

SIGN POST

REGULAR UPDATE

This is the first in a series of regular client updates designed to provide introductory information on recent court decisions, changes to legislation and other issues that may affect you and your business.

We welcome any feedback on the content, format and circulation of the updates and trust you will find them of use and interest.

MINISTER'S DISCRETION – MINING ACT 1978

The Minister for Resources (the Minister) this week used his discretion under the Mining Act 1978 to refuse an application for an exploration licence (ELA) by Cazaly Resources Ltd on the grounds that the public interest was best served by terminating the ELA.

Rio Tinto previously held title to the area under the ELA and, while it had paid the underlying tenements rent in advance, lodged its renewal application late due to an oversight by a courier's agent.

The Minister, whilst recognising that he was not obliged to provide reasons under the Act, released the following reasons for his decision:

- The State's Iron Ore Policy. This policy recognises the need for long-term tenure and the fact that some deposits will not be mined for lengthy periods;
- Promoting Investment in WA. The Minister indicated that in his view investment should not be jeopardised by minor oversights or actions; and
- Fairness. The Minister indicated he would have made the same decision should the parties be reversed.

Cazaly have stated that they intend to appeal the Ministers decision in the Supreme Court of WA. In order to do so they will need to show that the Minister's decision should be open to judicial review in the circumstances. Given the broad nature of the Ministers discretion to make a decision based on the "public interest", and no provision for review under the Act any appeal would appear to be problematic. We will keep you updated on the outcome of any appeal.

CORPORATE REVIEW

On 7 April 2006, the Federal Treasury released a consultation paper entitled Corporate and Financial Services Regulation Review which is aimed at reducing the regulatory and compliance burden of corporate and financial services regulation. Of note, the paper raises the possibility of refinements to Chapter 7 of the Corporations Act 2001 dealing with Financial Services and Markets.

Copies of the paper are available on the Treasury website www.treasury.gov.au and you have until 19 May 2006 to comment on the issues raised.

CLEARING FOR EXPLORATION

The Environmental Protection (Clearing of Native Vegetation) Regulations 2004 were recently amended so that clearance of native vegetation for exploration or prospecting may be permitted by the continuation of an exemption to the Clearing Regulations until 6 April 2007.

This amendment extended an existing exemption which was due to expire on 6 April 2006. As before, the exemption is only valid if the clearing is done in a way which limits damage to neighbouring native vegetation, and the clearing cannot be carried out in an environmentally sensitive area.

STAMP DUTY CHANGES

On 21 March 2006 the Premier announced further changes to stamp duty which included:

- Halving of mortgage duty from 1 July 2006 and abolishment from July 2008;
- Abolishment of Hire duty from 1 January 2007;
- Abolishment of conveyance duty on non-realty business property from 1 July 2010.

MINING ACT AMENDMENTS

Key changes to the Mining Act 1978 came into operation on 10 February 2006, including,

- a "reversion scheme" to allow the conversion of mining leases applications to licence applications;
- changes to the terms of licences and the introduction of a threshold test for new mining lease applications;
- changes to the system of registration of dealings affecting mining titles.

A more comprehensive summary of the changes is available. Please contact us to receive a copy.

FURTHER INFORMATION AND ADVICE

Should you require further information or advice in relation these changes or in relation to any related issue please do not hesitate to contact us.

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