

DEPARTMENT OF THE PRIME MINISTER AND CABINET

PM&C  
Secretary  
Mr Exell  
Prof.  
Anderson  
Ms Roberts  
Mr Bulman  
Mr  
Beswick  
Mr  
Abrahams  
Mr  
MacDowel  
|

To: Minister for Indigenous Affairs

**SECTIONS 42(8) AND 27(3) LAND RIGHTS ACT - REQUEST FOR CONSENT TO THE GRANT OF AN EXPLORATION LICENCE TO WINCHELSEA MINING PTY LTD AND APPROVAL TO ENTER RELATED AGREEMENT WINCHELSEA MINING PTY LTD AND APPROVAL TO ENTER RELATED AGREEMENT**

PMO  
Mr Kunkel

MO  
s47F  
s47F

**Recommendations - that you:**

- 1. Agree that you are satisfied the Anindilyakwa Land Council (ALC) has complied with its statutory obligations under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Land Rights Act) in seeking the following consent and approval.

**Agreed / Not Agreed**

- 2. Agree to consent, under section 42(8) of the Land Rights Act, to the grant of an Exploration Licence (EL) to Winchelsea Mining Pty Ltd (Winchelsea Mining) for part of the land subject to Exploration Licence Application (ELA) 27521, as delineated in the map enclosed with the ALC notification at Attachment D.

**Agreed / Not Agreed**

- 3. Agree to approve, under section 27(3) of the Land Rights Act, the ALC entering into the Winchelsea Island Exploration Agreement at Attachment G with Winchelsea Mining that may involve the receipt of more than \$1 million in payments.

**Agreed / Not Agreed**

- 4. Sign the letters to the ALC, the Northern Territory Minister for Primary Industry and Resources and Winchelsea Mining at Attachments A-C advising of your decision.

**Signed / Not Signed**

Nigel Scullion

Date: 12/10/18

Comments:

**Key Points:**

- 1. The ALC wrote to you on 13 September 2018, providing notification under section 42(1) of the Land Rights Act of its decision on 10 September 2018 to consent to the grant of an EL to Winchelsea Mining in respect of part of the land subject to ELA 27521 (Attachment D).
- 2. The ALC subsequently wrote to you on 14 September 2018, requesting your consent under section 42(8) of the Land Rights Act to the grant of the Exploration Licence to Winchelsea Mining and your approval under section 27(3) of the Act to enter into the related Winchelsea Island Exploration Agreement which may involve the receipt of more than \$1 million in payments over its term (Attachments E-G).

3. Your consent is required to the grant of the EL by the Northern Territory (NT) Government under the *Mineral Titles Act 2010* (NT).
4. The ALC is satisfied it has complied with its statutory obligations in respect of its requests for your consent under section 42(8) of the Land Rights Act and your approval under section 27(3) of the Act. The ALC's correspondence of 14 September 2018 included background information about consultations with relevant traditional Aboriginal owners and the joint venture arrangements under which they have equity in Winchelsea Mining (Attachments E and F).
5. The ALC had previously written to you and provided updates on these matters, including paid governance and operational roles in Winchelsea Mining to be held by the Chairperson and Chief Executive Officer of the ALC. The relevant brief (MC18-108724) is with your office.
6. Under the terms of the Winchelsea Island Exploration Agreement (Attachment G):

s47

7. Under section 42(9) of the Land Rights Act, if you fail to make a written decision in respect of the request for consent to the grant of the EL and advise the parties accordingly within 30 days of receiving the relevant correspondence (by 15 October 2018), you will be deemed to have granted the consent sought. When the 30 day period ends on a public holiday or weekend, the final day to advise the parties will default to the next business day, as it has in this instance.
8. There is no prescribed timeframe relevant to making a decision about the ALC's request for your approval under section 27(3) of the Land Rights Act to enter into the Winchelsea Island Exploration Agreement, but it would be practical to make a decision about this matter at the same time a decision is made about the request for consent to the grant of the EL.
9. The material provided by the ALC supports the assertion it has complied with its statutory obligations in these matters and the Department recommends you give the consent and approval requested.
10. Additional information is provided at Attachment H.

Wayne Beswick  
Assistant Secretary  
Land Branch  
25 September 2018

Policy Officer: s22  
Phone no: s22  
Consultation: IAG Legal Services, IAG  
Network (Arnhem Land and Groote  
Eylandt), NT Department of Primary  
Industry and Resources

**ATTACHMENTS**

**ATTACHMENT A    RESPONSE LETTER TO THE ANINDILYAKWA LAND COUNCIL**

**ATTACHMENT B    LETTER TO THE NT MINISTER FOR PRIMARY INDUSTRY AND  
RESOURCES**

**ATTACHMENT C    LETTER TO WINCHELSEA MINING PTY LTD**

**ATTACHMENT D    INCOMING CORRESPONDENCE – DATED 13 SEPTEMBER 2018**

**ATTACHMENT E    INCOMING CORRESPONDENCE – DATED 14 SEPTEMBER 2018**

**ATTACHMENT F    ATTACHMENT TO INCOMING CORRESPONDENCE OF 14  
SEPTEMBER 2018**

**ATTACHMENT G    WINCHELSEA ISLAND EXPLORATION LICENCE AGREEMENT**

**ATTACHMENT H    ADDITIONAL INFORMATION**



## MINISTER FOR INDIGENOUS AFFAIRS

Reference: MC18-122243

s47F

Anindilyakwa Land Council  
PO Box 172  
ALYANGULA NT 0885

Dear s47F

Thank you for your letter of 14 September 2018 seeking my consent to the grant of an Exploration Licence to Winchelsea Mining Pty Ltd (Winchelsea Mining) and my approval for the Anindilyakwa Land Council (ALC) to enter into a related Exploration Agreement.

I am satisfied the ALC has complied with its statutory duties under the *Aboriginal Land Rights (Northern Territory) Act 1976* (the Act) in respect of these matters.

Pursuant to section 42(8) of the Act, I consent to the grant of an Exploration Licence to Winchelsea Mining over that part of ELA 27521 marked as the 'Proposed Sub Blocks' on the map attached to the notification sent by the ALC via email on 13 September 2018.

I also give my approval under section 27(3) of the Act for the ALC to enter into the Winchelsea Island Exploration Agreement with Winchelsea Mining.

I am pleased to acknowledge your commitment that the ALC will distribute payments associate with this agreement only during school holiday periods and thank you for your commitment to reducing the impact of royalty payments on school attendance.

I have written to the Northern Territory Minister for Primary Industry and Resources and Winchelsea Mining advising them of my decisions.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nigel Scullion', with a long horizontal stroke extending to the right.

NIGEL SCULLION

12 October 2018



MINISTER FOR INDIGENOUS AFFAIRS

Reference: MC18-122243

The Hon Ken Vowles MLA  
Minister for Primary Industry and Resources  
GPO Box 3146  
DARWIN NT 0801

Dear Minister

The Anindilyakwa Land Council (ALC) wrote to me on 13 September 2018 notifying me of their consent, under section 42(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (the Act), to the grant of an Exploration Licence to Winchelsea Mining Pty Ltd (Winchelsea Mining). I understand you also received that notification.

I have provided my consent under section 42(8) of the Act to the grant of an Exploration Licence to Winchelsea Mining over that part of the land subject to Exploration Licence Application 27521 marked as the 'Proposed Sub Blocks' on the map attached to the notification sent by the ALC via email on 13 September 2018.

I have written to the ALC and Winchelsea Mining advising them of my decision.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nigel Scullion', with a long horizontal stroke extending to the right.

NIGEL SCULLION

12 October 2018



MINISTER FOR INDIGENOUS AFFAIRS

Reference: MC18-122243

Mr Dongfang Yu  
Co-Chief Executive Officer  
Winchelsea Mining Pty Ltd  
Suite 203, 213 Miller St  
NORTH SYDNEY NSW 2060

Dear Mr Yu

The Anindilyakwa Land Council (ALC) wrote to me on 13 September 2018 notifying me of their consent, under section 42(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (the Act), to the grant of an Exploration Licence to Winchelsea Mining Pty Ltd (Winchelsea Mining). I understand you also received that notification.

I have provided my consent under section 42(8) of the Act to the grant of an Exploration Licence to Winchelsea Mining over that part of the land subject to Exploration Licence Application 27521 marked as the 'Proposed Sub Blocks' on the map attached to the notification sent by the ALC via email on 13 September 2018.

I have written to the ALC and the Northern Territory Minister for Primary Industry and Resources advising them of my decision.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nigel Scullion', with a long horizontal stroke extending to the right.

NIGEL SCULLION

12 October 2018



**Anindilyakwa  
Land  
Council**

Ph 08 8987 4006  
Fax 08 8987 4098  
admin@alcnt.com.au

30 Bougainvillea Drive  
PO Box 172  
Alyangula NT 0885

13 September 2018

**By E-mail  
Confidential & privileged communication**

The Honourable Nigel Scullion  
Minister for Indigenous Affairs  
PO Box 6100  
Senate, Parliament House  
Canberra ACT 2600  
Nigel.Scullion@ia.pm.gov.au

The Honourable Ken Vowles  
Minister for Primary Industry and Resources  
Parliament House  
GPO Box 3146, Darwin NT 0801  
[minister.Vowles@nt.gov.au](mailto:minister.Vowles@nt.gov.au)

Mr Dongfang Yu  
Co-CEO  
Winchelsea Mining Pty Ltd

Dear Minister Scullion, Minister Vowles and Mr  
Dongfang Yu,

**Consent to Grant of Exploration Licence**

On 10 September 2018 the Full Council of the Anindilyakwa Land Council (**ALC**) gave consent in accordance with its statutory functions under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (**Land Rights Act**), to the grant of an exploration licence over that part of ELA 27521 marked as the **Proposed Sub Blocks** (within yellow border) shown in the **attached** map, in accordance with, and subject to, the terms and conditions of the exploration licence agreement that have been agreed by the ALC and Winchelsea Mining Company Pty Ltd.

Please accept this notification of such consent as required by section 42(1) of the Land Rights Act.

Further correspondence will be forwarded to the Minister for Indigenous Affairs seeking consent to the grant of the exploration licence under section 42(8) of the Land Rights Act, providing related background information and enclosing a copy of the proposed exploration agreement to be entered into with the applicant.

Please contact us if you have any questions in relation to this notification of consent.



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Yours Sincerely s47F

s47F



Attachment 1





**Anindilyakwa  
Land  
Council**

Ph 08 8987 4006  
Fax 08 8987 4098  
admin@alcnt.com.au

30 Bougainvillea Drive  
PO Box 172  
Alyangula NT 0885

14 September 2018

**By E-mail  
Confidential & privileged communication**

The Honourable Nigel Scullion  
Minister for Indigenous Affairs  
PO BOX 6100  
Senate, Parliament House  
Canberra ACT 2600

Nigel.Scullion@ia.pm.gov.au

Dear Minister Scullion

**Request for consent under the Land Rights Act**

- 1 Pursuant to its statutory functions under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (**Land Rights Act**), the ALC requests your approval and consent under sections 27(3) and 42(8) of the Land Rights Act, in relation to the Winchelsea Island Exploration Agreement (**Agreement**).
- 2 The substance of the negotiations, consultations and Agreement reached is detailed in the **attached** submission. The proposed Agreement is also **attached**.

**A. Request for approval under section 27(3) of the Land Rights Act**

- 3 Payments under the Agreement are likely to exceed \$1,000,000. Accordingly the ALC requests your approval to enter into the Agreement.
- 4 As detailed in the **attached** submission, the ALC is satisfied that it has carried out its functions in respect of the land of relevance to the Agreement.
- 5 In particular, the ALC has carried out all necessary consultations required by section 23(3) of the Land Rights Act. This consultation process is outlined in paragraphs 7.1 to 7.16 of the attached submission.

**B. Request for approval under section 42(8) of the Land Rights Act**

- 6 Winchelsea Mining Company Pty Ltd and the ALC have reached agreement as to the terms and conditions of the grant of a mining interest over the area of land within ELA 27521.



anindilyakwa.com.au

- 7 On 10 September 2018 the Full Council of the ALC consented to the grant of the exploration licence over ELA 27521 subject to any required Ministerial consent.
- 8 As shown in the **attached** notification, the ALC has notified you, the Northern Territory Mining Minister and Winchelsea Mining of this decision.
- 9 The ALC is satisfied that it has complied with its statutory obligations under sections 42(2), 42(4) and 42(6) of the Land Rights Act as outlined in paragraphs 4.1–4.3, 5.1–5.9 and 7.1–7.16 of the attached submission.
- 10 For the purposes of section 42(8) of the Land Rights Act the ALC requests your consent to the grant of the Exploration Licence in accordance with the terms and conditions of the Agreement.

### C. Income Distribution Arrangements

- 11 The Agreement involves income distribution for the traditional Aboriginal owners.
- 12 During consultations it was made clear that any distributions would only occur during school holidays. This has been written into the Agreement (see clause 6.1 of the Agreement).
- 13 All income under the Agreement is to be applied in accordance with the terms of the Agreement as provided in section 35(3)(a) of the Land Rights Act.

Thank you for your consideration of our approval request. Please contact me if you have any questions in relation to the approvals requested or require any further information.

s47F





## ANINDILYAKWA LAND COUNCIL

### CONFIDENTIAL SUBMISSION

### TRADITIONAL ABORIGINAL OWNERSHIP AND CONSULTATIONS

14 September 2018

#### 1 GENERAL BACKGROUND AND SUBMISSION SUMMARY

- 1.1 This submission concerns the Anindilyakwa Land Council's (**ALC's**) performance of its statutory functions under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (the **Land Rights Act**) in relation to an agreement it proposes to enter into with the Winchelsea Mining Company Pty Ltd (**Winchelsea Mining**), subject to Ministerial consent.
- 1.2 Minister, as you know over the last year the ALC has been assisting the TOs of Winchelsea Island to establish a mining venture on their country, in which the TOs will be majority equity participants. We have briefed you on this project a number of times including by letter on 10 October 2017 and 15 August 2018.
- 1.3 This submission concerns the consent to exploration that the ALC has now provided to Winchelsea Mining.
- 1.4 For the reasons set out in this submission, the ALC is satisfied that the traditional Aboriginal owners understand the nature and purpose of the terms and conditions of the proposed agreement referred to in this submission and consent to them.
- 1.5 For the reasons also set out in this submission, the ALC has also carried out all necessary statutory consultations to satisfy sections 23(3), 42(2) and 42(6) of the *Land Rights Act*.

