

Mineral Resources (Aurukun Bauxite Resource) Amendment Bill 2016

Explanatory Notes

FOR

Amendments To Be Moved During Consideration In Detail By The Honourable Minister for State Development and Minister for Natural Resources and Mines

Title of the Bill

Mineral Resources (Aurukun Bauxite Resource) Amendment Bill 2016 (the Bill).

Objectives of the amendments

The Bill amends the special provisions in the *Mineral Resources Act 1989* that apply to an Aurukun project. These provisions establish a special regime for the assessment and granting of mining tenures for an Aurukun project. An Aurukun project is a project for the extraction, transportation and processing of bauxite on land that is more or less the land described as Restricted Area 315 under the *Mineral Resources Act 1989*.

The Bill implements the government's policy to ensure that the community has the right to make an objection to mining projects and have that objection heard by the Land Court.

In consideration of an issue identified in a submission to the Infrastructure, Planning and Natural Resources Committee during the Committee's scrutiny of the Bill, an amendment is to be made to clarify and improve the operation of the Bill.

The issue raised in the submission relates to the clause which sets out the extent to which an Aurukun agreement can be considered by the Land Court under section 268 of the *Mineral Resources Act 1989*. The objective of the amendment is allow the Land Court to consider the Aurukun agreement to establish whether the applicant for the mining lease is an eligible person to make the application and to hold the mining lease, while ensuring that the confidentiality of the agreement is not compromised. An Aurukun agreement is an agreement between the State and a person selected by the State to develop an Aurukun project. In the past, the developer has been selected by a competitive bid process and the Aurukun agreement has contained confidential information.

An amendment is also required so that it is clear that the Aurukun agreement to be considered by the Land Court is the Aurukun agreement for the project that is the subject of the application for the mining lease.

An amendment is also required to make the requirement that a mining lease application for an Aurukun project identify certain improvements consistent with current practice.

Achievement of the objectives

The objectives will be achieved by the following changes to the Bill:

- The provision that limits the consideration and disclosure of the Aurukun agreement will be amended to make clear that a Land Court Member is able to consider the Aurukun agreement to the extent necessary to decide whether the applicant is eligible to apply and hold a mining lease for an Aurukun project, without requiring disclosure of the Aurukun agreement to any person in relation to the Land Court hearing.
- This provision will also be amended to clarify that the Aurukun agreement that is to be considered is the Aurukun agreement for the project that is the subject of the application for a mining lease.
- The requirements for an application for a mining lease for an Aurukun project will be amended to take out the cross-reference to section 238(1) in the *Mineral Resources Act 1989*, and to instead, require that the boundaries of any restricted land within the boundaries of the land applied for in the mining lease application are identified.

Alternative ways of achieving policy objectives

There are no alternative ways to achieve the policy objectives.

Estimated cost for government implementation

There are limited implementation costs for government associated with the amendments. The Bill gives the Land Court the jurisdiction to hear objections to an application for the grant of a mining lease for an Aurukun project. The Aurukun provisions only apply to Restricted Area 315 and there is currently only one Aurukun agreement for the purposes of the Aurukun provisions.

Consistency with fundamental legislative principles

The proposed amendments are consistent with fundamental legislative principles and have sufficient regard to the rights and liberties of individuals.

Consultation

The issues raised in submissions to the Infrastructure, Planning and Natural Resource Committee have been considered in preparing these amendments.

Notes on Provisions

Amendment 1

Amendment 1 amends Clause 8 of the Bill to remove the cross-reference that identifies the types of improvements that must be identified in an application for a mining lease for an Aurukun project. The amendment inserts a requirement that an application for a mining lease for an Aurukun project identifies the boundaries of restricted land within the boundaries of the land applied for, which is consistent with modern practice.

Amendment 2

Amendment 2 amends Clause 9 of the Bill which inserts new section 318AAE into the *Mineral Resources Act 1989* to define the extent to which an Aurukun agreement can be considered by the Land Court under section 268. The amendment clarifies that the Aurukun agreement that can be considered is the *Aurukun agreement for the project that is the subject of the application for a mining lease*.

Amendment 3

Amendment 3 amends Clause 9 of the Bill which inserts new section 318AAE into the *Mineral Resources Act 1989* to define the extent to which an Aurukun agreement can be considered by the Land Court under section 268. The amendment removes the word *relevant* as it is no longer required as the Aurukun agreement that can be considered has been identified in section 318AAE subsection (2).

Amendment 4

Amendment 4 amends Clause 9 of the Bill which inserts new section 318AAE into the *Mineral Resources Act 1989* that defines the extent to which an Aurukun agreement can be considered by the Land Court under section 268. The amendment inserts a new subsection (4) to clarify that subsection (3) applies, even if the Land Court considers the Aurukun agreement under subsection (2).

This amendment clarifies that the Land Court is able to consider the Aurukun agreement to the extent necessary to decide whether the applicant is eligible to apply for and hold a mining lease for an Aurukun project, without requiring disclosure of the Aurukun agreement to any person in relation to the hearing.