



Environmental
Defenders Office

Submission on Exposure Draft for the Legacy Mines Remediation Bill

18 September 2023

About EDO

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 30 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

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Acknowledgement of Country

The EDO recognises First Nations Peoples as the Custodians of the land, seas, and rivers of Australia. We pay our respects to Aboriginal and Torres Strait Islander Elders past, present, and emerging, and aspire to learn from traditional knowledge and customs so that, together, we can protect our environment and cultural heritage through both Western and First Laws. In providing submissions, we pay our respects to First Nations across Australia and recognise that their Countries were never ceded and express our remorse for the deep suffering that has been endured by the First Nations of this country since colonisation.

Executive Summary

Environmental Defenders Office (**EDO**) welcomes the opportunity to comment on the draft Legacy Mines Remediation Bill (**Legacy Mines Bill**).

In this submission, we identify several areas where we say the Draft Bill should be improved and strengthened. We make **12** detailed recommendations, summarised at **p 6**, as to how the legislation can be improved.

Our overall position is that the Legacy Mines Bill, along with the Environment Protection Legislation Amendment (Mining) Bill (**EP Mining Bill**) should not be introduced to Parliament until the most critical shortcomings are addressed. Public consultation on the draft Bills should be extended to give sufficient time for input into this crucial reform process. The short time period for public comment has meant EDO has been unable to comprehensively address all of the issues in each of the Bills. It has also prevented the extensive community consultation and engagement which should accompany a reform program of this magnitude.

We further urge the Territory government not to rush introduction of the legislation into the Territory Parliament in October, but to take the appropriate amount of time required to get this landmark reform right, so the new regulatory scheme can appropriately address the ongoing legacies of environmentally and culturally destructive mining practices in the Territory. This includes allowing sufficient time for consultation and, ideally, co-design of key aspects of the scheme with Aboriginal Territorians who are most affected by mining operations.

EDO has also provided a detailed submission on the Environment Protection Legislation Amendment (Mining) Bill. We recommend that the submissions be read together.

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Glossary

ALRA	<i>Aboriginal Land Rights (Northern Territory) Act 1976</i> (Cth)
CEO	Chief Executive Officer, DEPWS
DEPWS	Department of Environment, Parks and Water Security
DITT	Department of Industry, Tourism and Trade
EDO	Environmental Defenders Office
EP Act	<i>Environment Protection Act 2019</i> (NT)
EP Mining Bill	Environment Protection Legislation Amendment (Mining) Bill
Fund	Mining Remediation Fund
Legacy Mines Bill	Legacy Mines Remediation Bill
Mineral Titles Act	<i>Mineral Titles Act 2010</i> (NT)
Mining Licence	Environmental (mining) licence
Mining Minister	Minister for Mining and Industry, Northern Territory
MM Act	<i>Mining Management Act 2001</i> (NT)
Sacred Sites Act	<i>Northern Territory Aboriginal Sacred Sites Act 1989</i> (NT)
Water Act	<i>Water Act 1992</i> (NT)

Summary of Recommendations

Reform process overall and public consultation

1. Reform of the Territory's mining laws is absolutely imperative, but must not be rushed. There is a need to fundamentally improve and strengthen the EP Mining Bill and the Legacy Mines Bill (**Bills**) before they are introduced to Parliament.
2. Public consultation on the Bills should be extended to give sufficient time for Territorians, and especially Aboriginal Territorians affected directly by mining operations, to have input into this crucial reform process. Bills and explanatory materials should be available in First Languages, and proactive consultation should be done by the Northern Territory government in affected communities.

