



# MINING ACT GUIDELINES BASIC PROVISIONS

## Contents

1. Crown ownership of minerals .....	1
2. Mineral fields .....	1
3. Miner’s Rights .....	2
4. Land open for mining .....	2
5. Crown land .....	2
6. Reserves and Commonwealth land etc .....	3
7. Private land .....	3
8. Compensation .....	3
9. Mining tenements .....	4
10. Prospecting Licence .....	4
11. Special Prospecting for Gold (SPL) .....	4
12. Exploration Licence .....	4
13. Retention Licence * .....	5
14. Mining Lease .....	5
15. General Purpose Lease .....	6
16. Miscellaneous Licences .....	6
17. Requirement to meet annual expenditure commitment .....	6
18. Annual reporting of activities .....	6
19. Royalties .....	6
20. Fees payable .....	6
21. Lodgement at any Mining Registrar’s office .....	7
22. eLodgement .....	7
State locality map of Mining Registrar offices and mineral field boundaries .....	8
Appendix A .....	9



## 1. Crown ownership of minerals

- 1.1 Except in the case of land alienated in fee simple before the 1st January 1899 (in which case minerals other than gold, silver and precious metals are the property of the owner), all minerals are the property of the Crown. Section 9
- 1.2 The following, when they occur on private land, are not minerals:  
limestone, rock, gravel, shale (other than oil shale), sand (other than mineral sands, silica sand or garnet sand) and clay (other than kaolin, bentonite, attapulgite or montmorillonite). Section 8
- 1.3 Where the minerals are the property of the Crown a mining title must be obtained from the Department of Mines, Industry Regulation and Safety (DMIRS) before ground disturbing exploration activities or any mining operations may be undertaken.

## 2. Mineral fields

- 2.1 For the purposes of the *Mining Act 1978*, the State is divided into various mineral fields, some further divided into districts (section 16). The locality of the various mining registrars’ offices is shown on Appendix ‘A’.

### 3. Miner's Rights

- 3.1 A Miner's Right allows the holder to prospect (includes metal detecting) on Crown land as authorised by section 40D and take and keep samples and specimens of any ore or material up to 20 kilograms. However, a Miner's Right does not authorise the holder to carry out mining operations.
- 3.2 Entry onto certain classes of Crown land is restricted (eg. within a 400 metre radius of a pastoral lessee's bore/well), other than to gain access to other Crown land for the purpose of prospecting or marking out that other land.
- 3.3 The holder of a Miner's Right may also fossick<sup>1</sup> on Crown land, whether or not that land is held as a mining tenement, subject to the prior written consent of any occupier of that land and the mining tenement holder.

*Note 1:*

'Fossick' means to search for and remove rock, ore or minerals **other than gold or diamonds** not exceeding 20 kilograms for a mineral collection, lapidary work or hobby interest by use of hand tools only (ie: mechanised equipment, metal detectors etc may not be used in fossicking).

Refer to the information pamphlet titled '**Miner's Rights**' which explains the rights and obligations of the holder of a Miner's Right in more detail.

### 4. Land open for mining

There are three categories of land open for mining:

- Crown land (sections 1-22)
- Public reserves, etc. (sections 23-26)
- Private land (sections 27-39)