#### 2 WINCHELSEA MINING

- 2.1 Winchelsea Mining was initially wholly owned by Anindilyakwa Advancement Aboriginal Corporation (**AAAC**), a not for profit Aboriginal Corporation that has been recently established to explore and mine Winchelsea Island as well as to hold other tenements in and around the Groote Eylandt archipelago, and to apply the proceeds of such exploration and mining towards charitable objectives associated with improving the health and well-being of Groote Eylandt TOs.
- 2.2 AAAC is specifically empowered to pursue its objective by, among other things, participating in resource development and other community enterprises on or related to Winchelsea Island.
- 2.3 The AAAC Rule Book requires
  - (a) s47G of profits that AAAC receives from resource development on Winchelsea Island to be directed to charitable projects that benefit the TOs of Winchelsea Island;



- (b) a sub-committee to make decisions on these projects; and
  - (c) for the remaining s47G of AAAC's profits to be used to pursue charitable objects that benefit *all* TOs of the ALC region.
- 2.4 While AAAC is incorporated for the benefit of all TOs of the ALC region and membership is open to all those TOs, only TOs of Winchelsea Island are eligible to be directors. This is because of the specific focus of AAAC on the Winchelsea Island mining project.
- 2.5 Finally, the Rule Book of AAAC provides that AAAC will always have the power to appoint the persons who fulfil the roles of Chairperson and CEO of the ALC from time to time as their nominee directors of Winchelsea Mining. In particular, by AAAC's Rule Book the CEO and Chairperson of ALC, whomever is the ALC CEO and Chairperson at any given time, will serve as AAAC's nominated directors on the board of Winchelsea Mining, unless the board of AAAC decides otherwise.
- 2.6 A shareholders agreement between AAAC, Winchelsea Mining and the other joint venture party Aus China International Mining Pty Ltd (**Aus China Mining**), has been completed. Pursuant to the shareholders agreement Aus China Mining has contributed capital to Winchelsea Mining in exchange for ownership of s47G of the company. AAAC now owns s47G of Winchelsea Mining.
- 2.7 The shareholders agreement between Winchelsea Mining, Aus China Mining and AAAC allows each shareholder with more than a s47G shareholding to appoint two directors to Winchelsea Mining. It also provides that AAAC will always be able to appoint 1 director to Winchelsea Mining, even if its shareholding falls below s47G.
- 2.8 As outlined above AAAC's Rule Book empowers it to appoint the CEO and Chairperson of ALC as its nominee directors on Winchelsea Mining.
- 2.9 The shareholders agreement also provides for the appointment of a CEO to Winchelsea Mining. The CEO is to be appointed by special decision of the Winchelsea Mining Board and will manage and generally administer the activities of Winchelsea Mining on a day to day basis, manage the business plan and report to the Winchelsea Mining Board.
- 2.10 The relevant parties as well as the ALC have approved Mark Hewitt as a Director and Co-CEO of Winchelsea Mining and s47F as a Director of Winchelsea Mining.

### 3 WINCHELSEA ISLAND EXPLORATION AGREEMENT

- 3.1 Pursuant to Part IV of the *Land Rights Act*, Winchelsea Mining and the ALC have recently finalised negotiations for an exploration agreement over part of the area covered by ELA 27521 on Winchelsea Island.
- 3.2 Winchelsea Mining has lodged with the NT Minister for Mines and Energy an application pursuant to the *Mineral Titles Act* (NT) for the grant of the relevant Exploration Licence in respect of ELA 27521.



3.3 The parties to the agreement are the ALC and Winchelsea Mining. Payments under the agreement will exceed **s47G**

3.4 The key features of this Agreement are set out in **Annexure 1**.

#### 4 Informed Consent Process

4.1 Pursuant to its statutory functions, and on the basis of longstanding and regularly updated anthropological advice, the ALC is satisfied that members of the clans outlined in section 6 of this submission below are the TOs of Winchelsea Island.

4.2 The ALC is satisfied that the traditional Aboriginal owners understand the nature and purpose of the terms and conditions of the proposed agreement and consent to them.

4.3 The ALC has also carried out all necessary statutory consultations to satisfy sections 23(3), 42(2) and 42(6) of the *Land Rights Act*, including where required:

- (a) consulting with other Aboriginals interested in the land and having regard to their interests and the interests of the traditional Aboriginal owners of Winchelsea Island.
- (b) consulting with any Aboriginal community or group that may be affected and ensuring they have an adequate opportunity to express their views to the Land Council.

4.4 The exploration agreement was put to the ALC Full Council on 10 September 2018 and approved subject to obtaining Ministerial approval under section 27(3) of the *Land Rights Act*. **s47F** the Chair of the ALC, and Mark Hewitt, the CEO of the ALC, were not present at this part of the meeting and did not vote because they will have roles with Winchelsea Mining as outlined above in section 2.

#### 5 STATUTORY PROVISIONS

5.1 As you know Minister, the *Land Rights Act* distinguishes between two groups of

5.2 Aboriginal persons who may hold traditional interests to land: "traditional Aboriginal owners" (from whom under the statute consent must be obtained prior to development), and other Aboriginals "entitled by Aboriginal tradition to the use or occupation of the land concerned, whether or not the traditional entitlement is qualified as to place, time, circumstance, purpose or permission."<sup>1</sup>

5.3 The term "traditional Aboriginal owners" is defined as follows:<sup>2</sup>

*traditional Aboriginal owners, in relation to land, means a local descent group of Aboriginals who:*

- (a) *have common spiritual affiliations to a site on the land, being affiliations that place the group under a primary spiritual responsibility for that site and for the land; and*
- (b) *are entitled by Aboriginal tradition to forage as of right over that land.*

<sup>1</sup> Section 4(1). See also sections 11(1)(a), 23 (especially subsection 3) and 71 of the *Land Rights Act*.

<sup>2</sup> Section 3 of the *Land Rights Act*.



5.4 Section 23(3) is of relevance to the present negotiations. It reads:

*In carrying out its functions with respect to any Aboriginal land in its area, a Land Council shall have regard to the interests of, and shall consult with, the traditional Aboriginal owners (if any) of the land and any other Aboriginals interested in the land and, in particular, shall not take any action, including, but not limited to, the giving of consent or the withholding of consent, in any matter in connection with land held by a Land Trust, unless the Land Council is satisfied that:*

- (a) *the traditional Aboriginal owners (if any) of that land understand the nature and purpose of the proposed action and, as a group, consent to it; and*
- (b) *any Aboriginal community or group that may be affected by the proposed action has been consulted and has had adequate opportunity to express its view to the Land Council.*

5.5 Section 23(3) requires a Land Council when carrying out its functions in respect of Aboriginal land to have regard to the interests of, and consult with, the traditional Aboriginal owners and other Aboriginals interested in the land. The requirement that an interest in land cannot be granted without the traditional Aboriginal owners' consent is prescribed in s 23(3) in relation to any "action" a Land Council may take in connection with land held by a Land Trust.

5.6 The position of the traditional Aboriginal owners (as a group) is ascertained in accordance with their traditional, or otherwise agreed and adopted, decision making process.<sup>3</sup>

5.7 The function of identifying traditional Aboriginal owners and other interested Aboriginals is vested by the statute in the responsible Land Council. Specifically, section 24 enables a Land Council to maintain and update records as to the identity of traditional Aboriginal owners, and a similar function may be implied from s 23(3).<sup>4</sup>

5.8 Section 27(4) provides that the Minister shall not approve a Land Council or a Land Trust entering a contract involving the payment or receipt of an amount exceeding \$1 million unless satisfied that the Land Council in relation to the proposed contract has "complied with any duty imposed on it by subsection 23(3)." The operative part of that provision here is that the ALC has regard to the interests of, and consults with, the traditional Aboriginal owners and other Aboriginals interested in the land.

5.9 The agreement specifies the way in which moneys are to be paid, meaning the ALC is contractually obliged to pay financial benefits received in the manner set out in the agreement.

s47F, s47G

<sup>3</sup> Section 77A of the *Land Rights Act*.

<sup>4</sup> *Tapnguk v Northern Land Council* 1996 108 NTR 1. See also *Myoung v Northern Land Council* 2006 FCA 1130 (24 August 2006).



s47F, s47G



Released under the FOI Act by the  
National Indigenous Australians Agency (NIAA)



## 7 CONSULTATIONS

- 7.1 The ALC has been consulting with Winchelsea Island traditional Aboriginal owners and with other Groote Eylandt TOs who may be affected by the grant of the licence for over a year in relation to this joint venture project.
- 7.2 In particular, in accordance with ALRA requirements, throughout 2017 the ALC consulted with the traditional Aboriginal owners of Winchelsea Island concerning the exploration proposals and the terms and conditions to which the grant of the exploration licence may be subject, and consulted with other Groote Eylandt TOs who may be affected by the grant of the licence to ensure that they had an adequate opportunity to express to the ALC their views concerning the terms and conditions.
- 7.3 This culminated in a meeting on 10 October 2017 with Winchelsea Island TOs and other TOs that may be affected by the grant of an exploration licence on Winchelsea Island. At that meeting Winchelsea Island TOs consented to ALC proceeding to assist with the establishment of a joint venture company (JVCo) to explore on Winchelsea Island and the transfer of ELA 27521 to the proposed JVCo.
- 7.4 At the time of the 10 October meeting the proposed JVCo was to involve Yukida Resources Pty Ltd (**Yukida**), as well as a TO controlled CATSI Corporation (to be established after the meeting) and a Shandong company.
- 7.5 Since then the CATSI Corporation, AAAC, has been established.
- 7.6 The JVCo, known as Winchelsea Mining, involves both AAAC and the Shandong company, Aus China Mining. Yukida is no longer involved. Its interest in ELA 27521 has been bought out by Winchelsea Mining.
- 7.7 At the time of the 10 October 2017 meeting it was expected that the CATSI Corporation (being AAAC) would own s47G of the JVCo (being Winchelsea Mining) and that Yukida and Aus China Mining would together own s47G. In fact, with Yukida no longer involved AAAC will actually own s47G of Winchelsea Mining and Aus China Mining will own s47G of it.
- 7.8 At the same 10 October 2017 meeting the Winchelsea TOs agreed to the ALC negotiating an exploration agreement with the JVCo (being Winchelsea Mining) on the terms and conditions that were specifically detailed at the meeting.
- 7.9 More specifically, the Winchelsea TOs were asked whether they agree to the proposed commercial arrangements and suggested exploration methodology, as well as proposed terms and conditions of any agreement, which consent would be conditional on Winchelsea Mining ultimately holding the exploration licence application (which it now does hold).
- 7.10 A secret ballot was conducted, by request of the Winchelsea TOs, with all agreeing beforehand that exploration would take place if there were more 'yes' votes than 'no' votes and would not take place if there were more 'no' votes than 'yes' votes. The secret ballot returned a s47F result in favour of exploration on the terms and conditions discussed.



- 7.11 It was also agreed by the Winchelsea TOs at that meeting that selected senior Winchelsea TOs would confer after the application is transferred to Winchelsea Mining to confirm the 10 October 2017 decision, in accordance with Part IV of ALRA.
- 7.12 The TOs on 10 October 2017 made clear to the ALC that they understood and agreed that the purpose of the further meeting would be to simply formalise what is required under Part IV of ALRA, by confirming what was agreed to on 10 October 2017, once the JVCo is established and the application is transferred to it (which steps have now been completed).
- 7.13 On Tuesday 4 September 2018 ALC arranged for a meeting to take place of the selected senior TOs for this purpose and at that meeting those TOs confirmed the earlier consent to the granting of an exploration licence on Winchelsea Island.
- 7.14 Present at this meeting, in addition to ALC staff and traditional Aboriginal owners, were representatives of Winchelsea Mining and DPMC. The presentation given by the ALC at the 4 September meeting is provided at Annexure 2.
- 7.15 The below table contains the dates and details of key consultations.

Date	Location	Purpose
02/03/17	ALC Boardroom, Alyangula	Meeting to consult with the s47G and s47F Clans to present proposal to conduct exploration on Winchelsea Island
12/05/17	ALC Boardroom, Alyangula	Meeting to consult with the s47F and s47F Clans to present proposal to conduct pick and shovel exploration on Winchelsea Island, at which meeting other Aboriginals interested in the land were also present and were consulted.
23/06/17	ALC Boardroom, Alyangula	Meeting to consult with the s47F and s47F Clans to discuss information regarding Winchelsea project
07/07/17	Groote Eylandt Lodge, Alyangula	Meeting to seek consent on whether the s47F and s47F Clans would like to progress the Winchelsea project through the ALRA process
02/08/17	ALC Land and Sea Ranger Base, Pole 13	Meeting to seek consent on whether the s47F and s47F Clans would like to progress the Winchelsea project through the ALRA process, at which meeting other Aboriginals interested in the land were also present and were consulted
25/09/17	Milyakburra Cultural Centre	Meeting to consult with other Aboriginals interested in the land, being the community of Milyakburra, in relation to the proposal for exploration on Winchelsea Island



26/09/17	Tamarind Trees out the front of Umbakumba store	Meeting to consult with other Aboriginals interested in the land, being the community of Umbakumba, in relation to the proposal for exploration on Winchelsea Island
3/10/17	Front lawn of CATCH, Angurugu	Meeting to consult with other Aboriginals interested in the land, being the community of Angurugu, in relation to the proposal for exploration on Winchelsea Island
10/10/17	Groote Eylandt Lodge, Alyangula	Meeting to seek consent from the s47F and s47F Clans to approve exploration on Winchelsea Island for manganese, at which meeting other Aboriginals interested in the land were also present and were consulted.
4/09/18	ALC Boardroom, Alyangula	To seek ratification from the s47F and s47F Clans to approve exploration on Winchelsea Island for manganese

7.16 The traditional Aboriginal owners consented to the agreement in accordance with a combination of traditional decision making processes and the agreed and adopted secret ballot decision making processes outlined above.

## 8 MINISTERIAL CONSENT

8.1 As you know Minister on 10 September 2018 the Full Council of the ALC gave consent in accordance with its statutory functions under *Land Rights Act*, to the grant of an exploration licence over that part of ELA 27521 marked as the Proposed Sub Blocks (within yellow border) shown in the map attached to our letter of **13 September 2018**, in accordance with, and subject to, the terms and conditions of the exploration licence agreement that have been agreed by the ALC and Winchelsea Mining.

8.2 As such the ALC now requests that you determine you also consent to the grant in accordance with section 42(8) of the Land Rights Act.

s47F

Anindilyakwa Land Council



anindilyakwa.com.au

**ANNEXURE 1: SUMMARY OF WINCHELSEA ISLAND EXPLORATION AGREEMENT****Term**

- 9 The agreement goes for as long as Winchelsea Mining wants to keep looking for minerals in the area of the agreement with limited ability to terminate the agreement sooner. Exploration Licences can be granted for a maximum of six years and then renewed for two years. They can be renewed more than once.

**What is Winchelsea Mining looking for?**

- 10 Winchelsea Mining is looking for manganese and the agreement is about looking for manganese.

s47G

s47F



# s47F

## Environment protection

- 17 The agreement contains specific environmental protections.
- 18 Winchelsea Mining has to minimise its impact on the environment and pay careful attention to not introducing weeds and pests.
- 19 Winchelsea Mining has to do base line monitoring and ongoing monitoring so it can measure the impact of its activities over time.
- 20 Winchelsea Mining has to rehabilitate the area after it is finished with it.

## Liaison

- 21 There is no specific Liaison Committee for this agreement but there must be at least two meetings a year between the ALC, Winchelsea Mining and TO representatives.

## Annual work programme and report

- 22 Winchelsea Mining has to prepare an annual work programme and it can only do work that is covered by the programme.
- 23 ALC and TO representatives consider the work programme and the ALC might require further consultation with TOs about the work programme before agreeing to it.
- 24 There is a process for the ALC to provide comments and suggest changes to the work programme and for dispute resolution if Winchelsea Mining does not agree with those changes.
- 25 Winchelsea Mining has to prepare an annual work report showing the work it has done each year.

## Employment and training

- 26 If there is a local Aboriginal company that can do some of the work Winchelsea Mining needs then Winchelsea Mining has to seriously consider their tender.
- 27 Winchelsea Mining has to try hard to employ local Aboriginal people and get its contractors and sub-contractors to do that as well.
- 28 Winchelsea Mining has to try to break down jobs into smaller contracts that are easier to tender for.