Process, decision-making requirements and scrutiny of the Minister's power to authorise remediation activities

3. The Legacy Mines Bill should include requirements, similar to the fit and proper person test included in the EP Mining Bill, for the Mining Minister's decision to authorise a person to carry out remediation works.
4. There should be review rights in the Legacy Mines Bill to ensure authorisations to carry out remediation works can be reviewed and by those directly affected, being landowners and Traditional Owners.
5. Remediation activities carried out pursuant to the Legacy Mines Bill should be subject to appropriate environmental licensing and approval processes, including a requirement that a person carrying out remediation works also hold a Mining Licence.
6. The Legacy Mines Bill should include contemporary statutory definitions and environmental protection and management principles.

Suspension of statutory approvals

7. The Legacy Mines Bill should not include a provision allowing the Mining Minister to authorise someone to carry out remediation activities without obtaining a statutory approval, if prescribed in regulation, which would ordinarily be applicable to those activities.

Notification processes for land access

8. The notification process should be strengthened by:
 - a. Expanding the definition of "owner" to ensure all relevant persons are required to be notified of proposed remediation works; and
 - b. Requiring particular details of the proposed remediation be included in the notice.

Aboriginal ownership and custodianship over land

9. Appropriate permits under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (**ALRA**) must be obtained before entering Aboriginal land.
10. Remediation works must be developed and co-designed with Traditional Owners who should be involved in the rehabilitation of legacy mine sites on their Country.
11. Free, prior and informed consent should be obtained for entry to land and the carrying out of remediation works on Country.

Mining Remediation Fund and public reporting

12. The Mines Legacy Bill should be amended to make the administration of the Mining Remediation Fund (**Fund**) transparent through:
 - a. an expansion of the requirement to publish expenditure of funds to ensure all legacy mines and expenditure under the Fund are included;
 - b. A public register of all legacy mine sites and features.

1. Introduction

EDO welcomes the opportunity to comment on the Legacy Mines Bill.

The **Legacy Mines Bill** addresses the management of “legacy mine sites” and “legacy mine features” – mine sites and mine infrastructure which have been abandoned. The Legacy Mines Bill also carries over and expands upon provisions that are currently in the *Mining Management Act 2001* (NT) (**MM Act**) pertaining to the Mining Remediation Fund (**Fund**), including the requirement that operators pay an annual levy equivalent to 1% of their mining security which can be put towards the fund.¹ The MM Act is to be repealed in its entirety as part of the reforms.

The Territory is littered with legacy mine sites and mining infrastructure – mines which have operated in the past but have been abandoned without the land being cleaned up and rehabilitated. Some of these sites continue to undergo complex and ongoing remediation and rehabilitation processes. By their own definitions, the Department of Industry, Tourism and Trade (**DITT**) estimates that there are over 900 “legacy mine sites” and “legacy mine features” in the Territory.²

New statutory definitions provide that:

- a *legacy mine site* is an area of land in which mining activities have been carried out, but there is no mining security held in relation to those activities and no current mineral lease, extractive mineral lease or permit or mineral authority;³ and
- a *legacy mine feature* is any plant, infrastructure or feature which was built or used to carry out a mining activity but is no longer used for that purpose, and in relation to which no mining security is held.⁴

Unlike the environmental licensing system contained within the EP Mining Bill, the Minister for Mining and Industry (**Mining Minister**) and **DITT** retain responsibility for the administration of the Legacy Mines Bill.

There is a fundamental need to deal appropriately with legacy mine sites and features, which are littered across the Territory, and to remedy ongoing environmental harm caused by sites for which there is no current operator and no security bond. This is especially the case for the most significant and environmentally destructive abandoned mine sites in the Territory, such as the Rum Jungle uranium mine site, near Batchelor, and the Sandy Flat (former **Redbank Mine**) in the Gulf of Carpentaria. Rum Jungle has been subject to multiple unsuccessful remediation attempts,⁵ and

¹ See MM Act, ss 46A-45B and Legacy Mines Bill, ss 22-23.

² ‘Have your say the Legacy Mines Remediation Draft Bill’, *Northern Territory Government, Department of Industry, Tourism and Trade* (Web Page, 29 August 2023) < <https://industry.nt.gov.au/news/2023/august/have-your-say-the-legacy-mines-remediation-draft-bill>>.

