

# Explanatory Statement

## MINERAL TITLES LEGISLATION AMENDMENT BILL 2026

### SERIAL NO. 56

LEGISLATIVE ASSEMBLY OF THE  
NORTHERN TERRITORY

MINISTER FOR MINING AND ENERGY

### GENERAL OUTLINE

This Bill amends the *Mineral Titles Act 2010*, the *Mineral Titles Regulations 2011*, the *Environment Protection Act 2019* and the *Environment Protection Regulations 2020*.

The purpose of this Bill is to introduce amendments to streamline the mineral titles regulatory framework, ensuring a regulatory framework that enables growth, market access and stakeholder certainty into the future. The Bill will also clarify and streamline administrative and regulatory requirements for the management of the environmental impacts of mining.

### NOTES ON CLAUSES

#### PART 1 PRELIMINARY MATTERS

##### Clause 1. Short Title

This is a formal clause which provides for the citation of the Bill. The Bill when passed will be cited as the *Mineral Titles Legislation Amendment Act 2026*.

##### Clause 2. Commencement

This clause sets out how the amendment Act will be commenced. In this case the Act will commence following the Administrator's assent to the Bill.

#### PART 2 AMENDMENT OF MINERAL TITLES ACT 2010

##### Clause 3. Act amended

This is a formal clause which identifies that this Part amends the *Mineral Titles Act 2010*.

##### Clause 4. Long title replaced

This clause amends the long title of the Mineral Titles Act 2010 to better reflect the purpose of the Act.

##### Clause 5. Section 3 replaced

This clause sets out the purpose of the Mineral Titles Act 2010 in more detail, including to reflect that the Act applies to prescribed substances, activities on non-compliant existing interests and the regulation of certain non-mining related activities such as clean concrete processing.

##### Clause 6. Section 8 amended (Definitions)

This clause provides for the inclusion of a number of definitions which are required to assist in the interpretation of the Act.

The definitions are listed in alphabetical order and include explanations of certain technical and administrative terms necessary for the administration of the Act, as well as references to explain additional title types introduced in this Bill.

**Clause 7 Sections 9 and 10 replaced**

Section 9 is amended to modernise and simplify the definition of the term mineral to provide clarity for industry and to improve understanding for non-industry stakeholders, assisting in improving social licence for industry.

Section 10 is amended to include clay as an extractive mineral. Section 10 is further amended to clarify that extraction of extractive minerals, as permitted under an Extractive Mineral Permit (EMP), is not mining as defined in the *Native Title Act 1993 (Cth)*.

**Clause 8. Section 11 amended (Mineral title)**

Section 11 is amended to account for the new mineral title types introduced in this Bill.

**Clause 9. Section 12A inserted**

Section 12A is inserted to provide clarity around the definition of an operational year and exclude certain reporting requirements from this definition to provide flexibility for industry to nominate reporting dates outside of the operational year.

Section 12A provides that the standard definition of 'operational year' will not apply to approved group reporting, and provides exemptions for certain historic titles for administrative simplicity for industry.

**Clause 10. Section 17 amended (Authorised preliminary exploration)**

Section 17 is amended to reflect that preliminary exploration via airborne survey will now require provision of notice rather than Ministerial approval. This gives industry administrative efficiency and certainty in conducting airborne survey.

**Clause 11. Section 21 amended (When consent required)**

Section 21 is amended to clarify the written consent requirement for entry onto Aboriginal land for preliminary exploration. Since preliminary exploration does not extend any interest in the land, obtaining written consent should be a simple process without imposing any regulatory burden or administrative costs.

The amendment confirms that written consent for preliminary exploration in relation to Aboriginal land relates to a permit issued under Part II of the *Aboriginal Land Act 1978* and does not include consent for the purposes of section 41 of the *Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)* (ALRA).

**Clause 12. Section 27 amended (Application for and grant of an Exploration Licence)**

Section 27 is amended to provide clarity on the maximum and minimum size of an exploration licence application and improves the information that is to be provided in the application relating to the technical work program.

The intent is to provide certainty for applicants in the information that they are required to provide to ensure that an application can be assessed more efficiently and to remove the likelihood of applications being not accepted due to deficient or incorrect information.

**Clause 13. Section 28 amended (Title area of an Exploration Licence (EL) on grant)**

Section 28 is amended to reduce the minimum size of an Exploration Licence from 4 blocks to 1 block.

The intent of this amendment is to allow for other applicants to pick up blocks that have been surrendered instead of leaving them stranded and unavailable for exploration.

**Clause 14. Sections 29 and 30 replaced**

Section 29 is amended to change the initial renewal period of an Exploration Licence from 2 years to 6 years. Subsequent renewals will remain at 2 years.

The intent of this change is in response to advice that the short renewal period has often drawn concern from industry due to difficulties in securing funding for capital raising efforts. Other jurisdictions offer a renewal period that coincides with the initial grant period, and it is proposed that the Territory follow this same approach.

Section 30 is amended to remove the requirement to reduce the size of an Exploration Licence every 2 operational years in the initial granted period (usually 6 years) and instead require a reduction at the first renewal.

The purpose of the reduction period is to encourage the turnover of blocks, however it can also be problematic when other approvals outside of the Act take considerable time to secure, such as approvals for ELs on Aboriginal land. This has led to a large number of waiver applications received under section 29(4) since commencement of the Act, which has increased both industry and the department's administrative workload.

The intent of this amendment is to allow time for industry to explore before being required to reduce the size of the exploration licence.

The Minister will maintain the capacity to waive the reduction requirement at the first renewal.

For subsequent renewals the capacity to waive the reduction requirement will only be in exceptional circumstances.

