

**MORATORIUM ON EXPLORATION
AND MINING IN COASTAL WATERS
OF THE NORTHERN TERRITORY
UNTIL 2015**

6 MARCH 2012

TERMS

1. POLICY STATEMENT

The Northern Territory Government has established a moratorium on granting titles permitting exploration for minerals or mining and on issuing authorisations permitting mining activities to be undertaken within the coastal waters of the Northern Territory until a review of actual or potential impacts of seabed mining has been undertaken.

2. MORATORIUM

- (a) A Moratorium is in place in respect to all activities, whether they involve substantial disturbance or not, including those related to or associated with, exploration for minerals within the coastal waters of the Northern Territory, mining in the coastal waters of the Northern Territory, or both.
- (b) Despite the legislative ability to grant mineral titles under the *Mineral Titles Act* and to grant an authorisation to carry out mining activities under the *Mining Management Act* in respect of mining activities, the Minister administering those Acts (the "Minister") will not for a period of 3 years from the date of this Moratorium (or any extension of it by the Minister):
 - (i) grant any:
 - A. mineral exploration licence;
 - B. mineral exploration licence in retention;
 - C. mineral lease;
 - D. mineral authority; or
 - (ii) issue any:
 - A. authorisation,in respect of exploration for minerals within the coastal waters of the Northern Territory or mining within the coastal waters of the Northern Territory.
- (c) For the term of this Moratorium the Minister will not exercise any functions in respect to assessing, granting, or reviewing mineral titles relating to exploration for minerals within the coastal waters of the Northern Territory or mining in the coastal waters of the Northern Territory.
- (d) For the term of this Moratorium the Minister will not exercise any functions in respect to assessing and issuing authorisations in relation to any activities for or associated with exploration for minerals or mining within the coastal waters of the Northern Territory.

- (e) For the sake of certainty:
 - (i) All applications for mineral titles, authorisations, or both, in respect of any area or activity within the coastal waters of the Northern Territory lodged prior to the commencement of this Moratorium will not be assessed, or granted or issued with the relevant title or authorisation during the term of this Moratorium.
 - (ii) All applications for mineral titles, authorisations, or both, in respect of any area or activity within the coastal waters of the Northern Territory lodged after the commencement of this Moratorium will be received but not assessed and no title or authorisation will be granted or issued during the term of this Moratorium.

3. BACKGROUND

- (a) Applications in relation to grants of titles and authorisation of activities in respect to exploration for minerals within the coastal waters of the Northern Territory have been lodged.
- (b) Seabed mining is a new and evolving worldwide industry with a minimum number of generally accepted practice standards. The methods applied in seabed mining are rapidly changing. Limited information is available on:
 - (i) the actual or potential impacts on the environment and other resource industries; and
 - (ii) methods for managing the impacts of the extraction of minerals from the seabed.
- (c) The current paucity of information decreases the ability of the Minister to:
 - (i) accurately assess the appropriate methodology for management of the industry, its development, and sustainability; and
 - (ii) develop appropriate conditions for mineral titles and authorisations relating to seabed mining.

4. POLICY IMPLEMENTATION

4.1 Effect of Moratorium

A Moratorium on the following matters is in effect:

- (a) the granting by the Minister of any titles over any land within the coastal waters of the Northern Territory in relation to exploration for minerals and mining; and
- (b) the issuing by the Minister any authorisations for activities relating to exploration for minerals or mining within the coastal waters of the Northern Territory.

If a mineral title holder or authorised operator considers this Moratorium impacts upon their legal obligations under the *Mineral Titles Act* or the *Mining Management Act* and a detriment is suffered by that person as a result, that person may make an application to the Minister for relief (in the form of a waiver of those legal obligations), and the Minister may, to the extent possible under the laws of the Northern Territory, give that application consideration.