## Obligations of Winchelsea Mining employees

### Instruction on Culture

- 29 Winchelsea Mining has to make sure its employees and contractors are given instruction on Aboriginal culture and what they can and cannot do on Aboriginal land.

### Permits

- 30 Winchelsea Mining staff have to have permits and if they do not follow them they can be asked to leave.
- 31 If Winchelsea Mining's staff want to go hunting, fishing or site seeing on the Island they need a different permit from the ALC.

### Timber and water

- 32 Winchelsea Mining's staff can use water and wood for any camps that they have to set up on the licence area for drinking, washing and firewood.

### Drugs, alcohol and guns

- 33 No one is allowed to have drugs or alcohol on the licence area.
- 34 Winchelsea Mining people are not allowed to have guns or hunt on the licence area unless the ALC says it is ok in writing.

## Passing on rights to another mining company

- 35 Winchelsea Mining can sell its exploration licence to another mining company but only after that mining company agrees to follow this agreement.
- 36 So long as the new company is financially secure and has not made public statements or taken actions against Aboriginal people or culture or caused serious environmental damage then the ALC has to agree to this.

## Future mining

- 37 If Winchelsea Mining finds a large enough deposit of manganese that it wants to mine it then it will need a different type of licence from the NT Government and a different agreement with the ALC.
- 38 The *Land Rights Act* says that once a company has an exploration licence and it finds something it wants to mine, the TOs and the ALC cannot tell Winchelsea Mining that it cannot do mining.
- 39 But the TOs through the ALC can negotiate a new agreement that they are happy with.
- 40 In this agreement Winchelsea Mining promises to tell the ALC as soon as it finds



enough manganese that it thinks it can mine and to give the ALC more information about its preparations for mining.

- 41 Winchelsea Mining also promises to respect a set of mining principles that it would follow if it eventually does start a mine in the area.
- 42 These include:
- (a) to have good environmental practices;
  - (b) to have good Aboriginal employment and training practices;
  - (c) to have good communication;
  - (d) to have good sacred site protection; and
  - (e) to make royalty payments if AAAC holds less than **s47G** of the shares in Winchelsea Mining .
- 43 Winchelsea Mining and the ALC can agree to something different if they, and the TOs, are happy with it, but at least this agreement sets a benchmark for future mining.

#### Confidentiality

- 44 The details of the agreement are confidential.



ANNEXURE 2 - PRESENTATION FOR FINAL CONSENT MEETING

**s47F**



Winchelsea Exploration Licence  
Agreement ELA 27521  
Final Consent Meeting

4 September 2018 Winchelsea Exploration Licence

The Area

Is everyone happy that the right people are here to make a decision today?  
Click to add text



4 September 2018 ALC Winchelsea Exploration Licence

Current Context

- Winchelsea Mining Pty Ltd wants to look for manganese on Winchelsea Island
- Traditional Owners will hold **s47G** of the ownership at this stage in the JV
- If TO's say "NO" to exploration then Winchelsea goes back into moratorium
- If TO's say "YES" to exploration, you may not have the option to say "NO" to mining in the future but can still negotiate terms and conditions

4 September 2018 Winchelsea Exploration Licence

Current Context

- On 10<sup>th</sup> October 2017 a secret ballot was conducted, by request of the Winchelsea TOs, which returned a **s47G** result in favour of exploration on the terms and conditions discussed
- It was also agreed by the Winchelsea TOs at that meeting that selected senior Winchelsea TOs (those present today) would confer after the application is transferred to Winchelsea Mining (which it now has been) to confirm the 10 October decision, in accordance with Part IV of ALRA.
- The TOs on the 10 October understood and agreed that the purpose of the further meeting is to simply formalise what is required under Part IV of ALRA, and what was agreed to on the 10 October, once the JVC is established and the application is transferred (which steps have now been completed).
- Today's meeting is being held for that purpose

4 September 2018 Winchelsea Exploration Licence

Rights under the Land Rights Act

- Mining companies in the Northern Territory need an exploration licence to explore for minerals.
- When they want to explore on Aboriginal land they also need to have:
  - an Agreement with the Land Council
  - the consent of the Federal Minister responsible for the Aboriginal Land Rights Act (currently Nigel Scullion).
- The ALC cannot just make an agreement with JV Winchelsea Mining about exploration.
- The ALC has to conduct consultations and obtain the consent of TOs.
- The ALC also has to consult with other Aboriginal people interested in the land or affected by the project.

4 September 2018 ALC Winchelsea Exploration Licence

Rights under the Land Rights Act ...

- TOs have rights under the Land Rights Act in relation to exploration. These rights are:
  - to be consulted by the Land Council about the terms and conditions of the grant of an exploration licence
  - to provide or withhold informed consent. This means the TOs have to understand what the proposal is, understand the terms and conditions that the grant of the licence might be subject to, and decide whether to agree to it.
- The first part of today is hearing about what they want to do. Hearing about where they want to do it, and then thinking about whether that might be OK if there are good terms and conditions about things like payments, sacred sites, protection of the environment and jobs.
- Later we will talk about what might happen if Winchelsea Mining Pty Ltd find something they want to mine.

4 September 2018 ALC Winchelsea Exploration Licence

### What is the Agreement for?

- The agreement is between JV Winchelsea Mining Pty Ltd and ALC
- JV Winchelsea Mining Pty Ltd has to have this agreement before the NT Government can grant a mineral lease to explore
- The agreement sets out a lot of the conditions on the mineral lease
- Other laws limiting what JV Winchelsea Mining Pty Ltd can do e.g. Sacred Sites Act and Mine Management Act.
- The agreement will go for as long as the company wants to continue looking for minerals in the area. Exploration Licences can be granted for up to 6 years and can be renewed more than once.
- JV Winchelsea Mining Pty Ltd wants to explore for Manganese if other minerals are found, they may be able to mine them

2 September 2018 ALC Winchelsea Exploration

### Protection of Sacred Sites

# S47F

4 September 2018 ALC Winchelsea Exploration

# S47F

### Protection of the environment

- By law, as well as special protections in the Agreement.
- Aim is to keep impact as low as possible, also to keep weeds/pests out
- Baseline studies and ongoing monitoring
- Protection of Sea Country, Billabongs, Jungles and Streams
- Rehabilitation



4 September 2018 Winchelsea Exploration Meeting

4 September 2018 ALC Winchelsea Exploration

### The Area



4 September 2018 Winchelsea Exploration Meeting

### Other Lease Areas currently held by Winchelsea Mining Pty Ltd



4 September 2018 Winchelsea Exploration Meeting



anindiyakwa.com.au

### What happens now?

- Now Winchelsea Mining Pty Ltd will tell you what they want to do.
- After that you can ask any questions you have.
- You can ask Winchelsea Mining Pty Ltd and the Minister's representative to leave at any time and invite them back in to answer any questions.

4 September 2014

ALC Winchelsea E-proc 2014

14

### Target Drill Program – Winchelsea Island

- 200 Reverse Circulation drill holes
- Forecasted on outcropping Mt
- Initial 60 drill holes to have 200m spacing
- Truck mounted RC rig to minimise disturbance



17 October 2013



ALC Winchelsea E-proc 2014

14

### Project Stages



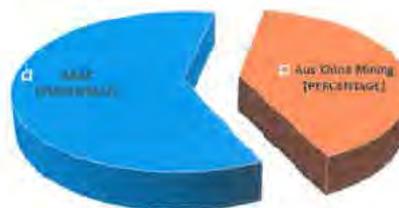
4 September 2014

ALC Winchelsea E-proc 2014

17

### Project Stages

Share of Winchelsea Project – Stage 1  
14 Clans will be a part Project owner, not simply a royalty recipient



Anindilyakwa Aus China Mining

4 September 2014

ALC Winchelsea E-proc 2014

### Jobs and Training

- Economic development framework to improve: education and training; employment, recruitment and retention; and business development
- If a local Aboriginal company can do some work for JV Winchelsea Mining Pty Ltd, then JV Winchelsea Mining Pty Ltd has to seriously consider them
- JV Winchelsea Mining Pty Ltd has to work hard at employing local Aboriginal people as well as encouraging contractors and sub-contractors to do the same
- Provide additional on the job training for local Aboriginal employees
- JV Winchelsea Mining Pty Ltd must report on its Aboriginal employment

4 September 2014

ALC Winchelsea E-proc 2014

17

### What are the decisions you can make?

- With exploration TOs can say yes or no to JV Winchelsea Mining Pty Ltd
- If TOs say YES at the end of this meeting then ALC will advise JV Winchelsea Mining Pty Ltd and the Government and exploration agreement documents can be finalised and signed by all parties and exploration proceed as planned.
- If TOs say NO to exploration then the area will go into moratorium for 5 years Winchelsea Mining Pty Ltd cannot come back to you for 5 years. Winchelsea Mining Pty Ltd do not have to come back, they can give up their rights to the area.

4 September 2014

ALC Winchelsea E-proc 2014



anindilyakwa.com.au

## What happens now?



### Questions

- Confirm areas of EL 27521 Winchelsea Island (Akwamburrkba) Lease included in the exploration lease area will go into Moratorium
- Confirm EL 27522 Connexion Island (Yillkamurra) will go back into Moratorium

4 September 2018

EL 27521 Winchelsea Island



[anindilyakwa.com.au](http://anindilyakwa.com.au)

## ATTACHMENT H

**Additional Information**Legislative provisions relevant to the proposed grant of an Exploration Licence

The Winchelsea Mining Pty Ltd (Winchelsea Mining) has negotiated and agreed with the Anindilyakwa Land Council (ALC) on the terms of the Winchelsea Island Exploration Agreement at Attachment H.

Winchelsea Mining is a joint venture arrangement between Anindilyakwa Advancement Aboriginal Corporation, representing the traditional Aboriginal owners, and Aus China International Mining Pty Ltd.

The Exploration Licence to be granted subject to the terms and conditions set out in the Winchelsea Island Exploration Agreement will allow Winchelsea Mining to explore for and evaluate deposits of manganese within the boundaries of the proposed Exploration Licence area delineated in the map enclosed in the ALC's notification at Attachment D.

The ALC seeks your consent under section 42(8) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Land Rights Act) to the grant of the Exploration Licence.

Subject to your consent, the Exploration Licence would be granted by the Northern Territory (NT) Government under the *Mineral Titles Act 2010* (NT).

Section 42(2) of the Land Rights Act provides that:

*The Land Council shall not consent to the grant of the licence unless it has, before the end of the negotiating period, to the extent practicable:*

- (a) *consulted the traditional Aboriginal owners (if any) of the land to which the application relates concerning:*
  - (i) *the exploration proposals; and*
  - (ii) *the terms and conditions to which the grant of the licence may be subject; and*
- (b) *consulted any Aboriginal community or group that may be affected by the grant of the licence to ensure that the community or group has had an adequate opportunity to express to the Land Council its views concerning the terms and conditions.*

Section 42(4) of the Land Rights Act sets out the specific requirements with which a Land Council must comply when consulting with traditional Aboriginal owners in relation to an exploration licence proposal.

Section 42(6) of the Land Rights Act provides that:

*Subject to subsection (7), the Land Council shall not consent to the grant of the licence unless:*

OFFICIAL

- (a) *it is satisfied that the traditional Aboriginal owners (if any) of the land understand the nature and the purpose of the terms and conditions and, as a group, consent to them;*
- (b) *it is satisfied that the terms and conditions are reasonable; and*
- (c) *it has agreed with the applicant upon the terms and conditions.*

The letter from the ALC at Attachment E explicitly states it is satisfied it has complied with its statutory obligations in respect of these legislative provisions.

Relevant background information, including related consultations, is provided in the ALC's submission at Attachment F.

The ALC's correspondence advises that its consent to the grant of the Exploration Licence, over a defined portion of the area subject to Exploration Licence Application 27251, was given at a meeting of members held on 10 September 2018. Pursuant to section 42(1) of the Land Rights Act, the ALC has provided notification to the relevant parties of that decision and included an attached map (Attachment D refers).

At that same meeting, the ALC agreed to enter into the Winchelsea Island Exploration Agreement at Attachment G. The ALC's entry into this agreement is subject to your approval under section 27(3) of the Land Rights Act and advice about this matter is provided further down in this document.

Section 42(8) of the Land Rights Act provides that:

*Where the Land Council consents to the grant of the licence, the Minister shall determine, in writing, whether he or she also consents to the grant, and shall notify the applicant and the Land Council, in writing, accordingly, within 30 days, or such other period as is prescribed, after:*

- (a) *the receipt by the Minister of the notice under subsection (1);*  
*or*
- (b) *the day on which the Land Council was, under subsection (7), deemed to consent to the grant of the licence.*

Section 42(9) of the Land Rights Act provides that:

*If the Minister fails to comply with subsection (8), the Minister shall be deemed to consent to the grant of the licence.*

Section 42(10) of the Land Rights Act provides that:

*Where the Minister consents to the grant of the licence, he or she shall notify the applicant, the Northern Territory Mining Minister and the Land Council, in writing, accordingly.*

Under section 42(8) of the Land Rights Act you have 30 days from the receipt of the notice from the ALC (Attachment D) to determine, in writing, if you consent to the grant of the Exploration Licence and notify the relevant parties of your decision.

The ALC's notification of its consent to the grant of the Exploration Licence was received via email by your office on 13 September 2018. The 30 day deadline for a written determination under section 42(8) of the Land Rights Act and notification to the relevant parties would normally be Saturday 13 October 2018. In this instance the deadline defaults to the next ordinary business day, being Monday 15 October 2018.

If you fail to make a written determination and notify the relevant parties in writing of your decision by Monday 15 October 2018, you will be deemed under section 42(9) of the Land Rights Act to have granted the consent sought.

Subject to the grant of the Exploration Licence, if Winchelsea Mining wishes to proceed to mining production at a later date it will be required to seek the grant of a mining interest and your consent under section 45(b) of the Land Rights Act.

The proposed Winchelsea Island Exploration Agreement at Attachment G includes provisions which describe the principles of any future mining agreement.

#### Delegation of powers to the NT Mining Minister

Some of your powers and functions provided in Part IV of the Land Rights Act have been delegated to the NT Mining Minister, currently the Minister for Primary Industry and Resources. Those delegations do not include your power under section 42(8) of the Land Rights Act to consent to the grant of an exploration interest.

#### Approval to enter into agreements that would involve the receipt of more than \$1,000,000

The ALC seeks your approval under section 27(3) of the Land Rights Act to enter into the Winchelsea Island Exploration Agreement at Attachment G as it may involve the receipt of more than \$1 million.

Section 27(3) of the Land Rights Act provides that:

*A Land Council shall not, without the approval of the Minister, enter into, or permit a Land Trust holding land in its area to enter into, a contract involving the payment or receipt of an amount exceeding \$1,000,000, or, if a higher amount is prescribed, that higher amount.*

Under section 27(4) of the Land Rights Act, you shall not give an approval under section 27(3) of the Act unless you are satisfied the Land Council concerned has complied with any duty imposed on it by section 23(3) of the Act.

