



Mineralisation Report Guidelines 2023

Response to Submissions

INTRODUCTION

The Department of Mines, Industry Regulation and Safety (DMIRS) sought feedback on draft guidelines for submitting a mineralisation report and supporting statement when applying for a mining lease.

Under the *Mining Act 1978 (the Act)*, one route for submitting a mining lease requires the proponent to supply these two documents.

The purpose of the guidelines is to specify the format, content, and standards required in a mineralisation report, and the information required in the separate supporting statement, in order to comply with the Act.

The department has also provided a draft mineralisation report template and supporting statement template to assist stakeholders in preparing these documents.

Consultation

The Mineralisation Report Guidelines 2023 were made available for public consultation between 10 March 2023 and 18 April 2023.

There were also informal discussions with the Association of Mining and Exploration Companies (AMEC), the Chamber of Minerals and Energy WA (CME), the Eastern Goldfields Prospectors Association (EGPA) and the Amalgamated Prospectors and Leaseholders Association (APLA) in December 2022.

A total of two written submissions were received.

Key themes

In general, the submissions from the resource industry stakeholders supported the proposed guidelines and templates

The key themes that arose from stakeholder feedback are set out in the points below. The responses to stakeholder feedback are provided at pages 3-4 of this report.

1. Resource industry concerns regarding potential forfeiture action

The requirements of the supporting statement include providing information on when mining is likely to commence, the most likely method of mining and the location/area of land that is likely to be required for the operation of plant, machinery and equipment for activities associated with those mining operations. Concerns were raised as to the need for flexibility in the language in the guidelines and clarification over what could trigger a forfeiture action.

2. Support for the new draft templates

There have been several recent Warden Court cases that have underlined why ensuring the completeness of documentation is vital. The templates are greatly appreciated as a reduction in the administrative burden for both mining companies and the Government and provides transparency regarding regulatory processes. The use of templates also reduces the potential for invalidity and provides clear direction to proponents regarding obligations and process expectations under the Act.

Ref	Stakeholder	Comment	DMIRS Response
1	Association of Mining and Exploration Companies (AMEC)	<p>General Comments</p> <p>AMEC is supportive of the updating of the guidelines and the template to ensure the current drafting practice meets legislated requirements. There have been several recent Warden Court cases that have underlined why ensuring the completeness of documentation is vital. The templates are greatly appreciated as a reduction in the administrative burden for both mining companies and the Government. The use of templates also reduces the potential for invalidity which is appreciated.</p> <p>Year mining is to be expected</p> <p>The Act does not demand a specific date, nor is it implied. The wording current guidance creates an unrealistic and false impression in the community. It also undercuts the very purpose of a feasibility study. A feasibility study is undertaken to see what is feasible and when. Furthermore, the consequences of not meeting this date are unclear. If it is not met will the company be found to be in breach? Will the Department the following day after failing to achieve the selected date, seek forfeiture? AMEC recommends the wording in this section is altered to align with the legislation, asking for a company to specify when, rather than the year.</p> <p>Method of likely mining</p> <p>Detailing the method of likely mining meetings the legislative requirements. If a company proposes to mine by open cut – but an assessing officer feels it could be done underground, what happens then? It seems unlikely an assessing officer will comment. As discussed above, what happens if they choose to shift their plans and change how they mine? Will the Department move immediately to forfeiture?</p>	<p>Support noted.</p> <p>Year mining is to be expected</p> <p>The intent of these guidelines and templates are to reduce the potential for invalidity of tenement applications.</p> <p>Section 74(7) defines <i>'likely'</i> to mean reasonably likely having regard to the information available to the applicant when the application is made.</p> <p>An application can provide a date range of when mining is most likely to commence to satisfy this requirement. Failure to meet this date will not result in forfeiture of the tenement.</p> <p>Method of likely mining</p> <p>The assessing officer's views on method of mining do not factor into this assessment. Specific approvals for the method of mining are addressed in the Mining Proposal assessment process. Section 74(7) defines <i>'likely'</i> to mean reasonably likely having regard to the information available to the applicant when the application is made.</p> <p>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.</p> <p>As above, Section 74(7) defines <i>'likely'</i> to mean reasonably likely having regard to the information available to the applicant when the application is made. DMIRS is of the view the language attributed to <i>'likely'</i> provides the flexibility necessary to Industry.</p>

Ref	Stakeholder	Comment	DMIRS Response
1	Association of Mining and Exploration Companies (AMEC)	<p>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.</p> <p>The development of critical minerals has underlined the difficulties nascent companies can have developing further down the value chain and building processing facilities. There are generally understood to be two options for processing: at the mine site or at an Industrial facility/park. The wording in the guideline: the location of the plant is not included due to processing at an alternate location, then a statement needs to be made on where processing is to be conducted, ignores the constraints on identifying how processing will occur prior to the completion of a feasibility study. More fundamentally, it ignores the basic challenge of the Industrial land shortage in Western Australia. AMEC asks that the Department provide somewhat more flexibility in the language of the guideline and the expectation, allowing a company to work towards further processing.</p> <p>Final comments</p> <p>AMEC's commentary is focused on concern that the Department may take a narrow interpretation that is beyond the wording in the legislation. Mineralisation Reports have created invalidity risks for organisations, and have been rarely used for forfeiture by the Government. Reducing the invalidity risks must be a priority, and the Template is a positive step towards doing so.</p>	<p>As above, Section 74(7) defines 'likely' to mean reasonably likely having regard to the information available to the applicant when the application is made. DMIRS is of the view the language attributed to 'likely' provides the flexibility necessary to Industry.</p> <p>Final comments</p> <p>The purpose of the guidelines is to specify the format, content, and standards required in a mineralisation report, and the information required in the separate supporting statement, in order to comply with the Act. These materials are designed to support the resources sector by providing clear and accurate guidance so mining lease applications can be submitted and assessed as efficiently as possible.</p>

Ref	Stakeholder	Comment	DMIRS Response
2	Chamber of Minerals and Energy of Western Australia (CME)	<p>CME is supportive of the proposed guidelines and associated submission templates. CME members are major users of the <i>Mining Act 1978 (WA) (Mining Act)</i>, Mining Regulations 1981 and associated guidance documents. As a result, the efficient operation of the WA mining regulatory framework is of great importance to our membership and their ongoing international competitiveness. This efficient operation is aided by the provision of transparent guidance regarding regulatory processes.</p> <p>CME recognises the recent efforts of the Department of Mines, Industry Regulation and Safety (DMIRS) in the provision of new, and the update of existing, guidance to provide clear direction to proponents regarding obligations and process expectations under the Mining Act. CME appreciates the department's efforts to engage with industry through consultation processes and direct engagement to ensure both new and updated guidance is fit for purpose.</p> <p>CME considers the guidance is reflective of current standard practice and enables proponents to understand how to meet their obligations under the Mining Act. CME supports the inclusion within the guidance of DMIRS' preferred method and format for receiving information. This guidance facilitates improvements in clarity regarding compliance processes and reducing the burden on the department's limited resources by non-compliance.</p>	Support noted.

Government of Western Australia

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