Exceptional circumstances may include natural disasters, complex work programs, recent transfer of the mineral titles and serious land access issues. Changing this legislative requirement would be beneficial to both industry and the government and would reduce administrative, regulatory and financial burden.

**Clause 15. Section 31 amended (Authorised activities under an EL)**

Section 31 is amended to include bulk sampling as an authorised activities that can be conducted on an Exploration Licence (EL).

The purpose of a bulk sample is to examine the metallurgical characteristics of the potential orebody and to assess the economic potential of the sample. A bulk sample may only be requested by an EL holder and usually involves the excavation of more than 1000 tonnes of material.

**Clause 16. Section 32 amended (Conditions of EL)**

Section 32 is amended to reflect administrative changes in the *Mineral Titles Regulations 2011* relating to streamlining reporting processes. These changes will allow alignment of the expenditure report and technical work program due to the synergies between both reports.

**Clause 17. Section 32A inserted**

Section 32A is inserted to address the occurrence of title slivers that may occur over time as a result of the shift in geographic co-ordinates.

The intention of this change is to allow an EL application to partially overlap the title area of another granted EL, where that overlap has occurred due to a datum shift. The EL holder that was granted the EL first would have right of access to the overlap area.

In the event the first EL ceases to exist, the second EL holder would have right of access to the overlap area. Over time, this will eventually remove all slivers.

**Clause 18. Section 40 amended (Mineral lease)**

Section 40 is administratively amended to reflect the creation of the new mineral lease category for tourist fossicking.

**Clause 19. Section 44 amended (Authorised activities under ML)**

Section 44 is amended to clarify the types of other or ancillary activities that can be undertaken on a mineral lease.

**Clause 20. Section 45A and Part 3, Divisions 3A, 3B and 3C inserted**

Section 45A is inserted to set out the types of activities the holder of a mineral lease must undertake when in a period of care and maintenance.

Part 3 Divisions 3A, 3B and 3C are inserted to create new forms of mineral leases designated for small scale mining, fossicking and tourist fossicking. These lease type have been created to accommodate smaller operators and to ensure that these smaller operations are more appropriately conditioned.

The 2 new mineral leases for tourist fossicking and fossicking are specifically designed to provide for coordinated tourist fossicking and independent fossicking activities. These activities will be administered outside of the existing fossicking provisions under Part 8 of the *Minerals Titles Act 2010* (MTA).

Division 3A relates to mineral lease for small scale mines (MLSSMs) and is proposed to accommodate small scale mining operations for example alluvial gold mining; and would:

- exclude the requirement for small scale miners to provide 'evidence of an ore body or anomalous zone of likely economic value'.
- size does not exceed 40 hectares.
- only one per titleholder.
- allow the title holder to apply to reduce or simplify reporting on MLSSMs where there is low level activity.
- still be required to pay a mining security and obtain an environmental licence commensurate with the risk of the mining activity's environmental impact.
- be granted for a period not exceeding 10 years.
- be renewed more than once for periods not exceeding 10 years
- provides for certain activities to be undertaken in a care and maintenance period.

Division 3B relates to new mineral lease for tourist fossicking (MLTF) and is proposed to accommodate commercial tourist fossicking activities and allows for:

- conducting commercial fossicking tours on a title area no greater than 40 hectares.
- Construction of temporary infrastructure.
- requirement to pay a mining security and obtain an environmental licence commensurate with the risk of the mining activity's environmental impact.
- Noting an MLTF is not designed to create a right to mine and will not permit mining, the holder will be permitted to extract and remove minerals from the natural surface of the land only.
- application for a MLTF for a maximum grant period of 5 years which can be renewed more than once, for periods of up to 5 years.
- exclusive right to apply for a MLSSM should a mineral resource of economic interest be discovered.
- The fossicking provisions of Part 8 do not apply to activities on an MLTF.

Division 3C relates to new mineral lease for fossicking (MLF) and is proposed to accommodate general fossicking activities outside of the scope of Part 8, but not to the extent of a mineral lease for tourist fossicking. The amendments allow:

- Conduct of fossicking activities on a title area no greater than 20 hectares.
- Noting an MLF is not designed to create a right to mine and will not permit mining, the holder will be permitted to extract and remove minerals from the natural surface of the land only.
- application for a MLF for a maximum grant period of 5 years which can be renewed more than once.

**Clause 21. Section 47 amended (Application for and grant of EMEL)**

Section 27 is amended to allow for more flexibility in activities conducted on an extractive mineral exploration licence.

The amendments will increase the term of an EMEL from 2 years to 3 years, reduce the size limit from 4 blocks to 2 blocks and introduce a 30 day moratorium period over land previously subject to a ceased EMEL to allow for more competitive applications.

**Clause 22. Section 52 amended (Renewal of EMP)**

Section 52 relates to the renewal of an extractive mineral permit (EMP).

The amendment allows for the purpose of the right to extract and remove minerals to be excluded when an EMP renewal is assessed as undertaking rehabilitation activities only and is approved for the payment of rehabilitation rent.

**Clause 23. Section 53 amended (Authorised activities under EMP)**

Section 53 is amended to confirm that only processing by non-mechanical means is prohibited (e.g. chemical). This amendment provides clarity that activities on an EMP are not mining as defined in the *Native Title Act 1993 (Cth)*.

Section 53 is further amended to allow for movement and storage of extractive material across EMPs, in response to emerging needs of the extractive industry.

**Clause 24. Section 54 amended (Extractive mineral lease)**

Section 54 is amended to allow the granting of EMLs for ancillary purposes, including stockpiling, construction of camp or other infrastructure, processing, storage or operating a site office.

This amendment will give EML holders greater flexibility and scope on the use of their title areas.

