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MARKING OUT AND APPLYING FOR MINING TENEMENTS

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Part 1

Marking out a mining tenement

All tenements apart from Exploration Licences, Retention Licences, Miscellaneous Licences and prescribed land Prospecting Licences and prescribed Mining Leases must be marked out on the ground. The marking out requirements are as follows:

Standard marking out procedure is:

- a. by fixing firmly in the ground or as close as practicable to each corner or angle of the land concerned a post projecting at least one metre above the ground;
- b. by cutting two clearly identifiable trenches or placing two rows of stones at least one metre long from each post in the general direction of the boundary lines; and
- c. then by fixing firmly to one of the posts as the datum post the notice of marking out in the Form No. 20 in the First Schedule.

Where the land adjoins other land in respect of which the same person is seeking or holds a mining tenement, common posts and trenches or rows of stones, may be used for the marking out of each parcel of land.

Regulation 59

Where, due to the nature of the ground it is not possible to firmly fix posts, stones may be used to support the posts.

Regulation 60

Marking out surveyed land

If the ground applied for is identical to any surveyed land it is only necessary to place a datum post in one of the corners and attach the Form No. 20. Regulation 61

Land covered by water

Where the whole or part of the area sought is covered by sea or waters of any lake, pond, river or stream it shall not be necessary to mark out the area or part of the area so covered. Section 107

Shape of tenements

Tenements other than Miscellaneous, Retention and Exploration Licences

The tenement shall be rectangular in shape, however, where the presence of existing mining tenement boundaries or natural features make it necessary or desirable to vary shape each boundary shall be straight and where possible at right angles to an adjacent boundary or parallel to an opposite boundary. Regulation 92

Miscellaneous Licences

May be of any shape but the boundaries where practicable must be straight lines. Regulations 37 & 38

Retention Licences

It is not necessary to mark out the land unless the Minister so requires. Regulation 23B(2)

Exploration Licences

Comprise graticular blocks – see information pamphlet titled 'Exploration Licences Graticular Boundary System'.

Restrictions as to marking out certain reserved land

- **National parks, class 'A' nature reserves and any class 'A' reserves within the South West Land Division, Esperance and Ravensthorpe Municipal Districts.**

The Act provides that consent of the Minister responsible for the *Mining Act 1978* is required prior to prospecting or marking out in these reserves. Section 26(2)(a)

- **State forests or timber reserves**

May be marked out or applied for only in accordance with the conditions and restrictions prescribed pursuant to section 128(1)(h) of the *Conservation and Land Management Act 1984* (ie. approval must be obtained from the regional Department of Environment and Conservation officer prior to marking out). Section 26(2)(b)

- **Aboriginal reserves**

An Entry Permit must be obtained from the Department of Indigenous Affairs.

Commonwealth land

The Act provides that ministerial consent is required prior to prospecting or marking out Commonwealth land. Sections 25A & 26(4)

Private land

Apart from the general marking out procedures previously stated there are additional requirements in respect to marking out and the granting of mining tenements affecting private land. A Permit to Enter is required to mark out a mining tenement on private land and a more detailed explanation can be found in information pamphlet titled '**Private Land Provisions**'.

Part 2

Applying for a mining tenement

Application must be made in the Form No. 21 'Application for Mining Tenement' and lodged at any Mining Registrar's office; or lodged electronically via the department's website using 'Mineral Titles Online (MTO)', **within 10 days of marking out.**

eLodgement

Applicants or their agents may use the department's website to electronically lodge a mining tenement application. Prior to using the eLodgement system, parties will be required to register with MTO and be issued with the necessary logon details and also agree to the terms and conditions. Registration is free.

Note: Whilst maintaining tenement applications can be lodged electronically outside the department's opening hours, i.e. 8.30am to 4.30pm (WST), those applications will be deemed to be received at 8.30am (WST) on the next working day.

Application fees payable

Application fees together with the first year's rent is payable on lodgement of a mining tenement application. Information as to current fees and charges is available as a separate sheet.

Note: A \$25,000 transaction limit applies where payment is made by credit card.

Description of tenement

It is of the utmost importance that the description of every tenement is clear and unambiguous to allow precise plotting on the public plan or TENGRAPH and easy identification of the posts on the ground.

The boundaries of every mining tenement, (except an exploration licence) shall be defined from an existing survey mark or other well defined feature, a prominent ground feature shown on the department's tenement maps, an observed latitude and longitude or Australian Map Grid (AMG), coordinates. Regulation 66

Mapping

A map must accompany each application for a mining tenement. The map must clearly show the boundaries of the land applied for.

