LEGISLATIVE SCRUTINY COMMITTEE

Date: 14 April 2026

Portfolio: Mining and Energy

Agency: Mining and Energy

Subject: Response to Legislative Scrutiny Committee Written Questions - Inquiry into the Pipelines and Petroleum Legislation Amendment (Industry Development) Bill 2026 (Serial 57)

Consultation

1. **In the public briefing, the Department advised that it had 'engaged' with the Northern Land Council and the Central Land Council in the development of the Bill. What specific engagement took place between the Department and the Land Councils?**

   The Department of Mining and Energy (DME) met with members of the Northern Land Council's (NLC) Mining Branch at its Berrimah Office on 27 February 2026 and similarly at the Central Land Council's (CLC) Alice Springs office on 6 March 2026, where it discussed key provisions of the Bill in detail.

Definitions

2. **Clauses 6 and 67 seek to amend the *Energy Pipelines Act 1981* (Pipelines Act) and the *Petroleum (Submerged Lands) Act 1981* (Submerged Lands Act) to amend existing, and insert new, definitions to support the transport of substances other than just energy-producing hydrocarbons or petroleum through licensed pipelines.**

   a. ***Whilst there was broad support for the policy objectives of these provisions, some submitters stated that the definitions of 'pipeline', 'regulated substance' and 'apparatus and works' are unclearly defined (Submissions 14 and 16). How does the Department respond to these concerns raised in submissions?***

The proposed definitions have been carefully developed to enable the broader policy and regulatory objectives that underpin the intent of this Bill. Information is provided below to provide further context for the new and revised definitions.

Scope and clarity of definitions

The scope of the new and revised definitions has been carefully considered. Definitions in legislation cannot be too prescriptive as it is legislatively challenging and impractical to provide exhaustive lists. In the case of technically complex legislation, such as the *Energy Pipelines Act 1981*, an incomplete list could introduce uncertainty about whether a pipeline component that is not listed in an otherwise comprehensive list is or is not part of the pipeline and could result in pipeline equipment required for the operation of the pipeline going unregulated.

The example raised by Frack-Free NT provides a good example of works that may not have been included in a prescriptive definition of a pipeline. However, communication towers required for remote monitoring of a pipeline should be considered as part of the pipeline and be located within a pipeline licence area, so that they can be regulated.

Amended definitions for 'pipelines' and 'apparatus and works'

The amendments simplify and clarify the definition of a pipeline, which is currently defined with reference to the maximum allowable operating pressure of the pipeline and duplicates some of the exclusions that are set out in section 4 of the *Energy Pipelines Act 1981*.

The current definition means that unless a pipe or system of pipes has a maximum allowable operating pressure of over 1050 kilopascals or a hoop stress of over 20% of the specified minimum yield stress – it is not a pipeline.

The definition of pipeline incorporates the term 'apparatus and works', to ensure all components of a pipeline that are necessary for the operation of a pipeline are captured as part of the pipeline. Apparatus and works have been defined separately, with examples to provide clarity rather than a prescriptive list of components.

The definition of 'apparatus and works' (including the examples provided) is derived from the definition of a pipeline in section 16 of Queensland's *Petroleum and Gas (Production and Safety) Act 2004*. This definition is deliberately broad but only within a narrow range of application as the apparatus and works must be, "…a thing that is connected to or associated with the pipeline that is necessary for its operation."

New definition which enables the conveyance of 'regulated substances' other than hydrocarbons

The new term 'regulated substances' identifies the list of substances that may be conveyed through a licensed pipeline and allows other substances to be prescribed by regulation in the future. This is a similar approach to that taken under the *Energy Resources Act 2000* (SA), which allows additional regulated substances to be prescribed by regulation. This is included as a future-proofing mechanism if additional substances need to be conveyed through pipelines as a result of changing energy demands, technological advancements or associated policy shifts.

Requirements associated with maintaining the integrity of licensed pipelines, regardless of the substance conveyed, will be strengthened by this Bill through:

- amendments to section 39 of *Energy Pipelines Act 1981* to introduce an ongoing duty for pipeline licensees to identify, assess, eliminate and control hazards or risks that might compromise the integrity of the pipeline, with an associated offence for non-compliance; and

- establishment of the pipeline management plan (PMP) under the Act and the introduction of compliance and enforcement tools to allow inspectors, the Chief Executive Officer (CEO) and the Minister to undertake enforcement actions to ensure compliance with an accepted PMP.

While the requirement for a PMP is not a new requirement, it is currently only referenced within the *Energy Pipeline Regulations 2001* (Regulations). An accepted PMP will continue to be required before a licensee can construct and operate the pipeline, and will include the control measures needed to maintain pipeline integrity.

Additionally, it is standard practice for proponents to refer pipelines to the NT Environment Protection Authority (NTEPA) to determine whether an environmental impact statement (EIS) for the pipeline is required. It determining whether an EIS is required the NTEPA will assess the environmental impact of conveying a regulated substance, whether it is a hydrocarbon or another substance.

