

NORTHERN TERRITORY OF AUSTRALIA

BONAPARTE GAS PIPELINE (SPECIAL PROVISIONS) ACT 2007

Act No. 35 of 2007

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 35 of 2007

An Act to make special provision for the Bonaparte Gas Pipeline Project

[Assented to 12 December 2007]
[Second reading 18 October 2007]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary

1 Short title

This Act may be cited as the *Bonaparte Gas Pipeline (Special Provisions) Act 2007*.

2 Commencement

This Act commences on the date fixed by the Administrator by *Gazette* notice.

3 Definitions

custodian, see the *Northern Territory Aboriginal Sacred Sites Act*.

Lands Minister means the Minister responsible for administering the *Pastoral Land Act*.

pastoral land, see the *Pastoral Land Act*.

pastoral lease, see the *Pastoral Land Act*.

Pipeline means the Bonaparte Gas Pipeline i.e. the pipeline (or proposed pipeline) between Wadeye and the Amadeus to Darwin Gas Pipeline and includes all associated infrastructure and equipment.

Note

In the above definition, pipeline has the same meaning as in the Energy Pipelines Act.

Pipeline licensee means the licensee for the Pipeline under the *Energy Pipelines Act*.

Project means the project for constructing and operating the Pipeline.

project participant means a person or persons for the time being responsible for the Project or any part or aspect of the Project and includes:

- (a) a subsidiary of a project participant that participates in the Project; or
- (b) a contractor or other person acting on behalf a project participant.

road, see the *Control of Roads Act*.

sacred sites certificate means a certificate granted under section 22 of the *Northern Territory Aboriginal Sacred Sites Act* (described in that Act as an *Authority Certificate*).

Transport Minister means the Minister responsible for the administration of the *Control of Roads Act* (except Part IV).

Water Minister means the Minister responsible for the administration of the *Water Act*.

waterway, see the *Water Act*.

4 Act binds Crown

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

Part 2 Roads and waterways

5 Road crossing

- (1) The Pipeline licensee may, with the Transport Minister's written approval, construct and operate the Pipeline across a road.
- (2) The approval may be given on conditions the Transport Minister considers appropriate.
- (3) The conditions may (for example):
 - (a) require the installation, maintenance and operation of safety devices; and
 - (b) require the re-construction and maintenance of the road above and to either side of the crossing.

6 Waterway crossing

- (1) The Pipeline licensee may, with the Water Minister's written approval, construct and operate the Pipeline across a waterway.
- (2) The approval is subject to the following conditions:
 - (a) a condition that, except as allowed by the conditions of the approval, a project participant must not:
 - (i) prevent, restrict or interfere with the passage of vessels on the waterway; or
 - (ii) divert or use water in the waterway; or
 - (iii) obstruct the flow of water in the waterway;
 - (b) further conditions, determined by the Water Minister, and stated in the instrument of approval or notified to the Pipeline licensee by the Water Minister.
- (3) This section operates subject to any requirement under a law of the Commonwealth that must be satisfied before the Territory may grant rights that it confers.

7 Compliance with conditions of crossing

- (1) The Pipeline licensee must ensure that the conditions of an approval under this Part are complied with.
- (2) The Territory may take action to ensure compliance, or to remedy non-compliance, with this section and recover the costs of doing so from the Pipeline licensee.

- (3) The Supreme Court may, on application by the Minister or any other person with a proper interest:
 - (a) grant an injunction (including a mandatory injunction) to enforce compliance with this section; or
 - (b) award damages against the Pipeline licensee for non-compliance with this section.

Part 3 Sacred sites

8 Work or use of land in proximity to sacred sites

- (1) A sacred sites certificate obtained on the application of a project participant (including one obtained before the commencement of this Act) operates in favour of another project participant who carries out work, or uses land, as contemplated in the certificate.
- (2) The other project participant is bound by:
 - (a) the conditions of the certificate; and
 - (b) if an agreement was reached between the custodians and the applicant – the terms and conditions of the agreement.

Part 4 Easement in gross over pastoral land

9 Easement in gross over pastoral land

- (1) An easement in gross over pastoral land may be created in favour of the Pipeline licensee, or a project participant nominated by the Pipeline licensee, by agreement.
- (2) The agreement:
 - (a) is to be made between:
 - (i) the Pipeline licensee or the nominated project participant; and
 - (ii) the pastoral lessee; and
 - (b) requires the consent of the Lands Minister.
- (3) An easement in gross created under this section is taken to be an easement granted under the *Law of Property Act*.
- (4) An easement in gross created under this section may only be varied or extinguished by agreement between the parties by which

it was created (or their successors).

Part 5 Extractive minerals

10 Special provisions for grant of extractive mineral lease or permit

- (1) The Minister may, if satisfied that the relevant consents have been obtained, grant an extractive mineral lease or an extractive mineral permit under Part VIII of the *Mining Act* to a project participant.
- (2) The relevant consents are:
 - (a) the consents of the owner and the occupier of the land in relation to which the lease or permit is sought; and
 - (b) any consent required under the *Native Title Act 1993* (Cth) or, if the land is Aboriginal land, the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth); and
 - (c) if the land is subject to an exploration licence or a mining tenement the consent of the holder of the exploration licence or mining tenement.
- (3) The extractive mineral lease or extractive mineral permit must be consistent with the terms and conditions of the relevant consents.
- (4) The following provisions of the *Mining Act* do not apply to an application for an extractive mineral lease or an extractive mineral permit to which this section applies:
 - (a) the provisions requiring notification of, and allowing for objections against, the application;
 - (b) the provisions providing for Ministerial approval for the submission of certain applications;
 - (c) section 111(1A) and (1)(b);
 - (d) any other provisions excluded by regulation.
- (5) This section does not prevent a project participant from applying for, or the Minister from granting to a project participant, an extractive mineral lease or an extractive mineral permit apart from this section.

Part 6 **Miscellaneous****11** **Non-application of *Planning Act***

The creation of an interest in, or in respect of, land for purposes related to the construction or operation of the Pipeline, does not constitute a subdivision of land for the purposes of the *Planning Act*.

12 **Regulations**

The Administrator may make regulations under this Act.