The applicant requested that the application be considered without an oral hearing. Smith DP was satisfied that the provisions of Pt 7 of the Act had been complied with and in particular that the owner of restricted land in the application area had consented to the application. The Deputy President therefore heard the matter without an oral hearing pursuant to s 270, *Mineral Resources Act 1989*.

Financial and Technical Capabilities

One of the matters which the Tribunal must take into account is whether the applicant has the necessary financial capabilities to carry on the proposed mining operation (s 269(4)(f)). Smith DP noted that the applicant had expended over $3M to date on the project[1] and had raised a further $1.6M through a share issue.

The Deputy President was of the view that the applicant did not immediately hold sufficient funds for the large scale mine proposed. However, the evidence demonstrated that other significant sources of funding were in the final stages of negotiation and this funding was, to some extent, dependent upon the grant of the mining lease.

Smith DP concluded that he was satisfied that the applicant had sufficient funds to progress establishment of the mine and would, if the proposed funding sources proceeded as envisaged, have sufficient funds for the project.

The question of technical capabilities was also addressed by the Deputy President. He noted that although the applicant had not previously held a mining lease, it had engaged a significant number of people with detailed and extensive mining experience.

Recommendation

Smith DP was satisfied that the applicant had sufficient financial and technical capabilities and that all other considerations were adequately addressed. He recommended that the lease be granted as applied for.

APPLICATIONS FOR ACCESS AGREEMENTS*

Mount Isa Mines Ltd & Callope & Ors ([2004] QLRT 55 (Koppenol P and Kingham DP)); ***Lach Drummond Resources Ltd (Administrators Appointed)*** ([2004] QLRT 74 (Koppenol P and Kingham DP))

Access agreement – Low impact exploration permit – Native title party – Decision as to terms of agreement – Compensation

Background

In both of these cases the applicant held a low impact exploration permit over land that was subject to native title claims. The applicants and the native title parties were unable to conclude access agreements because not all the individuals constituting each native title party was agreeable.

In each case the applicant had the matter referred to the Tribunal for determination. The Tribunal's role in each case was to decide the terms of the access agreement and to make a

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1 Including funds spent on a related lease application.

* Matt Black, research officer to the presiding members, Land and Resources Tribunal.

compensation or compensation trust decision for the registered native title party under Pt 18 *Mineral Resources Act 1989* (MRA).

Access Agreement

The MRA does not prescribe matters that must be included in an access agreement, although s 489A sets out a number of provisions that may be included. The Tribunal explained that it is a question of determining what is appropriate in all of the circumstances. The Tribunal determined that the scope and wording of the proposed access agreement in each case was appropriate for the purposes of s 491A, MRA.

Compensation

As there had not yet been a native title determination by the Federal Court in either case, the Tribunal was required to make compensation trust decisions. There was no evidence before the Tribunal in either case demonstrating the effect on the claimed native title rights and interests by the applicants' proposed activities. The Tribunal therefore determined the compensation trust decision as nil in each case.

NEW LAND AND ENVIRONMENT COURT FOR QUEENSLAND[*]

The Queensland Attorney-General announced on 18 August 2004 that three existing Queensland bodies would be merged to create a new "one-stop shop to hear and determine planning appeals and related land use issues".[1] The new Land and Environment Court will amalgamate the Planning and Environment Court, the Land Court and the Land and Resources Tribunal.

Currently, the Planning and Environment Court (P&E Court) is constituted under the *Integrated Planning Act 1997*, although it was originally formed in 1990 under the *Local Government (Planning and Environment) Act 1990*. The P&E Court comprises judges of the District Court, with just under half of all District Court judges holding commissions to the P&E Court.[2] The P&E Court's primary jurisdiction is under the *Integrated Planning Act 1997* and the *Environmental Protection Act 1994*. It hears applications and appeals relating to local government decisions about development applications and approvals, as well as a broad environmental jurisdiction.

The Land Court is constituted under the *Land Court Act 2000*, although it first came into being under the *Land Act 1897*. There are thirty-five (35) State Acts which confer jurisdiction on the Land Court, but the main focus of the Court is dealing with appeals against valuations under the *Valuation of Land Act 1944*, disputed claims for compensation under the *Acquisition of Land Act 1967*, appeals against decisions in relation to waterworks licensing in terms of the *Water Act 2000* and appeals against Ministerial decisions pursuant to the *Land Act 1994*.

The Land and Resources Tribunal was created by the *Land and Resources Tribunal Act 1999*, assuming the jurisdiction of the Wardens Court and becoming the State's independent body for the purposes of the Commonwealth *Native Title Act 1993*. The Tribunal's primary jurisdiction is in

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[*] Matt Black, research officer to the presiding members, Land and Resources Tribunal.

1 *Queensland Hansard*, 18 August 2004, p 1872-3.

2 See District Court of Queensland Annual Report 2002/2003.