**Clause 25. Section 57 replaced**

Section 57 is amended to allow for the following additional authorised activities:

- Transport, processing and storage of extractive material from another title.
- Processing and storage of clean concrete.
- Activities relating to a care and maintenance period.
- Tourist fossicking.

This amendment gives greater flexibility and scope for titleholders on their title area and allows for additional activities to supplement the extractive operations undertaken on site, such as concrete recycling.

While it is uncommon to fossick for extractive minerals such as sand, gravel or rock; zebra rock has recently become popular among tourists visiting the Territory. It is proposed to grant ancillary EMLs to accommodate the fossicking of extractive minerals, such as zebra rock.

**Clause 26. Section 65 amended (Applications relating to same land or existing title area or proposed title area)**

Section 65 is amended to provide that applications for areas previously covered by an exploration licence must be made 30 days after the publication of a notice advising the exploration licence has ceased.

This will increase equity and transparency for applicants and ensure that all applicants have an equal opportunity to submit an application once the area becomes available.

**Clause 27. Section 67 replaced**

Section 67 is amended to provide that a renewal application must be received 1 month prior to the expiry date of the title. This requirement will build in a buffer period to ensure that applications are received in a timely manner and that mineral titles are not inadvertently lost due to failure to submit the renewal application on time. Renewal applications must also be accompanied by rent for the operational year.

**Clause 28. Section 71 amended (Public notice of application for grant of mineral title)**

Section 71 is amended to provide flexibility in the manner in which public notices can be made.

**Clause 29. Section 76 amended (Survey of particular title area)**

Section 76 relates to survey requirements for various mineral titles. This section is amended to include a requirement that the survey be completed in a time frame determined by the Minister. This amendment will ensure that surveys are undertaken in a timely manner.

Section 76 is further amended to include the requirement for MLSSM to be surveyed as prescribed by regulations.

**Clause 30. Section 77 amended (Discretions relating to title area)**

Section 77 is administratively amended to clarify that the section refers to separate areas and to avoid misinterpretation.

**Clause 31. Section 83 amended (Right to construct road for access to title area)**

Section 83 is amended to provide clarity about the construction of the access roads to title areas and the requirements to take into account factors beyond the strict interpretation of 'shortest practicable route'. This amendment should clarify that consultation should be undertaken with landowners and consideration of environmental impact before determining the route.

Section 83 is further amended to clarify that a minimal track is permissible under this section, such as a blade up track.

**Clause 32. Section 84 amended (Right to enter and use land outside title area)**

Section 84 is amended to clarify that the grant of an access authority does not apply to exploration titles and that an access authority ceases once the mineral title it provides access to ceases.

Section 84 is further amended to clarify which titleholders are required to receive notice and which are required to provide consent in relation to an application for an access authority.

**Clause 33. Section 93 amended (Drill cores, cuttings and other geological samples)**

Section 93 is amended to clarify that mineral lease holders are also subject to this provision.

Section 93 requires the holder of an exploration title to give the Minister notice of the recovery of any drill cores, cuttings or other geological samples from the title area as soon as practicable.

However, it is preferred that the holders of the relevant mineral titles offer the geological samples to the Minister, rather than give all recovered geological samples. The Minister would retain the discretion on whether to accept the geological samples.

Section 93 is further amended to reflect that samples should be offered, and the Minister has the discretion to accept.

**Clause 34. Section 94 amended (Reports)**

This clause makes minor amendments to section 94 relating to the description of mineral resources and the description of a final report of technical work program.

**Clause 35. Section 98 amended (Notice of changes)**

This clause amends section 98 to include a requirement for notice to be provided when a party:

- files for bankruptcy.
- is under administration, liquidation or external control; or
- is deceased.

For administrative purposes this notice is also required to be provided to the Minister responsible for the *Environment Protection Act 2019*.

**Clause 36. Section 98A inserted**

This clause confirms that outstanding applications for individuals in bankruptcy or companies that have been deregistered are automatically refused.

**Clause 37. Section 100 amended (Variation of conditions of mineral title)**

Section 100(2) enables the Minister to vary the conditions of a mineral title by amending, suspending and removing a condition.

This clause amends section 100 to include the requirement that any requests to vary an expenditure condition must be submitted within the first 6 months of each reporting period and that any variation to conditions submitted after this time would not be accepted.

**Clause 38. Section 101 amended (Division of title area into separate parts)**

This clause amends section 101 to clarify that the Minister may vary the description of a mineral title area by reference to block numbers, co-ordinates, size and title numbers.

**Clause 39. Section 102 amended (Amalgamation of title areas)**

This clause amends section 102 to provide for a calculation of age for amalgamated exploration licences, includes requirement to lodge reports and the power of the Minister to waive late lodgement fees for those reports.

**Clause 40. Section 103 amended (Application for acceptance of surrender)**

Section 103 provides the ability for a mineral title holder to seek to surrender all or part of a mineral title. It sets conditions for the surrender of various types of titles.

This clause amends section 103 to remove the minimum 4 block requirement, in line with amendments to section 27 and includes a requirement to demonstrate compliance with rehabilitation and closure requirements under the *Environment Protection Act 2019*.

**Clause 41. Section 105 amended (Cancellation or partial cancellation of mineral title)**

Section 105 describes the circumstances under which the Minister can cancel a mineral title.

Section 105 provides the Minister with the capacity to cancel part of an EL, where the EL holder has not met the expenditure condition for 2 consecutive years. This is known as a loss of block penalty.

This penalty was never clearly defined under section 105 and is only covered by section 105(2)(a) where the Minister, before making a decision to cancel, must be satisfied the title holder has contravened a condition of the mineral title. The process is also not defined in the Regulations.