CLC raised a concern around the expansion of the definition of regulated substances and associated implications related to the suspension of the *Dangerous Goods Act 1998* (the DG Act) (refer submission no. 16). Firstly, it should be noted that the "suspension" of

the DG Act is an existing provision currently located within sections 4(1A) and 4(1B) of the *Energy Pipelines Act 1981* that is relocated to comply with modern drafting practices. While the provisions as constructed in both the Act and the Bill states that the DG Act does not apply to a licensed pipeline, it also states that persons must comply with the DG Act in relation to the storage, conveyance or use of dangerous goods, within the meaning of the DG Act, in or in connection with the construction, maintenance or repair of a licensed pipeline.

In regard to the CLC's recommendation that a robust regulatory framework be in place prior to granting a pipeline license which conveys "toxic or novel compounds", DME states with emphatic confidence that this framework already exists.

After a pipeline licence is granted there are a number of regulatory approvals which must be obtained under the *Energy Pipelines Act 1981* before a pipeline can be constructed and then operated, including:

(i) Acceptance of a construction PMP

(ii) Granting consent to construct the pipeline (The construction of the pipeline must comply with the PMP)

(iii) Acceptance of an operation PMP

(iv) Granting consent to operate a pipeline (the operation of the pipeline must comply with the PMP).

The new compliance and enforcement tools introduced by this Bill will strengthen DME's ability to secure compliance with this robust regulatory framework.

3. Clause 7 seeks to amend section 4(1)(a) of the Pipelines Act to clarify that nothing in the Act requires a person to hold a licence in respect of:

- **a pipeline that forms part of a gas distribution line or network;**
- **a pipeline of a class that is prescribed by regulation; or**
    - **a pipeline constructed or to be constructed under the Submerged Lands Act.**

a. What is the practical effect of clause 7 in exempting these categories of pipelines from the Pipelines Act? In particular, will these pipelines instead be regulated or licensed under other legislation?

The practical effect of the proposed amendments to section 4(1)(a) is to retain but relocate some existing exemptions that are located within the current definition of a pipeline in the *Energy Pipelines Act 1981*, and to allow a class of pipeline prescribed by regulation to be exempt from licensing requirements. The amendments also remove a provision that exempted a pipeline constructed or to be constructed under another Act from licensing requirements.

Currently, the definition of a pipeline under the *Energy Pipelines Act 1981* only applies to a pipe or system of pipes with a maximum allowable operating pressure greater than 1050 kilopascals or a hoop stress greater than 20% of the specified minimum yield stress. This means that a pipeline that forms part of a gas distribution line or network; which is a low-pressure system that does not fall within these parameters, does not require a licence under the Act. These low-pressure pipelines are regulated by NT WorkSafe under legislation it administers such as the *Work Health and Safety (National Uniform Legislation) Act 2011* and the DG Act. The amendments at Clause 7 retain this arrangement.

The current definition of a pipeline also specifically excludes a pipeline as defined in the *Petroleum (Submerged Lands) Act 1981* (PSLA) as these pipelines are licenced and regulated under the PSLA. The amendments at Clause 7 retain this arrangement.

As the definition of a pipeline is being modernised and simplified through this Bill, these existing exemptions have been relocated and clarified within section 4; which deals with the application of the Act.

The amendment to allow a pipeline of a class prescribed by regulation to be exempt from licensing requirements is to provide a more transparent option for exempting other classes of pipelines in the future. Currently, the Minister can, by *Gazette* notice, declare a pipeline, or a pipeline of a class specified in the notice to be a pipeline or pipelines in respect of which a licence is not required, but there is no option to prescribe a pipeline so the exemption is set out in the regulations rather than published in a *Gazette* notice.

Prescribing a class of pipeline to be exempt from licensing provisions will require a future proposal to be considered through Executive Council processes and must be tabled in the Legislative Assembly within 6 Sitting days after the making of the regulations. The regulations are then subject to review by the Legal and Constitutional Affairs Committee, and may be subject to a disallowance motion in the Legislative Assembly.

For ongoing/standing exemptions it is preferable for the class of pipeline to be prescribed in regulation, rather than declared by *Gazette* notice to ensure appropriate transparency and scrutiny.

4. **The Environment Centre NT has submitted that clause 7 may undermine the rights of native title holders by removing the requirement to obtain tenure for certain pipelines, which may otherwise constitute a 'future act' under the *Native Title Act 1993* (Cth) (Native Title Act).**

    a. ***How will the proposed exemption interact with the requirements and protections of the Native Title Act?***

As described in the response to question 3, the proposed amendments in Clause 7 will relocate and clarify existing exemptions that are currently located within the definition of a pipeline; remove a provision exempting pipelines constructed under other Acts from licensing requirements; and allow additional classes of pipelines to be prescribed in regulation as not requiring a licence. There is no intention to circumvent any federal legislative requirements through the amendments proposed to the *Energy Pipelines Act 1981* by this Bill, including the *Native Title Act 1993* (Cth).

Licences granted under the *Energy Pipelines Act 1981* do not provide tenure over land, and proponents need to obtain their own tenure to support the pipeline. DME encourages proponents to engage directly with Land Councils/native title holders regarding their projects. Depending on the land, tenure may be through a section 19 agreement under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth), a sub-lease granted under the *Pastoral Land Act 1992* or via easements granted over Crown lands or pastoral leases.

