

GUIDELINES FOR SUBMITTING MINING LEASE APPLICATIONS VIA A 'RESOURCE REPORT'

Section 74(1)(ca)(iii)

The purpose of these guidelines is to explain the requirements for a **resource report**, and the information required in the separate **supporting statement** under Section 74(1)(ca)(iii). The option of submitting a **resource report** (and accompanying **supporting statement**) was introduced as a new feature for Mining Lease applications lodged on or after 2 February 2013.

The intent of the change was to reduce some regulatory red tape — by allowing entities who had already submitted a detailed resource report to the Australian Securities Exchange (ASX) to use that report for the documentation accompanying a Mining Lease application, rather than writing a fresh report specifically for DMP. The reporting requirements for a detailed **resource report** to the ASX, especially under JORC Code 2012, are regarded as equal to or more stringent than the already existing requirements for Mining Lease applications proceeding via a **mineralisation report**.

These Guidelines are not an explanation of the JORC Code and its requirements (for that see www.jorc.org), but how the JORC Code impacts on Mining Lease applications under the *Mining Act 1978* as amended. The Guidelines also explain some of DMP's interpretation on what is and is not acceptable. As applications for Mining Leases can proceed along three possible routes, it is important for applicants to proceed along the correct and most appropriate route.

Note:

- These Guidelines relate to the *Mining Act 1978* as amended at 7 May 2016.
- Guidelines originally compiled 16 October 2013
- Guidelines updated December 2016.

STATUTORY REQUIREMENTS

Mining Lease applications made after 1 February 2013 shall be accompanied by one of the following three types of documentation:

- a **mining proposal** under Section 74(1)(ca)(i) (see separate Guidelines for a ‘Mining Proposal’ at <http://www.dmp.wa.gov.au/Environment/Mining-proposals-5993.aspx>; or
- a statement about likely mining operations (‘**supporting statement**’), and a **mineralisation report** under Section 74(1)(ca)(ii) (see separate Guidelines for a ‘Mineralisation Report’ at <http://www.dmp.wa.gov.au/Geological-Survey/Mineralisation-Reports-and-1404.aspx> ; or
- a statement about likely mining operations (‘**supporting statement**’), and a **resource report** under Section 74(1)(ca)(iii) — these Guidelines.

RESOURCE REPORT – DEFINITION

A **resource report** is defined in section 74 of the *Mining Act 1978* as a report:

- (a) *that sets out details of the mineral resources located in, on or under the land to which the application relates; and*
- (b) *that complies with the JORC Code; and*
- (c) *that has been made to the Australian Securities Exchange Limited.*

DMP’S INTERPRETATION

DMP’s interpretation follows the *Mining Act 1978* closely and hence key points are:

- The Director Geological Survey provides advice to the Director Mineral Titles as to whether the **resource report** submitted with the Mining Lease application satisfies the definition in the *Mining Act*, but note that the *Mining Act* itself does not oblige the involvement of the Director Geological Survey. This contrasts to the situation involving **mineralisation reports**, where the Director’s determination of whether ‘significant mineralisation’ is present has considerable weight.
- All three criteria must be satisfied as the definition is of the form ‘(a) and (b) and (c)’.

- The **resource report** must have detailed information of the mineral resource estimates, rather than just being just a general statement. The principle of JORC concerning **transparency** is also used by DMP in determining what level of detail is required. The level of detail expected is that corresponding to what JORC requires for the initial reporting of resources or where there has been a material change in the resource estimates. There is an expectation by DMP that the **resource report** will contain all the relevant information required so that a reasoned balanced judgement of the mineral resources is possible.
- If an entity has determined, for reasons of **materiality** under JORC, that it is not required to publicly release details of its resources and hence has not released such details, then obviously the option to lodge a Mining Lease application accompanied by a **resource report** is no longer available.
- The resources must be located within the area of the Mining Lease being applied for, rather than being located elsewhere (such as located entirely on neighbouring tenements within the project).
- The **resource report** must satisfy the current JORC Code as amended from time to time. Until 30 November 2013 there were effectively two ‘current’ versions of the JORC Code covering public reporting. The minimum requirement was the provisions of the 2004 JORC Code, but the 2012 Code (published 20 December 2012) was also available and was preferred, but its use prior to 30 November 2013 was not mandatory. The Department, like the Australian Securities Exchange (ASX) and JORC, encouraged early voluntary adoption of the 2012 JORC Code. From 1 December 2013, the transition to the new disclosure rules was complete and reporting under the 2012 JORC Code became mandatory for both the ASX and DMP.
- Historic resource estimates, which either predate the JORC Code or were not publicly reported according to the Code, are not acceptable for use in a **resource report**.
- The **resource report** must be publically available on the ASX Announcements platform and must accompany the Mining Lease application. In those cases where the details of the resource estimates were first released years ago and there has been small periodic updates

since, with all releases prior to the Mining Lease application, then it is best to include all relevant documents with the Mining Lease application.

