project participation. It is unclear from the website whether the recent Critical Minerals Development Program funding round which commenced on 17 January requires evidence of an Indigenous Engagement Strategy, but this criterion should be considered for further funding rounds for public funding available for critical minerals projects.

Recommendation 8: The Australian Government should require all applicants for public funding through programs such as the National Reconstruction Fund, Critical Minerals Facility, and Critical Minerals Development Program to submit an Indigenous Engagement Strategy in addition to an agreement with traditional owners.

4. Delivering benefits to First Nations Peoples and their communities

4.1 Create incentives to provide training and employment opportunities to local First Nations peoples

The Northern Territory's Indigenous employment rate continues to be the lowest in the country¹⁶ – and the gap is widening. Over the last decade we have seen a decline from 42.8 per cent of Indigenous people aged 25-64 employed in 2011, to 35.4 per cent in 2016 and 34.3 per cent in 2021.¹⁷ The Indigenous employment rate is even worse in remote areas.

This is well below the national Indigenous employment rate of 55.7 per cent¹⁸ and even further below the Closing the Gap target to see 62 per cent of Aboriginal and Torres Strait Islander people aged 25-64 employed by 2030.¹⁹

Mining projects in the CLC region employ on average 10 per cent Indigenous staff. The majority of these workers are fly-in-fly-out from major cities outside our region. A very small number of traditional owners and other local Aboriginal people from Central Australia are employed on these projects. The CLC is working to address this through negotiating stronger agreements between companies and traditional owners and the CLC. However, this often requires committed companies who are willing to make real investments in measures to attract, train and support local Aboriginal people.

If the Australian Government is serious about its commitment to the highest ESG standards for critical minerals projects, it must hold companies delivering these projects to a higher standard around local Aboriginal employment outcomes.

Achieving stronger local Aboriginal employment outcomes requires that companies commit, through legally-binding agreements, to appropriate targets for local Aboriginal employment that increase over time and have consequences if they are not met. It also requires that they commit, again through legally-binding agreements, to specific measures they will implement to achieve these targets. These include, at minimum:

- Dedicating specific financial and human resources to local Aboriginal employment and training.
- Committing to supporting local Aboriginal people who have expressed interest to obtain the training and qualifications they need to gain employment on the project.

¹⁶ While for non-Indigenous people, the NT has the highest employment rate in the country (86.2 per cent of non-Indigenous people aged 25-64 employed, based on analysis of 2021 ABS Census data by the Centre for Aboriginal Economic Policy Research (unpublished)

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Closing the Gap Socioeconomic Outcomes and Targets, Target 8 ([weblink](#))

- Committing to an explicit preference in favour of local Aboriginal applicants.
- Providing work readiness training to local Aboriginal people to bridge skills gaps, or partnering with government and other stakeholders to do so.
- Partnering with Aboriginal-run employment service providers who can support local Aboriginal people into jobs.
- Undertaking active outreach and stakeholder engagement in local communities and with local service providers, providing a clear picture of employment pathways, roles and opportunities.
- Collaborating with others in the region to develop local workforce strategies.
- Ensuring company employment conditions are suitable to the needs of local Aboriginal people including:
 - Provision of Aboriginal mentors for all Aboriginal staff.
 - Providing specific support to Aboriginal employees to identify and pursue career paths.
 - Flexible leave policies to take account of cultural obligations.
 - Commitments to not tolerate racism.
 - Cross cultural awareness trainers for all employees, delivered by local traditional owners.
 - Having cultural advisers to the company based within communities.
 - Integrating their commitment to local Aboriginal employment, training and procurement, and relationships with local Aboriginal communities across their whole organisation and operations – not just confined to a social responsibility or external relations department.

Implementing these types of measures to support employment of traditional owners and local Aboriginal people requires a genuine commitment from companies and expectation-setting from government. Expectation-setting can take the form of requiring that critical minerals projects set legally binding targets for local Aboriginal employment, making such targets and measures conditions of government financing, statements from Ministers and governments about expectations, and the sharing and promoting of best-practice guidelines.

Currently, many ESG frameworks do not specify targets or reporting on local Aboriginal employment (as opposed to Indigenous employment generally, or local employment but not Indigenous-specific).

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

Recommendation 9: All Governments should set expectations that companies adopt appropriate, enforceable, local Aboriginal employment targets for critical minerals projects that increase over time, and companies identify specific measures they will implement to achieve these targets.

Recommendation 10: The Australian Government 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.

4.2 Provide financial support and coordination of local Aboriginal workforce development for new critical minerals projects

Significant, long-term investment in work readiness and workforce development programs is required to enable local Aboriginal people in this region to benefit from employment opportunities in new critical minerals projects. Without this, outcomes will not be achieved, due to current low work readiness levels in many remote communities that could otherwise benefit from job opportunities from nearby mining projects. Low levels of workplace experience and therefore 'work readiness' in the CLC's region is due to a range of factors, which the CLC recently outlined in its [submission](#) to the Joint Select Committee on Northern Australia's *Inquiry into Northern Australia Workforce Development* (January 2023). These include a lack of available jobs, a lack of transport to jobs, declining resources for and the under-provision of remote VET training, and policy and funding decisions that reduced access to secondary schooling for Aboriginal young people living in remote communities.

Presently, in the CLC region there are significant opportunities to generate better local Aboriginal workforce development outcomes through critical minerals projects. The major critical minerals projects currently in development in CLC's region have strong stated aims of supporting local Aboriginal people to take up jobs generated by the projects and have successful careers. However, sustained, focused and proactive partnership from government is required to deliver the training and workforce support needed. Focusing workforce development resources around a specific project in partnership with a willing company provides the best chance for developing the training and supports required to enable local Aboriginal people from remote communities in the CLC region to take up and be successful in employment.

