



# Policy guideline - objections to release of mineral exploration reports on mining tenements under the Sunset Clause

Under Section 115A of the *Mining Act 1978* (Act) companies are obliged to provide the Geological Survey of Western Australia with mineral exploration reports. The Sunset Clause allows these reports to be held for a period of five years before being released to the public. Regulation 96 of the Mining Regulations 1981 explains under what circumstances reports may be publicly released.

Tenements granted prior to 1978 that are still in force are not subject to Regulation 96 and will not be released.

The Minister is responsible for deciding whether to release reports under Regulation 96. The Act and Regulations do not specify grounds for objection. The decision not to release reports is at the discretion of the Minister.

In 2005, peak industry bodies agreed to a process for the review and release of reports under the Sunset Clause. Please view the agreed process (on page two of this document as previously published). No changes have been made to this process other than to accommodate technological advances, for example all reports are now submitted in digital format and do not need to be scanned prior to release. The updated version of the process is on page three of this document.

In considering an application not to publicly release a report, the following principles are used:

1. Reasonableness – the application should be based on facts supported by evidence.
2. Fairness – prior to a decision being handed down an applicant will be given the opportunity to provide feedback on any incomplete information or contentious issues.
3. Independence - any decision making framework will be transparent and consistently applied.

4. Relevancy – consideration will not be given to factors immaterial to the report or the release of data. The following reasons for objection are not considered relevant or valid:
  - a. The inclusion of heritage surveys is not a valid objection as the Guidelines for Exploration Reports on Mining Tenements specify that Aboriginal survey reports are not included in the report but cited in the list of references only.
  - b. The inclusion of safety incident reports, or any other information that is not relative to exploration is not a valid reason for objection.
  - c. Reports on *Mining Act 1978* tenements that have been rolled into State Agreement tenements are not exempt from the Sunset Clause.
  - d. Reports that cover mixed State Agreement and *Mining Act 1978* tenure are not exempt from the Sunset Clause.
  - e. Records and results of programs involving the application of one or more of the geological sciences are not regarded as intellectual property (IP) and/or therefore not a valid reason for objection.

If insufficient or immaterial information is supplied, an applicant will be notified and asked to supply additional and or relevant information within a reasonable time frame.

If a decision to accept an objection is granted, the report will only be withheld from release for a specific time period, up to and not exceeding five years, during which time the objecting party will be expected to have adequately addressed the issues of concern. Once the specific period has lapsed, the objector will be notified that the report will be released.



# FIELDNOTES

## Sunset clause

The Mining Amendment Act 2004, passed by State Parliament in late 2004, made a plethora of changes to the Mining Act 1978, including an amendment to give retrospectivity to Section 162(2)(x) that provides for the making of regulations concerning the release of information submitted by tenement holders.

The Sunset Clause (Regulation 96(4)) is being amended so that exploration reports can be released to Open File five years after they are submitted to the Department. Originally, the Sunset Clause allowed for the release of reports that had been held by DoIR for 10 years. This change from a ten to five year confidentiality period is in line with Recommendation 18 of the Ministerial Inquiry into Greenfields Exploration in Western Australia (Bowler Report, 2002). Moreover, the amended Regulation 96(4) will apply, pursuant to the retrospectivity given to Sect 162(2)(x) of the Mining Act, to all reports that have been held by DoIR for more than five years, and not just reports submitted after the amended Regulations come into force.

Discussions with the Chamber of Minerals and Energy, AMEC and other industry representatives have resulted in an agreed release process, incorporating an objection mechanism, which has been ratified by both the Geological Survey Liaison Committee and the Mining Industry Liaison Committee. The simplified process for the release of reports is shown in the diagram.

It is estimated that about 21,000 reports currently in Closed File are eligible for release. These reports, some of which have been in Closed File for more than 20 years, will be released over the next three years using an additional \$0.4 million per annum funding provided by the State Government.

As part of the release process, the Western Australian mineral exploration (WAMEX) database is being updated with information contained within the reports, and the reports and all their enclosures are being scanned to enable them to be released on the web (to be viewed, printed and downloaded — see article on Digital Paper XE on page 4).