- There is no provision in the *Mining Act* for recognition of reporting of resource estimates to another securities exchange. Hence, reporting by use of the JORC Code but solely to an overseas securities exchange is interpreted as failing to satisfy the requirements of Section 74 of the Mining Act 1978.
- Similarly, there is no provision in the *Mining Act 1978* for reporting to any other resource code, for example, NI43-1-1, even if it is regarded as of a comparable or superior standard. Hence, reporting by use of an internationally recognised foreign Code to an overseas securities exchange does not satisfy the requirements of Section 74 when it comes to a Mining Lease application under the *Mining Act 1978*.
- In most cases, it is likely that prospectors and non-ASX-listed entities applying for a Mining Lease via lodgement of a **resource report** will not be able to meet the requirements of Section 74(1)(ca)(iii), thus requiring them to lodge a '**mineralisation report**' (see separate Guidelines). In some situations, submission of a resource report may be the preferred option where a prospector or non-ASX-listed entity is in a joint venture with an ASX-listed entity. This provides a means for the joint venture partner to release a **resource report** that complies with the JORC Code to the ASX, thereby enabling the application for a Mining Lease by the prospector or the non-ASX-listed entity to satisfying the requirements of Section 74.

Post-application changes to the resource report

- Post-lodgement alteration to the **resource report** is not possible — as the resource estimate should have already been made public prior to the application for the Mining Lease.
- Changes to the accompanying **supporting statement** may be made at the request of the Director Geological Survey.

Switching applications from *resource report to mineralisation report or mining proposal*

- Switching routes in a Mining Lease application from **resource report** to **mining proposal** and vice versa is not possible — a fresh application for the Mining Lease is required.
- Similarly, switching routes in a Mining Lease application from **mineralisation report** to **mining proposal** and vice versa is not possible — a fresh application for the Mining Lease is required.
- However, where the report submitted does not meet the strict requirements of a **resource report** as defined under Section 74(1)(ca)(iii) of the Mining Act, then the report submitted will be treated as a **mineralisation report** and proceed as per the requirements defined under Section 74(1)(ca)(ii) of the Mining Act.
- Where the application for a Mining Lease is based on the documentation provided (irrespective of whether additional information has been requested and supplied) and the application is found not compliant with Section 74, it will be refused and the applicant cannot proceed with the application. A fresh Mining Lease application is required.

Hence it is good risk management policy for companies to consult with DMP in advance of any Mining Lease application, especially where the underlying tenure is close to its expiry date(s). DMP can provide advice on what it considers the most appropriate method for proceeding with the Mining Lease application.

An example of an acceptable **resource report** lodged with DMP is:

- The application for M28/376, which included the ASX release of Sirius Resources NL dated 20 March 2013. The author(s) of the **resource report** followed the principles and requirements of the JORC Code 2012. A copy of that document is available from the DMP website at:
<http://geodocs.dmp.wa.gov.au/document/launchViewer.do?documentId=442505&cabinetId=2200&forward=documentSearch&from=topNav>

SUPPORTING STATEMENT

The requirements for the **supporting statement** are defined in Section 74(1a), which provides that the statement:

shall set out information about the mining operations that are likely to be carried out in, on or under the land to which the application relates including information as to —

- (a) when mining is likely to commence; and*
- (b) the most likely method of mining; and*
- (c) the location, and the area, of land that is likely to be required for the operation of plant, machinery and equipment and for other activities associated with those mining operations.*

The definition is relatively straightforward, but some key points to bear in mind are as follows:

- The legislative requirements for the **supporting statement** and hence DMP's interpretation are the same regardless of whether the applicant is proceeding along the **resource report** or the **mineralisation report** route.
- DMP expects a relatively brief report as the **supporting statement**, with 6–8 pages (including diagrams) typically being more than sufficient.
- The information provided should include a plan showing areas required for infrastructure in relation to the zone (or zones) of significant mineralisation and/or mineral resources, as well as the Mining Lease boundary. This provides a guide as to whether DMP recommends that the Minister approve the full area applied for or only a portion.
- If the plan shows that the area being applied for only contains proposed mining infrastructure, with no mineral deposit or significant mineralisation, then the Mining Lease application will fail and should have proceeded along the **mining proposal** route.
- **Key information includes when mining is likely to commence.** An application for a Mining Lease can fail if mining in the future is not likely.

GENERAL

- The **resource report** and the **supporting statement** must be submitted as two separate documents, and submitted in PDF format. Paper copies are not required and purely electronic lodgement is preferred.
- In cases where the applicant submits multiple mining lease applications at the same time (even for contiguous tenements) then a separate **resource report** and a separate **supporting statement** must be provided for each application.
- Any document lodged under Section 74(1)(ca) is deemed to be a public document immediately (Section 74(5)). DMP places such **resource reports** and **mineralisation reports**, together with their **supporting statements**, on the DMP web site but only once such reports are approved by the Director of the Geological Survey Division. If the document is not on the DMP web site, then it is still available upon request from the Information Counter, 1st Floor, Mineral House, 100 Plain Street, East Perth.

USEFUL LINKS

- A page on the DMP website that deals specifically with mineralisation reports for Mining Lease applications is:
<http://www.dmp.wa.gov.au/Geological-Survey/Mineralisation-Reports-and-1404.aspx>
- A search facility on the DMP website for **mineralisation reports**, **resource reports** and **supporting statements** that have been lodged and approved is:
<http://geodocs.dmp.wa.gov.au/document/documentSearchCriteria.do?from=topNav&cabinetId=2200>
- Searching of Environmental Registrations (including **mining proposals**) that are in the public domain is possible via DMP's 'Mines and mineral deposits database (MINEDEX) at <http://www.dmp.wa.gov.au/Mines-and-mineral-deposits-1502.aspx> . This facility provides extensive search criteria functionality.