



# Century Zinc Project Act 1997

Reprinted as in force on 1 December 2003

Reprint No. 1D\*

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# Information about this reprint

This Act is reprinted as at 1 December 2003. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

## **Dates shown on reprints**

**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

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Queensland

# Century Zinc Project Act 1997

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## **Century Zinc Project Act 1997**

[as amended by all amendments that commenced on or before 1 December 2003]

### **An Act to facilitate certain aspects of an agreement about the establishment of a mine and other facilities on certain land in north-west Queensland**

- 1 Century Zinc Limited is developing a project involving preparing for and operating a base metal mine to recover zinc, lead and silver from a deposit at Lawn Hill, processing and concentrating the ore, transporting the concentrate slurry by pipeline to Karumba on the Gulf of Carpentaria, dewatering the ore, barging and shipping it for export and other related activities.
- 2 After negotiations under the right to negotiate provisions of the *Native Title Act 1993* (Cwlth), the parties to the negotiations have made the agreement allowing certain acts do be done.
- 3 The project will better provide infrastructure and services for people and businesses in the area known as the Carpentaria-Mount Isa mineral province.
- 4 The project will provide employment for Queenslanders and in particular the people of the mineral province.
- 5 The project will improve the economy of Queensland and Australia.
- 6 The project will result in social and other benefits for all people of the mineral province.
- 7 It is important that any native title should not be extinguished by the grant of a right to mine or acquisition of land or interests in land affected by the project and it is not intended to prevent native title claims being pursued.

- 8 It is in the national and State interest that the project start without delay.

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Century Zinc Project Act 1997*.

### **2 Commencement**

- (1) This Act commences on a day to be fixed by proclamation.
- (2) The *Acts Interpretation Act 1954*, section 15DA does not apply to this Act.

### **3 Purpose of Act**

The purpose of this Act is to facilitate certain aspects of the agreement made under the right to negotiate provisions of the *Native Title Act 1993* (Cwlth) relating to—

- (a) the proposed development by Century Zinc Limited of a mine for mining zinc, lead and other minerals; and
- (b) the establishment of a corridor for use for miscellaneous transport infrastructure, including for the construction, operation and maintenance of a slurry pipeline from the mine site to the port of Karumba; and
- (c) the establishment by Century Zinc Limited of facilities at the port of Karumba for processing (including dewatering), storage and transport of mineral concentrates; and
- (d) the construction of associated works for the purposes mentioned in paragraphs (a), (b) and (c); and
- (e) development proposed to be undertaken on land held by the Bidunggu Aboriginal Land Trust.

#### **4 Dictionary**

The dictionary in schedule 6 defines terms used in this Act.

## **Part 2 Taking of native title and easement**

### **5 Taking**

- (1) Native title in land described in schedule 1, part 1, items 1 to 6 is taken.
- (2) Native title in land described in schedule 1, part 1, item 7 may be taken by proclamation.
- (3) Also, the following interests in land described in schedule 1, part 2 may be taken by proclamation—
  - (a) native title;
  - (b) an easement.
- (4) A proclamation under subsection (3) must state the rights and obligations to be conferred or imposed by the easement.
- (5) A proclamation under subsection (2) or (3) is not subordinate legislation.
- (6) Interests in land taken under this section vest in the State.
- (7) This section has effect despite any other Act.
- (8) This section applies subject to section 18.

### **6 Acquisition of Land Act 1967**

- (1) The *Acquisition of Land Act 1967* applies to a resumption under section 5 with any necessary changes, including those mentioned in this section.
- (2) The provisions of the *Acquisition of Land Act 1967* stated in schedule 2 do not apply to the resumption under section 5.

- (3) A person whose interest in land is taken has the right to claim compensation under the *Acquisition of Land Act 1967*, section 12(5A) and (5B) and part 4.<sup>1</sup>
- (4) Subsection (3) applies subject to the agreement and the *Native Title (Queensland) Act 1993*.
- (5) A reference in a provision of the *Acquisition of Land Act 1967* that applies to a resumption under section 5, to a proclamation that takes land, is taken to be a reference to section 5 or a proclamation under section 5.