This clause amends section 105 to provide that the Regulations can prescribe the method for determining a partial cancellation. The Regulations will be amended to describe this 'loss of block process' under regulation 69.

**Clause 42. Section 113 amended (General reserved land – limited or no activities)**

Section 113 gives the Minister power to reserve areas of land from all types of exploration and mining for any period of time. The Minister can specify what types of activity, if any, may be allowed in the reserve area. The Minister can also revoke such reservations in the Territory's interests upon review of the reason for the reserve.

In some instances, the declaration of a reserved land (RL) does not completely prevent all mining or exploration activity, as a mineral authority (MA) may be granted over some general reserved land. A MA provides the same rights as the corresponding mineral title granted under Part 3 or 4.

This clause amends section 113 to:

- include a provision that will allow the Minister to convert a MA that corresponds to either an EL or EMP to a valid EL or EMP, in the event that the RL covering the title area is revoked.
- provide clarity under section 113(4) in terms of what constitutes a variation or revocation.
- include the capacity for a RL following a partial revocation to comprise of more than one part.

**Clause 43. Section 123 amended (Registration of transfer of mineral rights interest)**

Section 123(1) provides that a person who intends to transfer all or part of the person's mineral rights interest to another person must apply to the Minister for approval and registration of the transfer.

Section 123(4) provides that on application by either party to the transfer of a mineral rights interest, the Minister must give the parties a notice of the approval of the transfer, which may include a statement that the transfer would be registered on a date or occurrence, or subject to a condition, specified in the notice. There is a current misconception that either of the transfer parties may impose conditions on the transfer.

This clause amends section 123 to explicitly state that only the Minister may set a condition on the registration of transfer of the mineral rights.

This clause further amends section 123 to extend the fit and proper person test under section 70 to the transfer of a mineral rights interest, creating consistency in the application of the test across all applications (grant, renewal and transfer).

**Clause 44. Section 124A inserted**

Section 124 provides that when a holder of a mineral rights interest dies, those interests may be devolved to another person. This section has been difficult to administer as it does not provide the Minister with the power to cancel the mineral rights interest if after a dedicated effort to find a relative, executor, or potential beneficiary to any will, no one is found.

This clause inserts a process to be undertaken to determine the existence of a relative, executor, or potential beneficiary and gives the Minister the power to cancel the mineral title once that process is completed.

**Clause 45. Section 132 amended (When caveat ceases to be in force)**

This clause replaces the terminology 'cancelled' which can be misleading as the Minister is not undertaking a cancellation action in section 132 to 'ceases to be in force'.

**Clause 46. Section 135 amended (Authorised fossicking)**

Section 135 outlines the circumstances in which fossicking is authorised.

A new fossicking permit is proposed to be introduced that would be available to individuals, family groups, clubs and commercial fossicking tour operators for a small annual fee.

This clause amends section 135 to reference the new fossicking permit, new mineral lease for tourist fossicking and mineral lease for fossicking.

This clause further amends section 135 to clarify what is not considered fossicking and allows for the regulations to prescribe the types of instruments that can be used for fossicking.

**Clause 47. Section 135A inserted**

This clause inserts the requirements for the new fossicking permit.

Section 135A sets out the requirements for who is required to obtain a fossicking permit.

Section 135B sets out the application process for each type of fossicking permit and notes that the fee is prescribed by regulation.

Section 135C sets out the consideration that the Minister may undertake in determining to grant a fossicking permit.

Section 135D establishes an offence to fossick, without a fossicking permit.

**Clause 48. Section 136 amended (Fossicking area declaration)**

Section 136 allows the Minister to declare and gazette a declared fossicking area to allow for fossicking activities. A declared fossicking area typically does not contain any granted mineral titles. However, over the years, a number of mineral titles have been granted within fossicking areas which has led to issues for fossickers who then require the consent of a mineral title holder to fossick in the title area.

The inclusion of the term vacant Crown land under section 136(2) in the Act has led to difficulties in declaring new fossicking areas, as there is a very limited amount of vacant crown land, in suitable locations within the Territory.

This clause amends section 136 to prohibit the declaration of a fossicking area over granted mineral titles.

This clause further amends section 136 to remove the reference to vacant Crown land and includes a requirement for the Minister to give notice of any proposal to declare a fossicking area over crown land on which there is a pastoral lease and take into consideration any submission made under that notice.

**Clause 49. Section 138 amended (Written consent required)**

Section 138 outlines the consent requirements for fossickers and describes who is required to provide written consent to fossickers to access the relevant land.

This clause amends section 138 to clarify that the consent required for fossicking on Aboriginal land relates to a permit issued under Part II of the *Aboriginal Land Act 1978*.

**Clause 50. Section 140 amended (Requirements for title area of EL)**

Section 140 outlines the requirements for fossickers who intend to conduct fossicking activities on the title areas of an EL.

This clause amends section 140 to also include fossicking on an ELR, and that the Regulations may prescribe certain actions in relation to fossicking on an EL.

**Clause 51. Section 148 amended (Conducting activities without mineral title)**

Under section 148, it is an offence to conduct exploration, mining or other extraction of minerals without a mineral title. However, section 12(3) exempts the extraction of extractive minerals from the definition of mining, where it is incidental to construction work (e.g. building the foundation of a building or road) or if the extractive minerals are for use elsewhere on the land by the landowner (e.g. to build a dam).

Similarly, section 50(3) also exempts a person from the requirement to hold an EMP if the extraction of extractive materials is incidental to a construction project and not for the sale of extractive minerals.

This clause includes those exemptions in section 148 for clarity.