Section 23(3) of the Land Rights Act provides:

*In carrying out its functions with respect to any Aboriginal land in its area, a Land Council shall have regard to the interests of, and shall consult with, the traditional Aboriginal owners (if any) of the land and any other Aboriginals interested in the land and, in particular, shall not take any action, including, but not limited to, the giving of consent or the withholding of consent, in any matter in connexion with land held by a Land Trust, unless the Land Council is satisfied that:*

- (a) *the traditional Aboriginal owners (if any) of that land understand the nature and purpose of the proposed action and, as a group, consent to it; and*
- (b) *any Aboriginal community or group that may be affected by the proposed action has been consulted and has had adequate opportunity to express its view to the Land Council.*

The letter from the ALC at Attachment E explicitly states it is satisfied it has complied with its statutory obligations under section 23(3) of the Land Rights Act.

Relevant background information, including related consultations, is provided in the ALC's submission at Attachment F.

#### Proposed arrangements for the receipt and distribution of compensation payments

Pursuant to section 35(3) of the Land Rights Act, if an exploration or mining agreement makes no explicit provision for the application of income received under the agreement as compensation for damage or disturbance to the land, the relevant Land Council is required to distribute that income to a corporate entity whose members are affected by the exploration or mining activity.

The Winchelsea Island Exploration Agreement at Attachment G does not prescribe how the ALC will apply the payments received, except that no distributions to traditional Aboriginal owners will be made during scheduled NT Government school terms.

Clause 6 of the Winchelsea Island Exploration Agreement outlines the payments to be received by the ALC.

#### Commitment to minimise the impact of distributions on school attendance

As noted above, the Winchelsea Island Exploration Agreement provides the ALC will not make distributions to traditional Aboriginal owners during scheduled NT Government school terms.



Department of  
PRIMARY INDUSTRY  
AND RESOURCES

Chief Executive  
Level 4, Centrepoint Building  
48-50 Smith Street Mall  
DARWIN NT 0801

Postal Address  
GPO Box 3000  
DARWIN NT 0801

s47F

File Ref: 2020/0028

Hon Ken Wyatt AM, MP  
Minister for Indigenous Australians  
Po Box 6022  
Parliament House  
CANBERRA ACT 2600

Dear Minister

**Re: Winchelsea Mining Pty Ltd.**

I write in support of an important Aboriginal Manganese mining project in the Groote Eyelandt archipelago. Winchelsea Mining Pty Ltd. (Winchelsea) is a joint venture between the Anindilyakwa Advancement Aboriginal Corporation (AAAC) and AUS China International Mining Pty Ltd.

The project is located on Winchelsea (Akwamburrkba) Island on the western side of the Gulf of Carpentaria, in the Northern Territory, and is in the advanced stages of exploration with a JORC resource expected to be announced in August 2020.

My understanding is that AUS China International Mining Pty Ltd. are looking to divest their shares in the joint venture, which provides an opportunity for AAAC to significantly increase their investment, should they be able to access appropriate financing arrangements.

The Anindilyakwa Land Council through the AAAC have had a strong focus on economic development opportunities for their people, and this project provides a significant opportunity for increased jobs and income for local Aboriginal people.

As you are no doubt aware, all mining projects require appropriate due diligence by potential investors, however I can commend the approach taken by the Winchelsea proponents as being thorough and professional to date.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Alister Trier".

Alister Trier  
Chief Executive

14 July 2020

cc: s47F [redacted] Anindilyakwa Land Council

# WINCHELSEA MINING

## BUILDING FUTURE GROOTE

16 April 2021

The Hon Ken Wyatt, AM MP  
Minister for Indigenous Australians  
Member for Hasluck

The Hon Nicole Manison  
Minister for Mining and Industry  
Deputy Chief Minister  
Member for Wanguri

By email: [Minister.Wyatt@ia.pm.gov.au](mailto:Minister.Wyatt@ia.pm.gov.au)  
[minister.manison@nt.gov.au](mailto:minister.manison@nt.gov.au)

Dear Ministers,

**RE: Winchelsea Mining Joint Venture Submission of ALRA Section 46A Statement**

I write to both of you on behalf of Winchelsea Mining Pty Ltd (ABN: 92 626 747 037) ("Winchelsea") which holds a manganese exploration licence covering part of Winchelsea Island, an area located north of Groote Eylandt and part of the Groote Archipelago.

### Background

Winchelsea Mining Pty Ltd is a joint venture between the Anindilyakwa Advancement Aboriginal Corporation ("AAAC") and AUS China International Mining Pty Ltd, with AAAC being the majority partner. AAAC is made up of the two traditional Aboriginal owner clans of Winchelsea Island. The exploration licence enables the joint venturer to explore part of Winchelsea Island. Should an economic resource be located, an application will then be made for a mineral lease. Any benefits from this project will be shared with all 14 Anindilyakwa clans.

I am pleased to inform you that by the end of 2020, we basically completed all exploration of Akwamburrkba (the traditional name for Winchelsea Island) and received an industry standard "Measured Resource" Joint Ore Reserves Committee Standard Compliant "JORC" Report showing a small to medium sized profitable mine.

Since then, we have modelled a minimal environmental impact mining method, at low cost and maximum profit which is outlined in the attached ALRA Section 46 Statement for your consideration to approve.

For purposes of clarification we are advised as follows:

*Pursuant to s 46(2) ALRA, an intending miner should provide to the Minister a copy of the statement setting out the comprehensive mining works proposal that has been submitted to the Land Council under s 46(1) ALRA.*

*In the case of Winchelsea Mining Pty Ltd, this would be the comprehensive mining works proposal provided to the Anindilyakwa Land Council subsequent to exploration activities on EL 27521.*

*On receipt of the statement, the Minister is required to determine certain matters under s 47(3) ALRA within 90 days of receipt.*

*The determination powers under s 47(3)(a) ALRA are currently delegated to the NT Mining Minister.*

*The determination power under s 47(3)(b) ALRA is reserved to the Commonwealth Minister.*

*The effect is that both Ministers should be provided a copy of the statement for the purpose of ensuring the relevant determinations are appropriately actioned – and for NIAA and the NTG to co-ordinate their response.*

It is also relevant to mention we have just lodged a Mining Lease Application with NTG's Dept Industry, Tourism and Trade and have also finalized a comprehensive Mining Agreement between the Traditional Owners and the Anindilyakwa Land Council.

Finally, we understand that determinations under s 47(3) ALRA are prerequisite steps before the Commonwealth Minister considers any request from a Land Council relating to consent to the grant of a mining interest by the NTG under s 45(b) ALRA and approval under s 27(3) ALRA for the Land Council and the Land Trust to enter into the related Mining Agreement.

Yours faithfully



Mark Hewitt  
Director  
Winchelsea Mining Pty



**The Hon Ken Wyatt AM MP**  
**Minister for Indigenous Australians**  
**Member for Hasluck**

Reference: MS21-000209

Mr Mark Hewitt  
Director  
Winchelsea Mining Pty Ltd  
[mhewitt@wmining.com.au](mailto:mhewitt@wmining.com.au)

Dear Mr Hewitt

Thank you for your correspondence of 16 April 2021 regarding Winchelsea Mining's statement by an intending miner provided to me as required by subsection 46(2) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Land Rights Act).

That correspondence was also forwarded to the Hon Nicole Manison MLA, Northern Territory Minister for Mining and Industry.

The relevant determinations required under paragraphs 47(3)(a) and 47(3)(b) of the Land Rights Act have been made. Those determinations do not prevent the grant of a mining interest in respect of the proposed Winchelsea Mining operations on the area subject to Exploration Licence 27521.

The National Indigenous Australians Agency will advise the Anindilyakwa Land Council and the Northern Territory Department of Industry, Tourism and Trade of the determinations.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Ken Wyatt', written over a printed name and title.

The Hon KEN WYATT AM MP  
Minister for Indigenous Australians

30 / 6 / 2021



30 June 2021

**By E-mail**  
**Confidential & privileged communication**

The Honourable Ken Wyatt AM MP

Minister for Indigenous Australians  
Parliament House  
Canberra ACT 2600

Minister.Wyatt@ia.pm.gov.au

Dear Minister Wyatt

**A. Request for consent under the Land Rights Act**

- 1 Pursuant to its statutory functions under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (**Land Rights Act**), the ALC requests your approval and consent under sections 27(3) and 45(b) of the Land Rights Act, in relation to the Winchelsea Island Mining Agreement (**Mining Agreement**).
- 2 The substance of the negotiations, consultations and Mining Agreement reached is detailed in the **attached** submission. The proposed Mining Agreement is also **attached**.

**A. Request for approval under section 27(3) of the Land Rights Act**

- 3 Payments under the Mining Agreement are likely to exceed \$1,000,000. Accordingly, the ALC requests your approval to enter into the Mining Agreement.
- 4 As detailed in the **attached** submission, the ALC is satisfied that it has carried out its functions in respect of the land of relevance to the Mining Agreement.
- 5 In particular, the ALC has carried out all necessary consultations required by section 23(3) of the *Land Rights Act*. This consultation process is outlined in paragraphs 8.1 to 8.6 of the attached submission.

**B. Request for approval under section 45(b) of the Land Rights Act**

- 6 Winchelsea Mining Pty Ltd (**Winchelsea Mining**) is the holder of EL 27521.





- 7 Winchelsea Mining and the ALC have reached agreement as to the terms and conditions of the grant of a mining interest over the area of land within EL 27521, which terms and conditions are set out in the Mining Agreement.
- 8 On 31 March 2021 the Full Council of the ALC consented to the grant of the mining interest over ELA 27521 to Winchelsea Mining and to entry into the Mining Agreement, subject to any required Ministerial consent.
- 9 As shown in the **attached** notification, the ALC has notified you, the Northern Territory Mining Minister and Winchelsea Mining of this decision.
- 10 The ALC is satisfied that it has complied with its statutory obligations under sections 46(4) of the *Land Rights Act* as outlined in paragraphs 4.1–4.3, 5.1-5.7 and 7.1-7. 6 of the **attached** submission.
- 11 For the purposes of section 45(b) of the *Land Rights Act* the ALC requests your consent to the grant of the Mineral Lease in accordance with the terms and conditions of the Mining Agreement.

### C. Income Distribution Arrangements

- 12 The Mining Agreement involves income distribution for the traditional Aboriginal owners.
- 13 During consultations it was made clear that any distributions would only occur during school holidays. This has been written into the Mining Agreement (see clause 5.1 of the Agreement).
- 14 All income under the Mining Agreement is to be applied in accordance with the terms of the Agreement as provided in section 35(3)(a) of the *Land Rights Act*.
- 15 In summary:

s47

Thank you for your consideration of our approval request. Please contact me if you have any questions in relation to the approvals requested or require any further information.





Yours faithfully

**S47F**

Anindilyakwa Land Council



## ANINDILYAKWA LAND COUNCIL

## SUBMISSION

## TRADITIONAL ABORIGINAL OWNERSHIP AND CONSULTATIONS

23 June 2021

## 1 GENERAL BACKGROUND &amp; SUMMARY

- 1.1 This submission concerns the Anindilyakwa Land Council's (ALC's) performance of its statutory functions under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (the **Land Rights Act**) in relation to the mining agreement it proposes to enter into with Winchelsea Mining Pty Ltd (**Winchelsea Mining**), subject to Ministerial consent.
- 1.2 For the reasons set out in this submission, the ALC is satisfied that:
- (a) the traditional Aboriginal owners of Winchelsea Island understand the nature and purpose of the terms and conditions of the proposed agreement referred to in this submission and consent to them;
  - (b) other Aboriginal communities or groups that may be affected by the grant of the mining interest have had an adequate opportunity to express their views to the ALC about those terms and conditions; and
  - (c) those terms and conditions are reasonable.
- 1.3 As explained in this submission, the ALC has carried out all necessary statutory consultations to satisfy sections 23(3) and 46(4) of the *Land Rights Act*.

## 2 WINCHELSEA MINING

- 2.1 Winchelsea Mining is a joint venture company in which a traditional Aboriginal owner corporation established under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*, Anindilyakwa Advancement Aboriginal Corporation (**AAAC**), is the majority shareholder.
- 2.2 The primary objectives of AAAC are to provide for and assist with the education and the economic, social and cultural advancement of the traditional Aboriginal owners of the ALC region.
- 2.3 The ALC assisted the traditional Aboriginal owners of Winchelsea Island to establish AAAC and has briefed the Commonwealth on the project on a number of occasions, including by letter on 10 October 2017 and 15 August 2018 and by ALC's submission to the Minister for consent to enter into the relevant exploration agreement.
- 2.4 Winchelsea Mining was established to explore and mine Winchelsea Island as well as to hold other tenements in and around the Groote Eylandt archipelago, and to apply the proceeds of such exploration and mining towards charitable objectives associated with improving the health and well-being of Groote Eylandt traditional Aboriginal owners.
- 2.5 AAAC is specifically empowered to pursue its objectives by, among other things, participating in resource development and other community enterprises on or related to Winchelsea Island.

- 2.6 The AAAC Rule Book currently requires:
- (a) **s47G** of profits that AAAC receives from resource development on Winchelsea Island to be directed to charitable projects that benefit the traditional Aboriginal owners of Winchelsea Island;
  - (b) a sub-committee to make decisions on these projects; and
  - (c) for the remaining **s47G** of AAAC's profits to be used to pursue charitable objects that benefit *all* traditional Aboriginal owners of the ALC region.
- 2.7 While AAAC is incorporated for the benefit of all traditional Aboriginal owners of the ALC region and membership is open to all those traditional Aboriginal owners, only traditional Aboriginal owners of Winchelsea Island are eligible to be directors and are the current Members.
- 2.8 Finally, the Rule Book of AAAC provides that AAAC will always have the power to appoint the persons who fulfil the roles of Chairperson and CEO of the ALC from time to time as their nominee directors of Winchelsea Mining. In particular, by AAAC's Rule Book the CEO and Chairperson of ALC, whomever is the ALC CEO and Chairperson at any given time, will serve as AAAC's nominated directors on the board of Winchelsea Mining, unless the board of AAAC decides otherwise.
- 2.9 Pursuant to a shareholders' agreement between AAAC, Winchelsea Mining and the other Winchelsea Mining joint venture party Aus China International Mining Pty Ltd (**Aus China Mining**), Aus China Mining owns **s47G** of Winchelsea Mining. As mentioned earlier at paragraph 2.1, AAAC is the majority shareholder of Winchelsea Mining and presently owns **s47G** of Winchelsea Mining.
- 2.10 The shareholders' agreement between Winchelsea Mining, Aus China Mining and AAAC allows each shareholder with more than a **s47G** shareholding to appoint two directors to Winchelsea Mining. It also provides that AAAC will always be able to appoint 1 director to Winchelsea Mining, even if its shareholding falls below **s47G**.
- 2.11 As outlined above in paragraph 2.8, AAAC's Rule Book empowers it to appoint the CEO and Chairperson of ALC as its nominee directors on Winchelsea Mining.
- 2.12 The shareholders' agreement also provides for the appointment of a CEO to Winchelsea Mining. The CEO is to be appointed by special decision of the Winchelsea Mining Board and will manage and generally administer the activities of Winchelsea Mining on a day to day basis, manage the business plan and report to the Winchelsea Mining Board.
- 2.13 The parties to the shareholders' agreement – AAAC, Winchelsea Mining and AUS China Mining – appointed Mark Hewitt as a Director and Co-CEO of Winchelsea Mining and **s47F** **s47F** as a Director of Winchelsea Mining on 18 June 2018. The process preceding this appointment is set out in paragraph 5.4 below.

### 3 MINING AGREEMENT

- 3.1 Winchelsea Mining was previously granted an exploration licence over land within EL 27521. On 10 September 2018, Winchelsea Mining and the ALC executed an exploration agreement over the relevant area.
- 3.2 Winchelsea Mining and the ALC have recently finalised negotiations and have reached a mining agreement for Winchelsea Mining to be granted a mining interest over the relevant area pursuant to Part IV of the *Land Rights Act* (**Mining Agreement**).