³ Legacy Mines Bill, s 4.

⁴ Legacy Mines Bill, s 5.

⁵ Sara Everingham, Rum Jungle uranium mine rehabilitation jeopardised by NT Resources Department, traditional owners warn’ *Australian Broadcasting Corporation* (online, 3 April 2018) < <https://www.abc.net.au/news/2018-04-03/uranium-mine-rehabilitation-jeopardised-nt-resources-department/9612056>>.

DITT recently awarded a tender to plan for remediation works at Redbank despite the mine being operational for only two years in the 1990s.⁶

2. General observations on the Legacy Mines Bill

EDO is deeply concerned by the lack of detail in the Bill and the amount of discretion which rests with the Mining Minister and DITT, including an ability to ‘switch-off’ other regulatory approvals and a lack of fundamental requirements and limitations around the remediation activities undertaken and the administration of the Fund. Amongst other things, the Legacy Mines Bill also misses a crucial opportunity to involve Aboriginal Territorians in remediation operations and outcomes, and in fact appears to disregard Aboriginal ownership and custodianship entirely in its frameworks.

Whilst this Bill deals with a specific category of mining operation, we note that there are ongoing environmental, social and cultural legacies associated with mine operations which have ceased, across a variety of tenure and lease arrangements, and irrespective of whether mine sites are abandoned, in a state of unfinished or unsuccessful remediation or rehabilitation or have been left in a ‘care and maintenance’ state.⁷ The Territory needs rigorous laws to successfully manage these legacies, and vitally, to regulate the industry more effectively to prevent these dangerous legacies occurring in the first place.

Accordingly, we reiterate the detailed recommendations we make in our submission on the EP Mining Bill, especially in relation to closure planning,⁸ and with respect of mines in care and maintenance.⁹ Without effective management of care and maintenance mines, there is a risk of such mines being abandoned altogether, sometimes with significant unsecured environmental and financial liabilities.¹⁰ If operators are not required to have fully costed closure plans, from the outset, with financial assurances, then the risk of the Territory being saddled with substantial liabilities only magnifies. We do not want to create the policy conditions for another Rum Jungle or another Redbank Mine as we move into a new phase of mining operations in the Territory.

We further cross-reference the recommendations in our submission on the EP Mining Bill in relation to mining security bonds, noting that the rigour with which mining security bonds are calculated to capture the rehabilitation requirements of mine sites has a direct impact on the size of the Fund.

We urge that the passage of both Bills be delayed until the framework is sufficiently strong and rigorous to regulate the industry effectively and manage its environmental impacts across the board.

⁶ ‘Tender Details’ *Quotations and Tenders Online* (Web Page) <
<https://tendersonline.nt.gov.au/Tender/AwardedDetails/21560>>.

⁷ See Charles Roche and Simon Judd, *Ground Truths: Taking Responsibility for Australia’s Mining Legacies* (Report, 20 June 2016) 7.

⁸ EDO’s Submission on the EP Mining Bill (18 September 2023), Recommendations 5-11.

⁹ *Ibid*, Recommendations 25-30.

¹⁰ M Pepper, ‘Care And Maintenance A Loophole or Lifeline? - The Policy and Practice of Mines in Care and Maintenance in Australia’ (PhD Thesis, Murdoch University, 2020) 11.

Recommendations for the reform process overall and public consultation

1. Reform of the Territory's mining laws is absolutely imperative, but must not be rushed. There is a need to fundamentally improve and strengthen the EP Mining Bill and the Legacy Mines Bill (**Bills**) before they are introduced to Parliament.
2. Public consultation on the Bills should be extended to give sufficient time for Territorians, and especially Aboriginal Territorians affected directly by mining operations, to have input into this crucial reform process. Bills and explanatory materials should be available in First Languages, and proactive consultation should be done by the Northern Territory government in affected communities.

