

2004-2005-2006-2007

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT
(TOWNSHIP LEASING) BILL 2007**

EXPLANATORY MEMORANDUM

**(Circulated by Authority of the Minister for Families, Community Services and
Indigenous Affairs, the Honourable Mal Brough, MP)**

ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT (TOWNSHIP LEASING) BILL 2007

OUTLINE

Overview

1. This Bill seeks to establish an office of Executive Director of Township Leasing to enter into and administer township leases on Aboriginal land in the Northern Territory. The township leasing scheme is established under the *Aboriginal Land Rights (Northern Territory) Act 1976* and enables Aboriginal land owners to issue long term leases over their land to promote economic development.
2. The Bill specifies the functions of the Executive Director and provides for appointment by the Governor-General. The Bill also provides for the terms and conditions under which the Executive Director will hold office, the way in which the Executive Director may obtain the assistance of staff and consultants, and reporting procedures for the Executive Director.

Financial Impact Statement

3. The costs of the office of Executive Director of Township Leasing will be met from up to \$15 million to be provided over 5 years from 2006-2007 to 2010-2011 for the township leasing scheme. The necessary funds will be sourced from the Aboriginals Benefit Account.

NOTES ON CLAUSES

Clause 1 - Short Title

4. This clause provides for the short title of the Act.

Clause 2 - Commencement

5. This clause provides for commencement dates. Sections 1- 3 are to commence on Royal Assent. Schedule 1 will commence on a day to be fixed by proclamation. The commencement of the technical amendments in Schedule 2 is linked to the commencement of relevant items in Schedule 1 of the *Aboriginal Land Rights (Northern Territory) Amendment Act 2006*.

Clause 3 - Schedule(s)

6. This clause provides that each Act specified in a Schedule to the Act is amended or repealed as set out in the Schedule, and any other item in a Schedule has effect according to its terms.

Schedule 1 – Main Amendments

Item 1 - Amendment of the *Aboriginal Land Rights (Northern Territory) Act 1976*

7. This item inserts a new Part IIA into the *Aboriginal Land Rights (Northern Territory) Act 1976* (the Principal Act) related to township leasing.
8. New Division 1 (new section 20B) provides for a statutory office holder, the Executive Director of Township Leasing. If the Commonwealth is approved as a *Commonwealth entity* under section 3AAA of the Principal Act, the primary functions in relation to township leases to be held or held by the Commonwealth will be performed by the Executive Director. These functions are set out in new Division 2 (new section 20C) and include to enter into section 19A leases on behalf of the Commonwealth and to administer these leases, including administering rights and interests derived from these leases.
9. New Division 3 of new Part IIA contains administrative provisions about the Executive Director (new sections 20D – 20N). New section 20D provides for the Governor-General to appoint the Executive Director for a specified period, not greater than 5 years.
10. New section 20E provides that the Executive Director holds office on a full-time basis.
11. New section 20F provides that the Executive Director holds office on terms and conditions determined by the Governor-General (in relation to matters not covered by Division 3).

12. New section 20G provides for the remuneration of the Executive Director to be determined by the Remuneration Tribunal (or alternatively by regulations) and for allowances for the Executive Director to be prescribed by regulations. These remuneration and allowances costs will be costs in relation to administering section 19A leases and may be debited from the Aboriginals Benefit Account in accordance with subsection 64(4A) of the Principal Act.
13. New section 20H provides that the Executive Director must not engage in other paid employment without the Minister's approval.
14. New section 20J provides for the appointment of an acting Executive Director when necessary.
15. New section 20K provides for the determination of leave entitlements for the Executive Director.
16. New section 20L provides for resignation by the Executive Director.
17. New section 20M permits the termination of the appointment of the Executive Director for misbehaviour or physical or mental incapacity, and requires the termination of the appointment in certain limited circumstances.
18. New section 20N provides that the Executive Director must disclose to the Minister any interests, pecuniary or otherwise, that could conflict with the proper performance of the Executive Director's functions.
19. New Division 4 provides for assistance to the Executive Director. New section 20P provides for staff to be made available by the Secretary of the Department and new section 20Q provides for the Executive Director, on behalf of the Commonwealth, to engage consultants.
20. New Division 5 (new section 20R) requires the Executive Director to prepare annual reports, for presentation to the Parliament, and such other reports as the Minister requests.
21. New Division 6 provides for the repeal of Part IIA by legislative instrument after certain preconditions have been met. The township leasing provisions in sections 3AAA - 3AB and 19A of the Principal Act provide for Land Trusts to grant township leases to approved entities, which may be either Commonwealth entities or NT entities. The inclusion of provisions relating to Commonwealth entities was intended to be an interim measure pending the establishment of arrangements by the Northern Territory Government.
22. The proposed amendments in new Part IIA relate to the situation where a section 19A lease is granted to the Commonwealth. However the intention is that when an NT entity is in place, management of such leases will be transferred to that entity under section 19A(8) of the Principal Act. Since it is

expected that the Executive Director will only be required for an interim period, it is appropriate to provide for the repeal of new Part IIA.

23. New section 20S in Division 6 provides for the repeal of new Part IIA by legislative instrument made by the Minister if all section 19A leases held by the Commonwealth have been transferred, the Minister is satisfied there is no reasonable likelihood of the Executive Director entering further section 19A leases, and the reporting requirements of the Executive Director are complete. This will mean that there is no unnecessary expense incurred by having an Executive Director in place when there is no further need for one.

Schedule 2 – Technical Amendments

Item 1 – Amendment of the Principal Act

24. Item 1 corrects a grammatical error arising from amendments to subsection 48B(1) made by the *Aboriginal Land Rights (Northern Territory) Amendment Act 2006*.

Item 2 – Amendment of the *Aboriginal Land Rights (Northern Territory) Amendment Act 2006*

25. Item 2 corrects a misdescription of text in item 111 of Schedule 1 of the *Aboriginal Land Rights (Northern Territory) Amendment Act 2006*, which amends paragraph 42(1)(a) of the Principal Act.

Item 3 - Amendment of the *Aboriginal Land Rights (Northern Territory) Amendment Act 2006*

26. Item 3 corrects an incorrect cross-reference in subitem 224(3) of Schedule 1 of the *Aboriginal Land Rights (Northern Territory) Amendment Act 2006*, which is a transitional provision relating to applications for consent to the grant of exploration licences.