- 3.3 The parties to the Mining Agreement are the ALC and Winchelsea Mining. Payments under the Mining Agreement will exceed **s47G**.
- 3.4 The Mining Agreement includes a financial package that reflects the profitability and potential of Winchelsea Mining's continuing operations, as well as other commercial opportunities, employment promotion, environmental protection, and cultural recognition.
- 3.5 The Mining Agreement is separate from and additional to mining royalty equivalents, which, under the scheme of the *Land Rights Act*, are paid to Aboriginal corporations comprised by traditional Aboriginal owners and affected persons from the Aboriginals Benefit Account in relation to mining on Aboriginal land.
- 3.6 The key features of the Mining Agreement are set out in **Annexure 1**.

#### 4 **INFORMED CONSENT PROCESS**

- 4.1 Pursuant to its statutory functions, and on the basis of longstanding and regularly updated anthropological advice, the ALC is satisfied that members of the clans outlined in **section 7** of this submission below are the traditional Aboriginal owners of the relevant area.
- 4.2 The ALC is satisfied that the traditional Aboriginal owners understand the nature and purpose of the proposed agreement and consent to them.
- 4.3 The ALC has also carried out all necessary statutory consultations to satisfy sections 23(3) and 46(4) of the *Land Rights Act*, including where required:
- (a) consulting with other Aboriginals interested in the land and having regard to their interests and the interests of the traditional Aboriginal owners; and
  - (b) consulting with any Aboriginal community or group that may be affected and ensuring they have an adequate opportunity to express their views to the Land Council.
- 4.4 The Mining Agreement was put to the ALC Full Council on 31 March 2021 and approved subject to obtaining Ministerial approval under section 27(3) of the *Land Rights Act*.

#### 5 **MANAGEMENT OF CONFLICT ISSUES**

- 5.1 The CEO and the Chair of the ALC, Mark Hewitt and **s47F** respectively, are officials of the ALC and together comprise the accountable authority for the purposes of the *Public Governance Performance and Accountability Act 2013 (Cth)* and the *Public Governance Performance and Accountability Rule 2014 (Cth)*.
- 5.2 As outlined above, in addition to holding the role of CEO of the ALC Mark Hewitt is a Director and Co-CEO of Winchelsea Mining. **s47F**, in addition to being Chair of ALC, is a Director of Winchelsea Mining.
- 5.3 By letter of 3 September 2018 the ALC informed the Minister's office of the steps taken to manage this potential conflict from the outset. These steps continued throughout the course of the Mining Agreement negotiations.
- 5.4 In summary those steps were:
- (a) On 21 August 2018, Mark Hewitt and **s47F** disclosed the proposed details of their interests as directors and/or employees of Winchelsea Mining to one another as the accountable authorities of the ALC.

- (b) On 21 August 2018, Mark Hewitt and s47F provided a comprehensive disclosure to the full Board of the ALC of the proposed details of their interests as directors and/or employees of Winchelsea Mining. The ALC Board was provided with an opportunity to ask questions. Arnold Bloch Leibler representatives were in attendance by telephone.
- (c) The ALC board was then able to, and did make the decision to, approve:
- (i) Mark Hewitt's appointment as Co-CEO and Director of Winchelsea Mining; and
  - (ii) s47F appointment as Chairman of Winchelsea Mining.
- (d) Prior to this approval the ALC Board was provided with relevant information about the legal framework outlined under the *Public Governance Performance and Accountability Act 2013* (Cth) and the *Public Governance Performance and Accountability Rule 2014* (Cth).
- (e) Upon appointment of Mark Hewitt and s47F to the roles of Co-CEO, Director and Chairman at Winchelsea Mining, s47F and the ALC Board continued to assume all responsibility for any and all future decisions at ALC involving Winchelsea Mining.
- (f) From that point on Mark Hewitt and s47F did not participate in any ALC decisions or decision-making processes concerning Winchelsea Mining in any way whatsoever.
- (g) On all relevant occasions, Mark Hewitt and s47F engaged with the ALC and with the traditional Aboriginal owners strictly as representatives of the proponent mining company - Winchelsea Mining - wishing to negotiate the terms and conditions of a mining agreement with the ALC. During all aspects of the Mining Agreement negotiations, Mark Hewitt and s47F never represented the interests of the ALC.
- (h) During the negotiations ALC gave instructions to and sought advice from Arnold Bloch Leibler. Neither Mark Hewitt nor s47F was involved in any aspect of that process. Mark Hewitt and s47F had no access to any advice sought by ALC from Arnold Bloch Leibler or to any advice provided to the ALC by Arnold Bloch Leibler. Winchelsea Mining retained its own advisors during the negotiations.
- (i) During the negotiations ALC also instituted the following measures to ensure that neither Mark Hewitt nor s47F had any access to ALC documents of relevance to the negotiations.
- (i) The ALC Board nominated four members to assist the ALC in negotiations, one of these being the Deputy Chair s47F. Senior members of the ALC, including s47F regularly met at venues other than the ALC's offices to discuss the ongoing negotiations with Winchelsea Mining, including three days in Darwin to go through the terms and conditions of the Mining Agreement with Arnold Bloch Leibler legal support. Internal correspondence via email was minimised and all recordings from the traditional Aboriginal owner meetings were provided via USB rather than email and not saved to the ALC drives until after negotiations had been completed.

- (ii) Key senior management of ALC were advised by s47F of the important need to ensure all emails sent by the ALC in relation to any Winchelsea Mining business were not copied to Mark Hewitt or s47F s47F due to potential conflict of interest risks, particularly during the ongoing negotiations. Copies of draft Mining Agreement documents were only stored on the desktop of key personnel at the ALC until final negotiations had been completed.
- (iii) During monthly updates to the ALC Board, Mark Hewitt and s47F s47F as well as Board members associated with AAAC were asked to leave the room on each and every occasion that the ALC Board wished to discuss Mining Agreement negotiations. Arnold Bloch Leibler, as and when required, also provided legal support via video call participation in these meetings.
- 5.5 At the outset of each consultation meeting for the mining agreement s47F explained to traditional Aboriginal owners that Mark Hewitt and s47F were attending strictly in their roles with Winchelsea Mining and not in any way whatsoever in their roles with the ALC.
- 5.6 Mark Hewitt and s47F attended such meetings only as representatives of Winchelsea Mining and on each occasion left the meeting in accordance with usual practice for a mining company representative when the traditional Aboriginal owners wanted to discuss their response to any presentations that Mark Hewitt and s47F s47F had made to them about Winchelsea Mining.
- 5.7 Arnold Bloch Leibler representatives were also in attendance by video call for all the traditional Aboriginal owner consultation meetings in Angurugu. Additionally the ALC engaged a senior Lawyer from Ward Keller in Darwin to attend in person the first two meetings with ALC staff to assist in ensuring all proceedings were in line with requirements under the *Land Rights Act*.

## 6 STATUTORY PROVISIONS

6.1 The *Land Rights Act* distinguishes between two groups of Aboriginal persons who may hold traditional interests to land: "traditional Aboriginal owners" (from whom under the *Land Rights Act* consent must be obtained prior to development), and other Aborigines "entitled by Aboriginal tradition to the use or occupation of the land concerned, whether or not the traditional entitlement is qualified as to place, time, circumstance, purpose or permission."<sup>1</sup>

6.2 The term "traditional Aboriginal owners" is defined as follows:<sup>2</sup>

*traditional Aboriginal owners, in relation to land, means a local descent group of Aboriginals who:*

- (a) *have common spiritual affiliations to a site on the land, being affiliations that place the group under a primary spiritual responsibility for that site and for the land; and*
- (b) *are entitled by Aboriginal tradition to forage as of right over that land.*

6.3 Section 23(3) is of relevance to the present negotiations. It reads:

*In carrying out its functions with respect to any Aboriginal land in its area, a Land Council shall have regard to the interests of, and shall consult with, the traditional Aboriginal owners (if any) of the land and any other Aboriginals interested in the land and, in particular, shall not take any action, including, but not limited to, the giving of consent or the withholding of consent, in any matter in connection with land held by a Land Trust, unless the Land Council is satisfied that:*

<sup>1</sup> Section 4(1). See also sections 11(1)(a), 23 (especially subsection 3) and 71 of the *Land Rights Act*.

<sup>2</sup> Section 3 of the *Land Rights Act*.

- (a) the traditional Aboriginal owners (if any) of that land understand the nature and purpose of the proposed action and, as a group, consent to it; and
- (b) any Aboriginal community or group that may be affected by the proposed action has been consulted and has had adequate opportunity to express its view to the Land Council.

- 6.4 Section 23(3) requires a Land Council when carrying out its functions in respect of Aboriginal land to have regard to the interests of, and consult with, the traditional Aboriginal owners and other Aboriginals interested in the land. The requirement that an interest in land cannot be granted without the traditional Aboriginal owners' consent is prescribed in s 23(3) in relation to any "action" a Land Council may take in connection with land held by a Land Trust.
- 6.5 The position of the traditional Aboriginal owners (as a group) is ascertained in accordance with their traditional, or otherwise agreed and adopted, decision making process.<sup>3</sup>
- 6.6 The function of identifying traditional Aboriginal owners and other interested Aboriginals is vested by the *Land Rights Act* in the responsible Land Council. Specifically, section 24 enables a Land Council to maintain and update records as to the identity of traditional Aboriginal owners, and a similar function may be implied from s 23(3).<sup>4</sup>
- 6.7 Section 27(4) provides that the Minister shall not approve a Land Council or a Land Trust entering a contract involving the payment or receipt of an amount exceeding **s47G** unless satisfied that the Land Council in relation to the proposed contract has complied with any duty imposed on it by subsection 23(3).<sup>5</sup> The operative part of that provision here is that the ALC has regard to the interests of, and consults with, the traditional Aboriginal owners and other Aboriginals interested in the land.
- 6.8 The Mining Agreement specifies the way in which moneys are to be paid, meaning the ALC is contractually obliged to pay financial benefits received under the agreement in the manner set out in the agreement.

**s47F, s47G**

<sup>3</sup> Section 77A of the *Land Rights Act*.

<sup>4</sup> *Tapnguk v Northern Land Council* 1996 108 NTR 1. See also *Myoung v Northern Land Council* 2006 FCA 1130 (24 August 2006).

s47F, s47G

## 8 CONSULTATIONS

- 8.1 The ALC has been consulting with traditional Aboriginal owners for many months in relation to this Mining Agreement. Prior to the statutory consultations that were held in March 2021 the ALC met with senior representatives from traditional owning clans, as well as with smaller family groups, to inform the clans about the negotiations that the ALC was conducting, to enable input on financial structures and distributions that may be appropriate to the proposals, and to receive feedback on the best way to structure the statutory consultations.
- 8.2 Meetings include those set out in the table below.
- 8.3 Consultations required by Part IV of the *Land Rights Act* were held in March 2021 in the context of the above anthropological advice. During these consultations Winchelsea Mining was given an opportunity to present its proposal and the Mining Agreement was explained and discussed. The Minister was also invited to these meetings and represented by his staff at key meetings. Consultations were specifically conducted as set out in the table below.
- 8.4 During these consultations, as new issues were raised they were dealt with by negotiation with Winchelsea Mining and further discussions and consultation with traditional Aboriginal owners. Subject to what follows, the power point presentations that are annexed to this

letter generally reflect the final detail of the Mining Agreement that was consented to by the traditional Aboriginal owners.

- 8.5 Specifically, during consultations Winchelsea Mining asked the traditional Aboriginal owners to agree to a delay in the introduction of a royalty payment requirement. At the consultations on 23 and 24 March 2021, the traditional Aboriginal owners and ALC asked Winchelsea Mining to explain the need for this delay. A negotiation followed over a period of days with the traditional Aboriginal owners and Winchelsea Mining ultimately coming to an agreement about the length and terms of this delay.
- 8.6 The ALC was then able to consider the information provided and the position of the traditional Aboriginal owners in making its own decision under section 46(4) of the *Land Rights Act* that the terms and conditions of the Mining Agreement, and specifically as relate to the delay in royalty payment, are reasonable.

**Table of consultations:**

Date	Location	Purpose
4 November 2020	Cultural Centre Milyakburra Bickerton Island	Meeting to consult with other Aboriginals interested in the land, being residents of Milyakburra, in relation to the proposal for mining on Winchelsea Island
5 November 2020	Angurugu Shops	Meeting to consult with other Aboriginals interested in the land, being mostly residents of Angurugu, in relation to the proposal for mining on Winchelsea Island
6 November 2020	Umbakumba Supermarket area	Meeting to consult with other Aboriginals interested in the land, being the residents of Umbakumba, in relation to the proposal for mining on Winchelsea Island
23 March 2021	Angurugu Police Station Meeting room	Meeting with traditional Aboriginal owners of Winchelsea to discuss the mining proposal. Attended by Winchelsea Mining representatives who described the project. Attended by s47F Commonwealth government representative.
24 March 2021	Angurugu Police Station Meeting room	Proposed final meeting with traditional Aboriginal owners of Winchelsea to make a decision about mining. Attended by Winchelsea Mining representatives who described the project. Attended by s47F Commonwealth government representative.
26 March 2021	Angurugu Police Station Meeting Room	Additional meeting with traditional Aboriginal owners to seek review of one condition of their consent to mining. Attended by Winchelsea Mining representatives who described the project.

- 8.7 The traditional Aboriginal owners consented to the Mining Agreement in accordance with traditional decision-making processes.

**s47F**

Deputy Chair, ALC

**s22**

Manager Mining and Environment, ALC

**ANNEXURE 1 – SUMMARY OF WINCHELSEA ISLAND MINING AGREEMENT****Purpose**

- 1 The Mining Agreement is between Winchelsea Mining and the ALC and, in addition to the consent of the Minister under section 45 of the *Land Rights Act*, is required before the NT Government can grant Winchelsea Mining a mineral lease.
- 2 The Mining Agreement sets out a lot of the conditions on the mineral lease.

**Confidentiality**

- 3 The details of the Mining Agreement are confidential.

**What does Winchelsea Mining want to mine?**

- 4 Winchelsea Mining wants to mine manganese.

**Term**

- 5 The Mining Agreement goes for as long as the company wants to keep mining.
- 6 Mineral leases can be granted for as long as the Minister considers appropriate. Winchelsea Mining has indicated that it expects the mine will have a life of around 7 years.

**Timeline**

- 7 The mine is not expected to come on line for around s47G

s47G

s47F

s47G

#### **Environment protection**

- 20 The environment is protected under the Mining Agreement.
- 21 Winchelsea Mining has to minimise its impact on the environment and pay careful attention to not introducing weeds and pests.
- 22 Winchelsea Mining and the ALC will develop a biosecurity management plan.
- 23 Winchelsea Mining has to report on environmental incidents to the ALC.
- 24 Winchelsea Mining has agreed to specific monitoring and management.
- 25 Winchelsea Mining has to rehabilitate the area after it is finished with it.

#### **Access**

- 26 Winchelsea Island can be accessed by sea or helicopter.
- 27 The Mining Agreement provides for access via a pioneer ramp on Winchelsea Island and for a helicopter landing area, primarily for emergencies.