3. Specific recommendations

This part of the submission sets out our views and recommendations in relation to the following issues and themes relevant to the Legacy Mines Bill:

- Lack of process, decision-making requirements or ability to scrutinise the Minister's power to authorise remediation activities;
- Concern with the ability to suspend statutory approvals;
- Issues with land access arrangements
- Failure to recognise and respect Aboriginal ownership and custodianship over land where legacy mines and mine features are located; and,
- Lack of transparency around the administration of the Fund.

Lack of process, decision-making requirements or ability to scrutinise the Minister's power to authorise remediation activities

The Legacy Mines Bill allows the Minister to authorise a person to carry out a specified mining remediation activity on or in relation to a legacy mine site or feature, and grants the authorised person powers to enter land to carry out such activities under specified circumstances.¹¹ However, there does not appear to be any specific process or procedures around the Minister's decision to authorise a person to carry out specified remediation activities, other than the provisions in the Legacy Mines Bill around the purpose of the Fund (s 8(1)) and the (non-exhaustive) types of activities for which costs and expenses may be incurred within those statutory purposes (s 9).

Amongst other things, the Legacy Mines Bill does **not** contain:

- Provisions which require or ensure that any person selected to or directed to carry out remediation activities is a fit and proper person or has a proven track record for undertaking remediation work which meets best practice and is suitable for the site. This may be contrasted,

¹¹ Legacy Mines Bill, s 13.

for example, by the requirements for Mining Licence holders under the EP Mining Bill and for mining tenement holders under the *Mineral Titles Act 2010* (NT).¹²

- Factors or requirements against which the proposed remediation activity is assessed, or any conditions to which remediation activities must be subject, to ensure such activities are suitable and scientifically rigorous and any associated environmental impacts will be appropriately avoided, mitigated or offset. The Legacy Mines Bill does not require an authorised person to hold an environmental (mining) licence (**Mining Licence**) for such an activity.¹³ If other statutory approvals are also not required, such as an Environmental Approval (see further discussion **below**), then there will be no standards, conditions or factors against which a remediation activity will be assessed and managed. This is an unacceptable outcome.
- Public notification, consultation or review requirements. There is effectively no mechanism by which an authorisation to carry out remediation activities can be assessed, scrutinised or challenged under the Legacy Mines Bill, including by landowners and Traditional Owners for areas in which legacy mine sites and features occur. Again, this is even more concerning if other statutory approvals are not required for the works.

We further note that, despite purporting to deal with one of the most significant environmental issues in the Territory, the Legacy Mines Bill lacks any of the environmental protection and management principles which underpin the *Environment Protection Act 2019* (NT) (**EP Act**) and other pieces of environmental legislation, based on an extensive body of jurisprudence. For example, the EP Act requires decision-makers to consider and apply the principles of ecologically sustainable development when making a decision under that Act,¹⁴ as well as setting out an environmental decision-making hierarchy for decisions which affect the environment – in effect, to avoid, if not mitigate, if not offset adverse impacts to the environment.¹⁵

The Legacy Mines Bill would benefit from contemporary statutory definitions and decision-making factors which draw upon environmental protection and management principles.

Recommendations for process, decision-making requirements and scrutiny of the Minister’s power to authorise remediation activities

3. The Legacy Mines Bill should include requirements, similar to the fit and proper person test included in the EP Mining Bill, for the Minister’s decision to authorise a person to carry out remediation works.

¹² This may be contrasted with the requirement that mining operators be fit and proper persons in order to hold mineral titles under the *Mineral Titles Act 2010* (NT) (**Mineral Titles Act**), as strengthened by proposed s 70A (see EP Mining Bill), and see the proposed requirement in the EP Mining Bill for a fit and proper person test for environmental (mining) licence (**Mining Licence**) holders: EP Mining Bill, s 124R (EP Act).

¹³ Legacy Mines Bill, note for s 13(1), and see *Interpretation Act 1978*, s 55(4) as to examples or notes in the text of an Act.

