

# ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT (TOWNSHIP LEASING) ACT 2007

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Act No 121, 2007

Assented to 28 June 2007

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## Overview and background

The *Aboriginal Land Rights (Northern Territory) Amendment (Township Leasing) Act 2007* (Cth) (*the Act*) establishes an office of Executive Director of Township Leasing, to be appointed by the Governor-General. The functions of the Executive Director are to enter into leases on behalf of the Commonwealth and administer township leases on Aboriginal land in the Northern Territory under section 19A of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (*ALRA*), as inserted by the *Aboriginal Land Rights (Northern Territory) Amendment Act 2006* (Cth) (*the 2006 amending Act*). The section 19A amendment was designed to allow for 99-year leases to be granted over Aboriginal land, with the stated purpose of making it easier for Aboriginal people to own homes and businesses on township land.

The Act is designed to give practical operation to the provisions in *ALRA*. According to the explanatory memoranda, the purpose of the new provisions in the township leasing scheme is to allow Aboriginal land owners to issue long-term leases over their land to promote economic development. The leases may be granted by an Aboriginal Land Trust under section 19A(1) of *ALRA*.

In the Second Reading speech for the Township Leasing Bill on 15 June 2007, Australian Democrats Senator Andrew Bartlett expressed concern that the Bill was to be rushed through Parliament without a Senate Inquiry. Senator Bartlett said the refusal of the Government to allow proper public scrutiny of the legislation, open public engagement and consultation with affected Indigenous people was inexcusable.

The Democrats were highly critical of the leasing scheme introduced in the 2006 amending Act, particularly because the head-leasing and sub-leasing provisions may force

traditional owners to relinquish control and preclude them from preventing inappropriate commercial development on sub-leased land.

Senator Bartlett expressed concern at the lack of any requirement in the Act for the Executive Director to undertake consultation or negotiation with traditional owners or Land Councils regarding management of their land once the head-lease is signed.

Also of concern is the fact that the costs of the Executive Director of Township Leasing will be up to \$15 million, and these funds will be sourced from the Aboriginals Benefit Account. This Account contains the equivalent of mining royalties for mining carried out on Aboriginal land, which is set aside to be spent for the benefit of Aboriginal people.

The Greens were also deeply opposed to the amendments. Senator Rachel Siewert said, '[t]he money should be for the benefit of Indigenous communities to help them in their economic development... We do not believe that this ideological approach will lead to economic development'.

Labor Senator Warren Snowdon in his Second Reading speech condemned the legislation, citing the lack of consultation in drafting the amendments, the lack of provision for consultation contained in the Act, the inherent unfairness of funding the scheme from the Aboriginal Benefits Account and the possibility that the *Township Leasing Act* could be racially discriminatory because of the caps imposed on rental payments.

## Key amendments to *ALRA* as inserted by the Act

The Act inserts a new Part IIA ('Executive Director of Township Leasing') in *ALRA*. Division 1 establishes the

office of Executive Director of Township Leasing. Division 2 outlines the functions of the Executive Director as: entry, on behalf of the Commonwealth, into leases under section 19A of *ALRA*; the administration of such leases, including sub-leases and other rights and interests derived from such leases, in accordance with their terms and conditions; and any other functions prescribed by the regulations, relating to the matters referred to above.

Division 3 provides that the Executive Director's period of appointment must not exceed five years. Division 6 provides for the repeal of 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 into further section 19A leases; and the reporting requirements of the Executive Director are complete.

*The full text of this Act is available online at: <<http://www.austlii.edu.au>>. The Second Reading speeches may be found at <<http://www.aph.gov.au/bills/index.htm>>.*

***This Act preceded the Northern Territory National Emergency Response Act 2007 (Cth) which is also summarised in this edition of the AILR.***