

NORTHERN TERRITORY OF AUSTRALIA
COBOURG PENINSULA ABORIGINAL LAND AND
SANCTUARY AMENDMENT ACT 1996

No. 3 of 1996

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SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

No. 3 of 1996

AN ACT

to amend the *Cobourgh Peninsula Aboriginal Land and Sanctuary Act*

[Assented to 20 March 1996]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Cobourgh Peninsula Aboriginal Land and Sanctuary Amendment Act 1996*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Cobourgh Peninsula Aboriginal Land and Sanctuary Act* is in this Act referred to as the Principal Act.

4. CITATION

The Principal Act as amended by this Act may be cited as the *Cobourgh Peninsula Aboriginal Land, Sanctuary and Marine Park Act*.

5. LONG TITLE TO PRINCIPAL ACT

The long title to the Principal Act is amended by inserting after "national park," the words "making certain provisions relating to the management of adjacent marine areas,".

*Cobourg Peninsula Aboriginal Land
and Sanctuary Amendment*

6. PREAMBLE

The preamble to the Principal Act is amended -

- (a) by omitting from the last citation "all people." and substituting "all people;"; and
- (b) by adding at the end the following:

"AND WHEREAS the Legislative Assembly considers it desirable that certain marine areas adjacent to the national park be managed for the benefit and enjoyment of all people and that, without purporting to affect native title, if it exists, or other existing title to those areas, the Aboriginals entitled by Aboriginal tradition to the use, control and occupation of the national park should participate in the management of those adjacent areas."

7. DEFINITIONS

Section 3 of the Principal Act is amended -

- (a) by inserting after the definition of "Land Trust" the following:

"'marine park' means the Cobourg Marine Park declared under section 12 of the *Territory Parks and Wildlife Conservation Act*"; and

- (b) by omitting from the definition of "plan of management" the word "sanctuary" and substituting "whole or a part of the sanctuary and/or marine park";
- (c) by omitting from the definition of "traditional Aboriginal owners" paragraphs (a) and (b) and substituting the following:

"(a) have common spiritual affiliations to a site on the sanctuary and/or marine park, being affiliations that place the group under a primary spiritual responsibility for that site and for the land on which, or water in which, it is situated; and

- (b) are entitled by Aboriginal tradition, as of right, to forage over land, or fish in water, referred to in paragraph (a)."

8. LAND COUNCIL TO CONSULT WITH TRADITIONAL ABORIGINAL OWNERS

Section 4 of the Principal Act is amended by omitting "or the sanctuary" and substituting ", the sanctuary or the marine park".

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and Sanctuary Amendment*

9. ESTABLISHMENT OF BOARD

Section 18(1) of the Principal Act is amended by omitting "Cobourg Peninsula Sanctuary Board" and substituting "Cobourg Peninsula Sanctuary and Marine Park Board".

10. FUNCTIONS OF BOARD

Section 24 of the Principal Act is amended by inserting after paragraph (c) the following:

"(ca) to advise the Minister for the purposes of section 34A;"

11. PLANS OF MANAGEMENT

Section 27 of the Principal Act is amended -

(a) by inserting in subsection (1), after "this Act", the words "and from time to time as the occasion requires";

(b) by omitting from subsection (2) "The plan of management" and substituting "A plan of management";

(c) by omitting from subsection (4)(h) "Aboriginals;" and substituting "Aboriginals;"

(d) by omitting from subsection (4)(j) "the Territory." and substituting "the Territory; and";

(e) by adding at the end of subsection (4) the following:

"(k) any advice provided by the Minister in relation to the marine park."; and

(f) by omitting subsections (5) and (6) and substituting the following:

"(5) When the Board has prepared a plan of management for the sanctuary and/or marine park it shall, subject to subsections (6), (7) and (8), forward it to the Minister for tabling in the Legislative Assembly.

"(6) Before forwarding a plan of management to the Minister the Board shall forward it to the Land Council and seek the Land Council's written consent (which consent shall not be unreasonably withheld) to the Board forwarding it to the Minister.

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and Sanctuary Amendment*

"(7) The Land Council shall, within 90 days after receiving the plan of management under subsection (6), in writing to the Board -

- (a) consent to the plan of management being forwarded to the Minister; or
- (b) refuse to consent, giving its reasons for so refusing,

and in either case may make such comments on the plan as it thinks fit.

"(8) Where the Board is advised under subsection (7) that the Land Council has refused its consent, it shall, within a reasonable time, consider the reasons for the refusal and either -

- (a) change the plan of management and seek the Land Council's consent to the plan, as changed, being forwarded to the Minister (in which case this subsection and subsections (6), (7) and (9) shall apply to and in relation to the plan as so changed); or
- (b) forward the plan of management to the Minister together with the reasons of the Land Council for its refusal to consent and any comments of the Land Council.

"(9) The Minister shall, on the first sitting day of the Legislative Assembly after a plan of management for the sanctuary and/or marine park forwarded under subsection (5) is received by the Minister, cause it, and any reasons of the Land Council for its refusal to consent and any comments, to be tabled in the Legislative Assembly."

12. CONSIDERATION OF PLAN BY ASSEMBLY

Section 28 of the Principal Act is amended by inserting after subsection (1) the following:

"(1A) Subsections (6), (7) and (8) do not apply to or in relation to a plan of management for the marine park."

13. FEES OR COMPENSATION AMOUNTS FOR RIGHT TO EXPLORE AND MINE ON SANCTUARY

Section 34 of the Principal Act is amended by omitting from subsections (1) and (3) "plan of management" and substituting "plan of management for the sanctuary".

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and Sanctuary Amendment*

14. NEW SECTION

The Principal Act is amended by inserting after section 34 the following:

"34A. MINING ACTIVITIES ON MARINE PARK

"The Board may provide advice to the Minister, for consideration by the Minister primarily responsible for the administration of the *Mining Act* and any other law of the Territory relating to the exploration for or recovery of minerals, on any matter relating to such exploration or recovery or proposals for such exploration or recovery on the marine park, and any advice so provided shall be passed on and considered accordingly."

15. TERRITORY PARKS ACT PROVISIONS TO APPLY

Section 37 of the Principal Act is amended by adding at the end the following:

"(3) For the avoidance of doubt, a plan of management shall not be made under the *Territory Parks and Wildlife Conservation Act* in respect of the sanctuary and/or marine park."

16. FURTHER AMENDMENTS

The Principal Act is further amended as provided for in the Schedule.

17. NATIVE TITLE

Nothing in this Act shall be construed so as to affect or derogate from any native title or Aboriginal or other rights or privileges, or freedom of Aboriginals, that subsist in the marine park, regardless of whether those rights and privileges were or that freedom was recognised, established or defined before or after the passing of this Act.

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and Sanctuary Amendment*

SCHEDULE

Section 16

Provision	Amendment	
	omit	substitute
Sections 3 - definitions of "Aboriginals entitled to use or occupy the sanctuary", and definition of "group" and 11, 12(2), 24(a), (b), (c) and (e) and 27(1), (2) (other than (2)(b)) and (4)(b), (d), (e), (f) and (g)	"sanctuary" (wherever occurring)	"sanctuary and/or marine park"
Sections 24(d), 25(1) and 26(1)	"sanctuary" (wherever occurring)	"sanctuary and marine park"
Sections 25(2) and 31(1) and (2)	"sanctuary" (wherever occurring)	"sanctuary or marine park"