NOTE: An application for relief could seek to reduce or halt statutory obligations imposed on a title holder or operator under the respective Acts, such as the payment of fees or charges, or to provide reports or other information within particular timeframes. The applications for relief could not seek to prevent the application of either Act in respect to environmental obligations and could not seek to exclude the title holder or operator from the application of this Moratorium.

4.2 Moratorium to continue until review completed

- (a) Until completion of a formal review of the actual or potential impacts on the environment and other resource industries, and the Minister is satisfied that appropriate methods for managing these impacts have been identified all:
 - (i) current and new applications lodged for mineral titles or authorisations relating to exploration for minerals or mining within the coastal waters of the Northern Territory will not be assessed;
 - (ii) mineral titles, authorisations or both will not be granted or issues; and
 - (iii) the status of all currently issued mineral titles and authorisations will remain as it was at the commencement of this Moratorium and the Minister will not exercise any of his functions under either the *Mineral Titles Act* or the *Mining Management Act* in respect to assessment, review, renewal, transfer or the like to alter that status.
- (b) For the term of this Moratorium the Minister will hold over the determination of all applications for mineral titles and authorisations and will not exercise certain legislative functions in respect of mineral titles and authorisations previously granted.

4.3 Status of mineral title during Moratorium

- (a) Each granted mineral title will be retained on the register of titles maintained by the Director of Mineral Titles in the form and to the extent of the title as at the commencement of this Moratorium.
- (b) For the term of this Moratorium the Minister will not:
 - (i) assess or approve an application to transfer a mineral title; or
 - (ii) require a mineral title holder to comply with the requirements of the *Mineral Titles Act* or regulations in respect to such matters as those relating to annual reporting, reduction of the title area and the like.

4.4 Status of authorisation during Moratorium

- (a) Each authorisation issued will remain on the register of authorisations maintained by the Director of Mining Performance in the form and to the extent of the title as at the commencement of this Moratorium.
- (b) The Minister will retain all security deposits paid by appointed operators in respect of any authorisations issued.
- (c) For the term of this Moratorium, in respect to an authorisation permitting exploration or mining activities to be carried out within the coastal waters of the Northern Territory the Minister will not:
 - (i) review or assess an original, revision or amended version of a Mining Management Plan; or
 - (ii) review a security calculation submitted by a person in connection with a security deposit required for an authorisation or any conditions imposed on an authorisation to review the security amount.

4.5 National Approach

The Northern Territory Government will, through appropriate Ministerial Councils, also pursue development of a nationally consistent approach to the assessment of seabed mining.

5. REVIEW

- (a) The review of seabed mining will provide a basis for assessment of the possible future development and sustainability of this industry.
- (b) The review will:
 - (i) examine practices adopted or applied in seabed mining both internationally and within Australia, and identify which of these are considered as environmentally best practices;
 - (ii) identify the likely impacts of seabed mining on the environment and other resources, including commercial and recreational fishing, including identification of impacts which have occurred as a result of, or in association with, seabed mining;
 - (iii) examine the mitigation strategies that have or could be used to manage the impacts of sea based exploration and seabed mining on the environment and other resources; and
 - (iv) include consideration of advice from the Aboriginal Areas Protection Authority on appropriate measures to ensure the avoidance of sacred sites and protection of sacred sites as a part of any exploration and/or mining of seabed mineral resources.
- (c) The aim of the review will be to:
 - (i) identify the appropriate standards for acceptance by the Territory which will adequately address the needs of the

community in respect of industry “best practice”, protection of the environment, protection of social and cultural impacts, mitigation strategies and community involvement; and

- (ii) permit the development of regulations, guidelines, or both, for the assessment of applications (received but not assessed due to the moratorium and future applications) to ensure consistency of assessment procedures and appropriate determinations, taking into account the relevant factors.
- (d) The Environmental Protection Authority will be asked to undertake a review of the following elements:
 - (i) the actual or potential impacts on the environment and other resource industries; and
 - (ii) methods for managing the impacts of seabed mining.
- (e) The Aboriginal Areas Protection Authority, in association with relevant NTG agencies, will be asked to review:
 - (i) appropriate measures to ensure the avoidance of sacred sites and protection of sacred sites as a part of any exploration and/or mining of seabed mineral resources.
- (f) Ad hoc decisions to grant mineral titles or authorisations will not adequately address the issues outlined above. Such decisions could create risks and have the potential to be inconsistent.