**Clause 52. Section 168 amended (Constructive consent of landowner)**

Section 168 provides that a landowner is taken to have given consent if the person who has served the landowner a notice (requesting consent to take a specific action, such as to enter the landowner's land) and does not respond in writing within 2 months after the notice was served. However, this section is not appropriate for Aboriginal land where consent must be requested under ALRA.

This clause clarifies that section 168 does not apply to Aboriginal land for the purposes of sections 21(1)(c) and 135(1)(b).

**Clause 53. Section 171 amended (Release or publication of information)**

Section 171 provides that the Minister may release or publish information contained in a report given under section 94 only as prescribed by regulation. The type of information that can be released is also restricted by Regulation 125.

Other legislation, including the *Environment Protection Act 2019*, *Mineral Royalties Act 1982* and *Mineral Royalties Act 2024*, at times require information in reports provided under the MTA. For example, production reports are used by the Department of Treasury and Finance to assist with their assessment of the outstanding royalties and other matters.

Currently, the MTA does not allow for information to be released to other government agencies where appropriate.

This clause amends section 171 to allow that the Minister may at any time release information in accordance with certain requirements as set out in Section 171.

**Clause 54. Section 177 amended (Functions of authorised officer)**

This clause amends section 177 to allow authorised officers to receive and investigate complaints relating to fossicking.

**Clause 55. Section 181A inserted**

This clause is inserted to allow Northern Territory Geological Survey (NTGS) staff to enter and remain on land by notice in order to conduct scientific geological investigations.

NTGS within the Department of Mining and Energy undertakes geoscience research to better understand the Territory's geological structure and resource potential. The work undertaken by NTGS consists mostly of non-ground disturbing research projects.

**Clause 56. Section 204 amended (Non-compliant existing interests)**

Non-compliant existing interests (NCEIs) are historical titles granted under previous mining legislation. They include:

- a) authorised holdings granted under the *Mining Ordinance 1939-1979*; and
- b) mineral claims granted under the former Mining Act.

While the Act provides the Minister with the power to make a decision to cancel NCEIs, further clarity of the power to then cancel the NCEI is required under the Act.

This clause clarifies the action the Minister must take with regard to these interests, including the power to cancel the interest once that decision has been made.

**Clause 57. Section 204A inserted**

Currently, many of the remaining NCEIs, particularly authorised holdings, do not have an appropriate mineral title to convert to since their activities are either not mining related or ancillary to mining.

This clause creates a new title of a General Lease to which an NCEI can be converted if no other mineral title is suitable.

A General Lease:

- includes an expiry date of 10 years from date of conversion to a new title type for authorised holdings.
- includes the capacity for renewal.
- existing improvements will be permitted to remain.

- provides for the transfer of a General Lease
- rent and admin fees will be payable as per the schedule of fees.

This clause includes a provision that prevents further applications for a General lease. The purpose of this title is to modernise NCEIs and improve the ability to effectively manage them

#### **Clause 58. Part 12 Division 3 inserted**

This clause inserts Transitional provisions relating to the commencement and application of amendments to applications for mineral titles, such that the amendments do not apply to applications made before the commencement of this Act.

This clause also provides that the amendments to declaration of fossicking areas only apply after the commencement of this Act.

### **PART 3 AMENDMENT OF MINERAL TITLES REGULATIONS 2011**

#### **Clause 59. Regulations amended**

This is a formal clause which identifies that this Part amends the *Mineral Titles Regulations 2011*.

#### **Clause 60. Regulation 3 amended (definitions)**

This clause provides for the inclusion of a number of definitions which are required to assist in the interpretation of the Act.

The definitions are listed in alphabetical order and include explanations of certain technical and administrative terms necessary for the administration of the Act.

#### **Clause 61. Regulations 6,7 and 8 replaced**

This clause amends regulation 6 to remove the requirement for consent from the Minister and replace it with a requirement to give notice to the Minister.

The amendment requires notice be provided to the Minister prior to conducting an airborne geoscientific survey for the preliminary exploration of land and the form and content of that notice.

This clause further amends regulation 7 to create an offence to conduct an airborne survey without notice.

This clause further amends regulation 8 to create an offence to conduct an airborne survey not in compliance with regulation 6.

#### **Clause 62. Regulation 9 amended (Airborne survey report)**

This clause amends regulation 9 to remove the requirement for consent from the Minister and replace it with a requirement to give notice to the Minister.

#### **Clause 63 Regulation 42 amended (Plan of survey and other information)**

For surveys not required to be carried out by a licensed surveyor, applicants are required to provide the Minister with sufficient information to enable the accuracy of the survey to be validated under sub regulation 42(4). It would be beneficial if applicants could provide photos of the datum post and other boundary markers as evidence that the survey has been conducted.

This clause amends regulation 42 to require photographic evidence of the datum post and updates the datum that survey information should be provided.

**Clause 64. Regulation 63 amended (Amalgamation of title areas)**

This clause clarifies the requirements to provide a final technical report for any land not included in an amalgamated title.

**Clause 65. Regulation 69 replaced**

This clause sets out the 'loss of block penalty' calculation and process relating to the partial cancellation power for exploration licences for failure to meet expenditure conditions under section 105 of the Act.

The formula for calculating this penalty is based on a rolling cumulative expenditure formula, which allows underspends to be made up in the following year or for overspends to offset an underspend in the following year and so on. The inclusion of the formula in the Regulations provides greater transparency for industry

**Clause 66. Regulation 71 amended (Notice before starting authorised activities for exploration)**

This clause clarifies the timing and frequency of notices required under regulation 71.

Regulation 71 specifies that the title holder of an EL or EMEL is required to provide landowners/occupiers at least 14 days' notice before commencing exploration activities on the land. However, the issue of whether a single notice is adequate to cover the full field season or if a notice should be given for each proposed entry is not addressed in the Regulations, leading to several misunderstandings between explorers and pastoralists.

