

Submission to the Legislative Scrutiny Committee

Inquiry into the Mineral Titles Legislation Amendment Bill 2026 (Serial 56)

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Executive summary

This submission addresses the extent to which the proposed Mineral Titles Legislation Amendment Bill 2026 (Serial 56) (the Bill) implements, responds to, or departs from the positions and requests made by the Extractive Industries Association of the Northern Territory (EIA) in its 2024 Mineral Titles Act (MTA) & Regulations Review submission.

Overall, the Bill substantially progresses many of the reforms supported by EIA in 2024, particularly around clearer definitions (e.g., *occupier*, *operational year*, *reporting period*, *GDA 2020*), reporting settings, title administration, and the suite of fossicking reforms (including permits and new lease types).

However, several areas where EIA previously expressed non-support or concerns remain unresolved or only partially addressed, including:

- the constructive consent of landowner provisions (EIA: “Not supported”), where the Bill appears to broaden application across the Act (with limited carve-outs) rather than narrowing or revisiting the policy intent;
- when consent is required (EIA: “Not supported”), where the Bill provides clarification for Aboriginal land permits but does not otherwise revisit the underlying consent architecture;
- the notice requirement before exploration activities (EIA: “Not supported” as drafted in 2024, requesting a single notice for a defined period), where the Bill moves to a “field season” framing but may still create unnecessary repetition unless “field season” is defined or guidance is issued;
- EIA’s concern that “mechanical and non-mechanical” should be defined, and that activities should not be constrained by an assumption that related titles must be held by the same person, issues which the Bill touches but does not fully resolve.

Accordingly, this submission supports passage of the Bill subject to targeted amendments and/or implementation assurances (outlined in section 6).

About EIA and relevance of its 2024 submission

EIA represents the interests of sand, gravel, and quarry operators across the Northern Territory and advised in 2024 that it was “strongly supportive” of appropriate regulation and that it supported “most” proposed changes, while identifying a smaller set of items as “not supported” or requiring refinement.

EIA’s 2024 submission is directly relevant because the Bill expressly amends the Mineral Titles Act 2010, the Mineral Titles Regulations 2011, and associated provisions in the Environment Protection Act 2019 and Environment Protection Regulations 2020, which were within the scope of the 2024 review items commented upon by EIA.

Context: Committee inquiry matters

The Committee’s published call for submissions indicates it is inquiring into whether the Assembly should pass or amend the Bill and whether the Bill has sufficient regard to rights and liberties and the institution of Parliament, with submissions due Friday 27 March 2026.

This submission therefore focuses on:

- whether the Bill implements stakeholder-supported reforms efficiently and clearly;
- whether any provisions raise avoidable risk to fairness, certainty, or proportionality (including for landowners/occupiers and titleholders); and
- whether targeted amendments could better reflect EIA’s 2024 positions and reduce unintended consequences.

Where the Bill does address EIA’s 2024 requests (key areas)

Definitions and administrative clarity (strong alignment)

In 2024, EIA supported reforms to definitions and administrative concepts including Bulk sample, Occupier, Operational year, Reporting period, and Geocentric Datum of Australia.

The Bill substantially implements these:

- It introduces and/or clarifies occupier, operational year, reporting period, and GDA 2020, including a note about timestamps and the continued relevance of GDA 94 for EL/EMEL surveying.
- It formalises operational year via new section 12A and links reporting flexibility to “reporting period” and group reporting arrangements.
- It enables bulk sampling under an EL when authorised by the Minister and subject to an environmental (mining) licence under the Environment Protection Act 2019.

These changes directly reflect the reform direction supported by EIA and improve certainty for regulated entities.

Geological sample handling (addresses EIA's EMEL inclusion request)

EIA's 2024 submission supported the principle of geological sample reporting but suggested that EMELs remain included under the drill core/sample provisions, proposing the holder should "give notice that the core is available" because discovery records for extractive materials are valuable.

The Bill amends section 93 so that references include "EMEL or ML", and strengthens the "offer/accept" mechanism by requiring an offer in the written notice and requiring transfer of the samples if the Minister accepts.

This is a clear instance where the Bill directly responds to EIA's specific 2024 point about EMEL inclusion and provides a more explicit administrative pathway.

Fossicking framework (broad alignment with EIA's support for new instruments)

EIA supported the introduction of:

- new mineral lease for tourist fossicking,
- new mineral lease for fossicking,
- new fossicking permit, and related reforms.

The Bill implements these reforms in detail by:

- creating MLTF (tourist fossicking) and MLF (commercial fossicking), with defined rights and conditions (e.g., surface limits, disturbance depth limits, no blasting, no processing);
- creating fossicking permits (personal, club, commercial), including decision criteria, refusal reasons, term limits, and an offence for unauthorised fossicking;
- updating fossicking notice settings (e.g., notice periods, required information, and EL-holder ability to decline access for gold fossicking when actively working the land), and repealing the prior regulation that specifically required consent to fossick for gold in an EL area.

These measures are directionally consistent with EIA's supportive stance on the fossicking reform package and add procedural clarity.