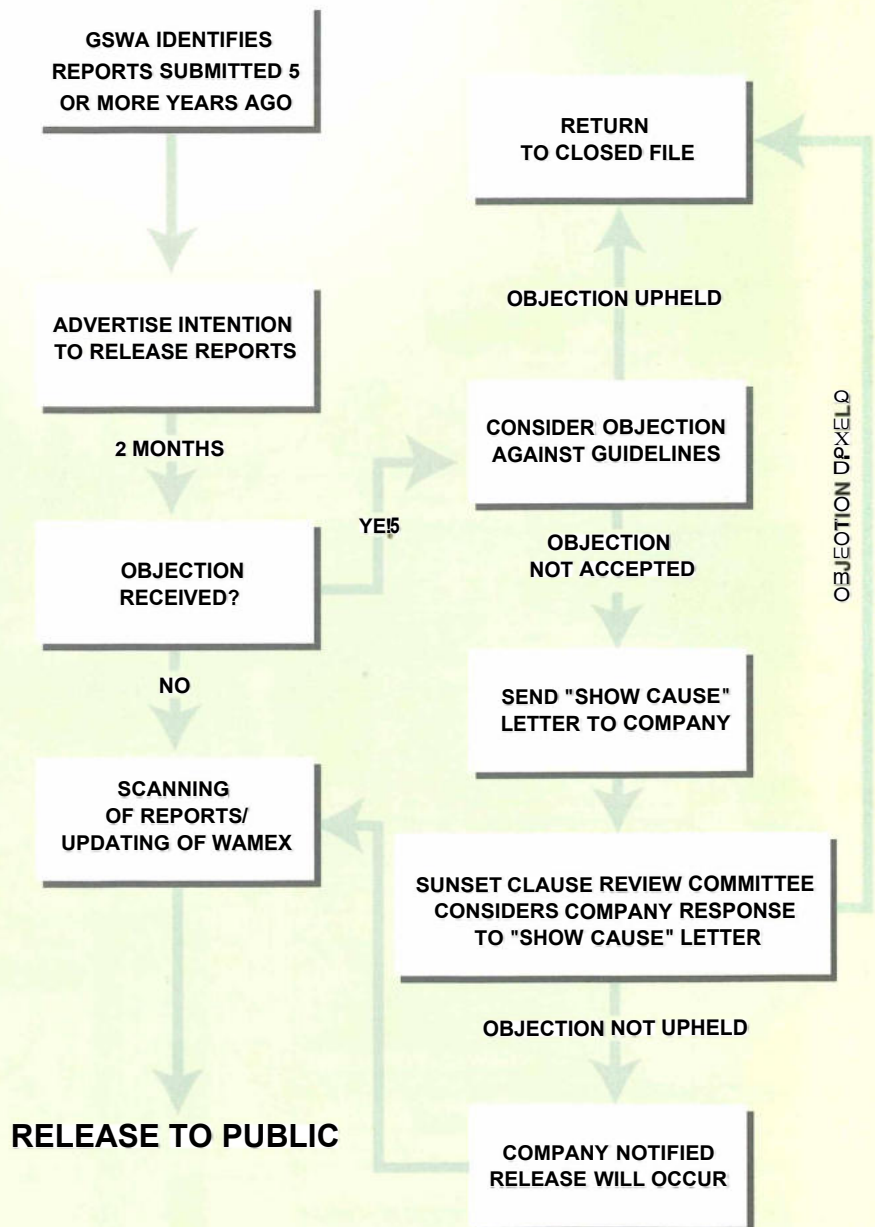
This release of information will make a significant contribution to geological knowledge within WA because it is estimated that these reports contain data on more than 55 000 km of drilling undertaken in the last 20 years.

Because the commencement date of operation of the Mining Amendment Act 2004 has been delayed, it is expected that the first release of Sunset Clause reports will take place in late 2005. Further details of the release process will be in the next issue of Fieldnotes in June.