After consulting with stakeholders, it was preferred that a single notice be given unless a different frequency of notices was agreed to with the landowner/occupier.

**Clause 67. Regulation 77A inserted**

Rehabilitation rent is applicable to an extractive mineral permit and is described in Schedule 1 of the Act. Despite this, there is no description of the application for and conditions of receiving approval to pay rehabilitation rent.

This clause sets out the application and approval process for rehabilitation rent, including the term of approval.

**Clause 68. Regulation 78 amended (Annual report for EL, ELR, ML or MLSSM)**

This clause amends regulation 78 to include MLSSM, include that reports must be made in the approved form and include details of any environmental mining licence issued under the *Environment Protection Act 2019*.

**Clause 69. Regulation 80 replaced**

To improve efficiency in reporting expenditure, it is proposed to include a regulation to allow related body corporates (parent and subsidiary companies) to apply for an expenditure project area, as they can currently do under regulation 87 for group reporting. The intention is to provide consistency in the application of the legislation to particular title holders. That is, those who are permitted to apply for group reporting can also apply for an exploration project area.

This clause sets out the details of the application and approval process for an exploration project area.

### **Clause 70. Regulation 81 amended (Expenditure report for EL, ELR, ML or MLSSM)**

This clause amends the heading of Regulation 81 to include MLSSM.

Regulation 81 requires holders of an EL or ELR to provide an expenditure report within 30 days of the end of the operational year for an EL and ELR. However, annual reports are due within 60 days. It is proposed to align the expenditure and annual reports to streamline reporting for industry.

Regulation 81 requires that the expenditure report must include amounts proposed to be spent on technical work in the following operational year and the amount expended on technical work in the operational year for which the report is given. Often there are also amounts expended on mineral titles that do not fall within the area of technical work but are necessary to undertake the technical work program. It is proposed to allow for optional reporting on other relevant expenditure in order to capture this information.

This clause aligns the reporting requirements for EL and ELR holders to reflect those required for ML holders and includes MLSSM in those requirements.

This clause also expands the amount of information that can be included in an expenditure report and gives the Minister the power to audit the information provided or request that further information is provided.

### **Clause 71. Regulations 83 to 87 replaced**

Regulations 83 to 86 relate to production, reserves and final reports required to be lodged by certain titleholders.

Production reports detail the minerals or extractive minerals extracted or removed from the ML, EMP or EML. This clause also includes the new MLSSM in production reporting requirements and sets out where mineral titles can be exempt from production reporting.

To better reflect the actual contents of the reserves report, it is proposed to amend the report name to resource report and require that EL holders are also required to provide a resource report annually.

To streamline reporting for industry this clause aligns resources reports with reporting dates for annual and expenditure reporting.

A final report pursuant to details the work conducted on the mineral title until such time the title ceases to exist for all or part of the title area. A final report is also required when an application is made to vary, cancel, subdivide or amalgamate a mineral title under Division 5 of the Act.

This clause re-defines a final report so as to only apply when all of a mineral title ceases and allows for final reports to be lodged as a group report.

This clause creates a new form of report called a partial relinquishment report, which applies when only part of a title ceased and provides that this report can be lodged as a group report.

This clause also introduces late lodgement fees for resources and production reports.

This clause amends the term amalgamated reporting to group reporting in regulation 87.

New regulation 87A is introduced to provide that the Minister may determine the reporting requirements for a MLTF.

### **Clause 72. Regulation 97A inserted**

This clause prescribes zebra rock as a substance that can be fossicked.

**Clause 73. Regulation 98 amended (Meaning of relevant land)**

This clause includes an ELR as relevant land for a fossicking notice.

This clause also amends the term fossicking request to 'consent' to more accurately reflect the requirements of section 138 of the Act and regulation 98.

**Clause 74. Regulation 99 amended (Meaning of *specified person*)**

This clause includes the title holder of an ELR as a specified person for a fossicking notice.

This clause also omits the title holder of an EL as a specified person for fossicking consent.

**Clause 75. Regulation 99A inserted**

This clause describes equipment that can be used for fossicking in accordance with section 135 of the Act

**Clause 76. Regulation 100 amended (Requirement to give notice of intent to fossick)**

This clause introduces additional information relating to the vehicles, timing and numbers of people to be included in a fossicking notice.

**Clause 77. Regulation 101A inserted**

This clause notice requirements for when a fossicking notice is to be given when fossicking for gold on an EL.

This clause further describes the circumstances in which that an EL holder can reasonably decline access to a fossicker and the remedy for disputes relating to access to an EL to fossick for gold.

**Clause 78. Regulation 102 repealed**

This clause repeals regulation 102 requiring consent to fossick for gold on an EL.

**Clause 79. Regulation 103 amended (Requirement to obtain consent to fossick)**

This clause also amends the term fossicking request to 'consent' to more accurately reflect the requirements of section 138 of the Act and Regulation 98.

**Clause 80. Regulation 104 amended (Refusal of consent)**

This clause also amends the term fossicking request to 'consent' to more accurately reflect the requirements of section 138 of the Act and regulation 98.

**Clause 81. Regulation 105 amended (Withdrawal of consent)**

This clause also amends the term fossicking request to 'consent' to more accurately reflect the requirements of section 138 of the Act and regulation 98.

**Clause 82. Regulation 106 amended (Offences relating to entry onto relevant land requiring notice)**

This clause creates the offence of fossicking for gold on an EL where access has been declined under regulation 101A.