¹⁴ EP Act, Pt 2, Div 1.

¹⁵ EP Act, Pt 2, Div 2. Note also broad definition of environment in s 6 of the EP Act.

4. There should be review rights in the Legacy Mines Bill to ensure authorisations to carry out remediation works can be reviewed and by those directly affected, being landowners and Traditional Owners.
5. Remediation activities carried out pursuant to the Legacy Mines Bill should be subject to appropriate environmental licensing and approval processes, including a requirement that a person carrying out remediation works also hold a Mining Licence.
6. The Legacy Mines Bill should include contemporary statutory definitions and environmental protection and management principles.

Concern with exception from environmental licensing and the potential to exclude other necessary statutory approvals

EDO is deeply concerned that the Minister may authorise a person to carry out a remediation activity under the Bill without obtaining a statutory approval of a kind prescribed by regulation that would ordinarily be required to carry out the activity.¹⁶ This is in addition to such persons not being required to hold Mining Licences under the new framework contained in the EP Mining Bill.

No draft Regulations have been provided for the Legacy Mines Bill, so we are unsure which statutory approvals will be prescribed. However, use of this power has the potential to substantially weaken the regulation of the Territory's legacy mine sites, including sites with a very high level of existing environmental degradation with complex remediation requirements.

Possible statutory approvals which could be "switched off" under the Legacy Mines Bill for future remediation activities include:¹⁷

- The **EP Act** – including the requirement that DITT or those contracted to undertake remediation work refer proposed actions for Environmental Impact Assessment (**EIA**) and an Environmental Approval where actions have the potential for significant environmental impact. The EP Act presently applies to remediation activities – for example, DITT currently holds an Environmental Approval for remediation works being undertaken at Rum Jungle Mine.¹⁸
- The *Northern Territory Sacred Sites Act 1989* (NT) (**Sacred Sites Act**), which ordinarily subjects a person to potential criminal sanction for carrying out works on or using a sacred site except where that work or use was carried out with, and in accordance with the conditions of an

¹⁶ Legacy Mines Bill, s 19.

¹⁷ The term "statutory approval" is not presently defined in the Legacy Mines Bill. However, we think it likely to be understood similarly to a term such as "statutory authorisation" in the EP Act, which is defined in that Act, in relation to an action, as "an approval, consent, authority, permit or other authorisation relating to that action that is provided for under an Act": EP Act, s 4.

¹⁸ Environmental Approval EP2023/022-001, pursuant to s 69 of the *Environment Protection Act 2019* <https://depws.nt.gov.au/_data/assets/pdf_file/0015/1216401/enviornmental-approval-ditt-rum-jungle-mine-site.pdf>.

Authority Certificate issued by the Aboriginal Areas Protection Authority (**AAPA**).¹⁹ AAPA grants an Authority Certificate where it is satisfied that the work or use could proceed without there being a substantive risk of damage or interference with a sacred site or where an agreement has been reached between Traditional Custodians and the applicant.²⁰

- The *Water Act 1992* (NT) (**Water Act**), which requires water extraction licences in relation to groundwater or surface water take, waste discharge licences, as well as permits to interfere with waterways or to undertake bore work.²¹ There are mandatory statutory factors which the Water Controller must take into account when granting such licences and permits,²² and in the case of proposed decisions to grant water extraction licences specifically, public notification and consultation requirements.²³

This power to exempt remediation activities from statutory approvals would remove the need to consider any stipulated factors which would go into these other statutory approval processes. It would also remove publication, public consultation and review requirements attaching to other approval processes. This would remove a crucial mechanism by which remediation processes can be scrutinised by those with interests in land, including Traditional Owners, as well as scrutiny by the public more broadly. The prospect of these kinds of statutory approvals not applying to remediation activities is deeply worrying and should not be endorsed in the Legacy Mines Bill.

