

# Mining Regulation 2016

[2016-498]



New South Wales

## Status Information

### Currency of version

Current version for 1 May 2023 to date (accessed 29 February 2024 at 7:50)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
[Mining Amendment Regulation 2022 \(802\)](#), Sch 1[5] [6] and [41] (not commenced — Sch 1[5] and [6] to commence on 1.3.2024)
- **Staged repeal status**  
This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2024

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 28 July 2023

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New South Wales

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# Mining Regulation 2016



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Mining Regulation 2016*.

### 2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

### 3 Definitions

(1) In this Regulation—

**affected coal mining region** means an area of the State prescribed by clause 89A.

**agricultural lime** means limestone sold or used for the purposes of application to land for agricultural purposes to improve the chemical and physical characteristics of the soil on that land.

**appointed member** means a member of a board who is appointed by the Minister.

**area of operations** of a board means the area for which the board is constituted.

**block** means a graticular section referred to in clause 10 or, if the Minister so directs in a particular case, part of such a graticular section.

**board** means a board of management constituted by the Minister under section 359 of the Act.

**clay/shale** does not include structural clay or clay or shale used in road making or as fill.

**dimension stone** means any rock, other than sandstone, that is quarried in blocks or slabs for building, decorative or other purposes.

**excluded helium** means helium in a naturally occurring mixture with 1 or more hydrocarbons, whether the mixture is in a gaseous, liquid or solid state.

**Note—**

Because excluded helium is not prescribed as a mineral it is a form of petroleum and is subject to the [Petroleum \(Onshore\) Act 1991](#) instead of the [Mining Act 1992](#). See—

(a)

the [Mining Act 1992](#), Dictionary, definitions of **mineral** and **petroleum**, and

(b)

the [Petroleum \(Onshore\) Act 1991](#), section 3(1), definition of **petroleum**, paragraph (c).

**Expert Panel** means a Royalties for Rejuvenation Expert Panel established by the Minister under the Act, section 292X.

**geothermal energy** means the heat energy contained or stored in rock, geothermal water or any other material occurring naturally within the earth.

**grant anniversary date** means the anniversary, each year, of the date on which an authorisation is granted.

**Map Grid of Australia** means a rectangular coordinate system using a Transverse Mercator projection with zones 6 degrees wide and based on the Geocentric Datum of Australia.

**marker post** means—

(a) a steel star picket, or

(b) a post with a diameter of at least 75 millimetres,

that is fixed in the ground and projects at least 1 metre above the ground.

**other relevant legislation** means the Acts (and the regulations and other instruments made under those Acts) specified in Schedule 5.

**Panel Member**, for Schedule 7A—see Schedule 7A, clause 1.

**quartzite** does not include sandstone.

**rehabilitation cost estimate** means an estimate of the rehabilitation costs in relation to any land or water, prepared and calculated in accordance with guidelines approved by the Secretary.

**security deposit condition** has the same meaning as in the Act, Part 12A.

**standard map**—see clause 9.

**statutory surveying requirements** means the requirements of the [Surveying and Spatial Information Act 2002](#), and the regulations under that Act, in relation to the conduct of surveys.

**structural clay** means clay or shale used in the manufacture of fired clay building or construction products, such as bricks, pipes and quarry tiles.

**survey mark** includes a survey mark placed by the Secretary for the purpose of surveying or placed in accordance with the statutory surveying requirements.

**the Act** means the [Mining Act 1992](#).

**unit** means a unit into which a block is divided as referred to in clause 10 (2) or, if the Minister so directs in a particular case, part of such a unit.

**Note—**

The Act and the [Interpretation Act 1987](#) contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) In this Regulation, **protected reserve** means a reserve—

- (a) constituted under the Act, section 367(1), and
- (b) subject to a direction under the following—
  - (i) for an exploration licence—the Act, section 367(2)(a),
  - (ii) for an assessment lease—the Act, section 367(2)(b),
  - (iii) for a mining lease—the Act, section 367(2)(c),
  - (iv) for a mineral claim—the Act, section 367(2)(d).

(3) In this Regulation, **protected reserve** also includes a reserve—

- (a) constituted under the [Mining Act 1973](#) before its repeal, and
- (b) taken, under the Act, Schedule 6, clause 34, to be a reserve over which there is taken to be an order prohibiting the granting of—
  - (i) an authority, or
  - (ii) a mineral claim.