### 5. Crown land

- 5.1 As defined in the Act, Crown land includes reserves for common and public utility, leases for grazing purposes only, leases of Crown land for the use and benefit of the Aboriginal inhabitants and leases for timber or pastoral purposes. It does not include private land or other reserved land.
- 5.2 In respect of Crown land, a miner<sup>2</sup> may:
  - prospect under the authority of the Miner's Right (section 40D);
  - mark out a mining tenement; and
  - carry out exploration or mining activities when a mining tenement has been granted.
- 5.3 Where a pastoralist or a manager is living on the pastoral lease the miner should give that occupier prior notification of proposed movements and activity, and compensation is payable for damage caused by the miner to any improvements on the lease.
- 5.4 When a mining tenement is applied for, the applicant must send to the pastoralist by registered post a copy of the application and plan within 14 days of lodging the application.
- 5.5 If the mining tenement is granted, the holder must then obtain the approval of an environmental officer of the department (located at Perth and Kalgoorlie) under a Program of Work (POW) for exploration activities or a Mining Proposal for mining operations before mechanical equipment is used for purposes such as clearing, gridding or costeaning.
- 5.6 The POW or Mining Proposal should include the proposed methods of rehabilitation, and any approval given may be subject to specific conditions. Information as to these conditions can be obtained from the Environmental Division.
- 5.7 One of the conditions of grant of a mining tenement, situated on a pastoral lease, is that the lessee/licensee or transferee as the case may be, must notify the pastoralist when the mining tenement is granted or transferred.

*Note 2:*

For the purpose of these notes, 'miner' refers to a person who holds a Miner's Right or a granted mining tenement.

## 6. Reserves and Commonwealth land

- 6.1 Mining (which by definition includes prospecting and exploration) may not be carried out on reserved land or Commonwealth land<sup>3</sup> without the written consent of the Minister responsible for the Mining Act.
- 6.2 Restrictions also apply in respect of entry onto Commonwealth land and some categories of reserved land, and specific permission may be needed to enter and/or mark out land.
- 6.3 Specific restrictions include:
- National parks, class 'A' nature reserves and any other class 'A' reserves within the South West Land Division, Esperance and Ravensthorpe Municipal Districts.  
The Act provides that Ministerial consent is required prior to prospecting or marking out in these reserves.
  - 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 Biodiversity, Conservation and Attractions officer prior to marking out).
  - Aboriginal reserves.  
An entry permit must be obtained from the Department of Planning, Lands and Heritage for entry onto or through those Aboriginal Lands Trust reserves that are subject to Part III of the *Aboriginal Affairs Planning Authority Act 1972*.
  - Commonwealth land.  
The Act provides that Ministerial consent is required prior to prospecting or marking out Commonwealth land.
- 6.4 In instances where part of a mining tenement involves reserved land, title may be granted with a 'no mining condition' in respect of the reserve. This restrictive condition applies to all exploration, development and mining activities. Where such activities are required to be undertaken the prior written consent of the Minister responsible for the Mining Act must be obtained.

### Note 3:

'Commonwealth land' means land in respect of which the Commonwealth has a freehold or leasehold interest; or land that is otherwise vested in or held by an officer or person on behalf of the Commonwealth.

## 7. Private land

Private land may only be marked off by virtue of a Permit to Enter private land issued by a warden or other authorised officer. Generally, a mining tenement giving a right to the surface (or to within a depth of 30 metres of the natural surface) may only be granted with the written consent of the owner and occupier of that land. Until compensation has been resolved no mining activities can be commenced on the surface of private land.

Refer to the information pamphlet titled '**Private Land Provisions**' which contains more detailed information.

## 8. Compensation

The provisions of sections 123 to 125 of the Act apply in relation to the determination of compensation in respect of private land.

In addition to compensation in respect of private land, compensation may also be payable to the lessee of a pastoral lease or a lease or concession granted by the Crown for grazing purposes only for damage to improvements, loss of earnings, etc.

If compensation is payable to native title holders in respect of the grant of a mining tenement, the applicant or holder of a mining tenement is liable to pay compensation at the time the amount is required to be paid or at the time a determination of compensation is made. (Section 125A)

## 9. Mining tenements

The mining tenements available under the Act are:

- Prospecting Licences (sections 40–56)
- Special Prospecting Licences for Gold (sections 56A, 70 and 85B)
- Exploration Licences (sections 57–69E)
- Retention Licences (sections 70A–70M)
- Mining Leases (sections 700–85A)
- General Purpose Leases (sections 86–90)
- Miscellaneous Licences (sections 91–94).

Some of the basic features of these tenements are outlined in the following paragraphs.