There are a range of processed under the *Native Title Act 1993* (Cth) which, if relevant, can validate future acts associated with pipelines. This may include processes under section 24KA (facilities for services to the public), or section 24MD (acts that pass the freehold test) or the parties may negotiate an indigenous land use agreement. Whether a licence is required (or not) under the *Energy Pipelines Act 1981* - a proponent will need to secure tenure for the pipeline (including to ensure access and safety of the pipeline).

b. Will an unlicensed pipeline of this kind remain a 'future act' for the purposes of the Native Title Act, and if not, what is the justification for that outcome?

DME reiterates its position that through amendments proposed to the *Energy Pipelines Act 1981* by the Bill that there is no intention to circumvent the requirements of the *Native Title Act 1993* (Cth). The processes that will need to be complied with, to validate certain future acts, are varied and depend on a case-by-case assessment at the time.

Application for a licence

5. Clause 14 seeks to make a range of amendments to section 13 of the Pipelines Act relating to the application for a licence, including introducing a new requirement to publish a notice on the Department's website, the Gazette and a relevant daily newspaper.

a. Environment Centre NT submitted that the new requirement to publish notice of a pipeline licence application on the Department's website does not constitute genuine public consultation, as there is no requirement for the Minister to have regard to public views before granting a licence (Submission 17, p. 3). Was consideration given to including mandatory consultation requirements in the Bill, and why were they not included?

The amendments proposed to the *Energy Pipelines Act 1981* do not change the established pipeline licence application process, or consultation requirements. They will add a requirement to publish a notice of a licence application on the DME's website, in addition to the existing requirement to publish the notice in the Gazette and in a relevant daily newspaper. This amendment modernises the existing notification provision by requiring the notice to be published on the DME's website to ensure it is widely published across contemporary available mediums.

The notification must include a statement that a map showing the proposed route of the proposed pipeline may be examined at the place and time specified in the notice. An amendment to section 13 provides that the place may be a website or other publicly accessible electronic format, which will allow the map to be examined online rather than having to physically attend a location to view it.

Consultation requirements remain unchanged, with affected parties notified of the licence application and given a period of 28 days during which to submit to the Minister representations or comments in relation to the grant of the licence. The Minister must consider any representations or comments submitted in response to the notice before granting the licence.

The list of affected parties comprises relevant local government councils, owners and occupiers of relevant land, registered native title claimants and registered native title bodies corporate in relation to affected land or waters and representative Aboriginal/Torres Strait Islander bodies in relation to the affected land or waters unless the grant of the licence is not a future act.

Determining the most appropriate location and route of a pipeline is a highly technical process that must be informed by detailed safety, engineering feasibility, environmental, cultural and heritage considerations, legal constraints, and cost. Therefore, direct consultation with affected parties, rather than mandatory public consultation, continues to be the preferred option for identifying concerns and bringing matters to the Minister's attention before the Minister decides on an application.

Fit and proper person

6. Proposed section 4B sets out matters the Minister must have regard to in considering whether a person is, or is not, a fit and proper person to hold a permit or licence under the Pipelines Act, including any other matter the Minister considers to be relevant. The Committee notes this aligns with provisions in other legislation and formalises a departmental policy that has been in place since 2019.

a. What types of matters may be considered 'relevant' under proposed section 4B(1)(c) when determining whether a person is a fit and proper person?

Other proposed amendments to the *Energy Pipelines Act 1981* will require the Minister to be satisfied that a person is a fit and proper person to hold a pipeline permit or licence. Proposed section 4B sets out the matters to which the Minister may have regard in determining whether that satisfaction is met.

Section 4B(c) provides the Minister with discretion to consider any additional matters beyond those expressly prescribed where they are considered relevant to a particular assessment. This inclusion is consistent with the fit and proper person tests within the *Environment Protection Act 2019* and the *Mineral Titles Act 2010*. It means the Minister is not restricted to considering only the listed matters but could consider unexpected or new matters that might arise and become relevant after the amendments are in place.

b. Will any guidelines be developed to inform the Minister's discretion?

While no separate guidelines are proposed, the matters prescribed in proposed section 4B, together with the information required to be disclosed through the comprehensive application form to be developed and published on DME's website, will provide a clear and structured framework to inform the Minister's discretion.

Pipeline management plans

7. Proposed section 18A provides that a pipeline management plan is a plan prepared by a pipeline licensee that demonstrates to the Minister that a pipeline will be designed, constructed, operated, modified and decommissioned in accordance with 'good industry practice' and the standards specified in the plan to ensure the integrity of the pipeline is maintained throughout its operating life and the pipeline is appropriately decommissioned.

a. What does 'good industry practice' mean in the context of proposed section 18A and which industry standards may a pipeline management plan specify?

Good industry practice is one of a series of similar terms used by industry and regulators in Australia and throughout the world. For example, section 87 of the *Energy Resources Act 2000* (SA) specifies that licensees must carry out regulated activities with due care and in accordance with good industry practice.

In petroleum legislation including the *Petroleum Act 1984* (NT), the *Offshore Petroleum and Greenhouse Gas Storage Act* (Cth) (OPGGSA), the *Petroleum and Geothermal Energy Resources Act 1967* (WA) the term 'good oilfield practice' is used to mean all the things that are generally accepted as good and safe in the carrying out of exploration for petroleum or the recovery of petroleum. The OPGGSA also uses the term 'good processing and transport practice' to mean all the things generally accepted as good and safe in the processing, conveyance, transport and storage of petroleum and the preparation of petroleum for transport.