Where the Bill does not (or only partly) address EIA's 2024 "not supported" items and concerns

Constructive consent of landowner (EIA: "Not supported")

EIA expressly stated in 2024 that Item 6.11 "Constructive consent of landowner" was "Not supported."

The Bill amends section 168 so that "Subsection (2) applies to any provision of this Act, other than sections 21(1)(c) and 138(1)(b), that ..." (as extracted in the Bill text).

On its face, this appears to extend or at least generalise the application of constructive consent across the Act (with only limited carve-outs), rather than addressing the policy concerns that led EIA to oppose the item in 2024.

Scrutiny issue: Constructive consent mechanisms can materially affect rights and liberties where they deem consent to have been given (or remove a requirement for express consent) and can shift bargaining power between landholders/occupiers and titleholders. Given EIA's non-support and the Committee's rights-and-liberties remit, this provision warrants close review and, if retained, clear safeguards and procedural fairness settings.

"When consent required" (EIA: "Not supported") – only limited adjustment in Bill

EIA also stated Item 7.1 "When consent required" was "Not supported."

The Bill adds that, for subsection 21(2), a permit under Part II of the Aboriginal Land Act 1978 constitutes written consent for preliminary exploration on Aboriginal land.

This is a useful clarification for Aboriginal land contexts, but it does not otherwise revisit the broader "when consent required" structure that EIA opposed in 2024.

Scrutiny issue: If the "when consent required" policy settings remain unchanged beyond this permit clarification, then the Bill may not be responsive to the 2024 stakeholder objection and may preserve administrative burden and delay risks that EIA sought to avoid.

Notice before starting authorised exploration activities (EIA: "Not supported" unless simplified)

EIA stated Item 7.7 "Notice before starting authorised activities for exploration" was "Not supported" and requested one notice for a defined length of time (e.g., 6 months) unless otherwise agreed.

The Bill amends regulation 71 so that notice must be given:

- at least 14 days before the beginning of each field season; or
- at times/frequency agreed with landowners or occupiers.

This is a partial improvement because it reduces notice triggers from potentially more frequent activity-by-activity notices to a "field season" concept and allows agreement-based flexibility.

Remaining gap: Unless "field season" is defined (or guidance clarifies that a field season can be a multi-month program), the provision could still result in repeated notices and uncertainty, falling short of EIA's proposed "single notice for a defined length".

EMP activities: "mechanical vs non-mechanical" definitions and "same person" concern (EIA: support with concerns)

EIA supported Item 9.3 (Authorised activities under extractive mineral permit) but raised two concerns:

1. “mechanical and non-mechanical needs to be defined”; and
2. “we don’t agree the granted titles all need to be held by the same person.”

The Bill:

- defines “extractive mineral” in a way that references “processing ... by non-mechanical means” but does not define “mechanical” or “non-mechanical”;
- inserts a condition into section 53 that processing extractive minerals by non-mechanical means is prohibited;
- permits movement of extractive material from one EMP to another EMP for processing/storage/removal;
- but in the EML context, it limits storage/processing of materials mined under an EMP or another EML to those “granted to the title holder.”

Assessment: The Bill advances the regulatory control concept, but EIA’s core drafting concern are clear definitions of “mechanical/non-mechanical” and avoidance of unnecessary titleholder-identity constraints which remains only partly addressed. It risks interpretive disputes and compliance uncertainty if key terms remain undefined while being used to prohibit activities.

Recommendations

To better align the Bill with EIA’s 2024 positions and to improve certainty and fairness, this submission recommends:

1. Define “mechanical means” and “non-mechanical means” in the Act or Regulations (or explicitly empower definitions in Regulations), noting these terms are used in core operative provisions and prohibitions.
2. Revisit section 168 (constructive consent) to ensure the provision is proportionate and includes safeguards (e.g., clear notice requirements, reasonable timeframes, dispute pathways), consistent with the Committee’s rights-and-liberties focus and EIA’s prior non-support.
3. Clarify “field season” in regulation 71 (definition or guidance) so that it can operate as a single notice covering a defined multi-month period where appropriate, reflecting EIA’s 2024 request, while retaining flexibility for different landholder agreements.
4. Review “same title holder” constraints for cross-title processing/storage pathways (where they exist), to ensure they do not inadvertently prevent efficient commercial and logistical arrangements that can improve rehabilitation outcomes and reduce transport impacts, while still maintaining regulatory accountability.
5. Retain and support the Bill’s inclusion of EMELs in the geological sample provisions and ensure any consequential amendments in Regulations remain consistent with that intent.

Conclusion

EIA's 2024 submission showed broad support for reform, with a small number of clear objections and drafting concerns. The Bill meaningfully implements many of the supported reforms, particularly definitional clarity, reporting structure, geological sample handling, and the fossicking package.

Nonetheless, the Bill does not fully address certain issues EIA flagged as "not supported" (notably constructive consent and consent triggers) and does not yet resolve the definitional uncertainty around "mechanical/non-mechanical" that now underpins prohibitions and compliance expectations.

For these reasons, the Committee should consider recommending the Bill be passed with targeted amendments (or binding implementation commitments) consistent with the recommendations above.

Reference document

- [MTA and Regulations Review - EIA Submission - August 2024.pdf \[MTA and Re...ugust 2024 | PDF\]](#)