## 10. Prospecting Licence

- The maximum area for a prospecting licence is 200 hectares.
- Prospecting licences must be marked out unless otherwise specified.
- An application may be made at any Mining Registrar's office (see Appendix A); or lodged electronically via the department's website using Mineral Titles Online (MTO).
- An application fee and rental is payable.
- There is no limit to the number of licences a person or company may hold, but a security (\$5000) is required in respect of each licence.
- The term of a prospecting licence is four years, with the provision to extend for one further four year period.
- The holder of a prospecting licence may, in accordance with the licence conditions, extract or disturb up to 500 tonnes of material from the ground, including overburden, and the Minister may approve extraction of larger tonnages.

## 11. Special Prospecting for Gold (SPL)

- An SPL is limited in area to 10 hectares.
- A person may have an interest in no more than 10 SPLs at the same time.
- An SPL may be marked out in respect of land within an existing prospecting licence or exploration licence (viz. 'the primary tenement') that has been in force for one year.
- With the consent of the lease holder an SPL may be marked out in respect of land within an existing mining lease (viz. 'the primary tenement').
- An SPL on a prospecting or exploration licence may be granted if it is considered that activities could be carried on without undue detriment to the activities of the 'primary tenement' holder.
- Other information and restrictions apply in respect of SPLs and these are outlined in the Information pamphlet titled '**Special Prospecting Licence (for Gold)**'.

## 12. Exploration Licence

- On 28 June 1991 a graticular boundary (or block) system was introduced for Exploration Licences.
- The minimum size of an Exploration Licence is one block, and the maximum size is 70 blocks, except in areas not designated as mineralised areas, where the maximum size is 200 blocks.
- An Exploration Licence is not marked out.
- An application may be made at any Mining Registrar's office (see Appendix A); or lodged electronically via the department's website using MTO.
- An application fee and rental is payable.
- There is no limit to the number of licences a person or company may hold but a security (\$5,000) is required in respect of each licence.
- Term and Compulsory Surrender:
  - For licences applied for prior to 10 February 2006, the term is five years plus two possible extensions of two years and further periods of one year thereafter. At the end of both the third and fourth year of its term, the licensee is required to surrender 50 per cent of the licence.
  - For licences applied after 10 February 2006, the term is five years plus possible extension of five years and further periods of two years thereafter, 40 per cent of ground to be surrendered at the end of year six.

- The holder of an Exploration Licence may in accordance with the licence conditions, extract or disturb up to 1000 tonnes of material from the ground, including overburden, and the Minister may approve extraction of larger tonnages.

### 13. Retention Licence \*

- A Retention Licence is a 'holding' title for a mineral resource that has been identified but is not able to be further explored or mined.
- A Retention Licence may be granted in respect of the whole or any part of land within the boundaries of a primary tenement (ie prospecting licence, exploration licence or mining lease or combination of such tenements).
- An application may be made at any Mining Registrar's office (see Appendix A); or lodged electronically via the department's website using MTO.
- An application fee and rental is payable.
- The term of a Retention Licence cannot exceed five years and is renewable for further periods not exceeding five years.
- There is no maximum area.

*\* Effective from the 10 February 2006 the holder of a prospecting licence or exploration licence that was applied for and granted after this date may apply for 'retention status' for that licence, and not a separate retention licence. (Sections 53 to 55B – Prospecting Licence, sections 69A to 69E – Exploration Licence)*

### 14. Mining Lease

- The maximum area for a Mining Lease applied for before 10 February 2006 is 1000 hectares. Thereafter the area applied for is to relate to an identified orebody as well as an area for infrastructure requirements.
- Mining Leases must be marked out.
- An application may be made at any Mining Registrar's office (see Appendix A); or lodged electronically via the department's website using MTO.
- An application fee and rental is payable.
- Pursuant to section 74(1)(ca), an application for a mining lease shall be accompanied by:
  1. A mining proposal completed in accordance with the [Mining Proposal Guidelines](#) (pdf 844 KB) published by the department; OR
  2. A statement of mining operations and a mineralisation report that has been prepared by a qualified person; OR
  3. A statement of mining operations and a resource report that complies with the JORC Code and that has been made to the Australian Securities Exchange Ltd.

