

Serial 104

Mining and Petroleum (Aboriginal Land Rights) Amendment Bill 2007

Mr Natt

**A BILL
for
AN ACT**

to amend the *Mining Act* and the *Petroleum Act*

NORTHERN TERRITORY OF AUSTRALIA
MINING AND PETROLEUM (ABORIGINAL LAND RIGHTS)
AMENDMENT ACT 2007

Act No. [] of 2007

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2007

AN ACT

to amend the *Mining Act* and the *Petroleum Act*

[Assented to [] 2007]

[Second reading [] 2007]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Mining and Petroleum (Aboriginal Land Rights) Amendment Act 2007*.

PART 2 – AMENDMENT OF *MINING ACT*

2. Act amended

This Part amends the *Mining Act*.

3. Repeal and substitution of section 137

Section 137

repeal, substitute

137. No negotiations without Minister's consent

(1) A person must not enter into negotiations with a Land Council for the consent of the Council to the grant of an exploration licence over Aboriginal land without the Minister's consent.

(2) The Minister's consent to negotiations may only be given to a person who has lodged an application for an exploration licence over Aboriginal land with the Minister.

(3) When the Minister receives an application for an exploration licence over Aboriginal land, the Minister must give written notice to the relevant Land Council that the application has been received.

(4) The Minister may give or refuse consent to negotiations between the applicant and the relevant Land Council for the Council's consent to the grant of the exploration licence to the applicant.

(5) However, if the Minister has previously consented to negotiations between another applicant and the Land Council for the Council's consent to the grant of an exploration licence over the same land, the Minister must not give a further consent until the antecedent negotiations are concluded.

(6) The Minister's consent to negotiations may be given conditionally or unconditionally.

(7) Although the Minister has consented to negotiations between an applicant and a Land Council, the Minister may exercise either or both the following powers:

- (a) the Minister may withdraw the consent at any time before the negotiations are concluded;
- (b) the Minister may refuse the application for an exploration licence (in which case the consent, if not explicitly withdrawn, is taken to be withdrawn).

(8) If the Minister refuses or withdraws consent to negotiations between an applicant and a Land Council (without contemporaneously refusing the application for an exploration licence):

- (a) the refusal or withdrawal of consent is not to be taken to be a refusal of the application for an exploration licence; and
- (b) the Minister may later give (or again give) consent.

(9) In this section:

"ALRA" means the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth);

"concluded" – negotiations with a Land Council are concluded between an applicant for an exploration licence and the Council:

- (a) if the applicant withdraws its application – on the day the application is withdrawn; or
- (b) if the Minister withdraws consent to negotiate – on the day the consent is withdrawn; or
- (c) on the day the Council notifies the applicant, in writing, of its decision to consent or refuse to consent to the grant of the exploration licence;

"consent" to negotiations means the Minister's consent to an applicant for an exploration licence entering into (and proceeding with) negotiations with a Land Council for the Council's consent to the grant of the exploration licence;

"Minister" means the Northern Territory Mining Minister as defined in ALRA.

Note

This section should be read in conjunction with Part IV of ALRA which governs negotiations between the applicant for the exploration licence and the Land Council. This vests certain powers in relation to the negotiations in the Commonwealth Minister but it should be noted that some of these may be delegated to the NT Minister under section 76 of ALRA.

PART 3 – AMENDMENT OF *PETROLEUM ACT*

4. Act amended

This Part amends the *Petroleum Act*.

5. Repeal and substitution of section 13

Section 13

repeal, substitute

13. No negotiations without Minister's consent

(1) A person must not enter into negotiations with a Land Council for the consent of the Council to the grant of an exploration permit over Aboriginal land without the Minister's consent.

(2) The Minister's consent to negotiations may only be given to a person who has lodged an application for an exploration permit over Aboriginal land with the Minister.

(3) When the Minister receives an application for an exploration permit over Aboriginal land, the Minister must give written notice to the relevant Land Council that the application has been received.

(4) The Minister may give or refuse consent to negotiations between the applicant and the relevant Land Council for the Council's consent to the grant of the exploration permit to the applicant.

(5) However, if the Minister has previously consented to negotiations between another applicant and the Land Council for the Council's consent to the grant of an exploration permit over the same land, the Minister must not give a further consent until the antecedent negotiations are concluded.

(6) The Minister's consent to negotiations may be given conditionally or unconditionally.

(7) Although the Minister has consented to negotiations between an applicant and a Land Council, the Minister may exercise either or both the following powers:

- (a) the Minister may withdraw the consent at any time before the negotiations are concluded;
- (b) the Minister may refuse the application for an exploration permit (in which case the consent, if not explicitly withdrawn, is taken to be withdrawn).

(8) If the Minister refuses or withdraws consent to negotiations between an applicant and a Land Council (without contemporaneously refusing the application for an exploration permit):

- (a) the refusal or withdrawal of consent is not to be taken to be a refusal of the application for an exploration permit; and
- (b) the Minister may later give (or again give) consent.

(9) In this section:

"ALRA" means the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth);

"concluded" – negotiations with a Land Council are concluded between an applicant for an exploration permit and the Council:

- (a) if the applicant withdraws its application – on the day the application is withdrawn; or
- (b) if the Minister withdraws consent to negotiate – on the day the consent is withdrawn; or
- (c) on the day the Council notifies the applicant, in writing, of its decision to consent or refuse to consent to the grant of the exploration permit;

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"consent" to negotiations means the Minister's consent to an applicant for an exploration permit entering into (and proceeding with) negotiations with a Land Council for the Council's consent to the grant of the exploration permit;

"Minister" means the Northern Territory Mining Minister as defined in ALRA.

Note

This section should be read in conjunction with Part IV of ALRA which governs negotiations between the applicant for the exploration permit and the Land Council. This vests certain powers in relation to the negotiations in the Commonwealth Minister but it should be noted that some of these may be delegated to the NT Minister under section 76 of ALRA.