Good industry practice are those practices which can reasonably and ordinarily be expected from a skilled and experienced person or organisation engaged within the pipeline industry. The term provides coverage of areas, which may not necessarily be included in standards such as the licensee's performance in areas such as competency levels, management systems, as well as the characteristics of the organisation such as the carefulness, prudence, efficiency, foresight and timeliness exhibited to safely and effectively manage the construction and operation of a pipeline.

It also provides a catch all for practices that are not captured in standards whether because they are new, have not been incorporated yet or potentially the practice is not considered systemic enough to be included. In this case industry experience in the use of the practices, risk assessments (as part of the pipeline management plan (PMP)) and the principle of ALARP (reducing risk to as low as reasonably practicable) are relied upon to approve and regulate their use.

The key industry standard which a PMP will specify is Australian Standard 2885: Pipelines – Gas and liquid petroleum (AS 2885), which is a series of technical standards for high-pressure pipelines. The AS 2885 series of standards is considered the governing standard for pipelines in Australia. It includes:

1. AS2885.0: Pipelines – Gas and liquid petroleum, Part 0: General Requirements
2. AS2885.1: Pipelines – Gas and liquid petroleum, Part 1: Design and construction
3. AS2885.2: Pipelines – Gas and liquid petroleum, Part 2: Welding
4. AS2885.3: Pipelines – Gas and liquid petroleum, Part 3: Operation and maintenance
5. AS2885.4: Pipelines – Gas and liquid petroleum, Part 4: Submarine pipeline systems
6. AS2885.5: Pipelines – Gas and liquid petroleum, Part 5: Field pressure testing
7. AS2885.6: Pipelines – Gas and liquid petroleum, Part 6: Pipeline safety management

An engineer within the DME is a Northern Territory jurisdictional representative on the Standards Australia ME-038 Main Technical Committee responsible for the AS2885 suite of standards. This committee consists of representatives from both industry and government and maintains the standards to ensure they remain fit for purpose and incorporate technical advancements as required.

b. Will policy guidance be developed on pipeline management plans to accompany the amendments made by the Bill?

The *Energy Pipelines Regulations 2001* (the Regulations) sets out processes in relation to the creation, submission and acceptance of PMPs and includes offences for conducting any construction, operation, modification or decommissioning activities without an accepted PMP in place, or in contravention of an accepted PMP. The Regulations set out the content requirements for a PMP; require certain matters to be agreed by the Minister and included in the PMP (such as the scope of validation for certain activities); and set out requirements for the revision of a PMP.

All operating pipelines in the NT have an approved PMP in place, which authorised the construction, commissioning and ongoing operation of the pipeline. Part 4 of the *Energy Pipelines Regulations 2001* (Regulations) is dedicated to PMPs and includes submission and content requirements. A PMP may be submitted for one or more stages for the pipeline, including design and construction; operation; modification; and decommissioning. Recent past practice has seen licensees submit separate PMPs for the design and construction phase and the operational phase.

PMPs have been a requirement since the Regulations came into force in 2001. Changes to the Regulations are expected to occur, mainly to facilitate changes proposed in the Bill to improve the regulatory process, for example, the removal of duplicate approval processes. DME has assessment criteria in place for PMPs for compliance with the Regulations and AS 2885. Currently, a guideline is being developed that will be published under proposed new section 67E of the Pipelines Act to provide additional guidance to licensees in the development of future PMPs.

8. Proposed section 18A(3) provides that regulations may provide for the circumstances in which the Minister may, on conditions specified by the Minister exempt a licensee from, or modify, a requirement under a pipeline management plan.

a. Environment Centre NT submitted these exemptions and modifications could result in pipelines operating with no effective regulatory oversight (Submission 17, p. 3). What is the intended scope of this exemption and modification power, and what safeguards will prevent its use in ways that render pipeline management plans meaningless?

The intent of the regulation-making power included in proposed section 18A(3) is to allow a process to be designed and incorporated into the regulations for licensees to apply to the Minister for approval to conduct a pipeline activity that is not currently included in the accepted PMP, or in a way that differs from the accepted PMP. This will provide flexibility to ensure that new or one-off activities can be approved if it is necessary to undertake the activity and it is not feasible to update the plan prior to the activity being undertaken.

The process will be modelled on the equivalent process within the *Petroleum Regulations 2020* (Petroleum Regulations) that allows petroleum interest holders to apply to the Minister for approval to conduct an activity that is not covered by an approved well operations management plan (WOMP) or approved petroleum surface infrastructure management plan (PSIP) or in a way that differs from the approved WOMP or PSIP.

In line with the process established under the Petroleum Regulations, the licensee will need to provide the Minister with comprehensive information about the proposed activity and how any associated risks have been identified, evaluation and how they are to be eliminated or controlled.

Relevant approval criteria will be set out in the regulations to ensure the Minister can only approve the activity being conducted if satisfied that the risks associated with the activity have been eliminated or reduced to as low as is reasonably practicable and acceptable; the activity is either a one-off occurrence or the first time the activity has been identified or considered; and it is not feasible or warranted to update the PMP to incorporate or address the activity before it is undertaken.