#### **Liaison Committee**

- 28 There is a Liaison Committee for the Mining Agreement to facilitate communication. The Liaison Committee has three ALC members and three Winchelsea Mining members.
- 29 The Liaison Committee hears information and makes recommendations. While it does not make any decisions that the ALC or Winchelsea Mining have to follow, it is reasonable to expect Winchelsea Mining and ALC will take the recommendations either or both of them receive very seriously.

**Mining Management Plan**

- 30 Winchelsea Mining has to prepare a Mining Management Plan which is required under the *Mining Management Act* (NT). This sets out what Winchelsea Mining is going to do and how it is going to do it.
- 31 Winchelsea Mining has to consult with the ALC about this plan and the ALC considers the plan and might require changes before agreeing to it. If Winchelsea Mining wants to make major changes to the plan it also has to consult with the ALC.
- 32 If Winchelsea Mining and the ALC do not agree on the Mining Management Plan then there is a dispute resolution process in the agreement.
- 33 This applies to other key approvals including any authority certificates and approvals under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) or the *Environment Protection Act 2020* (NT).

**Employment and Training**

- 34 In the Mining Agreement the Parties acknowledge the importance of increasing Aboriginal employment and Aboriginal business development opportunities on Groote Eylandt and the importance of education and training.
- 35 If there is a local Aboriginal company that can do some of the work Winchelsea Mining needs then Winchelsea Mining has to seriously consider their tender.
- 36 Winchelsea Mining has to try hard to employ local Aboriginal people and get its contractors to do that as well.
- 37 Winchelsea Mining has to, where possible, provide advance notice of its intention to call a tender and provide additional assistance to local Aboriginal businesses to prepare the tender.
- 38 Winchelsea Mining has to report on its Aboriginal employment.

**Obligations of Winchelsea Mining employees.**Instruction on Culture

- 39 Winchelsea Mining has to make sure its employees and contractors are given instruction on Aboriginal culture and on what they can and cannot do on Aboriginal land.

Permits

- 40 Winchelsea Mining staff have to have permits issued through a process set out in the agreement and if they do not follow them they can be asked to leave.
- 41 If Winchelsea Mining's staff want to go hunting, fishing or site seeing on the Island they need a different permit from the ALC.

Drugs, alcohol and guns

- 42 No one is allowed to have drugs or alcohol on the lease area but if the law permits it, and the Land Council approves it, Winchelsea Mining may be able to bring alcohol onto a defined area.

- 43 Winchelsea Mining people are not allowed to have guns or hunt on the lease area unless the ALC says it is ok in writing.

#### **Roads, Materials and Water**

- 44 Winchelsea Mining will need to make access tracks in the lease agreement area.
- 45 Any new roads or tracks will have sacred sites and environmental protections.
- 46 The Mining Agreement makes provision to allow gravel to be taken within the agreement area without cost, but that it can only be taken outside the agreement area with any necessary approvals and upon payment for that gravel at commercial rates.

#### **Buildings**

- 47 Winchelsea Mining has to take everything away at the end of the Mining Agreement unless the ALC says to leave any particular buildings, roads, bridges or other infrastructure.

#### **Passing on rights to another mining company**

- 48 Winchelsea Mining can sell or transfer its mineral lease to another mining company but only after that mining company agrees to follow the Mining Agreement.
- 49 So long as the new company is financially secure and has not made public statements or taken actions against Aboriginal people or culture or caused serious environmental damage then the ALC has to agree to this.

**ANNEXURE 2 - ALC PRESENTATION FOR INITIAL MEETING**

<p><b>Anindilyakwa</b></p> <p><b>Background</b></p> <ul style="list-style-type: none"> <li>Winchelsea Mining Pty Ltd wants to mine for manganese on Winchelsea Island.</li> <li>Winchelsea Mining is a joint venture company. The majority of the company is owned by Anindilyakwa Advancement Aboriginal Corporation.</li> <li>The Anindilyakwa Advancement Aboriginal Corporation is established to assist with the education and economic, social and cultural advancement of the TOs of the ALC region.</li> <li>Winchelsea Mining holds Exploration Licence 27521 and has conducted exploration for Manganese on Winchelsea Island since 2018 under an exploration agreement with the ALC.</li> <li>Later today Winchelsea Mining will speak about the mining they want to do on Winchelsea Island.</li> <li>First the ALC will talk about the area of the mining, the people here today, the Land Rights Act and the purpose of this meeting.</li> </ul>	<p><b>Anindilyakwa</b></p> <p><b>The Area Akwamburrkba (Winchelsea Island)</b></p> 
<p><b>Anindilyakwa</b></p> <p><b>The people here today</b></p> <ul style="list-style-type: none"> <li>This is a meeting for all TOs of Winchelsea</li> <li>Representatives from Winchelsea Mining will be here today as well as representatives from the Commonwealth Government.</li> </ul> <p><b>s47F</b></p> <ul style="list-style-type: none"> <li>I am here for the Land Council along with <b>s47F</b> Anthropologists <b>s47F</b> is here as well to record that all the right people are here for a decision.</li> </ul> <p><b>s47F</b></p>	<p><b>Anindilyakwa</b></p> <p><b>Rights under the Land Rights Act</b></p> <p>As you know mining companies in the NT, like Winchelsea Mining, need a mining lease to conduct mining.</p> <p>When a mining company wants to mine on Aboriginal land they also need to have:</p> <ul style="list-style-type: none"> <li>an agreement with the Land Council; and</li> <li>the consent of the Federal Minister Ken Wyatt.</li> </ul> <p>Under the Land Rights Act the Land Council cannot make an agreement with Winchelsea Mining unless:</p> <ol style="list-style-type: none"> <li>The Land Council has consulted the TOs of the Agreement Area and is satisfied the TOs understand the terms and conditions of mining and as a group consent to those terms and conditions;</li> <li>The Land Council has consulted other affected Aboriginal communities or groups and is satisfied they have had an opportunity to express their views; and</li> <li>The Land Council is satisfied that the terms and conditions of mining are reasonable.</li> </ol>
<p><b>Anindilyakwa</b></p> <p><b>Consultation</b></p> <ul style="list-style-type: none"> <li>TOs cannot say no to mining altogether on Winchelsea Island. Once an exploration agreement has been signed (which is the case here) there is no right to stop future mining.</li> <li>Instead, if the TOs and the Land Council and Winchelsea Mining cannot agree on the terms and conditions of mining on Winchelsea Island then the Land Rights Act has a process to work through the disagreement and the Minister would then become involved.</li> <li>The Land Council has been working hard on negotiating a good agreement for Traditional Owners and has been holding discussions with Winchelsea Mining, TOs and other affected Aboriginal people. Negotiations with Winchelsea Mining have been very positive. There are still one or two important conditions that Winchelsea Mining is requesting in the agreement and we will all need to consider. These will be discussed today.</li> <li>The main request from Winchelsea Mining is that it will not be required to pay royalties to the Land Council for the first 2 years after mining first commences, so that during that 2 year period no royalties would ever be paid to the Land Council. Winchelsea Mining will give you information today on their reasons for this request. The Land Council will also need to consider whether the request is reasonable. I will discuss this in more detail a bit later in my presentation.</li> </ul>	<p><b>Anindilyakwa</b></p> <p><b>What happens now?</b></p> <ul style="list-style-type: none"> <li>Now we will talk about some of the key conditions of mining.</li> <li>After that Winchelsea Mining will tell you about the mining they want to do and how they want to do it. You can ask Winchelsea Mining any questions you like.</li> <li>You can also ask Winchelsea Mining and the Commonwealth's representatives to leave at any time and invite them back in to answer any questions.</li> <li>Once you understand the proposal from Winchelsea Mining then we can talk some more about the terms and conditions that have been negotiated by the Land Council.</li> </ul>
<p><b>Anindilyakwa</b></p> <p><b>Land Council discussion about the Agreement</b></p> <ul style="list-style-type: none"> <li>The next part of the consultation is for the Land Council to talk through the terms of the agreement with TOs.</li> <li>Usually the mining company and the government representatives are not here for this part but TOs can decide to ask them to be here.</li> </ul>	<p><b>Anindilyakwa</b></p> <p><b>Confidential</b></p> <ul style="list-style-type: none"> <li>The details of the agreement are confidential.</li> <li>TOs and other affected people need to know the details to be properly consulted and make decisions under the Land Rights Act.</li> <li>You can talk to other TOs who are not here.</li> <li>You cannot talk to people who are not TOs or other affected Aboriginal people, or from the Land Council or representatives of Winchelsea Mining, about the agreement.</li> </ul>

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**What is the Agreement for?**

- This agreement is between Winchelsea Mining and the Land Council.
- The agreement sets out a lot of the conditions of mining.
- Other laws also limit what Winchelsea Mining can do like the Sacred Sites Act and the Mining Management Act.
- The agreement starts on the day the Application for a mineral lease is lodged with the Minister.
- The agreement ends when Winchelsea Mining finishes mining, after giving 12 months notice OR if the Mineral Lease expires, is surrendered or cancelled, OR if the parties agree.

s47G



s47G



s47G



s47G

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WINCHELSEA MINING PROPOSAL

Invite Winchelsea Mining to present their proposal

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<p> Anindilyakwa</p> <p><b>Land Council consultation to continue</b></p> <p>Next we will have a discussion and see if a decision can be made.</p> <p>You can ask Winchelsea Mining and the Government representatives to stay or to leave at any time.</p>	<p> Anindilyakwa</p> <p><b>Discussion and Decision</b></p> <ol style="list-style-type: none"><li>1. Do you have any questions?</li><li>2. Is there anyone who is not here who needs to be here for a decision?</li><li>3. Do you understand the proposed conditions of mining that I have outlined?</li></ol> <p><b>s47G</b></p> <ol style="list-style-type: none"><li>6. Do you agree to the terms and conditions?</li></ol> <p>THANK YOU</p>
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ANNEXURE 3 - WINCHELSEA MINING PRESENTATION FOR INITIAL MEETING

**WINCHELSEA MINING**  
BUILDING FUTURE CAREERS

**Akwamburrkba Project**

Winchelsea Mining Agreement

**1.1 Commencement and Payment of Royalty**  
 (a) In respect of any High Year a Royalty Payment is payable within 30 days of the end of each High Year. Winchelsea Mining must:  
 (i) calculate the Royalty Payment for the High Year;  
 (ii) sign the A/C in respect of the Royalty Payment by the end of the High Year;  
 (iii) pay the Royalty Payment to the Receiver of the Royalty Payment by the end of the High Year; and  
 (iv) if it fails to do so in respect of the High Year, and  
 (v) if it fails to pay the Royalty Payment in respect of the High Year due to the A/C the Receiver may, at its discretion, in its absolute discretion, suspend the A/C for the High Year or until such time as the Royalty Payment is paid in full to the Receiver by the A/C, which the Receiver may refuse to finalise until such time as the A/C is finalised.

**3 Term and Commencement**  
**3.1 Term**  
 Subject to clause 3.2 this Agreement will take effect on the date the Application is lodged with the Advertiser and will terminate in accordance with clause 26.

**3.2 Commencement of clauses**  
 LCAD clauses other than clauses 5.3 and 19 commence on the date the Application is lodged with the Advertiser.  
 (b) Clause 19 commences on the Date Operations Commence and clause 6.3 commences 18 months after the Date Mining Commences.

**Geology and JORC Resource (Dec 2020)**

s47G s47G

Phase 1 (7 years) Direct Shipping Ore Proposal (Red Tide)

First stage mining plan... 10-17 years  
CAPEX funded by NIAA or other party

s47G



IFM Investors Little Paradise Logistics Hub

Clan-based Service Companies

Local Businesses: (Annual profit \$4.5 m)  
 • Commercial accommodation business  
 • Commercial restaurant and bar business  
 • Commercial movement store business




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Projected Revenues (Rod Tidey) | WINCHELSER MINING | Comments from Rod Tidey..... | WINCHELSER MINING

# s47G

Mining ..... | WINCHELSER MINING | Original Mine Plan | WINCHELSER MINING

Revised Mine Plan | WINCHELSER MINING | WINCHELSER MINING

Fast facts.... | WINCHELSER MINING | Mining footprint | WINCHELSER MINING

# s47G

Date	17/10/10	10/10/10	17/10/10
Waste Rock Area	100		
Waste Rock Area	70		
Waste Rock Area	10		
Waste Rock Area	10		
Waste	100	100	100
Processing Plant and Tailings	20	Processing plant and Tailings	20
Waste	10		
Waste and Infrastructure	10	Other land Management	10
Total	100	Total	100

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<p>Mobile crushing and screening plant</p>	<p>WITCHELSER MINING</p>	<p>Splitting sizes</p>	<p>WITCHELSER MINING</p>
			
<p>Exposure and excavation</p>	<p>WITCHELSER MINING</p>	<p>980 Loader...</p>	<p>WITCHELSER MINING</p>
			
<p>Off to the barge.....</p>	<p>WITCHELSER MINING</p>	<p>Job done and all packed up!</p>	<p>WITCHELSER MINING</p>
			
<p>Dust suppression and roads</p>	<p>WITCHELSER MINING</p>		
			

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**ANNEXURE 4 - ALC PRESENTATION FOR COMMUNITY MEETINGS**

<p> Anindilyakwa</p> <p><b>What is the Agreement for?</b></p> <ul style="list-style-type: none"> <li>• The agreement is between Winchelsea Mining Company and the ALC</li> <li>• Winchelsea Mining has to have this agreement agreed with ALC and Traditional Owners before the NT Government can grant a Mining licence</li> <li>• The agreement sets out a lot of the conditions on the Mining licence</li> </ul>	<p> Anindilyakwa</p> <ul style="list-style-type: none"> <li>• Other laws limiting what Winchelsea Mining can do e.g. Sacred Sites Act and Mine Management Act.</li> <li>• The agreement will go for as long as the company wants to continue Mining Manganese in the area. The Mining License is granted by the NT Government and if the lease expires it can be renewed.</li> <li>• Winchelsea Mining is proposing to mine Manganese on Winchelsea Island.</li> </ul>
<p><b>s47F</b></p>	<p><b>Protection of the Environment – Land &amp; Sea</b></p> <ul style="list-style-type: none"> <li>• Protected by law, as well as specific protections in the agreement.</li> <li>• Minimisation of impact on Land &amp; Sea, as well as attention to weeds/pest control</li> <li>• Baseline and ongoing monitoring</li> <li>• Protection of Reefs, Rainforest and Streams</li> <li>• Rehabilitation required at end of Mining</li> </ul> <p> Anindilyakwa</p>
<p> Anindilyakwa</p> <p><b>Annual Programs and Reports.</b></p> <p><b>Mining Management Plan;</b></p> <ul style="list-style-type: none"> <li>• Only work contained within the Plan can be conducted</li> <li>• Winchelsea Mining Liaison committee meets with ALC/TOs to provide consultation about work programme</li> <li>• There is a plan in the agreement for how we solve any problems between ALC and Winchelsea Mining if they occur</li> </ul> <p><b>Annual Work Report;</b></p> <ul style="list-style-type: none"> <li>• Winchelsea Mining has to prepare annual plans outlining work done each year</li> <li>• ALC reviews the report and provides feedback</li> </ul>	<p> Anindilyakwa</p> <p><b>Jobs and Training</b></p> <ul style="list-style-type: none"> <li>• The mining plan provided by Winchelsea encourages and provides opportunity for training and employment of Local people and business development</li> <li>• If a local Aboriginal company can do some work for Winchelsea Mining, then Winchelsea Mining has to seriously consider them</li> <li>• Winchelsea Mining has to work hard at employing local Aboriginal people as well as encouraging contractors and sub-contractors to do the same</li> <li>• Provide additional on the job training for local Aboriginal employees</li> </ul>
<p> Anindilyakwa</p> <p><b>Winchelsea Mining Employee Responsibilities</b></p> <ul style="list-style-type: none"> <li>• Instruction on Culture</li> <li>• Permits</li> <li>• Timber and water</li> </ul>	<p> Anindilyakwa</p> <p><b>Additional Mining Details</b></p> <ul style="list-style-type: none"> <li>• Upgrade and maintenance</li> <li>• Buildings and other things</li> <li>• Passing on rights to another mining company</li> <li>• If Winchelsea does the wrong thing</li> <li>• Confidentiality</li> </ul>

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**ANNEXURE 5 - ALC PRESENTATION FOR DAY 2 MEETINGS**

 **Anindilyakwa**  
Land Council

**WINCHELSEA MINING PROPOSAL**

Invite Winchelsea Mining to present their proposal

 **Anindilyakwa**  
Land Council

**Background**

- Winchelsea Mining Pty Ltd wants to mine for manganese on Winchelsea Island.
- Winchelsea Mining is a joint venture company. The majority of the company is owned by Anindilyakwa Advancement Aboriginal Corporation 60% and Aus China International 40%.
- Winchelsea Mining holds Exploration Licence 27521 and has conducted exploration for Manganese on Winchelsea Island since 2018 under an exploration agreement with the ALC.
- Please ensure today when you sign the attendance list that you write your full name so the ALC knows who has attended.