**Note—**

For the purposes of comparison, a number of provisions of this Regulation contain bracketed notes in headings drawing attention (“Former”) to equivalent or comparable (though not necessarily identical) provisions of the [Mining Regulation 2010](#) (“2010 Reg”).

#### 4 (Repealed)

#### 5 Meaning of “mineral” (Former clause 5 of 2010 Reg)

The substances listed in Schedule 1 are prescribed as minerals for the purposes of the definition of **mineral** in the Dictionary to the Act.

**6 Meaning of “group of minerals”** (Former clause 6 of 2010 Reg)

- (1) The groups of minerals listed in Schedule 2 are prescribed as groups of minerals for the purposes of the definition of **group of minerals** in the Dictionary to the Act.
- (2) In relation to an application for an exploration (mineral owner) licence or to an exploration (mineral owner) licence that is in force, **group of minerals** means the group containing the privately owned mineral that is the subject of the relevant application or licence.

**7 Meaning of “ancillary mining activity”** (Former clause 7 of 2010 Reg)

The following activities are prescribed as ancillary mining activities for the purposes of the definition of **ancillary mining activity** in the Dictionary to the Act—

- (a) the construction, maintenance or use (in or in connection with mining operations) of any one or more of the following—
  - (i) any building or mining plant,
  - (ii) any road, railway, tramway, bridge or jetty,
  - (iii) any reservoir, dam, drain or water race,
  - (iv) any cable, conveyor, pipeline, telephone line or signalling system,
  - (v) any bin, magazine or fuel chute,
  - (vi) any plant nursery,
- (b) opal puddling,
- (c) the removal, stockpiling, management or depositing of overburden, ore or tailings to the extent that it is associated with mineral extraction or mineral beneficiation,
- (d) the storage of fuel, machinery, timber or equipment for use in or in connection with mining operations,
- (e) the generation and transmission of electricity for use in or in connection with mining operations,
- (f) the construction, maintenance and use (in or in connection with mining operations) of any drillhole or shaft for—
  - (i) drainage of gas, or
  - (ii) drainage or conveyance of water, or
  - (iii) ventilation, or

- (iv) conveyance of electricity, or
  - (v) conveyance of materials, or
  - (vi) communications, or
  - (vii) emergency access to underground workings,
- (g) the environmental management, protection and rehabilitation of land on which an ancillary mining activity referred to in another paragraph of this clause is being or has been carried out.

### **8 Meaning of “landholder”**

For the Act, Dictionary, definition of **landholder**, paragraph (g)(v), the following persons are prescribed—

- (a) Hunter Water Corporation Limited,
- (b) other persons responsible for the control and management of water supply works in the Tomago Sandbeds Catchment Area, within the meaning of the [Hunter Water Regulation 2015](#), Part 2.

### **9 Standard map** (Former clause 9 of 2010 Reg)

- (1) A map is a standard map for the purposes of this Regulation if it—
- (a) shows the alignment of the boundaries of the land to which it relates relative to the Map Grid of Australia (MGA94) and shows the coordinates of all points where there is a change in the direction of the boundaries, or
  - (b) if a map referred to in paragraph (a) is not available—is a cadastral map published by a Government Department or public authority, whether of New South Wales or of the Commonwealth, or
  - (c) if maps referred to in paragraphs (a) and (b) are not available—is an aerial photograph, a satellite image or topographic map of a standard acceptable to the Secretary.

- (2) In this clause—

**MGA94** means the Geocentric Datum of Australia 1994 (GDA94), using the Map Grid of Australia 1994 (MGA94) standard map projection expressed in Universal Transverse Mercator (UTM) projection coordinates with zones 6 degrees wide.

### **10 Graticulation of the Earth’s surface** (Former clause 10 of 2010 Reg)

- (1) For the purposes of this Regulation, the surface of the Earth is taken to be divided into graticular sections—

- (a) by the meridian of Greenwich and by the meridians that are at a distance from that meridian of 5 minutes, or a multiple of 5 minutes, of longitude, and
- (b) by the equator and by parallels of latitude that are at a distance from the equator of 5 minutes, or a multiple of 5 minutes, of latitude,

each graticular section being bounded—

- (c) by portions of 2 of those meridians that are at a distance from each other of 5 minutes of longitude, and
- (d) by portions of 2 of those parallels of latitude that are at a distance from each other of 5 minutes of latitude.