The Minister will be able to approve an exemption or modification under the regulations subject to conditions and impose time limits on approvals.

As the process will be incorporated into regulations, the proposed regulations will be considered through Executive Council processes and must be tabled in the Legislative Assembly within 6 Sitting days after the making of the regulations. The regulations are then subject to review by the Legal and Constitutional Affairs Committee and may be subject to a disallowance motion in the Legislative Assembly.

Entering land

9. Clause 30 seeks to insert new Parts 5B, 5C and 5D into the Pipelines Act and clause 83 inserts new Part II, Division 6B into the Submerged Lands Act. These new parts provide for compliance matters, including the entry of persons on land for the purpose of complying with directions issued under the Acts.

a. Proposed sections 58V(3)(g) and 137L(3)(g) provide that inspectors may authorise a person to assist an inspector in the performance or exercise of the inspector's functions or powers under the Pipelines Act or the Submerged Lands Act. Will persons assisting an inspector be authorised to exercise enforcement powers (including using force), and if so, what qualifications, training, or safeguards will apply?

The provisions in Clause 30 and 83 of the Bill that allow an inspector to authorise a person to provide assistance in the performance or exercise of an inspector's function or powers do not convey any powers on the assistant and would not allow the assistant to exercise enforcement powers – such as issuing directions.

As an example, the inspector may use this power to authorise an expert or tradesperson to undertake a task on the land or premises entered under the entry provisions. This may include assisting an inspector to bring equipment or materials onto the land or premises or assisting them to operate or test equipment.

The use of reasonable force is not an enforcement power and has limited application. It can only be used when an inspector is exercising an entry power, or a power that can be used after entry that is set out under section 58V(1) and (2) of the Pipelines Act or section 137L(1) and (2) of the Submerged Lands Act. Reasonable force in this context means causing the least amount of damage to property.

Examples of using reasonable force may extend to forcing open a door, or a locked filing cabinet or opening a gate. An inspector may authorise a locksmith to assist them to gain access to a locked filing cabinet to ensure the least amount of damage to property is caused through the exercise of their powers.

10. Proposed sections 58ZD enables inspectors to exercise the power to enter land or premises despite the land or premises being Aboriginal land, or the inspector not holding a permit under the Aboriginal Land Act 1978 to enter or remain on Aboriginal land.

***a.* The Northern Land Council and Central Land Council submitted that this entry power may risk damage to sacred sites and cultural heritage and a permit to enter or remain on Aboriginal Land should be required unless entry is required in an emergency (Submissions 16 and 20). What is the rationale for enabling inspectors to enter land or premises despite not holding a permit under the Aboriginal Land Act 1978 to enter or remain on Aboriginal land?**

DME respects that access to Aboriginal land is governed by the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (ALRA) and the *Aboriginal Land Act 1978* (NT) and generally requires a permit to be issued by the relevant Land Council.

The proposed amendments to the Pipelines Act have been included to account for circumstances which may require authorised inspectors to enter Aboriginal land to perform their functions and exercise their powers, as well as address an emergency situation.

DME believes this is crucial to ensure the integrity of pipelines and ultimately, public safety. This provision is consistent with inspector powers under the *Petroleum Act 1984* and officer powers under the *Environment Protection Act 2019*.

Proposed section 58R will provide that authorised inspectors can only be appointed under the Pipelines Act by the CEO of DME, the department that holds regulatory responsibility for the Pipelines Act. Authorised inspectors appointed under this Act are likely to be highly specialised pipelines or petroleum engineers who have the technical expertise to ascertain compliance with approved pipeline management plans. Subdivision 2 of the Bill details the specific functions and powers that are necessary for inspectors to ensure authorised activities can be regulated appropriately.

Urgent entry to land may be required to effectively investigate an alleged contravention, even in the absence of an emergency. By way of example, proposed section 58U(c) establishes that an inspector may need to secure compliance with the Act or investigate contraventions of the Act.

In developing the Bill, consideration was specifically given to section 70(2A)of the ALRA which sets out defences to the offence of entering or remaining on Aboriginal land, recognising that 'performing functions, or exercising powers, under… a law of the Northern Territory'; 'performing functions or exercising powers as a …Northern Territory officer'; and 'in accordance with this Act or a law of the Northern Territory' as legitimate reasons for entering and remaining on Aboriginal land. DME recognises the defences to the offence specified in the ALRA; and considers the proposed provision at section 58ZD (in not requiring a permit under the *Aboriginal Land Act 1978* for authorised officers undertaking official duties) is a consistent policy position to what already exists in ALRA and other NT legislation.

b. **What specific consideration was given to the interaction between these new entry powers and the protections under the Aboriginal Land Rights (Northern Territory) Act 1976 (Cth), the Northern Territory Aboriginal Sacred Sites Act 1989 and the Heritage Act 2011?**

Proposed section 58ZD has been drafted to align with section 70(2)(e) of the ALRA and other relevant legislation which also foreshadows that access onto Aboriginal land may be required to perform functions or exercise powers. Section 58ZD is essentially identical to section 89H of the *Petroleum Act 1984* and section 192B(7) of the *Environment Protection Act 2019*.