## **7 Application of Acquisition of Land Act 1967**

In applying the *Acquisition of Land Act 1967*, part 4 under sections 5 and 6—

- (a) the State is the constructing authority; and
- (b) a reference in the part to an owner of land includes a lessee of a lease affected by a resumption under section 5; and
- (c) the compensation claimant refers the claim for compensation to the Land Court by filing in the office of the registrar of the court—
  - (i) copies of the claim given by the claimant to the State; and
  - (ii) a statement identifying the provisions of this Act or any instrument under this Act that effected the taking.

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<sup>1</sup> *Acquisition of Land Act 1967*, section 12 (Effect of gazette resumption notice) and part 4 (Compensation)

## Part 3                      Titles

### 8            Purpose of ss 9–10

- (1) The main purpose of sections 9 and 10 is to remove any doubt about the validity of the leases mentioned in the sections because of the native title Acts and in the light of certain decisions of the High Court of Australia.<sup>2</sup>
- (2) In this section—  
*native title Acts* means—
  - the *Native Title Act 1993* (Cwlth); and
  - the *Native Title (Queensland) Act 1993*.

### 9            Cancellation and grant of term lease

- (1) Term lease 205674 of lot 6 on CP892041, county of Gregory, parish of Bulmung, issued to the company (the *former lease*) is cancelled.
- (2) A term lease of lot 6 on CP892041, county of Gregory, parish of Bulmung (the *new lease*) is granted to the company.
- (3) The new lease is taken to have been granted under the *Land Act 1994* on the same terms as the former lease.
- (4) However, the term of the new lease starts on the commencement of this section.
- (5) Also, the new lease is granted in full satisfaction of any rights arising out of or in relation to the former lease.
- (6) Anything done under the former lease is taken to have been validly done under the new lease.

### 10          Cancellation and grant of mining leases

- (1) Mining leases 90045 and 90058 (the *former leases*) granted under the *Mineral Resources Act 1989* are cancelled.

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<sup>2</sup> North Gananja Aboriginal Corporation & Anor v. State of Queensland & Ors. 185 CLR 595, and The Wik Peoples v. State of Queensland & Ors. 187 CLR 1

- (2) Mining leases 90045 and 90058 (the *new leases*) are granted to the company.
- (3) The *Mineral Resources Act 1989*, section 318 does not apply to the former leases only because of their cancellation under subsection (1).<sup>3</sup>
- (4) Each new lease is taken to be have been granted under the *Mineral Resources Act 1989* on the same terms as the corresponding former lease.
- (5) However, the term of each new lease starts on the commencement of this section.
- (6) Also, each new lease is granted in full satisfaction of any rights arising out of or in relation to the corresponding former lease.
- (7) Anything done under the former leases is taken to have been validly done under the new leases.

## **11 Vesting of certain port land**

- (1) The land described in schedule 3 is vested in the Ports Corporation of Queensland and is taken to be strategic port land under an approved land use plan under the *Transport Infrastructure Act 1994*, section 286.
- (2) For subsection (1) and schedule 3, item 3, lease SL 34/38495 of lot 72 on NM 54 may be taken by proclamation if the lease is not surrendered under the *Land Act 1994* before the commencement of this subsection.
- (3) Compensation for the resumption under subsection (2) or for the surrender of the lease is payable to The Far North Queensland Electricity Board by the Ports Corporation of Queensland.
- (4) The amount and conditions of compensation under subsection (3) are to be decided by the Governor in Council.
- (5) Conditions of compensation under subsection (4) may include conditions relating to the grant by the State to the Far North

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<sup>3</sup> See the *Mineral Resources Act 1989*, section 318 (Improvement restoration for mining lease).

Queensland Electricity Corporation Ltd of an interest in land other than lot 72 on NM54.

## **12 Declaration about easement resumed under s 5(3)(b)**

- (1) This section applies to the easement mentioned in schedule 1.
- (2) Whether the easement is taken under section 5 or in another way, the easement is taken to be a public utility easement under the *Land Act 1994*.
- (3) Also, if the easement is taken under section 5, the easement is taken to have been acquired by the chief executive for the State under the *Transport Planning and Coordination Act 1994* for miscellaneous transport infrastructure purposes.
- (4) For ensuring the construction, operation and maintenance of miscellaneous transport infrastructure in the easement—
  - (a) a licence under the *Transport Infrastructure Act 1994* in relation to the infrastructure has the effect of a contract under seal between the licensee and any person having an interest in land affected by the easement; and
  - (b) the licensee may enforce rights granted under the licence against the person.

