



Guidelines for Completing Statement of Compliance – Applications for Mining Tenements

In response to the extraordinary restrictions being imposed on individuals as a consequence of the COVID-19 coronavirus pandemic, the Department of Mines, Industry Regulation and Safety (the Department) has identified that details of compliance can be given in the form of a statement, in lieu of the requirement to provide evidence in the form of an affidavit.

Under the provisions of the *Mining Act 1978*, the Mining Registrar must be satisfied that the applicant has complied in all respects with the provisions of the Act before he or she can make a grant or recommendation of any uncontested application for mining tenement.

[See sections 42(2); 59(3); 70D(3); 75(3); 90D(3); 92 Mining Act]

The Mining Registrar therefore has the express power to seek further information or evidence from the applicant for a mining tenement.

[See sections 41(3); 58(3); 70C(3); 74(2); 90(2); 92 Mining Act]

Applications that are the subject of an objection are heard by the Warden. A Warden is a Magistrate that is appointed by the Governor to be a Warden of Mines. The Warden hears an application in open court and, while not bound by the rules of evidence, the Warden may require evidence to be given on oath.

Offences against the administration of law and justice, and against public authority are described in *The Criminal Code Act Compilation Act 1913* (Criminal Code). Any person, being required under written law to give information, whether orally or in writing, who knowingly gives information to the other person that is false in a material particular is guilty of a crime and is liable to imprisonment for 3 years.

[See sections 13 Mining Act; Part VIII Mining Regulations; sections 169; 170 Criminal Code]

Marking Out

The template statements of compliance prepared by the Department identify the application provisions of the Mining Act and Mining Regulations that the Mining Registrar must consider when assessing a mining tenement application for compliance.

Specific to the applications for mining tenements that are required to be marked out, the statement of compliance requires details of the person who marked out the land to be identified and their address to be given. These details are required by the Mining Registrar if further information is required about the marking out of the land.

Service

There are several requirements to serve or give notice of an application within a specified time on other land users. The statement of compliance therefore requires the details of when the notice was served or given, to whom it was served or given and the address of service.

Local Government

Statement of compliance templates specific to applications for mining lease, general purpose lease and miscellaneous licence repeatedly describe the information of service upon the local government. There is a requirement to serve the local government if the application for any mining tenement type includes private land. There is a further requirement to serve the local government specifically in relation to applications for a mining lease, general purpose lease or

miscellaneous licence (the specified application types) regardless of the classification of land over which the application is made.

[See sections 33; 74(3); 90(2); 91(9) Mining Act; regulations 37(2); 64A; 64C Mining Regulations]

Private Land

In the event that the specified application types include private land, delete in the statement template the first reference to service on the local government and retain the reference to service on the local government in relation to the private land.

[See regulations 37(2); 64A(2) Mining Regulations]

All statements in relation to private land should be deleted from the template statement if the application for mining tenement does not include private land.

The template statements require the applicant to identify if the private land is a category of protected private land that will not be granted, except with the consent in writing of the owner and occupier of the private land concerned, unless the mining tenement is granted only in respect of that part of that private land which is not less than 30 metres below the lowest part of the natural surface of that private land.

Protected Private Land

The applicant may nominate not to serve the owner and occupier and mortgagee of the private land if the private land is a category of protected private land and the applicant is not seeking the consent of the private land holder at the time of making the application.

The details of service of the application on the private land owner, the occupier and any mortgagee may be deleted from the template statement providing the category of protected private land type is identified and the statement of intent to include only the available subsurface land is made.

[See sections 29(2); 33(1a) Mining Act]

Schedule 1

A reference is made to 'schedule 1' for the purpose of identifying private land details. A template schedule tabling details of affected private land is available for completion and attachment to the statement where the application is made over private land. If the private land is identified to be a category of protected private land describes at section 29(2) of the Mining Act and the applicant has identified that only the available subsurface land is sought, there is no need to include details of owners, occupiers and mortgagees in that schedule.

The template statements make provision for a single intersection of other land interests to be recorded. There is for example provision to include the name and address of a pastoral lessee and provision to include the details of a miscellaneous licence, however there may be multiple pastoral lessees, graziers and miscellaneous licence holders affected by the applications that the statement of compliance addresses. It is acceptable to substitute specific statements with schedules, referenced in the statement, providing the schedules include the necessary dates, names and addresses of parties served or given notice.