Alignment with these two acts is considered important, because of the high likelihood that regulators administering these acts would be required to access land together, should a situation involving energy pipelines and petroleum infrastructure eventuate.

It is noted that while the Bill provides inspectors with the power to enter land, it also imposes strict limits on what land can be entered, and what inspectors may do once on that land. For example, proposed section 58V(1) establishes that an inspector may only enter the area comprising a current or former pipeline permit or licence, or land that has or may become affected by pipeline operations or activities.

These limitations mean that, in the unlikely event that access to Aboriginal land is required, the only land that can be accessed by inspectors is likely to have been the subject of site assessments conducted under the *Northern Territory Aboriginal Sacred Sites Act 1989* (Sacred Sites Act) and the *Heritage Act 2011* (Heritage Act), and in any case is likely to have already been disturbed as a result of pipeline construction, operation and ongoing maintenance.

Inspectors employed by DME are aware and respectful of the important protections afforded by the Sacred Sites Act and the Heritage Act. Prior to conducting any site visit, known sacred sites and heritage-declared sites, objects, and nominations under the Heritage Act will be considered for the purpose of avoidance.

c. **The Northern Land Council submitted that no justification has been provided for overriding the protections in the Aboriginal Land Rights Act (Northern Territory) 1976 (Cth), that ordinarily require persons entering Aboriginal land to give notice and obtain a permit, in circumstances other**

than an emergency. Can the Department provide that justification, and confirm whether the Land Councils were consulted about this provision before the Bill was introduced?

The justification for allowing inspectors to enter Aboriginal land without a permit granted under the *Aboriginal Land Rights (Northern Territory) Act 1976* is set out in the answer to question 10a.

As detailed in Question 1, NLC and CLC were provided a briefing on the Bill, which included advising the Land Councils that inspector powers and functions consistent with those in the *Petroleum Act 1984* are proposed for inclusion in the Pipelines Act.

Reviewable decisions

11. Proposed section 58ZR provides that an affected person for a reviewable decision may apply to the Northern Territory Civil and Administrative Tribunal for review of the relevant decision.

Background – merits review

Section 58ZR provides for the merits review of reviewable decisions.

Merits review is the process by which a person or body other than the original decision-maker reconsiders the facts, law and policy aspects of the original decision and determines what the correct and preferable decision is. Merits review may result in the reviewer confirming the original decision, or setting it aside and replacing it with a different decision.

The associated Schedule lists the decisions that are reviewable (scope of decisions) and who can seek review of those decisions (standing).

The scope of the reviewable decisions is limited to:

- Administrative decisions made by the Minister that will result in an adverse outcome for an applicant, permittee or licensee e.g. refusal to grant, renew or vary a licence.
- Regulatory decisions made by CEO to issue a compliance direction or issue a stop work notice
- Regulatory decisions made by an authorised inspector to issue a direction or direct work to stop within a pipeline corridor
- A decision under this Act or the regulations that is prescribed by regulation (currently none are prescribed).

Standing is provided to applicants, permittees and licensees for listed administrative decisions and, in the case of regulatory decisions, the person to whom the direction or notice was issued. This approach was taken to ensure procedural fairness for those parties who are the most directly affected by a decision.

a. Proposed section 58J provides the Minister may, by written notice served on a licensee, give the licensee directions as to any matter in respect of which regulations may be made under the Pipelines Act. Why are ministerial directions issued under proposed section 58J not reviewable decisions for the purposes of proposed section 58ZR?

The Bill includes a range of compliance and enforcement mechanisms, to address non-compliance that will be selected and used as appropriate in the circumstances. This enables a progressive approach to managing compliance. For example, where non-compliance is minor in nature, lower-order tools such as inspector directions may be used to

achieve compliance. Conversely a ministerial direction is a powerful regulatory tool that can be used to urgently achieve compliance.

Section 58J enables the Minister to issue broad directions that may only be deemed necessary when lower order tools, including directions made by an inspector, or compliance directions issued by a CEO, have been ineffective in securing compliance. A hypothetical example of a ministerial direction could include a direction for a pipeline company to investigate and report on the integrity of certain pipelines, and urgently undertake all necessary remedial works, including the repair or replacement of any section of pipe deemed to be defective.

It is not appropriate that a Minister's decision to issue a direction is made subject to review given the importance of this regulatory tool. It is noted that a Ministerial direction issued under the *Petroleum Act 1984* is not a reviewable decision, and including it in the Pipelines Act would create inconsistency between the legislative schemes.

b. The Central Land Council submitted that landowners should be included as affected persons to enable them to apply for review of decisions that affect them. Has consideration been given to including landowners as affected persons for relevant reviewable decisions? What would be the implications of such an expansion in standing?

CLC are suggesting the provision of standing to landholders to apply for a review of decisions that affect them. The implications of such an expansion in standing would be significant and is not considered appropriate.

Expanding rights to seek merits review of decisions to landholders would create uncertainty for industry and the Government, risking project delays and disruption to the decision-making process, both of which could increase costs and deter investment. In addition, the merits review process itself can incur considerable costs through requirements to obtain legal advice, compile document briefs and attend hearings.