Additional requirements

Prospecting Licences (or Special Prospecting Licences)

A security in the sum of \$5000 in the Form No. 32 must be lodged at any Mining Registrar's office within 28 days of lodging the application. Section 52(1)

Exploration Licences

A security in the sum of \$5000 in the Form No. 32 must be lodged at any Mining Registrar's office within 28 days of lodging the application. Section 60(1)

In addition, the application must be accompanied by a statement specifying:

- i. the proposed method of exploration;
- ii. details of the proposed work programme;
- iii. estimate of proposed expenditure on the licence; and
- iv. applicant's technical and financial resources.

Section 58

Mining Lease

A security in the sum of \$5000 in the Form No. 32 must be lodged at any Mining Registrar's office within 28 days of lodging the application. Section 84A

The application must be accompanied by either:

- a mining proposal; or
- a mineralisation report containing the details in section 74(7) and be accompanied by a supporting statement to include the details in section 74(1a).

Miscellaneous Licences

A security in the sum of \$5000 in the Form No. 32 must be lodged at any Mining Registrar's office within 28 days of lodging the application.

The applicant must produce details of any works to be constructed, the manner of construction and any operations to be carried out on the licence within 35 days of the date of application. Regulation 37(3)

General Purpose Leases

A security in the sum of \$5000 in the Form No. 32 must be lodged at any Mining Registrar's office within 28 days of lodging the application.

The purpose for which the lease is being applied for must be stated when applying. A statement must also accompany the application to include either a development and construction proposal or a statement setting out the specific intentions for the lease. Sections 87 & 90

Retention Licence (over Exploration Licences and Prospecting Licences applied for prior to 10 Feb 2006)

A security in the sum of \$5000 in the Form No. 32 must be lodged at any Mining Registrar's office within 28 days of lodging the application.

The application must be accompanied by:

- i. a statement specifying the proposed work program and proposed expenditure for the licence area; and
- ii. a statutory declaration by the applicant to the effect that a mineral resource has been identified but that for the time being it is not practicable to mine the resource.

In addition a detailed report on the mineral resource estimate must also be submitted to the department, unless it has previously been provided. Section 70C

The Holder of Prospecting Licences and Exploration Licences applied for after 10 February 2006 may apply for Retention Status. Sections 53 and 69A

Additional copies of application required for service

When the application has been received by the Mining Registrar, the applicant must obtain sufficient copies of the Form 21 for the following requirements:

- a. If the application relates to land held under a pastoral lease a copy of the Form No. 21 must be sent by registered post or certified mail to the lessee of the pastoral lease with a copy of the map within 14 days of the lodging of the application. Regulation 64B
- b. If the application relates to private land, copies of the Form No. 21 must be served on the:
 - i. clerk of the council of the municipality;
 - ii. the owner and occupier of the land; and
 - iii. each mortgagee in respect to the private land as recorded at Landgate, Midland.

All these requirements must be completed within 14 days of the date of application (Regulation 7). (Service may be by personal delivery, registered mail etc). Regulation 111

- c. If the application is for a Miscellaneous Licence a copy of the Form No. 21 with in 14 days of lodging the application must be given to:
 - i. each applicant for or holder of any mining tenement affected by the application. Section 91 (9), regulation 37(2), 64C;
 - ii. the council or municipality in which district the application falls. Section 91(9), regulation 64C; and
 - iii. service on native title claimants.
- d. In cases where only subsurface rights are applied for on private land (ie. only for land below a depth of 30 metres from the lowest part of the natural surface), it is not necessary to serve a copy of the application on the:
 - i. owner and occupier of the land; and
 - ii. each mortgagee of the land. Section 33(1a)

Affidavits

It is a requirement of the Mining Warden that affidavits be filed in support of proof that the application for the mining tenement has been correctly marked out and service of notices complied with.

Objections

Any person may lodge an objection to the granting of an application in the Form No. 16 within 35 days of the application, or such further period the Warden allows. In respect to applications over private property the period for lodging objections can differ – refer to information pamphlet titled '**Private Land Provisions**'.

The objector is required to serve a copy of the objection in the manner prescribed under regulation 111. Regulation 146

Part 3

Appendices

- A. Marking out
- B. Boundary descriptions

Appendix A

Marking out mining tenements

- By fixing to a post a notice of marking out in Form No. 20 of the first schedule. That post is deemed to be the datum post.
- Common posts and trenches or rows of stones may be used for the marking out of adjoining tenements by the same holder or applicant.
- No rows of stones/trenches are required when a tenement corner post is adjacent to any survey mark.

Appendix B

Boundary descriptions

Rules

The techniques of describing land are deceptive in their apparent simplicity. There are some pitfalls but there are also some simple rules to follow.

Essential features

All descriptions should include the following prime features:

- locality
- datum post (or starting point)
- boundaries
- any other land affecting
- any land adjoining
- area.