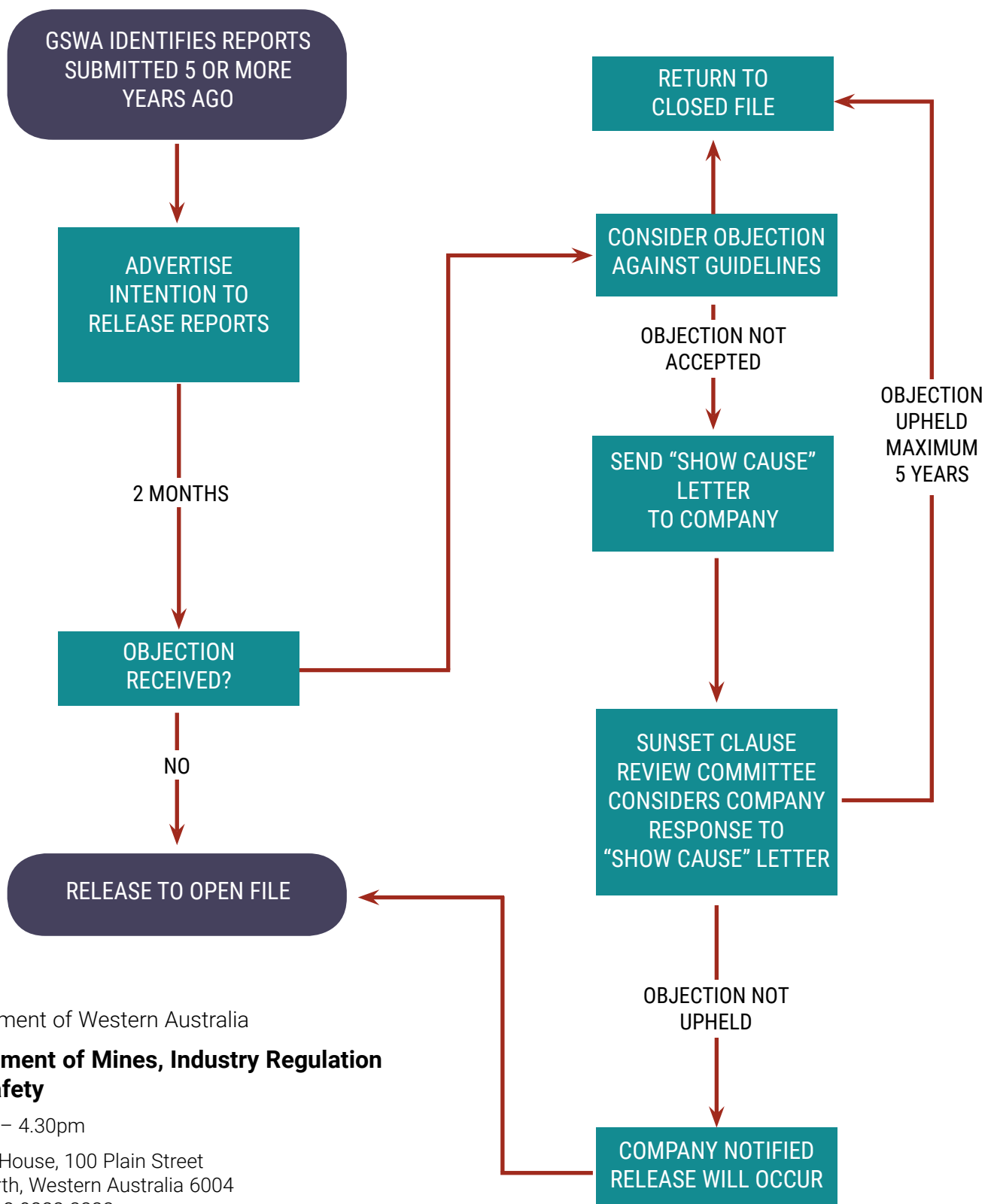
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# Sunset Clause Objections Procedure



Government of Western Australia

## Department of Mines, Industry Regulation and Safety

8.30am – 4.30pm

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