A statement of mining operations shall set out information regarding the mining operation likely to be carried out including:

- When mining is likely to commence;
- The most likely method of mining; and
- The location, and the area of the land that is likely to be required for the operation of the plant, machinery and equipment and for the other activities associated with those mining operations.

The JORC Code means the Australasian code for reporting of exploration results, mineral resources and ore reserves prepared by the joint ore reserves committee of the Australasian Institute of Mining and Metallurgy, the Australian Institute of Geoscientists and the Minerals Council of Australia as in force from time to time.

- There is no limit to the number of Mining Leases a person or company may hold.
- The term of a Mining Lease is 21 years and may be renewed for further terms.
- The lessee of a Mining Lease may work and mine the land, take and remove minerals and do all things necessary to effectually carry out mining operations in, on or under the land, subject to conditions of title.

## 15. General Purpose Lease

- The maximum area is 10 hectares, unless the Minister approves a greater area.
- General Purpose Leases must be marked out and are limited to a depth of 15 metres or such other depth that may be specified.
- A General Purpose Lease is for purposes such as operating machinery, depositing or treating tailings etc.
- An application may be made at any Mining Registrar's office (see Appendix A); or lodged electronically via the department's website using MTO.
- An application fee and rental is payable.
- A statement must accompany the application to include either a development and construction proposal or a statement setting out specific intentions for the lease (section 87 and 90)
- There is no limit to the number of General Purpose Leases a person or company may hold.
- The term of a General Purpose Lease is 21 years, and may be renewed for further terms.

## 16. Miscellaneous Licences

- There is no maximum area for a Miscellaneous Licence.
- A miscellaneous licence is for purposes such as a road, pipeline, water, as prescribed in the Regulations.
- An application may be made at any Mining Registrar's Office (see Appendix A); or lodged electronically via the department's website using MTO.
- An application fee and rental is payable.
- There is no limit to the number of licences a person or company may hold.
- The term of a Miscellaneous Licence is 21 years, and may be renewed for further terms.
- A Miscellaneous Licence can be applied for over (and can 'co-exist' with) other mining tenements.

## 17. Requirement to meet annual expenditure commitment

Prospecting Licences, Exploration Licences and Mining Leases are subject to a prescribed minimum annual expenditure commitment. This requirement applies to granted tenements only and the labour cost of the tenement holders' own work on the tenement (contract equivalent) may be treated as expenditure.

There is no prescribed annual expenditure for a Retention Licence, however, the Minister may determine the level of expenditure by condition on grant.

If a licensee/lessee cannot fulfil the expenditure obligations, application should be made for exemption from all or part of the commitment.

A separate Information Pamphlet is available concerning exemptions.

## 18. Annual reporting of activities

The holder of Prospecting Licences, Exploration Licences, Retention Licences and Mining Leases must lodge a Form 5 Operations Report – Expenditure on Mining Tenement each year with the department.

Any person may, on payment of the prescribed fee, obtain a copy of that report (except the page with applicants details and signature), which summarises the activities undertaken and their cost.

## 19. Royalties

When any minerals are produced or obtained from a mining tenement, a quarterly production report must be lodged and a royalty is payable. Regulation 86 and 86AA sets out the rates of royalty payable.

## 20. Fees payable

A handout titled '**Fees and Charges – Information on Mining Tenements**' is available from the department and this shows the charges payable in respect of the various types of tenements.



## 21. Lodgement at any Mining Registrar's office

Applicants/holders may lodge documents at any Mining Registrar's office or in the case of some documents electronically via the department's website. The option of sending documents through the post remains, and the documents may be posted to any Mining Registrar's office.