6. AREA

- (a) The proposed policy extends seaward of the low water mark in all coastal waters of the Northern Territory.
- (b) For the sake of certainty, land to the low water mark of any islands located within the coastal waters of the Northern Territory is excluded from this Moratorium.

7. APPLICATIONS FOR MINERAL TITLES

For the term of this Moratorium applications made under the *Mineral titles Act* for the grant of a mineral title over land within the coastal waters of the Northern Territory, whether lodged prior to or after the commencement of this Moratorium, will not be assessed or granted.

8. APPLICATIONS FOR AUTHORISATION

For the term of this Moratorium, applications for authorisation by a mineral title holder as required by the *Mining Management Act*, whether received prior to or after commencement of this Moratorium will not be assessed and an authorisation will not be granted for any activities, whether they involve substantial disturbance or not, in respect to (including those related to or associated with) exploration for minerals and mining within the coastal waters of the Northern Territory.

9. EXCLUSIONS

This Moratorium does not include any application or grant in respect to petroleum exploration and production, dredging for port development and maintenance activities, geothermal activities and fishing.

- 9 MAY 2012



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Dr Grahame Webb
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Dear Dr ~~Webb~~ ^{grahame}

I refer to the recent decision announced by the Minister for Resources that the Northern Territory Government has placed a moratorium on sea bed mining in the coastal waters of the Northern Territory.

The moratorium will be in place until 2015, while a comprehensive assessment is undertaken by the Environment Protection Authority on:

- the actual or potential impacts of such sea bed mining activities on the environment and other resource industries; and
- the methods for managing the impacts .

The purpose of this letter is formally refer this matter to the EPA pursuant to section 5B of the *Environment Protection Authority Act*.

In conducting inquiries and formulating advice on this matter, I request the Environment Protection Authority to consider the following when finalising the Terms of Reference.

The aim of the review will be to:

- identify the appropriate standards for acceptance by the Territory which will adequately address the needs of the community in respect of industry "best practice", protection of the environment, protection of social and cultural impacts, mitigation strategies and community involvement; and
- permit the development of regulations, guidelines, or both, for the assessment of applications (received but not assessed due to the moratorium and future applications) to ensure consistency of assessment procedures and appropriate determinations, taking into account the relevant factors.

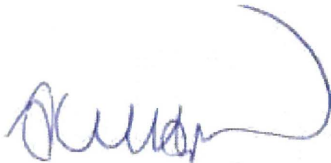
I anticipate that the review will:

- examine practices adopted or applied in seabed mining both internationally and within Australia, and identify which of these are considered as environmentally best practices;
- identify the likely impacts of seabed mining on the environment and other resources, including commercial and recreational fishing, including identification of impacts which have occurred as a result of, or in association with, seabed mining; and
- examine the mitigation strategies that have or could be used to manage the impacts of sea based exploration and seabed mining on the environment and other resources.

The Aboriginal Areas Protection Authority, in association with relevant NT Government agencies has been separately asked to review appropriate measures to ensure the avoidance of sacred sites and protection of sacred sites as a part of any exploration and/or mining of seabed mineral resources. I ask the EPA to consult with Aboriginal Areas Protection Authority during the conduct of this review to ensure areas of common interest are appropriately factored into the EPAs advice.

My office is available to clarify any queries and in due course I look forward to receiving your advice on this important issue of sustainability in our coastal environments.

Yours sincerely



KARL HAMPTON

04 MAY 2012