



POSITION PAPER 7

SEVERANCE OF MINING LEASES, PROSPECTING LICENCES, GENERAL PURPOSE LEASES

ISSUE

When can an application for a prospecting licence, mining lease or general purpose lease application be granted in more than one part?

BACKGROUND

The *Mining Act 1978* provides for the marking out and making of tenement applications over available land (section 40D).

Section 18 of the Mining Act provides that all Crown land (except that which is the subject of a mining tenement) is open for mining and may be marked out and made the subject of a mining tenement application. Sections 23 and 27 make similar provision in respect to reserve and private land respectively.

The prescribed shape of a mining tenement is provided in regulation 92:

Section 105 provides that a mining tenement (other than a graticular exploration licence, retention licence or miscellaneous licence) must be marked out prior to application. The land in relation to which the mining tenement is sought must be marked out – the principle being not to include unavailable land.

The shape of a mining tenement other than a graticular exploration licence, a miscellaneous licence or one marked out pursuant to regulation 61 shall be in the form of a rectangle, but if the presence of boundaries of mining tenements, other boundaries or natural features make it necessary or desirable to vary this shape, each side of the tenement shall be a straight line and where possible at right angles to an adjacent side or parallel to an opposite side.

POSITION

In considering the application, only a single contiguous area of available land may be granted.

The only exception is where a prior competing application is subsequently granted thereby severing the later mining tenement application.



Where a lesser area has been granted, the holder must mark out the granted area on the land.

REFERENCES

Sections 18, 23, 27, 40D and 105 of the *Mining Act 1978*

Regulation 92 of the Mining Regulations 1981