ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT BILL 2006

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be Moved on Behalf of the Government

(Circulated by authority of the Minister for Families, Community Services and Indigenous Affairs, the Honourable Mal Brough, MP)
ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY)
AMENDMENT BILL 2006

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OUTLINE

Overview

1. The amendments make some changes to the Bill as a result of issues which have arisen since the Bill was introduced into Parliament.

2. The amendments allow for the establishment of a Commonwealth entity to hold township leases described in item 46 of the Bill. This is in addition to a provision which allows for the establishment of an NT entity, and is intended to provide greater flexibility in the administration of the township leasing scheme.

3. The amendments also make some minor changes to other aspects of the township leasing scheme, the granting of advance consents for the transfer of leases, and the exploration and mining provisions in the Bill. These changes seek to clarify the intent or improve the workability of the provisions of the Bill.

Financial impact statement

4. The amendments have no effect on the financial impact of the Bill.
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NOTES ON AMENDMENTS

Amendments (1)-(5) – Commencement

1. These amendments make changes to the commencement table in the Bill to take account of the substantive changes made by the Government amendments.

Amendments (6)-(7) – Definitions of approved entity and Commonwealth entity

2. These amendments insert definitions of ‘approved entity’ (which is a Commonwealth entity or an NT entity) and of ‘Commonwealth entity’. These definitions are part of a series of amendments related to the township leasing provisions, which enable a township lease under new section 19A to be granted to a Commonwealth nominated body.

Amendment (8) – Exploration retention licences

3. This amendment replaces the definition of exploration retention lease with a definition of exploration retention licence, and makes a consequential change to the definition of mining interest. These changes reflect the fact that exploration retention leases are no longer issued under Northern Territory legislation.

Amendment (9) – Renewals of mining interests

4. This amendment removes items 5 and 6 of the Bill which are changes relating to the treatment of renewals of mining interests. Further examination of the need for any amendments relating to the treatment of renewals of mining interests is considered necessary and therefore the series of amendments in the Bill dealing with this issue is being removed.

Amendment (10) – Definition of Northern Territory Valuer-General

5. This amendment removes the definition of Northern Territory Valuer-General. The definition is related to new paragraph 19A(6)(b) of the Bill which is being replaced to provide for persons to be approved to value township land (see amendment 24).

Amendment (11) – Note for subsection 3(4)

6. This amendment removes the note below subsection 3(4) dealing with certain renewals of mining interests.
Amendment (12) – Approval of Commonwealth entities

7. This amendment gives the Minister power to approve persons for the purposes of the definition of Commonwealth entity (refer to amendment 7).

Amendments (13)-(19) – Approved entities

8. These amendments replace some references to ‘NT entity’ in the Bill with references to ‘approved entity’ as a consequence of allowing for Commonwealth entities or NT entities to hold township leases (refer to amendments 6 and 7).

Amendment (20) – Consent given under subsection 19(8)

9. This amendment provides that the consent of the Minister or a Land Council under subsection 19(8) to the transfer of an estate or interest (or to the grant of an interest dependent on a grantee’s interest) may be general, or to a specified person or a person included in a specified class.

Amendment (21) – Approved entity

10. This amendment allows a Land Trust to grant a township lease to an ‘approved entity’. This is part of a series of amendments related to the township leasing provisions, which enable a township lease under new section 19A to be granted to a Commonwealth nominated body (refer to amendments 6 and 7).

Amendment (22) – Replacement section 19A lease may be entered into before the end of the 69th year

11. This amendment changes the reference to 79th year in new subsection 19A(5) of the Bill to the 69th year. The effect is that if a replacement lease is being negotiated (rather than a new lease to commence at the end of the original lease) it must be entered into before the end of the 69th year of the term of the original lease. This will encourage replacement leases to be entered into well before the end of the original lease.

Amendment (23) – Replacement section 19A lease

12. This amendment clarifies that the intention is that replacement leases can only be negotiated with the current lessee.

Amendment (24) – Valuations of township land

13. This amendment provides that valuations for the purposes of new paragraph 19A(6)(b) are to be done by persons approved under new section 19B or persons included in a class approved under new section 19B (refer to amendment 28). The cap on annual rent is determined by reference to the last valuation (by a person approved under new section 19B) done before the commencement of the period for which annual rent is to be paid.
Amendments (25)-(27) – Approved entities

14. These amendments replace some references to ‘NT entity’ in the Bill with references to ‘approved entity’ as a consequence of allowing for Commonwealth entities or NT entities to hold township leases (refer to amendments 6 and 7).

