



4 April 2025

Ms Julia Knight
Secretary
Legislative Scrutiny Committee
GPO Box 3721
DARWIN NT 0801

By email: LA.Committees@nt.gov.au

Dear Ms Knight,

Northern Territory Aboriginal Sacred Sites Legislation Amendment Bill 2025

The Minerals Council of Australia – Northern Territory Division (MCA NT) welcomes the opportunity to provide feedback on the *Northern Territory Aboriginal Sacred Sites Legislation Amendment Bill 2025* (the Bill) tabled on 27 March 2025.

The MCA is the peak industry body representing the mining and minerals sector in Australia. It is a not-for-profit organisation that advocates for policies and practices that support the sustainable development and growth of Australia's minerals industry. The MCA NT represents the interests of member companies operating, exploring and providing services to the minerals industry in the Northern Territory, from large multinational corporations to smaller, independent minerals operators and explorers.

Mining provides employment and training opportunities, community investment, infrastructure and frontline emergency services to some of the remotest parts of the Territory.

The industry also brings enormous economic benefits to the Territory – in 2022-23, the value of the resources sector was \$8.1 billion, including a direct injection of \$209 million in royalties and millions of dollars in council rates and other land use payments, revenue streams that are vital to fund social services and infrastructure across the Territory.

Minerals projects must be safe and environmentally and socially responsible to make both an economic and a social/community contribution.

First Nations landholders and communities are fundamental partners in mining, and integral to the social and economic contribution mining makes to the Territory. The industry deeply values Aboriginal and Torres Strait Islander cultures, heritage and knowledge.

The MCA NT supports responsible development and the maintenance of high environmental, social and governance standards.

In relation to the Bill, the MCA NT supports the following amendments that establish a clear, streamlined approval processes that protect and respect cultural heritage:

Clause 7

The Amendment Bill, through Section 24A provides for a person to apply to the Aboriginal Areas Protection Authority (AAPA), with the consent of the person to whom an existing Authority Certificate was issued, to be transferred.

Section 24A 4 states that the new Authority Certificate must be issued:

- (a) in respect of the same land and work or use of the land that were the subject of the existing Certificate; and
- (b) subject to the same conditions to which the existing Certificate was subject

As the *Northern Territory Aboriginal Sacred Sites Act 1989* currently stands, there are no provisions to allow for a certificate to be transferred from one proponent to another.

An Authority Certificates provide a defence against prosecution under the *Northern Territory Sacred Sites Act 1989*, if the conditions of the certificate are adhered to.

In the Northern Territory, there are several examples where the lack of transferability of Authority Certificates for projects that have not changed in any way other than ownership can be viewed as an unnecessary duplication of process causing delays, investor risk and uncertainty.

Mineral explorers in the Northern Territory must hold an exploration licence (EL) under the *Minerals Titles Act 2010 (MTA)*, then must apply for an environmental (mining) licence under the *Environment Protection Act 2019 (NT) (EP Act)* and through these processes will have applied for an Authority Certificate, paid the required fees and charges, undertook the consultation with custodians, waited for the anthropological work to be completed.

When a proponent wishes to transfer the mineral rights interests under Section 123 of the MTA to another person, in full or in part, through sale of the title, the new title holder would need to restart the process of attaining an authority certificate again. It is not uncommon for projects in the mining industry to rebrand or undertake a merger as the proponent moves from a junior explorer to an operator. The parameters and planned work program of the project do not change, just the company name in operation.

There are safeguards built into the Northern Territory legislation, such as Section 70A of the *Minerals Title Act* as well as Section 62 of the *EP Act* that allow the Minister to consider that a person is a Fit and Proper Person to hold a Minerals Title and environmental (mining) licence.

Therefore, the MCA NT supports the amendment set forth in clause 7 and in particular in Section 24A (4) that the new Authority Certificate must be issued: (a) in respect of the same land and work or use of the land that were the subject of the existing Certificate; and (b) subject to the same conditions to which the existing Certificate was subject.

The Amendment Bill, through Section 24B provides for a person to whom an existing Authority Certificate was issued, to apply to the Authority for a recorded party, or recorded parties, who would be carrying our work or making use of the land subject to the issued Authority Certificate, to be added to the Authority Certificate.

Again, the addition of these parties, through these provisions does not change the parameters or works planned or expressed through the consultation process with custodians.

Examples of how these amendments would apply to the minerals industry include the ability to apply to the Authority to add recorded parties that would be carrying our work on the land subject to the Certificate, such as a subcontractor, and therefore extend the defence against prosecution under the *Northern Territory Sacred Sites Act 1989*, provided the conditions of the certificate are adhered to.

In addition, this function could be utilised when the production life of a mine has ceased, however rehabilitation operations continue. In these circumstances, a different team of specialists will be

deployed to the site undertaking works that will be subject to the conditions of the Authority Certificate.

Clause 9

The Amendment Bill, through Part IVA, proposes to introduce provisions for enforceable undertakings in relation to an alleged contravention of the Act or a term or condition of an Authority Certificate.

As the *Northern Territory Sacred Sites Act 1989* currently stands when there are alleged breach or contraventions of the Act or conditions of an Authority Certificate the only recourse for the Authority is to pursue remedy through criminal or civil proceedings.

The provisions within Part IVA will allow the Authority to consider the nature and gravity of the alleged breach or contravention, the maximum penalty, the benefits of the proposed undertaking and the public benefit, the interests of justice, and any other factors the Authority considers relevant.

These provisions are safeguarded by Section 39D Enforcement Orders by which the Authority may apply to the Supreme Court for an order if the Authority considers that a person has contravened an enforceable undertaking accepted by the Authority.

These provisions bring the Act in line with other legislation such as the *Petroleum Act 1984, NT Environment Protection Act 2019*.

The MCA NT is supportive of this amendment as it allows the Authority to have direct enforcement powers, where issues will be remedied in a timelier manner than through the judicial process and proportional to the breach or contravention.

The minerals sector will play a significant part in the future growth of the Territory and will continue our long-demonstrated history of dialogue and engagement with Aboriginal traditional owners and custodians throughout the operations of our industry.

The protection of Aboriginal sacred sites is vitally important to ensure ongoing protection of the world's oldest living culture.

It is the view of MCA NT that there needs to be a review of the way the Aboriginal Areas Protection Authority (AAPA) engages and interacts with both their constituents and business clients to increase productivity, efficiency and transparency. This was also a recommendation made in the Final report to the NT Government by the Minerals Development Taskforce in December 2022 – to “Invest in modernisation of AAPA business systems to increase sacred sites clearance efficiency”

While the amendments proposed in this Bill are an important start towards reviewing the *Northern Territory Aboriginal Sacred Sites Act 1989*, to ensure that the Authority can continue to perform its functions within the context of today's business, technological, and societal expectations it is important that the remainder of the *Northern Territory Aboriginal Sacred Sites Act 1989* in its entirety is available for measured and well-considered review, and that all relevant parties have sufficient time and resources to provide constructive feedback from varying perspectives.

The MCA NT is available to further discuss any of the matters mentioned above, or any other issues relating to the Bill.

Should you need further information please do not hesitate to contact me on 0401222941 or Cathryn.Tilmouth@minerals.org.au.

Yours sincerely



Cathryn Tilmouth
Executive Director, Northern Australia