**Clause 83. Regulation 107 amended (Offences relating to entry onto or remaining on relevant land requiring consent)**

Regulation 107 outlines the various offences that a person who intends to fossick may commit, when entering or remaining on relevant land requiring consent. The Act currently has no offence for entering land requiring consent where no request for consent (the fossicking request) has been sent to the landowner

This clause creates the offence of fossicking on relevant land where no request for consent has been sent to the landowner.

**Clause 84. Regulation 109 amended (No extraction of more than prescribed amount)**

This regulation is amended to create a requirement for a fossicker who discovers more than the prescribed amount of gold in the title area of an EL to provide a notice of the discovery to the EL holder.

This clause also creates an offence for failure to provide a notice of the discovery of gold to the Minister or the EL holder.

**Clause 85. Regulation 126 amended (Copyright – authorisation of publication)**

This regulation is amended to include a partial relinquishment report.

**Clause 86. Regulation 127 amended (Relinquishment of geological samples)**

This regulation is amended to also apply to an ML in accordance with the amendments to section 93 of the Act relating to the offering of geological samples to the Minister.

**Clause 87. Regulation 128 amended (Examination and analysis of geological samples)**

This regulation is amended to also apply to an ML in accordance with the amendments to section 93 of the Act relating to the offering of geological samples to the Minister.

This clause also inserts analysis to more accurately reflect the work that would be undertaken.

Access to core samples is a discretionary process and is not required to be included in the Regulations. This clause removes sub regulations 128(5) and 128(6) to reflect this.

**Clause 88. Regulation 131 replaced**

Regulation 131 refers to the application of late lodgement fees.

This regulation is amended to include the new reports and applications that late lodgement fees will be applied to.

**Clause 89. Regulation 142 repealed**

This clause repeals regulation 142 which related to payment of rent for non-compliant existing interests. This regulation is no longer required and has been replaced in the transitional regulations at regulation 148 below.

**Clause 90. Part 12, Division 3 inserted**

This division details the payment of rent for non-compliant existing interests from the commencement of this Act.

**Clause 91. Schedule 1 amended (fees and rent)**

This clause amends Schedule 1 fees and rents to include new fees and rents introduced in this Act.

**Clause 92. Schedule 2 amended**

This clause corrects an error in the reference to the applicable regulation for reviewable decisions

**PART 4 AMENDMENT OF ENVIRONMENT PROTECTION ACT 2019****Clause 93. Act amended**

This is a formal clause which identifies that this Part amends the *Environment Protection Act 2019*.

**Clause 94. Section 4 amended (Definitions)**

This clause provides for the inclusion of new definitions which are required to assist in the interpretation of the Act, and for the amendment of existing definitions.

The definitions are listed in alphabetical order and include explanations of certain technical and administrative terms necessary for the administration of the Act. The amendments ensure that the environmental (mining) licensing scheme established under the Act continues to reflect the mineral titling system under MTA.

**Clause 95. Section 13A amended (Meaning of mining activity)**

This clause includes the activity of fossicking within the meaning of mining activity. This amendment has been included due to the new fossicking mineral titles being introduced into the MTA.

**Clause 96. Section 124G amended (General obligations of mining operator)**

Section 124G establishes the general obligations of mining operators in managing mining sites, including in periods of care and maintenance.

This clause amends a typographical error in subsection (1)(b) by inserting a comma between the words “decommission” and “remediate”.

This clause also replaces subsection (1)(d). This corrects an omission by inserting a requirement to maintain equipment during a period of care and maintenance in line with the obligation in subsection (1)(c); and is consistent with amendments to the MTA at sections 45A and 45E.

**Clause 97. Section 124L amended (Requirement for environmental (mining) licence)**

Section 124L establishes the requirement for mining operators to be licensed.

This clause omits and replaces subsection (2).

Subsection (2) identifies that certain activities only require an environmental mining licence if the activity involves substantial disturbance. The amendment incorporates ‘fossicking’ into this section, such that licensing is only required for exploration and fossicking activities involving substantial disturbance. Substantial disturbance is defined in regulation 233R of the *Environment Protection Regulations 2020*.

**Clause 98. Section 124LA inserted**

This clause creates a new category of environmental (mining) licence for fossicking to accommodate the new mineral leases for tourist fossicking and fossicking.

**Clause 99. 124ZB amended (Conditions related to care and maintenance)**

This clause inserts a requirement to maintain equipment during a period of care and maintenance consistent with the amendments to the MTA at sections 45A and 45E.

**Clause 100. Section 124ZC amended (Conditions may apply after mining activity completed)**

Section 124ZC establishes that conditions in a licence may be expressed to apply after a mining activity is completed. Section 124ZZH identifies when a mining activity is taken to be completed.

Subsection (3) is amended to clarify the licence condition that a mining security extends beyond the term of a licence includes any periods of post-closure monitoring or other post closure management and reporting requirements. The note refers to the sections of the Act that provide for matters relating to mining security.

**Clause 101. Section 124ZJ amended (Standard condition licence)**

Section 124ZJ establishes the circumstances in which a standard condition licence can be granted, and the conditions applying to that licence.

Section 124ZJ is amended to insert a new subsection which includes a requirement that a standard condition licence is subject to the risk criteria.

This corrects an omission, and reflects the core requirement of the licensing scheme that mining operators must comply with the risk criteria to be eligible for a standard or modified licence.

**Clause 102. Section 124ZM amended (Time for decision on environmental (mining) licence)**

This clause inserts timeframes for decisions for the new category of environmental (mining) licence for fossicking to accommodate the new mineral leases for tourist fossicking and fossicking.

