



NORTHERN
LAND COUNCIL

Our Land, Our Sea, Our Life

19 June 2026

Our ref: 20260519

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Northern Territory Environmental Authority
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By email: ntepa@nt.gov.au; roland.lee@nt.gov.au

Dear Mr Lee

Submission Regarding Finniss Lithium Project BP33 Underground Mine: Proposed Variations

1. I refer to the Finniss Lithium Project B33 Underground Mine Proposed Variations (**Proposed Action**) which the NT Environment Protection Authority (**EPA**) accepted for referral for standard assessment on 6 May 2026.
2. I thank the EPA for allowing the Northern Land Council (**NLC**) a brief extension to provide a submission regarding the Proposed Action.
3. The Kenbi Aboriginal Land Trust and Delissaville/Wagait/Larrakia Aboriginal Land Trust (together, the **Land Trusts**) are the owners of land which is respectively:
 - a. immediately adjacent to the land upon which the Proposed Action is to occur; and
 - b. contains the closest community, Belyuen, to the land upon which the Proposed Action is to occur.
4. The Northern Land Council (**NLC**) has statutory functions under the *Aboriginal Land Rights Act 1976* (Cth) (**ALRA**) which include:
 - a. expressing the wishes and opinions of Aboriginals living in the area of the Land Council as to the management of Aboriginal Land in that area (section 23(1)(a));
 - b. protecting the interests of the traditional Aboriginal owners, and other Aboriginals interested in the land held by the Land Trusts (section 23(1)(b));
 - c. assisting in the protection of sacred sites whether or not they are on Aboriginal land (section 23(1)(ba)); and

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- d. providing administrative and other assistance to the Land Trusts (section 23(1)(h)).
- 5. In exercising these functions, the NLC makes the following submissions in relation to the Proposed Action.

Legislative Framework

- 6. The Proposed Action has been accepted for referral for standard assessment in accordance with the Environment Protection Act 2019 (**EP Act**). Under section 55, the EPA must determine whether the referred action has the potential to have a significant impact on the environment; and, if so, must either:
 - a. require an Environmental Impact Assessment; or
 - b. where the impacts are likely to be significant and cannot be appropriately avoided, mitigated or managed, recommend the Minister refuse environmental approval.
- 7. In deciding whether to grant or refuse approval, the Minister must have regard to, among other matters:
 - a. the principles of ecologically sustainable development (Part II), including:
 - i. community involvement (s18);
 - ii. the precautionary principle (s19), including avoidance of serious or irreversible harm; and
 - iii. intergenerational equity (s21);
 - b. the objects of the EP Act, including:
 - i. providing broad community involvement during the process of environmental impact assessment and approval; (section 3(d)); and
 - ii. recognising the role that Aboriginal people have as stewards of Country as conferred under their traditions and recognised in law, and the importance of Aboriginal people and communities in environmental decision-making processes; and



- c. any other matters the Minister considers relevant.
8. Before granting approval, the Minister must be satisfied that, among other things:
- a. the community has been consulted on the potential environmental impacts and environmental benefits; and
 - b. significant impacts have been appropriately avoided or mitigated or can be appropriately managed.
9. The Proponent is also subject to statutory duties under section 43, including to:
- a. provide affected communities with information and opportunities for consultation to assist each community's understanding of the proposed action and its potential impacts and benefits;
 - b. consult with affected communities, including Aboriginal communities, in a culturally appropriate manner;
 - c. seek and document community knowledge and understanding (including scientific and traditional knowledge and understanding) of the natural and cultural values of areas that may be impacted by the proposed action;
 - d. address Aboriginal values and the rights and interests of aboriginal communities in relation to areas that may be impacted by the proposed action.

Significance of Impact (s55 EP Act)

10. The NLC submits that the Proposed Action has the potential to have a significant impact on the environment and therefore requires Environmental Impact Assessment, including assessment of biological, social, cultural, economic and cumulative impacts; or alternatively, is incapable of meeting the threshold for approval under s73(2)(c).
11. The Proponent correctly acknowledges at page 65 of the Referral Report that the Proposed Action has the potential for significant environmental impacts that have not previously been assessed.



12. The NLC submits that the Proposed Action is likely to have significant environmental impacts because it involves substantial and long-term increases in environmental risk pathways, particularly groundwater abstraction, deep mine dewatering (to 850 mbgl), and surface water alterations within a sensitive cultural landscape adjacent to Aboriginal land and communities.
13. These risk pathways are inherently uncertain, cumulative, and potentially irreversible. When combined with deficiencies in Aboriginal consultation, cultural heritage assessment, and hydrological modelling confidence, the Proposal cannot be characterised as having localised or low-significance impacts. It instead presents a risk profile consistent with significant impacts across environmental, social, hydrological and Aboriginal cultural values, requiring Environmental Impact Assessment under section 55.

