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GRANT OF MINING TENEMENTS

Involving reserved
lands, townsites,
foreshore, seabed
and navigable waters
(Reserved Lands) –
Sections 24, 24A and 25
Mining Act 1978 apply

The 'no mining' condition explained

Sections 24, 24A and 25 of the *Mining Act 1978* apply to various types of reserved land and provide that mining (which is defined under the Act to include fossicking, prospecting, exploring for minerals, and mining operations) cannot be carried out without the prior written consent of the Minister responsible for the Mining Act. This consent can only be given after consultation with the responsible Minister and the vested authority. In the case of national parks and class 'A' conservation reserves and state forests in the South West, marine nature reserves and marine parks, the responsible Minister must give concurrence.

It is the practice of the Department of Mines, Industry Regulation and Safety when determining applications for mineral tenure to impose a 'no mining' condition in respect to the reserved lands where 50 per cent or less of the land applied for is affected by reserved lands, and the applicant has not specifically requested authority to explore/prospect the reserved land.

Where encroachment onto reserved lands is greater than 50 per cent then referrals under sections 24 and 25 are made prior to the application being determined, except in the case of Aboriginal reserves where a 'no mining' condition is imposed in respect of any encroachment.

Imposition of the 'no mining' condition means that the holder of the mining tenement cannot access the reserved lands for exploration or mining until the Minister responsible for the Mining Act gives consent. With regard to Aboriginal reserves, an entry permit must also be issued under the *Aboriginal Affairs Planning Authority Act 1972* before consent is given.

Where consent to mine on reserved lands is subsequently requested (i.e. removal of the 'no mining' condition after grant), adequate time should be allowed for referral of these requests to the responsible Ministers. Timeframes will depend upon the type of reserve land affected, the degree of justification expected and relevant constraints faced by the responsible Ministers.

¹ (The responsible Minister is the Minister for the time being charged with the administration of the land or the enactment to which the land is subject)

The adoption of the 'no mining' condition in the above circumstances allows:

- earlier grant of titles;
- the balance of the land in the title residing outside the reserved lands to be explored. This may enable the area to be evaluated without any need to access the reserved land;
- where requested, the referral process under sections 24, 24A and 25 of the Mining Act to be completed while exploration is undertaken on the balance of the land in the title;
- however, it does cause problems of public perception as to the number of reserves having mineral exploration access.

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N.B. The information contained in this pamphlet is designed to assist in gaining a general awareness of the requirements of the *Mining Act 1978* and is not intended to be a substitute for understanding the statutory requirements of the Act and Regulations there under.