



SECTION 120AA - SCHEME FOR REVERSION LICENCE APPLICATIONS.

GUIDELINES FOR APPLICANTS

Section 120AA of the *Mining Act 1978* (“the Act”) enables the applicant for a mining lease to apply to revert that application to an exploration or prospecting licence application or applications. It is important to note that this opportunity **only applies to mining lease applications made before the commencement of this new section** and will be available for a 12 month period following commencement.

It is evident that the majority of mining lease applications have been made to retain title to the ground for on-going exploration or prospecting activities, rather than for productive mining. It is therefore anticipated that this initiative will reduce the mining lease application backlog markedly, leaving only those lease applicants seeking the grant of a productive mining lease.

MAIN RULES

Each licence applied for under this “reversion” scheme will be subject to the same provisions of the Act as other licence applications, with the following main exceptions:-

- Where a reversion prospecting licence application is identical to the lease application, there will be no need to mark out the land;
- Where 2 or more reversion prospecting licence applications are **each identical to underlying existing prospecting licences** the subject of the lease application there will be no need to mark out the land;
- The only person who may object to a reversion application that is within or identical to the boundary of an existing lease application/s is a person who already has an objection lodged against that lease application or applications;
- A reversion application identical to the boundaries of or within a lease application/s will not need to be advertised under the Act, but existing notification requirements will apply (pastoralists etc);

- A reversion application over mining lease applications within a section 67 exploration licence can only include those blocks that are affected by the mining lease application; and
- Additional ground may be included with a reversion application (provided it is available), but normal Mining Act provisions apply: marking out, objection etc.

All reversion applications must be lodged with the Mining Registrar of the mineral field in which the application is situated.

PRIORITY FOR REVERSION LICENCE APPLICATIONS

Where a mining lease application is underlain by a section 49 or 67 licence, the reversion licence will have priority to the same ground. Where a mining lease application does not have the “protection” of an underlying licence, priority will be preserved to the reversion licence applicant to the same extent that was established by the mining lease application.

A reversion exploration licence application will not affect the priority a third party may have to a block. In other words:-

- if the block is vacant, a reversion exploration licence application may include that block, provided the mining lease application affects at least part of that block; or
- if the block is already the subject of a third party exploration licence application, in this instance a mining lease applicant may only apply to revert to a prospecting licence and not an exploration licence.

MARKING OUT PROVISIONS

Identical

Any reversion prospecting licence applications that are identical to existing underlying prospecting licences the subject of relevant lease applications do not require marking out. That is, the new applications must be coincident with existing prospecting licence boundaries, rather than forming some other configuration over or within the mining lease application to qualify for the “*no mark out*” rule.

Additional ground

A prospecting licence application that is to be applied for to take in additional ground outside of the existing licence will need to be marked out in the normal manner.

ADG / GDA shift

There will be many instances where the existing exploration licence underlying lease applications will be based on the datum described by ADG84, prior to the introduction of GDA94 on 15 December 2000. In these instances a reversion exploration licence will be based on the new GDA94 grid leaving a residue of “*prescribed land*” as defined in Clause 8 of Schedule 3 of the *Mining Regulations 1981*. If a lease application or part of an application also relates to “prescribed land”, a prospecting licence application/s may be applied for without marking out that land, as provided for in Clause 8.

NOTIFICATION AND ADVERTISING REQUIREMENTS

All reversion applications will be required to comply with the notification requirements of the Act (i.e. Pastoralist, Shire, and private land etc). The applicant must provide proof of service by way of affidavit.

Only applications that take in additional ground will require advertising – this does not apply to available ground that may be **within** the boundaries of a current mining lease application.

OBJECTION TO REVERSION APPLICATIONS

Any objection to a reverting mining lease application must be dealt with before any reversion application can be determined.

Any reversion application identical to or within the boundaries of an existing lease application may only be objected to by the person who already has an objection lodged against the lease application.

A reversion application that takes in additional ground (outside existing boundaries) is subject to the normal objection provisions under the Act and Regulations.

REGIONAL STANDARD HERITAGE AGREEMENT

Reversion applications are “future acts” as defined in the Commonwealth *Native Title Act 1993* (NTA) and therefore the normal requirements of the NTA apply.

It is the State’s policy that licence applications will only be put to the “*expedited procedure*” under the NTA where the applicant has executed either a Regional Standard Heritage Agreement (RSHA) (a system brokered between industry and native title representative bodies) or an Alternative Heritage Agreement already exists.

This policy also applies to reversion licence applications. This does not preclude applicants from advising the Department that they elect to negotiate a separate agreement as provided for in the full “*right to negotiate*” procedure under the NTA.

Applicants executing RSHA's are required to forward the executed agreement to the relevant claimant group by registered post. Where an application affects two or more claims, the State takes the view that the applicant should only have to sign one RSHA and provide the required Statutory Declaration to the Department. The State's preferred option is that the applicant serves the RSHA on a claimant group that is affiliated with a Native Title Representative Body.

WHAT HAPPENS TO MINING LEASE APPLICATIONS ONCE A REVERSION LICENCE IS DETERMINED?

A **reversion application will lapse** if a withdrawal of a relevant lease application/s is registered before the reversion application is determined.

On grant of a reversion application any underlying licence by the same party and any coincident lease application "ceases to apply". Depending on the ground situation, in some instances there will be **residual portions of a lease application remaining** once a reversion licence application is determined. The lease applicant therefore has two options:-

- withdraw the residual portion of the lease application; or
- Elect to pursue the residual lease application through the full "*right to negotiate*" process.

In no circumstance will such applications be allowed to remain pending without further action being undertaken.

Rent on the 'lapsed' mining lease (or portion thereof) will be refunded after the grant of the reversion application.

IDENTIFYING A REVERSION APPLICATION

For administration purposes the applicant for a reversion licence is requested to endorse in the body of the application Form 21 a statement similar to the following:-

"This is a reversion application pursuant to Section 120AA."

This is required to help expedite the application towards determination.

You may wish to discuss your intended reversion applications with the Department prior to lodging to ensure compliance with Section 120AA and the best possible outcome for a particular circumstance see contact details at page 5.

WHAT IF A REVERSION APPLICATION IS FOUND TO BE DEFECTIVE?

During the 12 month period the reversion scheme is intended to operate, the applicant for a mining lease will be able to apply for another reversion application to supersede the first application, should it become necessary to do so.

OPTIONS FOR LEASE APPLICANTS

To coincide with the introduction of the reversion scheme each applicant for a currently pending lease application will be forwarded a letter to the address nominated in the Department's MiTiS electronic register requesting that the applicant nominate which course of action is intended. The applicant is to indicate that the intention is to:-

- Apply for reversion during the 12 month period;
- Continue with the lease application through the "right to negotiate" process"; or
- Withdraw the application.

Lease applicants are reminded that, should no response be received to this "options" letter, it is likely that such applications will ultimately be refused by the Minister.

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