It is not considered appropriate that decisions to grant pipeline licences are made subject to third party merits review. By this stage in the development process, proponents will have made significant investment in determining and negotiating a suitable pipeline route, potentially across many land parcels and tenures. It is noted that the application process for a pipeline licence includes a requirement to notify and invite affected persons to submit representations and comments to the Minister that must be considered prior to the grant of a licence. In this way, affected persons, including landholders and the relevant Land Councils have the opportunity to raise concerns with the Minister before a decision is made to grant the licence.

It is also noted that in 2025 the Northern Territory Government removed third party merits review from the *Petroleum Act 1984*, the *Water Act 1992* and the *Planning Act 1999* as a means of providing greater certainty to industry and encouraging economic investment in the Territory. To include third party rights of review in the Pipelines Act would be inconsistent with recent government policy and subsequent legislative amendments.

Retention licences

12. Part 3 of the Bill seeks to amend the *Petroleum Act 1984* to modernise the framework for retention licences. The Central Land Council submitted that amendments to the retention licences framework may disrupt cultural and spiritual connections to country and present risks to sacred sites.

a. How will the proposed amendments operate in conjunction with the Native Title Act 1993 (Cth) and the Aboriginal Land Rights (Northern Territory) Act 1976 (Cth) to ensure that the rights and interests of traditional owners and native title holders are appropriately protected?

The proposed amendments in relation to retention licences are a petroleum tenure function. Retention licences are a progressive form of tenure issued after exploration permits and before a production licence under the *Petroleum Act 1984*. None of these forms of tenure allow a petroleum company to undertake regulated activity such as a seismic survey, creating a well pad, drilling a petroleum well, hydraulicly fracturing a well or producing gas. Regulated activities can only occur after approvals for an Environment Management Plan or a Well Operations Management Plan have been obtained. These activities also require Sacred Sites Clearances from the Aboriginal Areas Protection Authority.

All 3 forms of petroleum tenure require either a native title agreement or consent from traditional owners (via land councils or a prescribed body corporate) before the tenure can be granted to a petroleum company. To obtain this agreement or consent, a petroleum company meets with native title holders or traditional owners to talk about their intended use of the land and to understand where areas may be deemed sensitive or restricted due to cultural sensitivities. Compensation provisions also form part of these agreements and consents.

Once petroleum tenure is granted, petroleum companies continue to meet with native title holders or traditional owners to discuss their annual work programs, future plans for development and continue to engage with aboriginal people about the lands they are operating on. These frameworks, prescribed under the *Native Title Act 1993* and the *Aboriginal Land Rights (Northen Territory) Act 1976*, in conjunction with other legislation like the *Petroleum Act 1984* and Sacred Sites protections, ensure the rights and interests of traditional owners and native title holders are appropriately protected.

Carbon capture and storage

13. Does the Department intend to develop any policy guidance on carbon capture and storage (CCS), and will these be subject to public consultation?

The current suite of industry led CCS projects that will be enabled by this Bill are proposed in Commonwealth waters and are subject to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006 (Cth)*, the Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2024 and the Offshore Petroleum and Greenhouse Gas (Environment) Regulations 2023 and their associated guidelines. These pieces of legislation are administered by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA).

There is currently no regulatory framework in place for onshore CCS in the NT. A separate body of work will be required, if there was policy authorisation from the NT Government to develop a regulatory framework for CCS activities onshore in the Northern Territory.

14. Environment Centre NT submitted that CO_2 pipelines present a materially different and more serious risk profile than natural gas pipelines, and the Bill does not contain any specific provisions that address the technical complexities and risks associated with CCS (Submission 17, p. 3).

a. What specific technical standards, setback distances, emergency response requirements and public safety zones will apply to CO_2 pipelines licensed under the amendments made by the Bill, and where will these be set out?

A PMP is the key permissioning and regulatory tool for all stages across the lifecycle of a pipeline. The *Energy Pipelines Regulations 2001* sets out the requirements for a PMP and establishes offences for constructing or operating a pipeline without an accepted PMP in place, or for non-compliance with an accepted PMP.

A PMP must include a description of the Australian Standards and international standards applied, or that will be applied, for the design, construction, operation, modification and decommissioning of a pipeline. It must also include a description of the safety policy for the

pipeline and a description of the pipeline management system for the pipeline, which includes systems and measures to identify, evaluate and manage risks – and to assess their effectiveness to ensure continual improvement.

The Australian Standard 2885: Pipelines – Gas and Liquid Petroleum (AS 2885) series of standards provides guidance on the construction, operation and decommissioning of pipelines. AS 2885 has been adopted by all States and Territories across Australia since 1994 to provide a comprehensive technical standard that is applied consistently across Australia. Appendix T of AS 2885.1: Guidelines for Pipelines for the transport of CO_2 provides technical guidance for the design of pipelines that convey CO_2.

The AS 2885 series of standards are used by DME to assess proposed PMPs and assist with the regulation of pipelines in the NT. In regard to the concerns raised, AS 2885 considers:

- CO_2 release and dispersion
- CO_2 and health impacts
- the pipeline route, location classification and high consequence areas

Section 11 of AS 2885.3 provides technical guidance on the requirements for preparation for and response to emergency events related to pipelines.

