

APPLICATION FOR A PETROLEUM EXPLORATION PERMIT OVER ABORIGINAL LAND

Petroleum Act

(As at July 2009)

This guideline is designed to assist applicants for petroleum exploration permits under the Northern Territory *Petroleum Act*, specifically with respect to Aboriginal land.

Sections 12 and 13 of the *Petroleum Act* govern the procedures for application, negotiation and grant of petroleum exploration permit over Aboriginal land.

A petroleum exploration permit over Aboriginal land may be granted by the Minister for Primary Industry, Fisheries and Resources with the agreement of the appropriate Land Council and the Commonwealth Minister for Families, Housing, Community Services and Indigenous Affairs.

Aboriginal land

is defined in *Section 5(1)* of the *Petroleum Act* by reference to the *Aboriginal Land Rights (NT) Act 1976 (ALRA)* of the Commonwealth, which defines it as:

- (a) land held by a Land Trust for an estate in fee simple; or
- (b) land the subject of a deed of grant held in escrow by a Land Council.

Mining interest

is defined as including a petroleum exploration permit or licence issued under the *Petroleum Act*.

Section 21 of the ALRA establishes Land Councils, including their name and the boundaries of the areas for which they are responsible. Under section 23 of the ALRA functions of the land councils are established.

Land Councils are responsible for the Aboriginals living within their area boundary. Accordingly, where an application crosses the boundary between the Land Councils we will require the application to be split, so that each area can be dealt with independently by the Land Council with the appropriate authority.

An applicant may only enter into negotiations with the Land Council for consent to the grant of a permit in relation to Aboriginal Land after first having lodged an application for the grant of a petroleum exploration permit and receiving the consent of the Minister for Primary Industry, Fisheries and Resources to enter into negotiations under Section 13 of the *Petroleum Act*.

The consent of the Minister gives the applicant exclusive right to enter into negotiations with the Land Council.

APPLICATION

A person may apply for any area not already under permit by lodging an application with the Minister for Primary Industry, Fisheries and Resources. An applicant should provide the same information as detailed in the guideline *Application for a Petroleum Exploration Permit*.

Following the Minister's consent under section 13 of the *Petroleum Act* to an applicant entering into negotiations with the Land Council, the Minister shall notify the applicant, the Land Council and the Commonwealth Minister for Families, Housing, Community Services and Indigenous Affairs of his consent.

Applicants should refer to ALRA (Part IV - Mining) for details of procedures to be followed after the Minister's consent has been provided. The first step is lodgement with the Land Council of a proposal for exploration of the area.

Failure to lodge a proposal within the required time, or receive an extension of time in which to do so (section 41(2)(b) of ALRA) means that the consent of the Minister to negotiate is deemed to be withdrawn.

NOTE: *Under section 42(13)(a) of ALRA the negotiating period is 22 months . During that time the applicant and the Land Council may agree to extend the negotiating period for 2 years under section 42(13)(b). Before the end of that 2 year period the applicant and the Land Council may agree to extend the negotiating period for 12 month periods.*

ALRA also details procedures in the event that agreement between the parties cannot be reached. If the Land Council refuses consent to the application, no further negotiations will occur in respect of that land for 5 years unless with the initiation of the traditional owners, land councils may apply to re-commence negotiations any time during that 5 year period.

When the consent of the Land Council and the Minister for Community Services has been obtained, copies of executed agreements between the applicant and the Land Council must be provided by the applicant for subsequent perusal by the Minister for Primary Industry, Fisheries and Resources, prior to his determination of the application.

At this time, the Minister for Primary Industry, Fisheries and Resources may notify the applicant of his intention to grant a permit, the conditions to which that permit is subject and a date by which formal acceptance of the conditions and the required security must be received.

Address for applications

The Minister
C/- Director of Energy
Department of Resources
GPO Box 3000, DARWIN NT 0801
5th Floor, Centrepont Building
Smith Street Mall, DARWIN NT 0800

Contacts

Director of Energy	Ph: 08 8999 5293
Petroleum Registrar	Ph: 08 8999 5263
Senior Titles Officer	Ph: 08 8999 7112
	Fax: 08 8981 7106

REFERENCES

- *Petroleum Act* - s.12, s.13, s.16, s.18
- *Aboriginal Land Rights (Northern Territory) Act 1976* - s.40, s.41, s.42.

Northern Territory legislation is available for perusal at:

<http://www.nt.gov.au/dcm/legislation/current.html>

Commonwealth legislation, which includes *the Aboriginal Land Rights (Northern Territory) Act 1976*, is available at:

<http://www.comlaw.gov.au>

http://www.nt.gov.au/dpifm/Minerals_Energy/index.cfm?header=Legislation

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