

AURUKUN ASSOCIATES AGREEMENT REPEAL ACT 2004*

As of 13 May 2004, the *Aurukun Associates Agreement Repeal Act 2004* (the Repeal Act) repealed the *Aurukun Associates Agreement Act 1975* (the 1975 Act).

Background

Generally, the 1975 Act gave legislative force to an agreement between the State of Queensland (State), Aluminium Pechiney Holdings Limited (Pechiney) and others to extract bauxite from Mining Lease 7032 (ML 7032) covering land situated in the Aurukun area of western Cape York (the Agreement).

Pursuant to the Agreement, Pechiney was required to commence construction of an alumina refinery within the leased area or elsewhere in Queensland by 31 December 1983. An extension of that date was initially granted by the State until 31 December 1988, and a further extension was granted until 31 December 1989. The second extension was subsequently considered to be invalid by the State because it was granted after the expiration of the original extension. No refinery was consequently built. The State more recently took the view that Pechiney had breached the Agreement and, as a result, on 22 October 2003 it demanded that Pechiney surrender ML 7032 by noon on 24 October 2003. Pechiney did not comply with the demand within the stipulated time, and the State commenced legal proceedings.

However, the State then formed the view that continuing the Supreme Court proceedings would be an unnecessary and unjustifiable expenditure. The State's position (as set out in the Explanatory Notes to the Repeal Act) was that ML 7032, whilst it was currently still on foot, was a mere husk without any rights or entitlements under it and that it only existed for the purpose of surrender. On that basis, the State proceeded to enact the Repeal Act.

The Repeal Act

The Repeal Act repeals the 1975 Act, cancels ML 7032, and declares that the Agreement has no force and effect, and has had no force and effect since 31 December 1988. This outcome is achieved by 3 simple sentences in the Repeal Act.

The Repeal Act also provides that the State must pay to Pechiney an amount of \$572,160 within 20 business days after the repeal. This amount is a refund of the rental paid on ML 7032 since 1989, including interest. Provision is also made for an amount of costs (to be assessed on a standard basis) to be paid to Pechiney on account of the Supreme Court proceedings which had been commenced by the State.

The Repeal Act further states that no other amount, by way of compensation, reimbursement or otherwise, is payable to Pechiney for any claim arising out of or connected to the cancellation of ML 7032 or the effect of the Repeal Act.

The Repeal Act expires on 31 December 2004.

The Future Process

The State has announced that following the cancellation of ML 7032 it intends securing future development of, and investment in, the Aurukun mineral resources through an international expression of interest process. No details of this process have yet been released.

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