Amendment (28) – Approval of valuers

15. This amendment provides for the Minister to approve a person, or approve a class of persons, who may value land for the purposes of new paragraph 19A(6)(b) (refer to amendments 24, 43 and 44).

Amendment (29) – Modification of Northern Territory stamp duty laws

16. This amendment exempts certain township leases or transfers of township leases related to Commonwealth entities from stamp duty or similar taxes. It also provides for registration of these leases or transfers as if they were duly executed under the relevant Northern Territory law.

Amendment (30) – Modification of Northern Territory subdivision laws

17. This amendment removes any requirement under Northern Territory law to subdivide the land held by a Land Trust before the Land Trust can grant a lease to a Commonwealth entity under new section 19A.

Amendment (31) – Modification of Northern Territory planning and other laws

18. This amendment provides that the regulations may modify Northern Territory laws relating to planning, infrastructure, subdivision, transfer of land and other prescribed matters as they apply to land covered by a township lease held by a Commonwealth entity. It is expected that such regulations will only be necessary in the event that relevant Northern Territory laws are restricting the use of the land covered by a township lease as a town, or, for example, restricting efforts by the Commonwealth entity to provide appropriate subleases. The regulations will cease to have effect if the township lease is transferred to an NT entity.

Amendment (32) – Section 20A

19. This amendment relates to section 20A (regarding the application of Northern Territory laws relating to the transfer of land) and is consequential to amendments 29-31.

Amendment (33) – Consent to the grant of exploration licences

20. The Bill provides that where the Minister refuses a request to extend the time for applying for consent to the grant of an exploration licence then no application may be made after receiving the notice of refusal. This amendment extends the time in which an application can be made by an additional 7 days after receipt of the notice of refusal.
Amendment (34) – Notification of Land Council decision on application for consent

21. This amendment provides that the Land Council must notify relevant parties of a decision on an application for consent to the grant of an exploration licence within 7 days of making a decision.

Amendment (35) – Consultation on repeat application for consent

22. This amendment clarifies that where there is a repeat application for consent to the grant of exploration licences in the circumstances set out in new subsection 42(17), and all consultation meetings which were necessary under subsection 42(4) had been held in relation to the first application, further consultation meetings are not required in relation to the repeat application. This does not prevent further consultation meetings.

Amendment (36) – Exploration retention licences

23. This amendment changes references in section 44A from ‘exploration retention leases’ to ‘exploration retention licences’ (refer to amendment 8).

Amendment (37) – Renewal of mining interests

24. This amendment removes items in the Bill relating to the treatment of renewals of mining interests and the application of sections 45 and 46 (refer to amendment 9).

Amendments (38)-(39) – Exploration retention licences

25. These amendments change references in sections 46 and 48 from ‘exploration retention leases’ to ‘exploration retention licences’ (refer to amendment 8).

Amendment (40) – Renewal of mining interests

26. This amendment removes an item in the Bill relating to the treatment of renewals of mining interests in section 48A (refer to amendment 9).

Amendments (41)-(42) – Debits from the Aboriginals Benefit Account for township leases

27. These amendments to new subsection 64(4A) are related to the amendments allowing a township lease to be granted to a Commonwealth entity. They provide for the Aboriginals Benefit Account to be used for payments in relation to the acquisition and administration of townships leases by approved entities and for the payment of rent by approved entities.

Amendment (43) – Delegation of new section 19B powers

28. This amendment ensures that if the Minister delegates powers under new section 19B relating to approval of valuers for township land to the Chief Minister of the Northern Territory, the Chief Minister has the relevant executive authority to exercise
those powers (refer to amendment 28). It is expected that the Minister will delegate such powers in relation to township leases held by (or to be held by) an NT entity.

Amendment (44) – Delegation of new section 19B powers

29. This amendment replicates the effect of amendment 42 when section 76 is repealed and substituted by item 202 of the Bill.

Amendment (45) – Reference to new paragraph 45(1)(b)

30. This amendment replaces the reference to new paragraph 45(1)(b) with a reference to paragraph 45(b). This change is consequential to the removal of items dealing with renewals of mining interests (refer to amendment 9).

Amendment (46) – Application provision for item 6

31. This amendment removes the application provision for item 6 as item 6 is being removed (refer to amendment 9).