 **Anindilyakwa**  
Land Council

**The Area**  
Akwamburrkba  
(Winchelsea Island)



 **Anindilyakwa**  
Land Council

**The people here today**

- This is a meeting for all TOs of Winchelsea

s47F

 **Anindilyakwa**  
Land Council

**Rights under the Land Rights Act**

Under the Land Rights Act the Land Council cannot make an agreement with Winchelsea Mining unless:

- The Land Council has consulted the TOs of the Agreement Area and is satisfied the TOs understand the terms and conditions of mining and as a group consent to these terms and conditions;
- The Land Council has consulted other affected Aboriginal communities or groups and is satisfied they have had an opportunity to express their views; and
- The Land Council is satisfied that the terms and conditions of mining are reasonable.

 **Anindilyakwa**  
Land Council

s47F

 **Anindilyakwa**  
Land Council

 **Anindilyakwa**  
Land Council

s47G

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<p><b>Anindilyakwa Land Council</b></p> <p><b>Final Discussion and Decision</b></p> <ol style="list-style-type: none"> <li>1. Do you have any questions?</li> <li>2. Is there anyone who is not here who needs to be here for a decision?</li> <li>3. Do you understand the proposed conditions of mining that I have outlined?</li> </ol>	<p><b>Anindilyakwa Land Council</b></p> <p>s47G</p>
--	---

<p><b>Anindilyakwa Land Council</b></p> <p>s47G</p>	<p><b>Anindilyakwa Land Council</b></p> <p><b>Discussion and Decision</b></p> <ol style="list-style-type: none"> <li>6. Do you agree to the terms and conditions of this Agreement?</li> </ol> <p>THANK YOU</p>
---	---

**ANNEXURE 6 - ALC PRESENTATION FOR FINAL MEETINGS**

<p><b>Anindilyakwa Land Council</b></p> <p><b>Background</b></p> <ul style="list-style-type: none"> <li>Winchelsea Mining Pty Ltd wants to mine for manganese on Winchelsea Island.</li> <li>Winchelsea Mining is a joint venture company. The majority of the company is owned by Anindilyakwa Advancement Aboriginal Corporation 60% and Aus China International 40%.</li> <li>Winchelsea Mining holds Exploration Licence 27521 and has conducted exploration for Manganese on Winchelsea Island since 2018 under an exploration agreement with the ALC.</li> </ul>	<p><b>Anindilyakwa Land Council</b></p> <p><b>The Area Akwamburrkba (Winchelsea Island)</b></p> 
--	--

<p><b>Anindilyakwa Land Council</b></p> <p><b>This Meeting</b></p> <ul style="list-style-type: none"> <li>The meetings were for all TOs of Winchelsea</li> </ul> <p>s47F</p>	<p><b>Anindilyakwa Land Council</b></p> <p>s47G</p>
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**Further Meeting ALC Board Decision**

1. The Land Council also needs to be satisfied that the terms and conditions of mining are reasonable.
2. The ALC Board will meet tomorrow to decide this and the position of the Traditional Owners about whether they agree to defer the second year of mining payments will help the Land Council make its decision.



**The Hon Ken Wyatt AM MP**  
**Minister for Indigenous Australians**  
**Member for Hasluck**

Reference: MS21-000347

s47F

Anindilyakwa Land Council

s47F

Dear

s47F

Thank you for your correspondence of 30 June 2021 seeking my consent to the grant of a mining interest and approval for the Anindilyakwa Land Council (ALC) to enter into a related mining agreement with Winchelsea Mining Pty Ltd. I am pleased that these negotiations have been finalised to the satisfaction of all parties.

I am satisfied that the ALC has complied with its statutory obligations under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Land Rights Act) in giving its consent to the grant of the Mineral Lease.

I have given my consent, under subsection 45(b) of the Land Rights Act, to the grant of Mineral Lease to Winchelsea Mining Pty Ltd pursuant to Mineral Lease Application 32704.

I have also approved, under subsection 27(3) of the Land Rights Act, the ALC entering into the associated Mining Agreement with Winchelsea Mining Pty Ltd.

I have written to Winchelsea Mining Pty Ltd and the Northern Territory Minister for Mining and Industry, the Hon Nicole Manison MLA advising them of my decision.

Thank you for raising this matter.

Yours sincerely

The Hon KEN WYATT AM MP  
 Minister for Indigenous Australians

2 / 2 / 2021



**The Hon Ken Wyatt AM MP**  
**Minister for Indigenous Australians**  
**Member for Hasluck**

Reference: MS21-000347

The Hon Nicole Manison MLA  
Minister for Mining and Industry  
GPO Box 3146  
DARWIN NT 0801

  
Dear Minister

The Anindilyakwa Land Council (ALC) wrote to me on 30 June 2021 seeking my consent to the grant of a Mineral Lease to Winchelsea Mining Pty Ltd.

I have given my consent, under subsection 45(b) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Land Rights Act), to the grant of a Mineral Lease to Winchelsea Mining Pty Ltd pursuant to Mineral Lease Application 32704.

I have written to the ALC and Winchelsea Mining Pty Ltd advising them of my decision.

Yours sincerely

  
The Hon KEN WYATT AM MP  
Minister for Indigenous Australians

2 / 8 / 2021

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**The Hon Ken Wyatt AM MP**  
**Minister for Indigenous Australians**  
**Member for Hasluck**

Reference: MS21-000347

Mr Mark Hewitt  
Director  
Winchelsea Mining Pty Ltd  
[mhewitt@wmining.com.au](mailto:mhewitt@wmining.com.au)

  
Dear Mr Hewitt

The Anindilyakwa Land Council (ALC) wrote to me on 30 June 2021 and sought my consent to the grant of a Mineral Lease to Winchelsea Mining Pty Ltd.

I have given my consent, under subsection 45(b) of the *Aboriginal Land Rights (Northern Territory) Act 1976*, to the grant of a Mineral Lease to Winchelsea Mining Pty Ltd pursuant to Mineral Lease Application 32704.

I have written to the ALC and the Northern Territory Minister for Mining and Industry advising them of my decision.

I congratulate the Anindilyakwa people on establishing this mining operation and wish you every success with this venture.

Yours sincerely

  
The Hon KEN WYATT AM MP  
Minister for Indigenous Australians

2 / 8 / 2021

**From:** wmining <[wmining@cdmsmith.com](mailto:wmining@cdmsmith.com)>  
**Sent:** Wednesday, 2 November 2022 11:41 AM  
**To:** Burney, Linda (MP) <[Linda.Burney.MP@aph.gov.au](mailto:Linda.Burney.MP@aph.gov.au)>  
**Subject:** Winchelsea Island (Akwamburkba) Manganese Mine Environmental Impact Statement – Stakeholder Engagement

Dear Hon. Linda Burney,

Winchelsea Mining Pty Ltd (Winchelsea Mining) proposes to develop the Winchelsea Island (Akwamburkba) Manganese Mine Project (the Project). Winchelsea Mining is a joint venture between the Anindilyakwa Advancement Aboriginal Corporation (AAAC) and AUS China International Mining Pty Ltd. It was established in 2018 and the Project is part of a comprehensive economic strategy to enhance the existing Traditional Owner Future Fund to maintain important economic, cultural and community programs for people of the Groote Archipelago. Winchelsea will be an Aboriginal owned and operated mining venture.

The Project is currently completing final feasibility assessments and progressing through various approval processes including satisfying Terms of Reference for a Draft Environmental Impact Statement (EIS) under the NT *Environment Protection Act 2019*. Collaborative and continuous stakeholder engagement is an important part of the environmental and social impact assessment process. The regulatory process includes opportunities for stakeholder input; however, during this Draft EIS preparation stage we are seeking inputs to inform the assessment and Project documentation.

Our engagement objective is to inform and update stakeholders about the Project and identify potential concerns or opportunities that can be addressed during the current planning and approval process.

In addition to the attached information flyer, Project referral documentation and the Terms of Reference are also available for public review on the [NT EPA portal](#) and updates on the Project are provided on the [Winchelsea Mining website](#). Stakeholders can get in touch with us at any time to provide input, raise issues or ask questions. Please contact the CDM Smith Project team via one of the methods below:

EMAIL ADDRESS: [wmining@cdmsmith.com](mailto:wmining@cdmsmith.com)  
POSTAL ADDRESS: Level 1, 48-50 Smith Street, Darwin NT 0800  
WEBSITE: <https://wmining.com.au/about-us/>  
PHONE: (08) 8943 0642

Sincerely,

s47F

E: [wmining@cdmsmith.com](mailto:wmining@cdmsmith.com)  
A: Level 1, 48-50 Smith Street, Darwin NT 0800  
W: <https://wmining.com.au/about-us/>  
P: (08) 8943 0642



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**WINCHELSEA MINING**

BUILDING FUTURE GROOTE



# WINCHELSEA MINING PROJECT

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National Indigenous Australians Agency (NIAA)

# » About Winchelsea Mine

**Winchelsea Mining Pty Ltd is a joint venture** between the Anindilyakwa Advancement Aboriginal Corporation (70%) and AUS China International Mining Pty Ltd (30%).

The Project will be **operated and managed by Winchelsea Mining Pty Ltd**. The Project term is for twelve years, including rehabilitation.

In December 2018, the **Northern Territory government** granted Winchelsea Mining a six-year exploration licence over about 20sq km of manganese-rich Winchelsea Island.

Winchelsea Mining is proposing to establish a manganese mine extracting from two mineralisation zones. Ore will be mined using excavator and dump truck, it will be crushed and screened onsite, hauled to stockpiles and conveyed to a barge loading facility for transhipment to ocean going vessels.

A small mine infrastructure area will be established on Winchelsea Island with personnel accommodation to be provided on Groote Eylandt.

Mine rehabilitation for the Project site will occur progressively with mining activities to limit the total disturbed mining area at any time. Emphasis will be placed on early rehabilitation of surface features to minimise the visual impact of the project on its surrounds. The mining operation is relatively compact when compared with other surface mines of similar capacity, resulting in a much-reduced environmental footprint.



## » Economic benefits

### Nation First

Locally controlled mining activity majority-owned by the land's Traditional Owners.

### Groote Eylandt's economic Future

The Winchelsea Mine will shore up Groote Eylandt's economy when the GEMCO mine's operational life ceases.

### Multiple Economic Streams

Economic benefits from the Project will be provided through salaries and wages, employee spending, contractor engagement, operational expenditure, investments and donations to the local community and royalties.

### Sustainable Economy

Social and economic capital from their resources to create a stable future for their community support.

### Cultural Economy

Funding the Anindilyakwa's cultural economy



## » Employment opportunities

### Indigenous Workforce

Winchelsea will strive to build a workforce comprising up to 50 per cent local Indigenous people

### Operational Workforce

The mine will require around 55 workers/staff/employees initially. During construction, the workforce will increase to 200 people. About 100-150 personnel will be needed as steady-state contractor labour support.

### Royalties

Winchelsea Mining will pay Statutory royalty payments to the Northern Territory Government under the *Mineral Royalty Act 1982*. Indirect royalty payments will be made into a Aboriginal benefit account.

### Local Hire

The mine is committed to recruiting its workforce from the domestic and local labour markets where possible.

## » Previous Engagement

Previous engagement about the prospect of Anindilyakwa mining manganese on Winchelsea Island became focused in the lead up to its application for an exploration licence in 2018.

The Anindilyakwa Advancement Aboriginal Corporation informed and sought feedback primarily through monthly meetings with the ALC 24-member Board.

The Board, in turn, consulted more broadly on important issues, like the impact of drilling on Winchelsea, with a broader group of up to 240 Traditional Owners representing Anindilyakwa's two clan groups.

**During engagement, concerns principally focused on:**

- Whether blasting would impact songlines
- The risk of manganese going into the sea
- Threatened species, including the Quoll and the Masked Owl which roosts in sandstone country to the north.

The ALC believes it has addressed each of these concerns to date through either providing more information or modifying plans.

## » Current Engagement

Collaborative and continuous stakeholder engagement is an important part of the environmental and social impact assessment process. The regulatory process includes opportunities for stakeholder input; however, during this Draft EIS preparation stage we are seeking inputs to inform the assessment and project documentation.