This is even more concerning given the lack of environmental management conditions (or indeed, any conditions) which the Minister needs to impose when authorising a person to undertake remediation works, and the absence of public scrutiny over Ministerial authorisation.

Recommendations regarding the suspension of statutory approvals

7. The Legacy Mines Bill should not include a provision allowing the Minister to authorise someone to carry out remediation activities without obtaining a statutory approval, if prescribed in regulation, which would ordinarily be applicable to those activities.

Deficiencies in notification processes for landowners in relation to remediation actions

EDO is extremely concerned about the current land access processes which are contained within proposed s 13(3)-(5) of the Legacy Mines Bill. Outside of emergency situations, dealt with in s 13(3)(c), the provisions allow an authorised person to enter land or premises without consent if the person has given at least 10 business days prior written notice to the “owner or occupier of land or premises”. There is no statutory definition within the Legacy Mines Bill of “owner” or “occupier”.

¹⁹ See Sacred Sites Act, s 34.

²⁰ Sacred Sites Act, s 22(1).

²¹ *Water Act 1992* (NT) (**Water Act**), ss 41, 45, 57, 60.

²² *Water Act*, s 90.

²³ *Water Act*, Pt 6A.

We recommend that the definition of “owner” be strengthened to recognise a variety of tenure types and ownership, similar to the definition of “landowner” in the Mineral Titles Act, so all relevant persons are notified of remediation works.²⁴ There should also be express elucidation in the Legacy Mines Bill of the factors which must be set out in the notice to carry out remediation works, rather than leaving such matters to be prescribed by regulation.²⁵ This must include extensive details allowing relevant landholders to understand the nature, programme and impacts of the works being proposed, the relevant companies/contact persons, the dates, times and places of entry. This should be in addition to there being clear statutory approvals and licensing around the carrying out of remediation works.

There are also no dispute resolution or complaint mechanisms available. Such mechanisms are an essential for accountability in the event that remediation works are carried out inappropriately or in a manner which causes further environmental degradation.

Recommendations for notification processes for land access

8. The notification process should be strengthened by:
 - c. Expanding the definition of “owner” to ensure all relevant persons are required to be notified of proposed remediation works; and
 - d. Requiring particular details of the proposed remediation be included in the notice.

Failure to recognise or respect Aboriginal ownership and custodianship over land

Concerningly, the power to enter land and carry out remediation activities may also be exercised despite the land or premises being on Aboriginal land and the person not holding a permit under the *Aboriginal Land Act 1978* (NT) to enter or remain on Aboriginal land.²⁶ It is further an offence punishable by a maximum penalty of 200 penalty units (\$35,200) or 12 months imprisonment to engage in conduct that obstructs a person from carrying out an authorised remediation activity.²⁷ Mine remediation officers are similarly allowed to enter Aboriginal land without a permit to carry out their functions.²⁸

The Legacy Mines Bill should not abrogate existing rights that Aboriginal Territorians have to manage entry onto Aboriginal land. Nor should the Bill include the potential for criminal sanction with possible terms of imprisonment if someone tries to prevent entry where they would otherwise be entitled to do so. The Bill should not allow remediation activities to be authorised on land without consent or any statutory requirements to discuss remediation works with relevant

²⁴ See Mineral Titles Act, s 14.

²⁵ Legacy Mines Bill, s 13(5).

²⁶ Legacy Mines Bill, s 13(6). Aboriginal Land is not defined but is presumably intended to be referable to the definition in s 3 of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (**ALRA**). Aboriginal land is defined in the *Aboriginal Land Act 1978* (NT) by reference to the definition in ALRA: see s 3.

²⁷ Legacy Mines Bill, s 16.

²⁸ Legacy Mines Bill, s 27(3).

Traditional Owners, or indeed, with any landholder on whose land legacy mines and legacy mine features are located.