It should be noted that AS 2885 is overseen by the Standards Australia ME-038, Main Technical Committee, which keeps the standard under review, and makes revisions as required to incorporate technical and industry advancements, including the transmission of new substances through high-pressure pipelines.

b. Can the Department outline what internal regulatory expertise, capability and resources it currently has in relation to CO_2 transport and storage, and what additional resources, if any, are being sought before any CO_2 pipeline licence is granted?

DME has 3 senior specialist engineer roles dedicated to pipelines, with support from a monitoring compliance team consisting of four staff to assist in managing the regulation of pipelines.

DME has sufficient expertise and resourcing for the management of pipeline integrity to regulate CO2 transmission through pipelines and no additional resources will be required at this stage.

It is noted that the storage of CO2 is not within the scope of the Bill, which only provides for the transport of CO2 through pipelines.

15. The Northern Land Council submitted that CCS should be a standalone regulatory regime, rather than being incorporated into existing legislation (Submission 20, p. 2).

a. Can the Department explain why a standalone regulatory regime specific to CCS was not developed?

A standalone CCS regulatory regime for the NT was not developed as that is not the purpose of the Bill.

The Bill enables the transmission of carbon dioxide through two Acts that govern NT pipeline legislation. The Bill will allow the transmission of carbon dioxide through pipelines in the NT for ultimately its storage offshore in geological formations in Commonwealth waters. This storage of liquid carbon dioxide offshore is regulated by the National Offshore Petroleum Safety and Environmental Management Authority, the National Offshore Petroleum Titles Administrator and the Australian Government.

There is currently no regulatory framework in place for onshore CCS in the NT. A separate body of work will be required, if there was policy authorisation from the NT Government to develop a regulatory framework for CCS activities onshore in the Northern Territory.

Currently the Commonwealth, South Australia and Western Australia *(yet to commence)* have CCS provisions merged within their respective petroleum and energy legislation. Victoria and Queensland have dedicated (standalone) CCS legislation. South Australia and Victoria have current onshore research and operational CCS activities underway. Queensland has no current projects underway. The Gorgon CCS project in Western Australia is currently administered under the *Barrow Island Act 2003.*

Other

16. The Northern Land Council submitted their concerns that the new definition of regulated substance exposes Aboriginal people and their lands and waters to risks from novel technologies, without adequate consultation. They recommended that the Bill be amended to require a permittee, licensee or applicant to notify the representative body of any material change to the risk to people, sacred sites or cultural heritage posed by a variation to the regulated substance conveyed under a pipeline licence (Submission 20, pp. 2, 4-5).

a. Can you comment on the Northern Land Council's concerns and suggestion?

Although a substance is prescribed in regulation for conveyance in a pipeline, a pipeline operator must seek a number of regulatory approvals before constructing and operating a new pipeline or varying the substance that will be conveyed through an existing pipeline. These approvals are required for a range of factors, including pipeline integrity, sacred sites, cultural heritage and environmental protection. This is undertaken to reduce risks to as low as reasonably practicable.

These approvals may include:

- referral to the NT Environment Protection Authority
- sacred sites clearances from the Aboriginal Areas Protection Authority (and/or Land Councils)
- Ministerial consents to construct and operate the pipeline and acceptance of pipeline management plans to manage the integrity of a pipeline.

The *Energy Pipelines Act 1981* protects the environment and the community by requiring the effective management of pipeline integrity, ensuring that regulated substances transported through pipelines are safely contained and not released.

Specifically, amendments to section 39 of the *Energy Pipelines Act 1981* proposed by this Bill will impose an ongoing duty for licensees to identify any hazards or risks that might compromise the integrity of the pipeline and implement and maintain measures to eliminate or control any hazard or risk that might compromise the integrity of the pipeline, with an associated offence for non-compliance with the duty. It is further noted that any variation of the substance that is to be conveyed through the pipeline will require a revision of the accepted PMP; which will need to be assessed and accepted by the Minister before the substance can be varied.

As proponents are encouraged to directly engage with Land Councils, Traditional Owners and native title holders in relation to their projects, matters relating to consultation and notification can be addressed in terms of information provided during the project, or through any negotiated agreements reached between the parties to facilitate the pipeline.

Given these control measures to ensure any substance is suitable to be conveyed in a pipeline, mandatory notification is not deemed necessary when a change in regulated substance to be conveyed is proposed.

b. Will consultation occur, including with Traditional Owners, prior to an additional gas or other substance being prescribed by regulation as a regulated substance?

The regulated substances listed in the Bill captures substances that may be required to be conveyed through pipelines based on industry's predicted needs, however the ability to prescribe additional substances is included as a future-proofing mechanism. If an additional substance is proposed or identified as being required, DME will need to carefully consider any implications and undertake a comprehensive process to make an amending regulation to prescribe the additional substance.

That process may include consultation, which could depend on the type of substance and the circumstances of its proposed inclusion. As previously described, any proposed regulations would need to be considered through Executive Council processes and must be tabled in the Legislative Assembly within 6 Sitting days after the making of the regulations. The regulations are then subject to review by the Legal and Constitutional Affairs Committee and may be subject to a disallowance motion in the Legislative Assembly.