



POSITION PAPER 3

A 'PERSON' FOR THE PURPOSES OF THE MINING ACT

ISSUE

Who is a 'person' for the purposes of the Mining Act and may therefore apply for a mining tenement or a Miner's Right?

BACKGROUND

The *Mining Act 1978* provides that any 'person' can apply for a Miner's Right or a mining tenement, however, the Mining Act does not define who is a 'person'.

POSITION

It is the Department's position that only entities capable of suing and being sued may apply for a mining tenement or Miner's Right.

The Mining Act sets out a scheme of tenure which requires the tenement holder to specify the number of shares to give effect to any future conveyance of title. In addition, securities required under the Mining Act are incapable of being executed other than by the principals of the business.

The Mining Act also provides for a Miner's Right holder or tenement holder to be liable for compensation and to sue or be sued (see referenced sections below).

An application made by an entity other than one capable of suing or being sued in their own right is not considered an application made by a person and such an application is invalid. For example, a business name or a family trust is not a 'person' for the purposes of the Mining Act.

REFERENCES

Sections 18, 20, 30, 40, 40C, 57, 71, 86, 91, 96, 97A, 98 and 124 of the *Mining Act 1978*