



GOLDFIELDS LAND COUNCIL

Introduction

The Native Title Amendment Act 1998 refers to 'future acts' on land where native title has been determined or is claimed. Future acts include activities like applications from mining companies for exploration or mining tenements and proposals from government for establishing town sites or reservations for new roads.

In consultation with native title claimants, the GLC is in the process of developing a standard procedure for handling applications for future acts, including the forging of agreements which allow future acts to proceed or lodging of objections. The draft, step-by-step procedure is outlined in the attached flow chart (see over).

The purpose of the flow chart is to provide everyone with a clear understanding of the procedures which have to be followed before future acts agreements can be reached or objections withdrawn. The chart also shows, in summarized form, the lines of authority in future act matters, and the relationship between applicants and claimants.

In the coming months, the GLC will be consulting widely with the Goldfields Aboriginal community on the proposal, including discussions at GLC Working Groups and at meetings of native title claimants. Written submissions are also invited.

Main Elements of the Future Acts Procedure

Meetings of Native Title Claimants

Meetings of native title claimants are a source of authority for all actions taken with respect to each claim and matters affecting a claim. Early in the process people are nominated and elected/agreed to be members of the group's Negotiating Team or to act as Objectors to future acts.

Thereafter, the nominees are accountable to future meetings of their claimant group. The group instructs the Negotiating Team and the Objectors on what position to take in negotiations. In turn, the Negotiators and Objectors give feedback at each claimant group meeting of progress made with tenement applications and draft agreements. This process has already been implemented in some areas of the Goldfields.

Objectors

Each claimant group can nominate 3-4 Objectors. Their responsibility is to consider objecting to the proposed granting of tenements and, where applicable, to withdraw any objections, subject to certain conditions. Objectors need to be knowledgeable of 'country' as they may have to sign legally binding statements (affidavits) indicating that heritage sites may be affected by the granting of a tenement.

Low impact applications

Where proposed tenements will only have a low impact on heritage sites a Heritage Protection

Agreement (HPA) has to be concluded. On the conclusion of an HPA Objectors can withdraw the objection. All withdrawals have to be reported to the claimant meeting.

The GLC is in the process of developing a standard Heritage Protection Agreement in consultation with claimants.

High impact applications

Where the potential impact of a future act is high or where mining lease applications are at stake, a Negotiating Team is instructed to negotiate an agreement with the mining company. Such an agreement may include more matters than only those dealing with heritage.

The Negotiating Team is also responsible for negotiating other agreements such as general land access agreements.

Negotiating Teams cannot conclude or sign agreements but can only make recommendations to their claimant meetings. Only claimant meetings may approve agreements whereafter the Applicants may sign the agreement on behalf of the claimants. Applicants are therefore instructed by the claimants they represent to formally conclude agreements on behalf of the whole community.



Feed back

At each claimant meeting the Negotiating Team and Objectors must provide up-to-the-minute feed back with respect to objections lodged or withdrawn (with supporting reasons), as well as progress with other negotiations.

Written Submissions

If you wish to make a written submission on the proposed Future Acts Procedure please forward your thoughts to: Bertus de Villiers; The Manager - Legal and Native Title; Goldfields Land Council; PO Box 10006, KALGOORLIE WA 6430.

Proposed Future Act Procedure

