Amendments and Requests for 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

Amendments and requests for amendments to be moved on behalf of the Government

OUTLINE

Overview

1. In the light of comments on the Bill from stakeholders the amendments remove restrictions on payments which can be made in relation to township leases. The amendments also seek to improve the workability of provisions of the Bill including those related to the disposal of certain land claims.

Financial Impact Statement

2. It is not expected that the amendments will result in any financial impact over and above the $15 million already identified.
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NOTES ON AMENDMENTS

Amendment 1 – Commencement

1. This amendment removes the reference to item 201A in the commencement table in the Bill as item 201A is to be opposed (refer to amendment 14).

Amendment 2 – Definition of intending miner

2. This amendment removes the references to exploration retention leases from the definition of intending miner as such leases are no longer issued under Northern Territory legislation.

Amendment 3 – Township leases and fraud

3. This amendment replaces the reference to ‘person’ in proposed subsection 19A(3) dealing with fraud and township leases with ‘approved entity’ to reflect the fact that only approved entities may become township lessees.

Amendment 4 – Payments under township leases

4. This amendment removes proposed subsections 19A(6) and (7) which provide for a cap on rental payments under a township lease and a restriction on other payments. This amendment inserts a new subsection 19A(6) to provide that a township lease must not make provision for a lessee to make a payment to a person other than the lessor, being the relevant Land Trust. Moneys payable to a Land Trust are paid to the relevant Land Council and the new accountability provisions will apply to payments by Land Councils from township lease moneys (see items 88, 101 and 102 of the Bill).

Amendment 5 – Approval of valuers

5. This amendment removes proposed section 19B dealing with the approval of valuers for the purposes of the rent cap for township leases. Proposed section 19B will not be necessary if the rent cap is removed in accordance with amendment 4.

Amendment 6 – Delegation to a body corporate

6. This amendment provides that a Land Council’s functions and powers under proposed section 19A regarding township leases can be delegated to certain bodies corporate that have applied for such a delegation.
Amendment 7 – References to exploration retention lease

7. This amendment removes the references to exploration retention leases from subsection 46(1) as such leases are no longer issued under Northern Territory legislation.

Amendment 8 – Use of Aboriginals Benefit Account for township lease payments

8. This amendment is consequential to the removal of the rent cap on township leases. It replaces the reference in proposed subsection 64(4A) to ‘rent’ with ‘amounts’.

Amendments 9—12 - Disposal of certain intertidal zone and beds and banks claims

9. Amendments 9—12 replace proposed subsections 67A(12) and (13) and delete proposed subsections 67A(15) and (16). The purpose of these changes is to enable areas of qualifying land to be finally disposed of (being some intertidal zone claims, some claims to beds and banks of rivers/creeks and some claims to islands in rivers/creeks) to be described in regulations. This will ensure certainty as to which claims are affected and also provide for clear specification when only a part of a claim is being finally disposed of and a part remains. It avoids any unforeseen consequences of the previous complex drafting.

10. The policy remains unchanged, that is, it is not considered appropriate to grant narrow strips of intertidal land in the absence of contiguity with other Aboriginal land above high water mark. Nor is it considered appropriate to grant narrow strips of land over beds and banks of rivers and creeks, if such land is not contiguous to other claimed land or Aboriginal land.

Amendment 13 – Agreements regarding land under claim

11. This amendment ensures that if agreements relating to land under claim make no provision in relation to payments, such payments must be applied to or for the benefit of the traditional owners of the land.

Amendment 14 – Delegation of power under section 19B

12. This amendment removes one of the provisions (item 201A) dealing with delegation of the Minister’s powers under proposed section 19B as that section is being removed (see amendment 5).

Amendment 15 – Delegation of Minister’s powers

13. This amendment provides that the powers of the Minister which may be delegated under proposed subsection 76(1) may only be delegated to the Secretary of the Department, or an SES employee or acting SES employee in the Department.
Amendment 16 – Delegation of power under section 19B

14. This amendment removes one of the provisions (in item 202) dealing with delegation of the Minister’s powers under proposed section 19B as that section is being removed (see amendment 5).

Amendment 17 – Application of provisions for amending section 67A

15. This amendment removes the references in the application provisions to subsections 67A(12) and (13) as they are not necessary for the redrafted subsections (see amendment 10).