## 22. eLodgement

Applicants/holders may use the department's website to electronically lodge mining tenement documents.

eLodgement provides for the undermentioned documents (and any attachments) to be lodged electronically:

- Form 5 – Operations Report – Expenditure on Mining Tenement
- Form 9 – Application for Extension of Term/Renewal of a Mining Tenement
- Form 12 – Surrender
- Form 14 – Partial Surrender
- Form 16 – Objection
- Form 18 – Application for Exemption
- Form 21 – Application for Mining Tenement
- Form 22 – Withdrawal
- Form 23 – Transfer
- Form 24 – Caveat
- Form 30 – Application to Amend

Additional forms/documents will be added progressively when further stages of eLodgement are released.

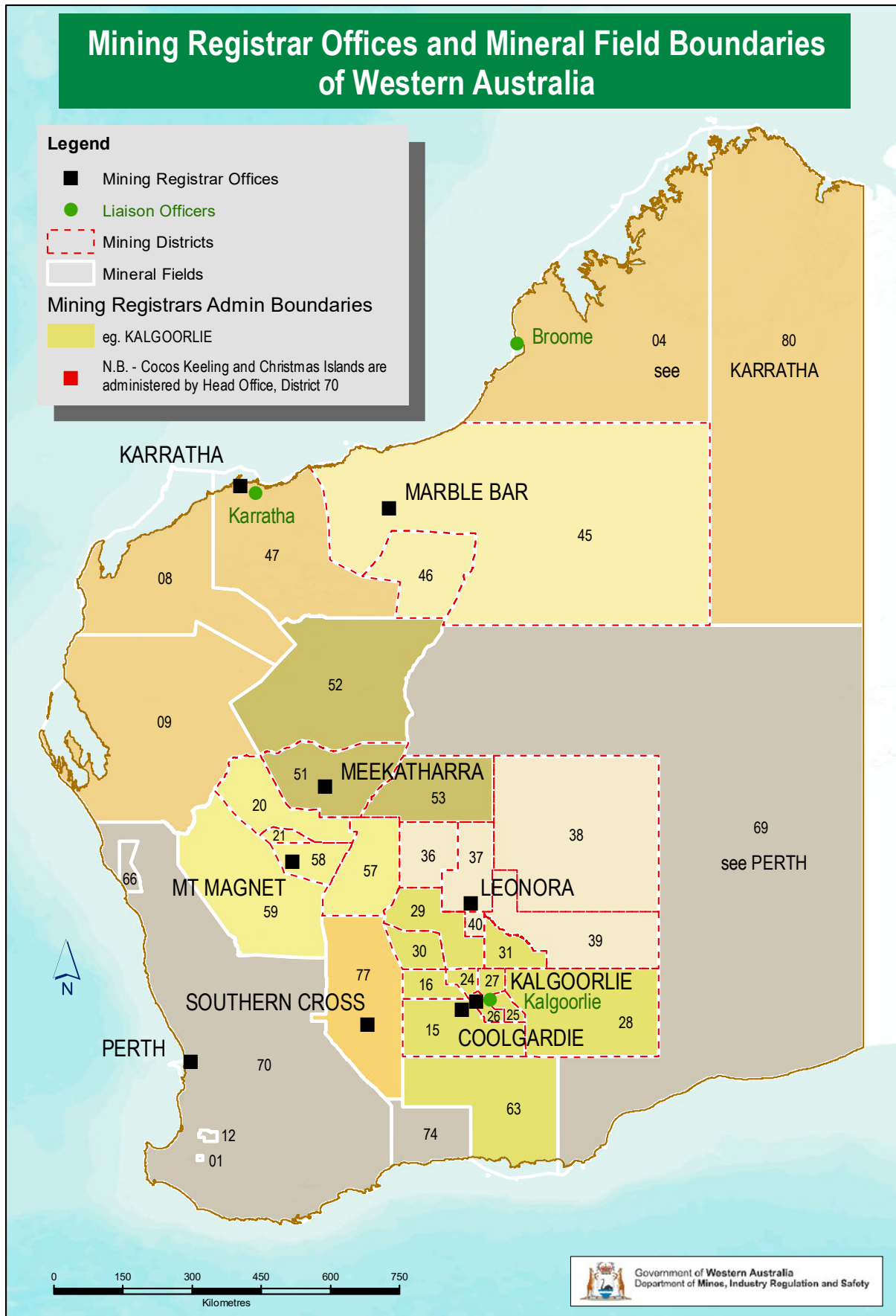
Prior to using the eLodgement system, parties will be required to be registered with the department's MTO and be issued with the necessary logon details and also agree to the terms and conditions. This registration is free.