(2) Each graticular section is taken to be divided into 25 units, each unit being bounded—

- (a) by portions of 2 meridians (being the meridian of Greenwich or the meridians that are at a distance from that meridian of 1 minute, or a multiple of 1 minute, of longitude) that are at a distance from each other of 1 minute of longitude, and
- (b) by portions of 2 parallels of latitude (being the equator or parallels of latitude that are at a distance from the equator of 1 minute, or a multiple of 1 minute, of latitude) that are at a distance from each other of 1 minute of latitude.

## **Part 2 Prospecting and mining generally**

### **11 Exemption from unauthorised carrying out of ancillary mining activities in section 6** (Former clause 11 of 2010 Reg)

The Minister may, by order published in the Gazette, exempt any person or class of persons from the operation of section 6 of the Act with respect to the carrying out of a particular ancillary mining activity, or a class of ancillary mining activities, that is specified for the purposes of that section.

### **12 Fossicking** (Former clause 12 of 2010 Reg)

- (1) A person who causes any soil, rock or other material to be disturbed in the course of work carried out for the purpose of fossicking for minerals must ensure that—
  - (a) the soil, rock or other material is removed and stockpiled separately, and
  - (b) after completion of the work, the soil, rock or other material is replaced in order to reconstruct the original soil profile.

Maximum penalty—50 penalty units.

- (2) A person must not carry out work that includes any of the following activities for the purpose of fossicking—

- (a) the use of any equipment other than hand-held implements on any land or waters that is subject to native title,
- (b) the excavation or clearing of any land or waters that is subject to native title,
- (c) the use of power-operated equipment for the purpose of surface disturbance, excavation or processing on any land,
- (d) the use of explosives on any land,
- (e) the damage or removal of any bushrock,
- (f) the removal of more than the prescribed amount of material from any land during any single period of 48 hours,
- (g) the disturbance of more than 1 cubic metre of any soil, rock or other material during any single period of 48 hours.

Maximum penalty—50 penalty units.

**Note—**

The language of part of this subclause mirrors the language of part of section 24LA (Low impact future acts) of the *Native Title Act 1993* of the Commonwealth. That section refers, in part, to an act (in relation to particular land or waters) that does not consist of, authorise or otherwise involve “the excavation or clearing of any of the land or waters” or “mining (other than fossicking by using hand-held implements)”.

(2A) To avoid doubt, subclause (2) does not prevent the use of hand-held metal detectors or other hand-held equipment for detecting metal or metal objects.

(3) In this clause—

**gemstone** means a Group 6 or Group 7 mineral.

**Note—**

Group 6 and Group 7 minerals are listed in Schedule 2.

**power-operated equipment** means any equipment powered by mechanical or electrical means.

**prescribed amount**, in relation to material, means—

- (a) 10 kilograms of mineral-bearing material (other than the material referred to in paragraphs (b)–(e)), or
- (b) 5 kilograms of minerals (other than gold or gemstones), or
- (c) 50 grams of gold (except where found as nuggets of 10 grams or greater), or
- (d) 5 nuggets of 10 grams or greater of gold, or

- (e) 100 grams of gemstones.

### **13 Activities taken not to be prospecting or mining—the Act, s 11A**

- (1) The Minister may, by order published in the Gazette, declare that a specified activity, or a specified class of activity, is not prospecting or mining for the purposes of the Act.
- (2) For the Act, section 11A, an activity is declared not to be prospecting or mining for the purposes of the Act if the activity is specified in Schedule 3.
- (3) A person who carries out an activity that is declared not to be prospecting or mining must pay a royalty to the Crown, in accordance with the Act, for publicly owned minerals recovered as a consequence of the carrying out of the activity.
- (4) Subclause (3) does not apply to an activity specified in Schedule 3, clause 4.

## **Part 3 Authorities**

### **Division 1 Exploration licences**

#### **14 Applications for exploration licences** (Former clause 14 of 2010 Reg)

- (1) For the Act, section 13(4)(c), the following information must accompany an application for an exploration licence—
  - (a) a description, set out in the approved form, of the proposed exploration area,
  - (b) a statement that the proposed exploration area—
    - (i) contains no land within a protected reserve, or
    - (ii) contains land within a protected reserve, but the applicant understands that an exploration licence may not be granted over land within the reserve,

**Note—**

See the Act, section 18(b).