Consultation Processes

14. While the referral material asserts that consultation has occurred through prior project phases and limited pre-referral engagement, the NLC considers that:
- a. engagement has been procedural and information-based rather than co-designed, culturally grounded or otherwise culturally appropriate;
 - b. the mode of consultation, being emails sent, is neither adequate nor culturally appropriate and does not afford a real opportunity for traditional owners and other affected Aboriginal people and groups to provide their views;
 - c. it is not evident from the records available that the relevant traditional owners and affected Aboriginal people or communities have been contacted;
 - d. any consultation occurred largely through short engagement windows (February–March 2026) while the region was affected by severe flooding, a fact which is acknowledged by the Proponent;
 - e. there is no evidence of sustained engagement with Traditional Aboriginal Owners or affected Aboriginal groups specifically on the proposed deeper mining expansion and increased water abstraction profile;



- f. there is no evidence of sustained engagement with Traditional Aboriginal Owners or affected Aboriginal communities in relation to the expanded depth and water abstraction changes;
 - g. engagement does not meet the “consult” or “involve” standard under IAP2 principles;
 - h. Aboriginal organisations have advised the NLC that engagement is not considered adequate; and
 - i. Traditional Aboriginal Owners of land held by the Land Trusts have significant concerns about the impact of the Proposed Action on the environmental, cultural, and spiritual health of their Country.
15. The NLC submits that the absence of substantive feedback or engagement outcomes relating to Aboriginal cultural matters, in the Proponent’s Community Engagement Report (Appendix G, pp. 13–23) demonstrates ineffective consultation and non-compliance with section 43(1)(b) of the EP Act, including the requirement to consult Aboriginal communities in a *culturally appropriate manner* and to properly seek and document traditional knowledge.
16. In the absence of compliance with section 43, the Minister cannot be satisfied that statutory preconditions for approval are met. These deficiencies are substantive and cannot be cured by post-approval conditions, as they go to the adequacy of the assessment process itself and the reliability of the environmental risk characterisation.
17. Accordingly, the Proposal should not proceed to approval unless and until adequate, culturally appropriate consultation occurs with affected Aboriginal communities and Traditional Owners, including those on whose behalf the Land Trusts hold land; whether via an Environmental Impact Assessment or otherwise.

Cultural heritage and sacred sites risk

18. The Proponent relies on the existence of an Aboriginal Areas Protection Authority (AAPA) certificate and asserts no known sacred sites will be impacted.
19. However, the NLC notes:



- a. AAPA certification is a clearance mechanism which does not remove the obligation to identify, avoid and actively protect cultural values under the EP Act;
 - b. the Proposal involves expanded subsurface disturbance (to 850 mbgl) and associated infrastructure changes, which increases the risk of indirect impacts to cultural landscapes, groundwater-dependent cultural values, and intangible heritage values not captured by surface-level surveys;
 - c. reliance on previous assessments for earlier approvals does not adequately address new impact pathways introduced by the variation, particularly groundwater drawdown and long-term hydrological change.
20. Critically, the absence of detailed culturally grounded consultation means the Proponent has not adequately identified, assessed, or evaluated cultural heritage risks as required under the EP Act framework.
21. Without that consultation base, the Proponent cannot demonstrate that it has properly applied the avoidance and mitigation hierarchy or taken all reasonable and practicable measures to prevent or minimise impacts to cultural values. This creates a material evidentiary gap such that the asserted risk ratings cannot be relied upon.
22. Accordingly, the Proponent cannot demonstrate that cultural heritage risks have been appropriately avoided or mitigated, and approval would be inconsistent with sections 19, 21 and 43 of the EP Act.

Water Resources – High Risk and Uncertainty

23. The Proposal engages the precautionary principle (s19), intergenerational equity (s21), and sustainable use (s22).
24. The Proposal significantly increases groundwater extraction and dewatering associated with deep underground mining (to 850 mbgl), increasing uncertainty in:
- a. groundwater drawdown extent;
 - b. duration of impacts; and



- c. interaction with surface water systems and ecosystems.

25. While modelling presents “localised impacts”, the NLC notes:

- a. deep groundwater systems are inherently uncertain;
- b. extended mine life increases likelihood of model divergence;
- c. monitoring-based mitigation is reactive and inconsistent with precautionary avoidance;
and
- d. no sufficient evidence is provided that proposed controls will prevent unacceptable residual impacts to land, water, and Aboriginal cultural values, including those on or connected to the Land Trusts’ interests.

26. There is no demonstrated basis to conclude that groundwater drawdown and surface water impacts will remain within predicted zones or avoid indirect impacts to culturally significant landscapes and groundwater-dependent ecosystems.

27. Accordingly, the Proponent has not demonstrated that all reasonable and practicable measures have been taken to avoid or mitigate significant environmental impacts, nor compliance with the precautionary principle or intergenerational equity requirements of the EP Act.

Conclusion

28. For the reasons outlined above, the NLC submits that:

- a. in accordance with s 55 of the EP Act, the Proposed Action has the potential to have a significant impact on the environment, and therefore requires an Environmental Impact Assessment;
- b. in consideration of the below factors required by s 59 of the Regulations, the Environmental Impact assessment should occur by way of Environmental Impact Statement or Inquiry, because of:
 - i. the low levels of confidence in:

- 1. predicting the potential significant impacts of the proposed action; and



2. the effectiveness of the proposed measures identified in the referral to avoid, mitigate or manage potential significant impact;
- ii. the insufficient extent of community engagement that has occurred in relation to the proposed action, specifically in respect of Aboriginal communities, groups and traditional Aboriginal owners of land likely to be impacted by the Proposed Action; and
- iii. the limited capacity of those communities and individuals likely to be affected by the Proposed Action to access and understand information about it in the manner in which the Proponent has provided it;
- c. any Environmental Impact Assessment, must include, at the least: biological, cultural, social and cumulative impact assessments; and
- d. otherwise, the referral information provided by the Proponent is plainly insufficient to satisfy the Minister that environmental approval can be granted under section 73(2)(c) of the EP Act.

29. To the extent that any approval is purportedly issued without due consideration of the submissions set out in this letter, or any other factors required under the EP Act, Regulations or other laws, whether or not referred to in this submission, the NLC, Land Trusts, Traditional Aboriginal Owners reserve all rights to seek relief to the full extent available at law.

Yours sincerely

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Lawyer

Northern Land Council