## **13 Crossing roads, reserves, watercourses etc.**

- (1) This section applies to the parts of reserves, roads, watercourses and land of other tenure mentioned in schedule 1, part 1, item 7 (the *land*).
- (2) This section applies only for ensuring miscellaneous transport infrastructure can be constructed, operated and maintained across the land.
- (3) The rights and obligations conferred or imposed by the easement apply to the land.
- (4) However, the rights and obligations can not be exercised or performed because of this section unless the entity responsible for the land gives to a licensee under the *Transport Infrastructure Act 1994* consent to the exercise or performance of the rights and obligations.

- (5) If the responsible entity fails to give the consent under subsection (4), the licensee may apply to the Premier for the consent.
- (6) The consent of the Premier under subsection (5) is taken for all purposes to be the consent of the responsible entity.
- (7) In this section—
- responsible entity*** means the following—
- (a) for a non-tidal watercourse—the chief executive of the department through which the *Water Act 2000* is administered;
  - (b) for a tidal watercourse—the chief executive of the department through which the *Transport Infrastructure Act 1994* is administered;
  - (c) for a reserve—the trustee of the reserve;
  - (d) for a road—the local government for the area in which the road is located or, if the road is a State controlled road, the chief executive of the department through which the *Transport Infrastructure Act 1994* is administered;
  - (e) otherwise—the chief executive of the department through which the *Land Act 1994* is administered.

## **Part 4 Gregory outstation**

### **14 Application of part**

This part applies only in relation to the use or development proposed to be undertaken under a development application made to the Burke Shire Council (the *council*) by the Bidunggu Aboriginal Land Trust in relation to lot 13 on CP855144 (the *Gregory outstation proposal*).

**15 Ministerial call-in power**

The Minister may call in the development application for the Gregory outstation proposal whether or not the council has decided the application.

**16 Notice of exercise of call-in power**

- (1) The Minister may call in the development application by written notice given to the council and—
  - (a) if the application has not been decided by the council—assess and decide the application; or
  - (b) if the application has been decided by the council—reassess and re-decide the application.
- (2) The notice must state the reasons for calling in the application.
- (3) The Minister must give a copy of the notice to the applicant and anyone else whose concurrence to the development application is required.

**17 Effect of call-in**

- (1) If the Minister calls in the development application before the council makes a decision on the application, the Minister—
  - (a) must continue the process from the point at which the application is called in; and
  - (b) has the powers of the council for the application from the time the application is called in.
- (2) If the Minister calls in the development application after the council makes a decision on the application—
  - (a) the process starts again from a point in the process the Minister decides; and
  - (b) the Minister has the powers of the council for the application from that point in the process.
- (3) Also, if the application is called in—
  - (a) an entity whose concurrence is required may give advice about the application; and

- (b) if an appeal has been made—the appeal is of no further effect; and
  - (c) a person may not appeal against the decision of the Minister under the Act or law under which the application is made (the *relevant law*).
- (4) The council must provide the Minister with all reasonable assistance required by the Minister to decide the application, including giving the Minister—
- (a) all relevant material about the application the council had before the application was called in; and
  - (b) any relevant material received by the council after the application was called in.
- (5) When the Minister gives notice of the decision to the applicant, the Minister must also give a copy to the council.
- (6) The decision of the Minister is taken to be the decision of the council under the relevant law for all purposes other than appeal.

## **Part 5                      Native title**

### **18      Effect of resumption and grant of rights in relation to native title interests**

It is Parliament's intention that—

- (a) this Act and anything done under this Act does not extinguish and has not extinguished any native title in land; and
- (b) the non-extinguishment principle under the *Native Title Act 1993* (Cwlth) applies to anything done under this Act.

**19 Application of Native Title (Queensland) Act**

For the *Native Title (Queensland) Act 1993*, the taking of an interest in land under section 5 is taken to be an acquisition of land under a State Compulsory Acquisition Act.<sup>4</sup>

**20 Grant of interest taken to include certain words**

Each interest granted by this Act is taken to include the statement in schedule 4.