At a more fundamental level, most of the Territory is either Aboriginal freehold land under the *Aboriginal Land Rights (Northern Territory) Act 1978* (Cth) (**ALRA**), subject to native title rights under the *Native Title Act 1993* (Cth) or likely to be subject to native title. Aboriginal Territorians continue to be disproportionately affected by the impacts of mining activities, including ongoing impacts of abandoned mines, on their Country. The lack of provision in the scheme for the involvement of Aboriginal Territorians in remediation activities to be carried on their Country, and indeed, the total lack of transparency, engagement or scrutiny over remediation activities, shows a disregard for Aboriginal ownership and custodianship for Country.

The failure to address these issues and to provide rigorous standards for remediation may have significant consequences, especially for more complex sites, and in circumstances where land is ultimately being handed back to (or is already in the care of) Traditional Owners. Those Traditional Owners will continue to be saddled with the impacts of unsuccessful or poorly managed remediation efforts on Country.

EDO supports standards and requirements in national and state and territory laws that are co-designed by First Nations peoples and incorporate rights under the UN Declaration on the Rights of Indigenous Peoples, in particular, the requirement for free, prior, and informed consent.

Recommendations with respect to Aboriginal ownership and custodianship over land

9. Appropriate permits under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (**ALRA**) must be obtained before entering Aboriginal land.
10. Remediation works must be developed and co-designed with Traditional Owners who should be involved in the rehabilitation of legacy mine sites on their Country.
11. Free, prior and informed consent should be obtained for entry to land and the carrying out of remediation works on Country.

Lack of transparency around the Mining Remediation Fund and legacy features

The Mines Legacy Bill lacks sufficient transparency and accountability measures around how the **Fund** is being spent, as well as in relation to the environmental outcomes of remediation activities. This is a crucial missed opportunity and especially problematic given the essentially unconditional, unaccountable powers granted to the Mining Minister to authorise remediation works. Territorians are entitled to know how the Fund is being spent and the success or otherwise of remediation works which are undertaken. This is especially important given that past remediation activities have failed after less than a decade in relation to Rum Jungle and there have been countless delays on the progress of remediation works at Redbank Mine.

The requirement for the CEO to publish a report on the expenditure of funds on an annual basis, contained in s 11 of the Bill, is far from sufficient. This reporting is also limited to expenditure on reserved mine sites, being sites which the Minister declares by way of *Gazette* notice, preventing the grant of a mineral exploration licence (**EL**), mineral exploration licence in retention (**ELR**), extractive mineral permit (**EMP**) or mineral lease (**ML**) under the *Mineral Titles Act*.²⁹ There should be no such limitation on expenditure reporting.

It is also not mandatory for the CEO to maintain a public register of legacy mine features and legacy mine sites that are not reserved mine sites. This means, for example, that there will not necessarily be any public reporting on abandoned mine features which occur on sites where there is also active mining on a mineral lease.

Recommendations for the Mining Remediation Fund and public reporting

12. The Mines Legacy Bill should be amended to make the administration of the Fund transparent through:
- a. an expansion of the requirement to publish expenditure of funds to ensure all legacy mines and expenditure under the Fund are included;
 - b. A public register of all legacy mine sites and features.

4. Conclusion

EDO firmly believes that the remediation of legacy mine sites should be subject to rigorous standards, assessment and scrutiny, to ensure that it is being carried out successfully, with the oversight and involvement of Traditional Owners, and without leading to other environmental degradation. The Legacy Mines Bill, as it stands, does not provide the protections needed to appropriately address the ongoing legacies of environmentally and culturally destructive mining practices in the Territory. Reform of the Territory's broken mining laws cannot be rushed. Introduction of the Legacy Mines Bill into Parliament should be delayed until deficiencies in the Bill are addressed and appropriate consultation with communities directly impacted by legacy mines achieved.

Thank you for the opportunity to make this submission. We would be happy to answer any further questions regarding this submission.

²⁹ Legacy Mines Bill, s 10; and see proposed s 64A of the Mineral Titles Act in the Legacy Mines Bill.