Anindilyakwa Land Council

Secretary
Legislative Scrutiny Committee
GPO Box 3721
DARWIN NT 0821

Via email: LSC@nt.gov.au

Dear Secretary

Re: Minerals Titles Legislation Amendment Bill 2026

Please accept this submission from the Anindilyakwa Land Council (ALC) on the proposed amendments to the *Mineral Titles Act 2010, Minerals Titles Regulations 2011, Environment Protection Act* 2019 and the *Environment Protection Regulations 2020*.

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

Mining and petroleum legislation serve an extremely important purpose. These regulate one of the Territory's most significant public resources and allow private proponents to obtain exclusive rights to profit and benefit from that public resource. The legislation is complex and intersects with the operation of *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (ALRA) and *Native Title Act 1993* (Cth) (NTA).

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

The ALC was not consulted regarding the Mineral Bill before it was introduced to the Legislative Assembly. To allow for only one week for public consultation for such an important piece of legislation is unacceptable. It does not allow the Legislative Assembly the time it needs to consider all the potential implications for such legislation and to listen to the concerns and ideas of all its constituents especially its Aboriginal constituents. Approximately 47% of the Northern Territory's land mass is held as Aboriginal land and much of the remaining land is subject to native title determinations and native title

claims. Mineral and petroleum extraction usually occur on land where Aboriginal people have rights and interests, whether through ALRA, the NTA or Traditional law and custom.

The Legislative Assembly should allow for a much lengthier process of consultation and public debate about these laws rather than rushing through these complex and detailed changes.

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

a. whether the Assembly should pass the Bill? The ALC position is **No**.

b. whether the Assembly should amend the Bill? The Assembly should not pass the Bill and should allow more time for the text of the Bill to be considered by affected Territorians. If the Assembly intends to pass a version of this legislation, amendments addressing the matters raised in these submissions would represent a stronger outcome than presented by the current Bill.

c. whether the Bill has sufficient regard to the rights and liberties of individuals? The ALC position is **No**, not through either the consultation process for the Bill nor the substantive rights of affected Traditional Owners and Native Title holders.

d. whether the Bill has sufficient regard to the institution of Parliament? The ALC position is **No**, due to the manner of consultation about the Bill and that it is in conflict with overriding Commonwealth legislation.

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

Exploration and mineral activities have been recognised as the form of access which would have the greatest impact on Aboriginal culture and use of their land. Impacts on Traditional Owners can be particularly acute because of the relationship between Aboriginal values and identity and the natural environment. Negative impacts of mining and damage to country can have implications across livelihoods, health and wellbeing, community relationships, cultural obligations and cultural heritage.

Part IV of ALRA provides specifically for the processing and administration of applications for mineral exploration and mining on Aboriginal land. All forms of exploration and mining activities contemplated

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

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

Entry onto Aboriginal land to conduct scientific geological investigations on the basis of mere written notification is **inconsistent** with ALRA. As the conduct of scientific geological investigations will involve ground-based geophysical or geochemical sampling, mapping, investigation or survey, a permit under ALA to undertake such activities will not suffice. Such investigations must be subject to ALRA.

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

The inclusion of the right for the holder of an exploration licence to conduct bulk sampling using a mobile crusher and explosives goes beyond the purpose of an exploration licence. There is no need for such a large bulk sample to be obtained, via these means, to assess the metallurgical characteristics and economic potential of an area. This potentially provides a backdoor to allow mining without complying with the necessary provisions under ALRA and NTA.

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

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

It should be a condition of all mineral leases that surveys of sacred sites be undertaken before commencing works.

The ALC contends that all holders of mineral tenements, including exploration licences, MLF, MLTF and mineral leases for small scale mining (MLSSM), should undertake surveys of sacred sites prior to commencement of works, such surveys to be done either through the Aboriginal Areas Protection Authority (AAPA) or the relevant Land Council.

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

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

The grant of EMPs under the MTA is subject to the NTA on the following basis:

a) The NTA procedural rights apply where the NTG creates a “right to mine”.

b) While “mine” excludes the extraction of rocks, sand, gravel, etc. in some circumstances, it includes the extraction of rocks, sand, gravel etc. where processing is undertaken by non-mechanical means.

c) Under current law, EMPs give the title holder the right to “temporarily process”, “extract” and “remove” these materials. The activities which the holder of an EMP can carry out as of right include, and do not exclude, processing by non-mechanical means.

d) It follows that EMPs create a “right to mine”, and as such the procedural rights under the NTA apply.

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

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

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

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

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

The ALC contends that a fossicking permit is a future act under the NTA which triggers procedural requirements under the NTA. As the fossicking permits allows the holder to fossick over large parts of the Northern Territory, the NTG will be required to notify every single registered Native Title body corporate in the Northern Territory about the proposed grant of a fossicking permit. This is not feasible and the NTG should consider limiting the fossicking permit to cover a designated area.

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

Any conversion of NCEI to another form of title, including:

a) a mineral title ;

b) another interest in relation to land which it relates; or

c) a general lease (GL) ,

must comply with the requirements of the NTA. To ensure that there is no doubt about this, it should be made clear in the Bill that s 74 of the MTA applies to conversions.

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

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

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

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

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

Yours sincerely,

[redacted]

Kupa Teao

Chief Executive Officer

27 March 2026