**Part 6 Miscellaneous****21 Regulation-making power**

The Governor in Council may make regulations under this Act.

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<sup>4</sup> See *Native Title (Queensland) Act 1993*, section 4 (Definitions).

## **Schedule 1      Land in which interests are or may be taken**

section 5

### **Part 1              Land in which native title is or may be taken**

- 1 Lot 6 on CP892041
- 2 Lot 85 on CP846496
- 3 Lot 71 on CP892088
- 4 Lot 72 on NM54
- 5 Lot 107 on NM130
- 6 Lot 81 on NM130
- 7 Land following the route shown on the plan in schedule 5 across reserves, roads, watercourses and land of any other tenure joining together—
  - (a) any 2 lots of land mentioned in part 2, to the width of 100m; or
  - (b) a lot mentioned in part 2 to a lot mentioned in schedule 3, to the width of the road reserve affected.

### **Part 2              Land in which native title and an easement may be taken**

Land 100m wide following the route shown on the plan in schedule 5 across the following land—

- lot 4 on GY805051 on SP132944
- lot 2 on CP847162 on SP132945
- lot 2 on CP847162 on SP110463

**Schedule 1 (continued)**

- lot 2 on GY838438 on SP110453
- lot 2948 on PH1233 on SP110446
- lot 2948 on PH1233 on SP110447
- lot 1906 on PH1404 on SP110448
- lot 5121 on PH1011 on SP110449
- lot 5121 on PH1011 on SP110450
- lot 5121 on PH1011 on SP110452
- lot 2928 on PH1234 on SP110451
- lot 2928 on PH 1234 on SP110462
- lot 2 on CP838627 on SP110461
- lot 2 on CP838627 on SP121434
- lot 1 on CP838627 on SP121435
- lot 9 on NM143 on SP121436
- lot 117 on SP100181 on SP110457
- lot 77 on NM88 on SP110454.

## **Schedule 2      Provisions of the Acquisition of Land Act 1967 that do not apply to a resumption under section 5**

section 6

- 1 Sections 5 to 11
- 2 Section 12, other than as provided by section 6(3) of this Act
- 3 Section 13
- 4 Sections 15 to 17
- 5 Section 21
- 6 Section 36(3) and (6)
- 7 Section 37, other than for section 36(7)
- 8 Section 41<sup>5</sup>

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5 *Acquisition of Land Act 1967*, sections 5 (Purposes for which land may be taken), 6 (Easements), 7 (Notice of intention to take land), 8 (Dealing with objections) 9 (Means by which land to be taken other than by Brisbane City Council or an approved local government), 10 (Means by which land to be taken by Brisbane City Council or an approved local government) and 11 (Amending of gazette resumption notice)  
 Section 12 (Effect of gazette resumption notice)  
 Section 13 (Owner may require small parcel of severed land to be taken)  
 Sections 15 (Taking by agreement), 16 (Discontinuance of resumption before proclamation or notification of resumption) and 17 (Revocation before determination of compensation)  
 Section 21 (Grant of easement etc. in satisfaction of compensation)  
 Section 36 (Powers of entry etc.)  
 Section 37 (Temporary occupation of land)  
 Section 41 (Disposal of land)

**Schedule 3      Land vested in Ports  
Corporation of Queensland as  
strategic port land**

section 11

- 1 Lot 85 on CP846496
- 2 Lot 71 on CP892088
- 3 Lot 72 on NM54
- 4 Lot 107 on NM130
- 5 Lot 81 on NM130
- 6 Lot 1 on CP902052

**Schedule 4            Statement taken to be included  
                                 in interests granted under  
                                 this Act**

section 20

‘If any native title exists in the land and the grant of this [Title] would validly affect it in some way, then the grant of this [Title] is wholly inconsistent with the native title, but it is intended that (without in any way affecting any of the [Grantee's] rights during the term of the grant, including the [Grantee's] right of exclusive possession)—

- (a) the native title in the land should nevertheless continue to exist and not be extinguished by the grant of this [Title] or the exercise of any of the rights granted hereunder;
- (b) the native title should never have any effect upon or in relation to this [Title] or any act or right of the [Grantee];
- (c) the persons who are entitled in accordance with any traditional laws and customs, as applying from time to time, to possess the native title should continue to be native title holders;
- (d) if this [Title] or any act done under this [Title] ceases to have effect to an extent, the native title rights and interests should again have effect to that extent;
- (e) if this [Title] or its effects are wholly removed or otherwise wholly cease to operate, the native title rights and interests again have full effect.’