- (c) a specification of the group or groups of minerals in relation to which the licence is sought,
- (d) if the application is for an exploration licence over land the subject of another exploration licence for the same group or groups of minerals—the written consent of the holder of the other exploration licence,
- (e) particulars of the financial resources and relevant technical advice available to the applicant,
- (f) a statement, set out in the approved form, of the corporate compliance, environmental performance history and financial capability of the applicant,



- (g) particulars of the applicant's technical manager,
- (h) for an application lodged on behalf of an applicant by an agent—evidence that the agent has authority to act on behalf of the applicant,
- (i) for an exploration (mineral owner) licence—
  - (i) a specification of the privately owned mineral or minerals in relation to which the licence is sought, and
  - (ii) evidence of the applicant's ownership of the mineral or minerals.

(1A) If there is more than 1 applicant for the licence, a reference in subclause (1) to the applicant is a reference to each applicant.

(2) For the purposes of confirming an applicant's ownership of any mineral, the Secretary may require the applicant to provide further information, which may include written advice from an Australian legal practitioner certifying that the relevant evidence establishes that the applicant owns the mineral.

**15 Notices of application for exploration licences** (Former clause 15 of 2010 Reg)

- (1) For the purposes of section 13A (1) of the Act, the prescribed period is within 45 days after receipt of confirmation from the Secretary that the application has been lodged.
- (2) For the purposes of section 13A (2) (c) of the Act, the notice of an application for an exploration licence must be in the form, and include the information, required by the Secretary.

**15A Information to accompany tenders for exploration licences—the Act, s 15**

For the Act, section 15(2)(a), a tender for an exploration licence must be accompanied by the following information—

- (a) particulars of the financial resources and relevant technical advice available to the tenderer,
- (b) particulars of the estimated amount of money that the tenderer proposes to expend on prospecting.

**16 Size and shape of land subject to exploration licences** (Former clause 16 of 2010 Reg)

- (1) For the purposes of section 25 (1) of the Act, the land over which an exploration licence is granted must be measurable in units, but any area of land to which the exploration licence does not apply may be excluded from any particular unit.
- (2) Despite subclause (1), the land over which an exploration (mineral owner) licence or an exploration licence is granted in respect of a Group 9 or Group 9A mineral may be of any shape or size.

**Note—**

Nothing in the Act or this Regulation requires the boundaries of an area that is intended to be comprised in an exploration licence to match or mirror the boundaries of 1 or more units.

**17 Applications for low-impact exploration licences** (Former clause 17 of 2010 Reg)

For the purposes of section 32D (4) of the Act, a low-impact exploration licence is not to be granted during the period of 4 months following service of the notice of the application for the licence on the representative bodies referred to in section 32D (1) (c) of the Act.

**18 Renewal of exploration licences** (Former clause 18 of 2010 Reg)

- (1) For the purposes of section 113 (3) of the Act, the following information is prescribed—
- (a) the licence number or other identifying code for the licence and the date of expiry of the licence,
  - (b) the contact details of the current licence holder,
  - (c) (Repealed)
  - (d) particulars of the financial resources and relevant technical advice available to the applicant,
  - (d1) a statement, set out in the approved form, of the corporate compliance, environmental performance history and financial capability of the applicant,
  - (e) a renewal justification statement, that is, a statement that contains the following information—
    - (i) details of the operations carried out on the land comprised in the licence during the current term of the authority, including the following—
      - (A) the types of operations carried out,
      - (B) a map showing the location of operations carried out,
      - (C) any expenditure incurred in relation to those operations,
    - (ii) a summary of the results of such operations and the conclusions reached in relation to the potential resources of the land comprised in the licence,
    - (iia) a statement giving reasons the decision-maker should be satisfied of the matters referred to in the Act, section 114A(1)(a) and (b),
    - (iii) a statement giving the reasons for which the applicant considers the renewal to be justified,
  - (f) a work program for the proposed term of renewal that complies with the

requirements of section 129A of the Act.