Draft EIS Development	Draft EIS Assessment	Approved Project
Distribute Project flyer to stakeholders	Public exhibition of EIS (hard copy and on the NT EPA website)	Regular updates provided on Primary Gold website
Conduct Project briefings/meetings with government authorities and business	NT EPA will review public submissions and draft a response	Community notices or meetings as required (if possible)
Community members encouraged to contact the Project team with questions or inputs		Distribute updated Project flyer to community members
Respond to community input and addresses topics raised in the Draft EIS		

## HAVE YOUR SAY

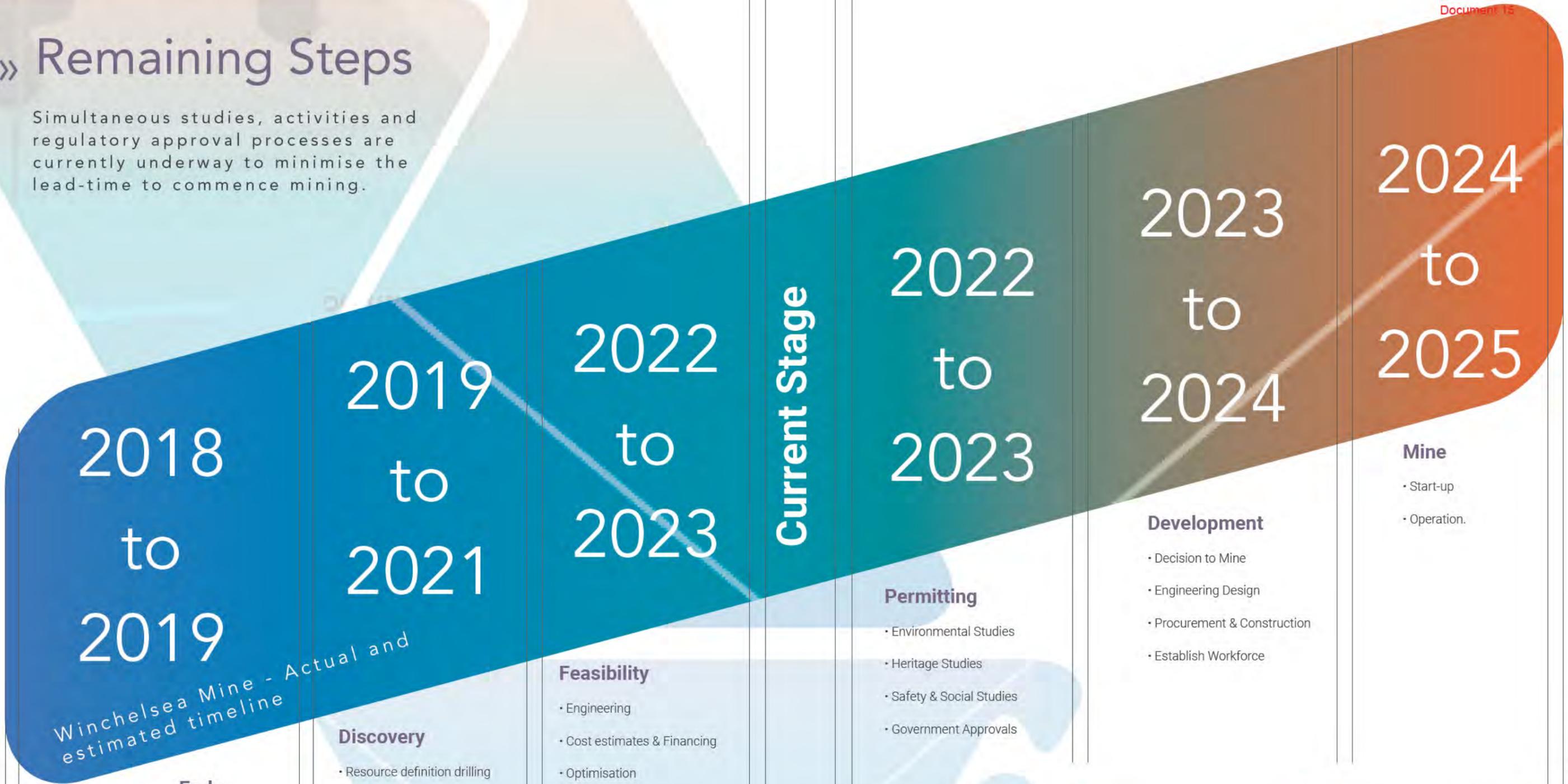
Community members can get in touch with us at any time to provide input, raise issues or ask questions. Please contact the CDM Smith project team via one of the methods below:

	<b>POSTAL ADDRESS</b> Level 1, 48-50 Smith Street Darwin, NT 0800 Australia	<b>PHONE</b> +61 08 8943 0642	<b>EMAIL</b> <a href="mailto:wmining@cdmsmith.com">wmining@cdmsmith.com</a>
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# » Remaining Steps

Simultaneous studies, activities and regulatory approval processes are currently underway to minimise the lead-time to commence mining.



Winchelsea Mine - Actual and estimated timeline

### Concept

- Exploration
- Mineral licenses acquired
- Access negotiated

### Early Exploration

- Geology
- Geochemistry
- Geophysics
- Scout drilling

### Discovery

- Resource definition drilling
- Metallurgical testwork
- Community engagement

### Feasibility

- Engineering
- Cost estimates & Financing
- Optimisation
- Environmental baselining
- Reserve calculations

### Current Stage

#### Permitting

- Environmental Studies
- Heritage Studies
- Safety & Social Studies
- Government Approvals

#### Development

- Decision to Mine
- Engineering Design
- Procurement & Construction
- Establish Workforce

#### Mine

- Start-up
- Operation.

**The Winchelsea Mine is currently completing final feasibility assessments and progressing through various regulatory approval processes.**

**Studies for the Draft EIS will be completed in January 2023 and documentation submitted to the NT EPA. Mine development is proposed to occur between 2023 to 2024 with the target of operations between 2024 to 2025.**

# STAKEHOLDER ENGAGEMENT LOCAL DECISION MAKING

The Winchelsea Project forms part of a Groote Archipelago Local Decision Making Agreement for economic development. The agreement signed and implemented on 19 June 2019 by the Northern Territory Chief Minister, the Hon Michael Gunner, Northern Territory Minister for Aboriginal Affairs, The Hon Selena Uibo, Chairman for the Anindilyakwa Land Council Mr Tony Wurramarra AO and the Chief Executive Officer for the Anindilyakwa Land Council Mr Mark Hewitt.

Our engagement objective is to inform and update our stakeholders about the Project and identify potential concerns or project opportunities that can be addressed during the approvals and planning processes.

**WINCHELSEA MINING**

BUILDING FUTURE GROOTE



**The Hon Linda Burney MP**  
**Minister for Indigenous Australians**

Reference: MC22-005119

s47F

Stakeholder Engagement Team  
 CDM Smith  
[wmining@cdmsmith.com](mailto:wmining@cdmsmith.com)

Dear

s47F

Thank you for your email of 2 November 2022 providing an update on the Winchelsea Island (Akwamburkba) Manganese Mine Project, a joint venture between Anindilyakwa Advancement Aboriginal Corporation and AUS China International Mining Pty Ltd (Winchelsea Mining).

I understand the proposed mine forms part of an economic strategy to enhance the existing Traditional Owner Future Fund, which is used to maintain important economic, cultural and community programs for the people of the Groote Archipelago. I note royalties from the proposed mine are intended to replace the royalties received from the GEMCO mine on Groote Eylandt, expected to cease operations in the next four years, ensuring ongoing funding for the Future Fund.

I also understand the Anindilyakwa Advancement Aboriginal Corporation ownership of the mine has increased to 70 percent. I commend Winchelsea Mining for committing to building a workforce comprising up to 50 percent First Nations people. I note the next stages for the project will involve completion of environmental and heritage studies, and responding to stakeholder feedback provided on the draft Environment Impact Statement.

I strongly encourage Winchelsea Mining to ensure members of the Anindilyakwa community and other First Nations stakeholders on Groote Eylandt are made aware of this opportunity to comment and are assisted to do so. I also advise that consultations with all stakeholders should be ongoing for the life of the project, including project decommission and rehabilitation.

Thank you for raising this matter.

Yours sincerely

The Hon LINDA BURNEY MP  
 Minister for Indigenous Australians



**Sent by email only**

Senator the Hon. Malarndirri McCarthy  
Minister for Indigenous Australians  
Commonwealth Government  
Parliament House  
Canberra, ACT

23rd August 2024

**Private & In Confidence**

Dear Minister

**ALC Board Request – Section 64(4) ALRA funding consideration**

I am writing to advise you that on 22<sup>nd</sup> August 2024 the Anindilyakwa Land Council (**ALC**) Board resolved to seek your consideration for additional funding support under Section 64(4) of the *Aboriginal Land Rights (Northern Territory) Act 1976* to support for the continuation of critical TO-led community programs across the next 18 months.

As you are aware, extensive damage to the GEMCO wharf and export pier, caused by Tropical Cyclone Megan that hit Groote Eylandt in March of this year, has prevented GEMCO from getting the manganese to market. As advised to the ASX in April by South32 (GEMCO's parent company), export operations are not scheduled to re-commence until Q1 2025, and GEMCO will not be making any profit until the pier is repaired and the sale of manganese recommences.

As a result of this incident, over which the ALC and Traditional Owners have no control, the ALC has not received any Section 64(3) royalties under the *Aboriginal Land Rights (Northern Territory) Act 1976* for the August 2024 round, nor does the ALC expect to receive any future Section 64(3) payments until the GEMCO mining operation is back in profit for a full half-year. Even when the mining operation does get back into profit, it is anticipated that the royalty receipt will be less than that previously experienced, mostly due to recent inflationary pressures and increased operating costs (including deeper pits) impacting profitability and royalty receipts.

**s47G**





Additionally, the ALC Board and Finance Committee have instigated a review of the Section 64(3) supported programs, including across all Aboriginal Corporations funded from royalties, which has led to reduced budgets and costs.

In this context, however, the ALC Board and Finance Committee have identified and closely examined certain further projects and programs whose continuation through this upcoming period is vital, but whose funding (and, therefore, ongoing feasibility) is completely beyond the current limits of the ALC in the absence of any Section 64(3) royalty receipts.

To support this, the ALC is submitting three separate requests to each of ARAC, AMT and yourself for urgent additional funding support to help, collectively, to maintain these important programs and projects across the next 18 months, as detailed below.

The ALC will be requesting Anindilyakwa Royalties Aboriginal Corporation (**ARAC**) to repurpose certain unexpended and available royalty funds it currently holds (i.e. as a result of changes to previous projects, surplus funds, and rainy day savings) to address the funding shortages that directly affect the operations of programs being currently delivered by ARAC with Section 64(3) royalties, such as RDU Operations, the TO Christmas hampers, and TO electricity subsidies. As you will see, ARAC will also be requested to consider distributing a percentage of those unexpended royalty funds to individual Traditional Owners in September 2024, in line with that provision normally and historically paid to individual Traditional Owners at each Section 64(3) royalty distribution recognising the significant impact GEMCO's operations have had upon their lives. We enclose (in confidence) a spreadsheet highlighting the relevant support being sought from ARAC.

The ALC will also request additional funding support from the AMT for certain economic activities directly relating to the Traditional Owners' aspirations to invest in and build sustainable replacement income and wealth in preparation for GEMCO's impending departure from Groote Eylandt. Indeed, the unanticipated and severe impacts of TC Megan has placed an even greater emphasis on the ALC Board's need to adequately prepare the Traditional Owners for an economically stable future once the GEMCO mine closes around 2030. We enclose (in confidence) a spreadsheet highlighting the relevant support being sought from the AMT. As you will see, the identified funding relates to critical TO-led economic enabler projects such as the Winchelsea mine, the development of a large-scale solar power farm at Little Paradise, and aquaculture trial operations during the next 18-month period.

Additionally, but complimentary, to the above, the ALC makes this request for specific funding under Section 64(4) to support those local Aboriginal Corporations who rely on regular Section 64(3) royalty income to deliver important community-facing programs during the next 18 months. This Section 64(4) submission concerns the necessary funding to support the continuation of various key community-facing programs covering a diverse range of areas including youth, sport and recreation, health, community support, preserving culture, education, housing, and information technology, all of which directly benefit the Traditional Owners and other Aboriginals living in the ALC Region. It should also be noted that these programs collectively provide for significant and meaningful employment opportunities for Traditional Owners. We enclose a spreadsheet highlighting the relevant support being sought under Section 64(4).





We hope this request for additional and specific funding support under Section 64(4) may be considered as a matter of priority and critical importance for the Traditional Owners, and we would welcome the opportunity to discuss this matter with your or NIAA further and respond to any questions or queries you may have.

Thank you for your consideration.

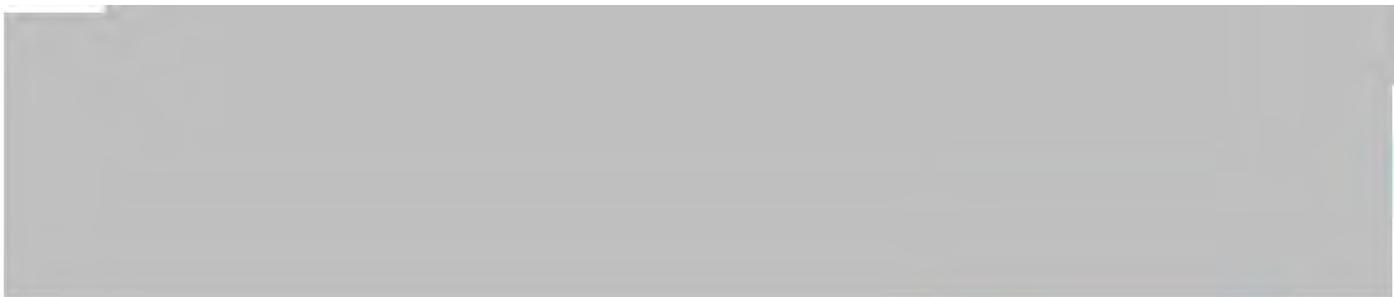
Yours faithfully

Ms Cherelle Wurrawilya  
ALC Chair

Cc  
Mark Hewitt  
ALC CEO

Jody Broun  
NIAA CEO

*Encl, copies of: List of critical programs and projects requiring additional funding support from NIAA, ARAC and AMT*



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**From:** s47F  
**To:** Minister McCarthy  
**Cc:** Mark Hewitt; Broun Jody; Cherelle Wurrawilya; s22; Kerrigan Rachel; Colin Wakefield; Mark Hautop  
**Subject:** Anindilyakwa Land Council request for additional s64-4 funding  
**Date:** Wednesday, 28 August 2024 1:54:41 PM  
**Attachments:** alc\_logo\_cmyk\_horizontal\_teal\_a897c6da-08a7-435d-891b-cfd5e0d6829.png  
2024.08.23\_Minister\_McCarthy\_Request\_for\_Additional\_Funding\_Support\_S64-4.pdf  
Royalty\_Funding\_Requests\_August\_2024.xlsx

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Dear Minister

**Private & In Confidence**

Please find attached a letter, with attachment, for consideration for providing additional funding as set out in the letter. Cherelle Wurrawilya has requested that I forward this letter to you on her behalf.

If you have any questions, please do not hesitate to let me know.

Kind Regards



s47F  
Level 2 58-62 McLeod St, Cairns QLD 4870  
M: s47F | E: s47F  
[anindilyakwa.com.au](http://anindilyakwa.com.au)

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**Senator the Hon Malarndirri McCarthy**  
Minister for Indigenous Australians  
Senator for Northern Territory and Christmas and Cocos (Keeling) Islands

MC24-004546

Ms Cherelle Wurrawilya  
Chair  
Anindilyakwa Land Council  
PO Box 172  
ALYANGULA NT 0885

Dear Ms Wurrawilya

Thank you for your letter regarding Anindilyakwa Land Council's (ALC) request for funding under section 64(4) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Land Rights Act).

I understand damage to the GEMCO wharf and pier has impacted ALC's royalty payments and that ALC is considering a number of avenues of additional support, as well as taking steps to mitigate the impact on key programs and projects.

Aboriginal Investment NT, formerly known as the Northern Territory Aboriginal Investment Corporation, was established in November 2022 to promote the self-management and economic self-sufficiency of Aboriginal people living in the Northern Territory. Since that time, the Minister for Indigenous Australians does not make new funding decisions under section 64(4) of the Land Rights Act.

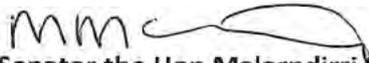
You may wish to consider applying for a grant with Aboriginal Investment NT. Community Impact and Innovation grants opened on 1 October 2024. More information is available on 1800 943 039 or [www.aboriginalinvestment.org.au/grants](http://www.aboriginalinvestment.org.au/grants).

I have asked the National Indigenous Australians Agency to provide support to the ALC in relation to this matter. s22 will be in contact with you. s22 is also contactable on s22

s22

Thank you raising this matter.

Yamalu



Senator the Hon Malarndirri McCarthy  
Minister for Indigenous Australians

30/1/2025