

LAND AND RESOURCES TRIBUNAL QUEENSLAND

CITATION: *Re Birla Mount Gordon Pty Ltd* [2007] QLRT 121

PARTIES: **In the matter of Application for Mining Lease No 90181 by Birla Mount Gordon Pty Ltd**

FILE NO: AML151/07

PROCEEDING: Application for mining lease

DELIVERED ON: 23 August 2007

DELIVERED AT: Brisbane

HEARING DATE: Heard on the Papers

MEMBER/S: Smith DP

ORDER/S: **1. Hearing dispensed with (at [2])**
2. Recommendation made that the Mining Lease be granted, subject to native title processes (at [17])

CATCHWORDS: MINING – MINING LEASE – RECOMMENDATION
Mineral Resources Act 1989, ss. 135, 245, 251, 269, 270

COUNSEL: N/A

SOLICITOR/S: N/A

- [1] **SMITH DP:** On 28 September 2006 Birla Mount Gordon Pty Ltd (hereafter referred to as “the Applicant”) lodged Mining Lease Application No 90181 with the Mining Registrar, Mt Isa District. The Application was lodged pursuant to s. 245 of the *Mineral Resources Act 1989* (“the Act”) for the purpose of mining for silver ore, gold, cadmium ore, cobalt ore, copper ore, molybdenum ore, lead ore, zinc ore, stock pile ore/overburden and tailings/settling dam. No objections were duly lodged to the Mining Lease Application.

Request to dispense with a hearing – Section 270

- [2] The Applicant has requested that the Application be dealt with without an oral hearing. Taking in to account s. 270 of the Act, I am satisfied that there is sufficient information before me. Accordingly, I order that a hearing of this Application be dispensed with.

Section 269(4) criteria

- [3] In taking account of and considering the criteria specified in s. 269(4) of the Act, I have relied on the Applicant's Additional Information and Statutory Declaration. I have also relied upon the other material lodged by the Applicant with the Mining Registrar and the Mining Registrar's Report in relation to this Application. These reasons refer to the salient points, but not all the relevant evidence, that I have taken into account.

Section 269(4)(a) – Have the provisions of the Act been complied with?

- [4] On 27 March 2007, the Mining Registrar issued a Certificate of Application. The Mining Registrar can only issue the Certificate if satisfied that the Applicant is eligible to apply for the mining lease and has complied with the requirements of the Act with respect to the Application.¹ I note that the Application is over a non-exclusive tenure.² In my opinion, there is sufficient evidence of compliance with the provisions of the Act in respect to this Application.

Section 269(4)(b) – Is the land applied for mineralised or are the other purposes for which the lease is sought appropriate?

- [5] I am satisfied from the Applicant's evidence that the purposes for which the lease is sought are appropriate. I note that the lease area is primarily required for infrastructure.

Section 269(4)(c) – If the land applied for is mineralised, will there be an acceptable level of development and utilisation of the mineral resources within the area applied for?

- [6] The material before me reveals the Applicant's proposed mining operations and program, and shows appropriate development and utilisation of the area applied for.

Section 269(4)(d) – Is the land and the surface area of that land in respect of which the mining lease is sought of an appropriate size and shape?

- [7] The material before me appears to indicate a mining lease application of an appropriate size and shape in light of the proposed mining operation.

Section 269(4)(e) – Is the term sought appropriate?

- [8] The term sought for this mining lease is 15 years, which I consider appropriate.

Section 269(4)(f) – Has the Applicant the necessary financial and technical capabilities to carry on mining operations under the proposed mining lease?

- [9] The material indicates that the Applicant has the financial and technical capabilities to carry on the mining operations. The Applicant has previous mining experience. I am satisfied that the requirements of this criterion are met.

¹ See s. 251(1) of the Act.

² I also note that this application is subject to Right to Negotiate processes under the *Native Title Act 1993 (Cwth)*.

Section 269(4)(g) – Has the past performance of the Applicant been satisfactory?

- [10] The Applicant's evidence is that it has received two show cause notices, both in 2006. The applicant has explained the circumstances of those show cause notices, and no follow-up enforcement action was taken against it.

Section 269(4)(h) – Will any disadvantage result to the holders of existing exploration permits or mineral development licences or existing applicants for exploration permits or mineral development licences?

- [11] The material as originally lodged conflicted on this issue. The Mining Registrar reported that the application area was subject to 3 exploration permit applications ("EPM's"), while the applicant said there were no competing interests. The Mining Registrar clarified the position by advice dated 22 August 2007. She advised that the mining lease application subject to the 3 EPM's falls within land in moratorium pursuant to s 135 of the Act, and as such the 3 EPM's were lodged on 2 October 2006. I am grateful to the Mining Registrar for providing this clarification.³

Section 269(4)(i) – Do the operations to be carried on under the authority of the mining lease conform with sound land use management?

- [12] There is no evidence before me to suggest that the proposed operations do not conform with sound land use management.

Section 269(4)(j) – Will there be any adverse environmental impacts, and if so, the extent thereof:

- [13] A draft environmental authority was publicly advertised and received no objection. There is no evidence to suggest that the environmental impacts will not be adequately dealt with by compliance with the conditions of the authority.

Section 269(4)(k) – Will the public right and interest be prejudiced?

- [14] The material before me does not reveal any area of concern for the public right and interest.

Section 269(4)(l) – Has any good reason been shown for a refusal to grant the mining lease?

- [15] There was no evidence before me that indicated any good reason why this Application should be refused.

Section 269(4)(m) – Is the proposed mining operation an appropriate land use taking into consideration the current and prospective uses of the land?

- [16] The materials show that the project is for the extraction of a potentially valuable resource in accordance with the environmental processes. I am satisfied that the proposed mining operation is an appropriate land use.

³ For the full text of the Mining Registrar's advice, see email to the LRT case officer from the Mining Registrar of 22 August 2007 at 2.10pm.

Recommendation

- [17] Taking into account all the evidence before me and, in particular, that evidence referred to above, and subject to native title processes, I recommend to the Honourable the Minister for Mines and Energy that Mining Lease No. 90181 be granted over the entire application area for the purpose and term sought by the Applicant.