**Clause 103. Section 131 amended (Claim on bond)**

Section 131 identifies when and how the Minister or the Chief Executive Officer can make a claim on an environment protection bond. Subsection (3) is replaced. This amendment clarifies that a claim can be made on all or part of the bond based on estimated or expected costs prior to undertaking required remediation or rehabilitation works.

The intent of bonds and security is to protect the NT Government and the public from being required to meet the costs of private sector activities. A requirement to fund the remediation, rehabilitation and similar activities and to claim the money in arrears, places an inappropriate, and in some instances likely impossible, burden on the NT Government.

The preferred approach is to allow a claim to be made on all or part of a bond or security, for the amount claimed to be used to fund the required activities, and then for any unused amount to be returned to the mining operator.

The amendment addresses a concern that the previous wording required the NT Government to incur costs prior to making a claim.

**Clause 104. Section 132B amended (Purpose of mining security)**

Section 132B identifies the purpose of a mining security.

Section 132F identifies that any unused mining security is refundable. Subsection (3) identifies that monies owing to the Territory under the *Environment Protection Act 2019*, MTA or *Legacy Mines Remediation Act 2023* may be deducted from the mining security at the time of refund of a security.

It is uncertain whether the powers in section 132F(3) can be applied because section 132B does not identify payment of those costs as a purpose of the mining security.

The section is amended to clarify this matter by specifically referencing the payment of outstanding monies as a permissible purpose of the mining security.

**Clause 105. Section 132BA inserted**

Section 132BA is inserted to clarify that a mining security provided by an operator extends beyond the term of a licence to include any periods of post-closure monitoring or other post closure management and reporting. This ensures that the NT Government continues to hold a mining security until all post-closure activities are completed to the satisfaction of the Minister.

**Clause 106. Section 132E amended (Claim on mining security)**

Section 132E identifies when and how the Minister or the Chief Executive Officer can make a claim on a mining security.

Subsection (3) is replaced. This amendment clarifies that a claim can be made on all or part of the mining security based on estimated or expected costs prior to undertaking required remediation or rehabilitation works.

It also clarifies that a claim can be made for monies owing to the Territory, such as outstanding rent under the MTA, if that money is not required for another purpose for which the security is payable (i.e. the remediation and rehabilitation of a mining site, including post-closure monitoring). This amendment clarifies and gives effect to the intent that debts owed to the Territory can be deducted from security refunds.

A new subsection (3A) is inserted to clarify that a claim can also be made on a security after costs have been incurred.

The intent of bonds and security is to protect the NT Government and the public from being required to meet the costs of private sector activities. A requirement to fund the remediation, rehabilitation and similar activities and to claim the money in arrears, places an inappropriate, and in some instances likely impossible, burden on the NT Government.

The preferred approach is to allow a claim to be made on all or part of a bond or security, for the amount claimed to be used to fund the required activities, and then for any unused amount to be returned to the mining operator.

The amendment addresses a concern that the previous wording required the NT Government to incur costs prior to making a claim.

**Clause 107 Section 132F amended (Unused mining security refundable)**

Section 132F(3) identifies that any amount owing to the Territory by an operator under the *Environment Protection Act 2019*, MTA or *Legacy Mines Remediation Act 2023* may be deducted from the mining security at the time of refund of a security.

The amendment clarifies and gives effect to the intent that debts owed to the Territory can be deducted from security refunds, if not already claimed under section 132E.

**Clause 108. Section 214E amended (effect of mining closure certificate)**

Section 214E identifies the effect of the grant of a mining closure certificate. It identifies that if a certificate is issued, the mining operator is no longer liable for the site, liability transfers to the Territory, and a licence ceases to be in force for the site (or part of site) for which the certificate was granted. Subsection (2) identifies that the section does not apply to the Ranger Project Area.

The exclusion of the Ranger Project Area was intended to ensure that the provisions specified in section 214E(1)(a) and (b) regarding the effect of a certificate in respect of liabilities did not result in the transfer of liability to the Territory for the Ranger Project Area. It was not intended to prevent the automatic cancellation of a licence over the area for which a closure certificate had been granted.

The amendment enables a licence to cease to be in force for all or part of the Ranger Project Area that has been issued with a closure certificate, consistent with all other licences.

**PART 5 AMENDMENT OF ENVIRONMENT PROTECTION REGULATIONS 2020****Clause 109. Regulations amended**

This is a formal clause which identifies that this Part amends the *Environment Protection Regulations 2020*.

**Clause 110. Regulation 233S (2) amended (Publication of documents)**

Regulation 233S provides that the Minister must publicly exhibit certain types of applications. Under regulation 233S(2), publication is not required if the application relates to a mining activity for which an environmental approval has been granted or is required.

This provision was intended to remove duplicative public consultation requirements for activities that have been through public consultation processes associated with environmental impact assessment.

Sub-regulation (2) has been replaced to clarify the circumstances in which publication is not required. Specifically, that consultation is not required where an environmental approval is required or has been granted; and to give the Minister discretion in determining whether consultation is required if consultation on the mining activity has occurred through an environmental impact assessment process that did not result in an environmental approval. For example, if the mining activity was referred and published, but the NT Environment Protection Authority did not consider that assessment was required.

**Clause 111. Regulation 233T amended (Public Consultation)**

This clause inserts prescribed period for public consultation for the new category of environmental (mining) licence for fossicking to accommodate the new mineral leases for tourist fossicking and fossicking.

**PART 6 REPEAL OF ACT****Clause 112. Repeal of Act**

This is a formal clause which provides that the Act is repealed on the day after it commences.

As this is an amending Bill, once the proposed amendments to the MTA, *Mineral Titles Regulations 2011*, *Environment Protection Act 2019* and *Environment Protection Regulations 2020* have been made by this Amendment Bill, it no longer has any relevance and can be repealed.