## Schedule 6      Dictionary

### section 4

***company*** means Century Zinc Limited A.C.N. 006 670 300, its successors in title and permitted assigns.

***council***, for part 4, see section 14.

***development application***, for part 4, means an application for approval under any of the following for the use or development to which part 4 applies—

- (a) the *Integrated Planning Act 1997*;
- (b) the *Building Act 1975*;
- (c) the Standard Water Supply Law;
- (d) the Standard Sewerage Law;
- (e) a local law of the council.

***miscellaneous transport infrastructure*** means miscellaneous transport infrastructure under the *Transport Infrastructure Act 1994*.

***the agreement*** means the agreement under the right to negotiate provisions of the *Native Title Act 1993* (Cwlth) made on 7 May 1997 between the following—

- Henry Aplin, Peter Bell, Shirley Chong, Don George, Peter O’Keefe and Beryl Willetts for themselves and the Waanyi people
- Stella Diamond and Jane Karkadoo for themselves and all persons descended from Ned Lorraine, Hislop Jacob, Harry (Father of Bonny Pedro) and Trooper Campbell and on behalf of any other Aboriginal people of the claim and neighbouring region to the north and south of the claim area, whose old people were also traditional owners, and customary users, of the claim area, some of those people identifying as Mingginda people
- Jerry Callope and Richard Bee for themselves and the Gkuthaarn and Kukatj people

**Schedule 6 (continued)**

- Audrey Callope, Shirley Toby and Jerry Callope for themselves and the Gkuthaarn people
- the State of Queensland
  - Century Zinc Limited.

## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 December 2003. Future amendments of the Century Zinc Project Act 1997 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	19 September 1997	19 September 1997
1A	1998 Act No. 13	30 March 1998	9 April 1998
1B	2000 Act No. 34	19 April 2002	3 May 2002

  

Reprint No.	Amendments included	Effective	Notes
1C	2002 Act No. 71	13 December 2002	
1D	1994 Act No. 8 (amd 2003 Act No. 54)	1 December 2003	

## 5 List of legislation

### **Century Zinc Project Act 1997 No. 49**

date of assent 8 September 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 19 September 1997 (1997 SL No. 306)

amending legislation—

### **Building and Integrated Planning Amendment Act 1998 No. 13 ss 1, 2(3), 191 sch**

date of assent 23 March 1998

ss 1–2 commenced on date of assent

remaining amdts commenced 30 March 1998 (1998 SL No. 55)

### **Water Act 2000 No. 34 ss 1–2, 1145 sch 3**

date of assent 13 September 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 19 April 2002 (2002 SL No. 69)

### **Transport Legislation Amendment Act (No. 2) 2002 No. 71 s 1, pt 2**

date of assent 13 December 2002

commenced on date of assent

### **Transport Infrastructure Act 1994 No. 8 s 491(3) (prev s 200A(3)) sch 5 (prev sch 2B) (this Act is amended, see amending legislation below)**

amending legislation—

### **Transport Infrastructure and Another Act Amendment Act 2003 No. 54 ss 1–2, 34, 39 (amends 1994 No. 8 above)**

date of assent 18 September 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2003 (2003 SL No. 294)

## **6 List of annotations**

### **Vesting of certain port land**

**s 11** amd 1994 No. 8 s 491(3) sch 5 (amd 2003 No. 54 ss 34, 39)

### **Crossing roads, reserves, watercourses etc.**

**s 13** amd 2000 No. 34 s 1145 sch 3

### **Regulation-making power**

**s 21** amd 2002 No. 71 s 4

### **SCHEDULE 1—LAND IN WHICH INTERESTS ARE OR MAY BE TAKEN**

amd 2002 No. 71 s 5

### **SCHEDULE 5—PLAN (SCHEDULE 1, PART 1, ITEM 7 AND PART 2)**

sub 2002 No. 71 s 6

### **SCHEDULE 6—DICTIONARY**

def “**development application**” amd 1998 No. 13 s 191 sch