CLC's Economic Participation Unit plays its part in contributing to local Aboriginal employment outcomes. We work with mining companies that have agreements with Traditional Owners by:

- Running job information sessions in communities and towns,
- Providing referrals to companies,
- Connecting companies with CDP providers to identify and support local workers,
- Supporting individual applicants with pre-employment checks, resumes and job applications,
- Connecting companies to local training providers, and
- Advocating for strong local workforce development plans.

However, more investment and coordination from government at both the Territory and Federal level is needed to develop targeted local Aboriginal workforce development strategies specific to the needs of upcoming mining projects.

Funding needs to be restored to VET, and funding and policy settings reviewed to better facilitate the delivery of appropriate high-quality training in remote communities. Access to high quality and appropriate training in Language, Literacy and Numeracy is essential if we are to support greater workforce participation among our constituents. Sufficient and consistent funding for foundation skills appropriate for Aboriginal people living in remote communities is vital.

Greater provision of quality work-readiness programs are also critical. Quality work-readiness programs help people understand what is required for work, setting them up to succeed. The provision of work-readiness training is a core function of the CDP program and should be being delivered by CDP providers, but is often is not done well or at all. As the Australian Government looks to replace the CDP with a program focused on real jobs, the CLC hopes to see providers of any future remote employment services perform far better in engaging and adequately preparing people for job pathways in their community.

Critical minerals projects – with their strong commitments to ESG credentials – are well placed to be the leaders in achieving strong local Aboriginal employment outcomes and demonstrating to other companies what can be done. Support and proactive involvement from government to do this, and to do it well, has the potential to make Australia a leader in mining projects that employ high numbers of local Aboriginal people.

Recommendation 11: Noting the Australian Government’s commitment to higher ESG outcomes, including local Aboriginal community benefits, for critical minerals projects, the Australian Government take a proactive role in coordinating, with state and territory governments, local Aboriginal workforce development strategies for critical minerals projects.

Recommendation 12: The Australian Government should consider partnering with specific critical minerals companies to provide support to ensure higher than average local Aboriginal employment outcomes, and position the critical minerals sector as a leader in local Aboriginal employment.

Recommendation 13: The Australian Government should ensure the new post-CDP program is focused on real jobs and that providers of future remote employment services perform far better in engaging and adequately preparing people for job pathways in their community.

4.3 Support the development of First Nations businesses

New critical minerals projects also present opportunities for local Aboriginal businesses to benefit from increased opportunities to provide services to mining projects.

The government should set expectations that critical minerals companies make legally binding commitments, through agreements, to appropriate targets for local Aboriginal procurement, as well as specific measures they will implement to achieve these targets, such as:

- Dedicating specific financial and human resources to developing local Aboriginal businesses and assisting with tender preparation.
- Requirements for contractors who provide services to the mine to partner with local Aboriginal businesses to build their capacity to take on contracts independently over time.
- Committing to an explicit preference in favour of local Aboriginal business tendering for contracts, with a specified price tolerance.
- Investigating and implementing other measures to increase the competitiveness of Aboriginal businesses.

Government must also invest in long term, sustained supports and funding to enable Aboriginal businesses to increase their share of the market providing services to mining projects. The biggest

opportunity is to support existing Aboriginal businesses in the services sector to be able to secure contracts with mining companies, but many need support to grow and secure large contracts.

Recommendation 14: All governments must set expectations that companies adopt appropriate, enforceable, local Aboriginal procurement targets for critical minerals projects and specific measures they will implement to achieve these targets.

Recommendation 15: The Critical Minerals Office should work with the Northern Territory Indigenous Business Network (NTIBN), Industry Capability Network NT (ICN) and NT Chamber of Commerce to support existing Aboriginal businesses to build their capacity to meet tender conditions and complete tender documents.

Recommendation 16: The Australian Government should provide capital or start-up funds to local Aboriginal businesses in the services sector to enable local Aboriginal service provision to the critical minerals industry, and fund an appropriate body such as NTIBN to support Aboriginal businesses to apply for funds.

4.4 Support organisations that facilitate community-led development

Income streams from exploration and mining – such as rental, royalty, and compensation payments – have provided an important source of social and economic benefit in Central Australia. Since 2005, the Central Land Council’s Community Development program has helped ensure that these revenue streams deliver maximum benefit to Traditional Owners and the local Aboriginal communities surrounding mining projects. CLC staff support Aboriginal people who direct their resources to projects that both maintain their Aboriginal identity, language, culture and connection to country and strengthen their capacity to participate in mainstream Australia through improving health, education and employment outcomes.

With CLC support, just over 100 governance groups prioritise, plan and fund initiatives that bring benefits at a regional and community level. Since 2005, Aboriginal groups in the CLC region have invested \$209 million in over 2,400 community benefit projects, with mining revenue significantly bolstering the volume of funding available. These projects deliver social, cultural and economic outcomes, as well as building individual and collective capacity, self-reliance and stronger communities.

Adequate resourcing is required to deliver these programs. The CLC notes that the Australian Government accepted in principle Recommendation 7 of the Juukan Gorge Inquiry, which calls for the establishment of an independent fund to administer funding to PBCs. When considering the nature and volume of funding required, the Australian Government must ensure NTRBs and PBCs are adequately resourced to provide support and capacity building to First Nations Peoples to effectively invest any financial and other resources generated from critical minerals projects to drive their own social, cultural and economic development.

Recommendation 17: The Australian Government must provide permanent and adequate resourcing to NTRBs and PBCs to support capacity building for community-led development projects that can result from critical mineral developments.

Conclusion

Thank you for the opportunity to contribute to the development of the Strategy. The CLC would be happy to provide further information on aspects of our submission if required.