These features are explained in further detail below:

Features and explanation	Example
<p>The locality – the general location of the tenement</p>	<p>DUNHAM RIVER STATION – 10 km SE of: or JITARNING – 1.5 kms SE of, at KOOLBERIN:</p>
<p>The datum peg (used in the case of a pegged tenement) – a more precise position described by bearing and distance from an existing survey mark, a prominent ground feature shown on the department's tenement maps, an observed latitude and longitude or an AMG co-ordinate.</p>	<p>Datum peg 100 metres at 240° (mag) from NW CORNER OF M 80/246 or Datum post at NW corner of Williams Location 9051. or Datum post 8.4 km at 104° (scaled) from geodetic station R024. or Datum post 1600m (measured) at 304° from Mt. Padbury km. or Datum peg 12.5 km Westerly along the Norseman-Hyden Road from the Eyre Highway turnoff. (NOTE: Whilst this is a satisfactory description to enable any pegged ground to be located, it would be unsatisfactory for a description of an unpegged tenement). or Datum post located at Lat 32°45'07"S Long 120°12'20"E (GPS). or Datum post located at AMG co-ordinates, Zone 50, 567890mE, and 6234567mN (GPS)</p>
<p>The boundaries – each side described by bearing and distance in turn clockwise from the datum post or starting point.</p> <p>NOTE: If a surveyed boundary or other feature is used in lieu of boundary line pegs that boundary or feature must be referred to in the description (Reg. 59 refers).</p>	<p>A. Ground with no abutals thence 1500 metres at 73°, thence 800 metres at 163°, thence 1500 metres at 253°, thence 800 metres at 343°, back to datum or thence 2500 metres at 282°, thence 800 metres at 12°, thence 2500 metres at approx 102° along fence line, thence 800 metres at 192°, back to datum or thence 1000 metres at 80°, thence 3500 metres at 110°, thence 800 metres at 95°, thence 2000 metres at 70° thence 600 metres at 160° thence 2130 metres at 250°, thence 8200 metres at 275°, thence 3420 metres at 290°, thence 840 metres at 260°, thence 600 metres at 350° back to datum or</p>

Features and explanation	Example
	<p>thence to Lat 32° 45'07"S, Long 120° 13'50"E thence to Lat 32° 46'37"S, Long 120° 13'50"E thence to Lat 32° 46'37"S, Long 120° 12'20"E thence back to datum (values obtained from GPS) TYPE.....</p> <p>or</p> <p>thence to Zone 50,570890mE and 6234567mN thence to Zone 50,570890mE and 6231567mN thence to Zone 50,567890mE and 6231567mN thence back to datum (values obtained from GPS) TYPE.....</p> <p>B. Ground with abuttals thence 610 metres at 0° to the southern boundary of P47/26, thence 900 metres at 90° along the southern boundary of P47/26 to its SE corner, thence 610 metres at 180° along the western boundary of P47/28, thence 900 metres at 270° back to datum or</p> <p>C. Ground identical to previous surveyed lands thence identical to surveyed MCs 59/4962, 59/4892, 59/4891 and 59/4833 or thence identical to Kojonup Location 8927 (Cert. of Title – 674/196)</p>
<p>Any land affected – a statement of any land known to be owned or occupied and affected by the ground applied for.</p>	<p>being totally (or partially) within Pastoral Lease 3114/953 and E 70/350 or includes Reserve 12647 – Water.</p>
<p>Any land adjoining – in appropriate cases a statement of any land abutting the boundaries of the proposed tenement.</p>	<p>being all of the ground available between M 16/214 and M 16/224 or abutting M 25/50 on its southern boundary</p>
<p>The area – the nett area of the ground included in the application.</p>	<p>250 hectares or 94.68 ha excluding P 47/146.</p>

Methods of measurement

In practical terms bearings and distances can be obtained by one of three methods:

- i. Measured – (on the ground)
- ii. Scaled – (from a map)
- iii. Estimated – (from local knowledge).

Observed latitudes and longitudes and AMG coordinates can be obtained by astronomical observation, GPS satellite receiver or other electronic navigation methods.

They are therefore subject to varying degrees of precision. It is sometimes necessary that the method of obtaining the measurement is qualified either within the description itself or as an additional qualifying statement.

Hints for identifying ground when marking out

To assist in clearly identifying ground marked out it is suggested that:

- when attaching the Form No. 20 on the chosen datum post, place it within a weatherproof plastic cover on the southern side of the post to aid longevity from the northern sun. Additionally, the use of upturned tin cans or pvc piping with one capped end attached to the datum post are further suggested methods for weather proofing. This precaution will greatly assist in identification at a later stage by other applicants and surveyors;
- standard posts are used and a standard combination of flagging is placed on each post.

This pamphlet is issued by the
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N.B. The information contained in this pamphlet is designed to assist in gaining a general awareness of the requirements of the *Mining Act 1978* and is not intended to be a substitute for understanding the statutory requirements of the Act and Regulations there under.