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

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

Online rental payments for granted mining tenements can be made by direct debit or electronic funds transfer only using MTO.

State locality map of Mining Registrar offices and mineral field boundaries





## Appendix A

Mining Registrar	Mineral Field	District	Prefix Code
<b>PERTH</b>			
1st Floor, Mineral House 100 Plain Street (Cnr Adelaide Terrace) EAST PERTH WA 6004  Telephone: (08) 9222 3333 Fax: (08) 9222 3444	Greenbushes	–	01
	Collie River	–	12
	Northampton	–	66
	Warburton	–	69
	South West	–	70
	Phillips River	–	74
<b>KALGOORLIE</b>			
Cnr Hunter and Broadwood Streets WEST KALGOORLIE WA 6430  Locked Bag 405 KALGOORLIE WA 6433  Telephone: (08) 9021 9499 Fax: (08) 9091 2428	Broad Arrow		24
	East Coolgardie	Bulong	25
		East Coolgardie	26
	North East Coolgardie	Kanowna	27
		Kurnalpi	28
	North Coolgardie	Menzies	29
		Ularring	30
		Yerilla	31
	Dundas		63
	<b>KARRATHA</b>		
Cnr Welcome Rd and Hedland Place Box 518 KARRATHA WA 6714  Telephone: (08) 9186 8888 Fax: (08) 9186 8889	West Kimberley		04
	Ashburton		08
	Gascoyne		09
	West Pilbara		47
	Kimberley		80
<b>LEONORA</b>			
Rochester Street Box 173 LEONORA WA 6438  Telephone: (08) 9037 7546 Fax: (08) 9037 6248	East Murchison	Lawlers	36
	Mt Margaret	Mt Malcolm	37
		Mt Margaret	38
		Mt Morgans	39
	North Coolgardie	Niagara	40

## Appendix A (continued)

Mining Registrar	Mineral Field	District	Prefix Code
<b>MARBLE BAR</b>			
General Street Locked Bag 7 MARBLE BAR WA 6760  Telephone: (08) 9176 1625 Fax: (08) 9176 1048	Pilbara	Marble Bar	45
		Nullagine	46
<b>MEEKATHARRA</b>			
Main Street Box 7 MEEKATHARRA WA 6642  Telephone: (08) 9981 1008 Fax: (08) 9981 1482	Murchison	Meekatharra	51
	Peak Hill		52
	East Murchison	Wiluna	53
<b>MT MAGNET</b>			
51 Hepburn Street (Cnr Hepburn and Richardson Streets) Box 13 MT MAGNET WA 6638  Telephone: (08) 9963 4509 Fax: (08) 9963 4488	Murchison	Cue	20
		Day Dawn	21
		Mt Magnet	58
	East Murchison	Black Range	57
	Yalgoo		59
<b>SOUTHERN CROSS</b>			
Canopus Street SOUTHERN CROSS WA 6426  Telephone: (08) 9049 1107 Fax: (08) 9049 1431	Yilgarn		77
	Coolgardie	Coolgardie	15
		Kunanalling	16

This pamphlet is issued by the  
Department of Mines, Industry Regulation and Safety  
1st Floor Mineral House  
100 Plain Street (Cnr Adelaide Terrace),  
East Perth, Western Australia 6004  
Telephone: (08) 9222 3333  
Facsimile: (08) 9222 3444  
Internet: [www.dmirs.wa.gov.au](http://www.dmirs.wa.gov.au)

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.