- (2) In the case of an application for the renewal of an exploration licence in respect of part only of the land subject to the licence, the prescribed manner of describing the land over which renewal of the licence is sought is by means of—
- (a) in the case of an exploration licence for Group 9 or Group 9A minerals—a standard map showing the boundaries of the land, or
- Note—**
- Group 9 and Group 9A minerals are listed in Schedule 2.
- (b) in the case of an exploration (mineral owner) licence—the lot and deposited plan numbers of the land, or
  - (c) in any other case—the area, block and unit references identifying the land, as determined in accordance with Schedule 4.
- (3) For the purposes of section 113 (6) of the Act, the maximum number of parts of an exploration area in respect of which an application for the renewal of an exploration licence may be made is 5.

**19 Partial cancellation of exploration licences—manner of describing land** (Former clause 19 of 2010 Reg)

In the case of an application for the cancellation of an exploration licence in respect of part only of the land subject to the licence, the prescribed manner of describing the land in respect of which the licence is to be retained is by means of—

- (a) in the case of an exploration licence for Group 9 or Group 9A minerals—a standard map showing the boundaries of the land, or

**Note—**

Group 9 and Group 9A minerals are listed in Schedule 2.

- (b) in the case of an exploration (mineral owner) licence—the lot and deposited plan numbers of the land, or
- (c) in any other case—the area, block and unit references identifying the land, as determined in accordance with Schedule 4.

**20 Licences for operational allocation purposes** (Former clause 19A of 2010 Reg)

- (1) For the purposes of section 13C (2) (a) of the Act, the following are prescribed as **operational allocation purposes**—
- (a) in relation to applications by holders of exploration licences or assessment leases—the purpose of both developing a better mine design proposal and recovering coal resources that would otherwise be likely to be sterilised,

- (b) in relation to applications by holders of mining leases, each of the following—
  - (i) the purpose of extending the life of a mine,
  - (ii) the purpose of developing a better mine design,
  - (iii) the purpose of recovering coal resources that would otherwise be likely to be sterilised,
  - (iv) the purpose of obtaining an exploration licence for coal over the subsoil above or below the stratum to which the mining lease concerned relates or over the surface above the land to which that mining lease relates.
- (2) For the purposes of section 13C (2) (b) of the Act, if the operational allocation purpose for which the relevant application under section 13C (1) of the Act is made is—
  - (a) one referred to in subclause (1) (a) or (b) (i), (ii) or (iii)—the area of land to which the application relates must not exceed an area equivalent to 33% of the area of the land to which the exploration licence, assessment lease or mining lease concerned relates, or
  - (b) one referred to in subclause (1) (b) (iv)—the boundary of subsoil or the surface area of the land to which the application relates must not exceed the boundary of the area of land to which the mining lease concerned relates.

## **Division 2 Assessment leases**

### **21 Applications for assessment leases** (Former clause 20 of 2010 Reg)

- (1) For the Act, section 33(4)(c), the following information must accompany an application for an assessment lease—
  - (a) a description, set out in the approved form, of the proposed assessment area,
  - (b) a statement that the proposed assessment area—
    - (i) contains no land within a protected reserve, or
    - (ii) contains land within a protected reserve, but the applicant understands that an assessment lease may not be granted over land within the reserve,

**Note—**

See the Act, section 36(b).

- (c) an assessment of the mineral bearing capacity of land in the proposed assessment area and of the extent of any mineral deposits in the land,
- (d) a specification of the mineral or minerals in relation to which the lease is sought,

- (e) particulars of the financial resources and relevant technical advice available to the applicant,
- (f) a statement, set out in the approved form, of the corporate compliance, environmental performance history and financial capability of the applicant,
- (g) for an assessment (mineral owner) lease—
  - (i) a specification of the privately owned mineral or minerals in relation to which the lease is sought, and
  - (ii) evidence of the applicant's ownership of the mineral or minerals.

(1A) If there is more than 1 applicant for the lease, a reference in subclause (1) to the applicant is a reference to each applicant.

(2) For the purposes of confirming an applicant's ownership of any mineral, the Secretary may require the applicant to provide further information, which may include written advice from an Australian legal practitioner certifying that the relevant evidence establishes that the applicant owns the mineral.

## **22 Notices of application for assessment leases** (Former clause 21 of 2010 Reg)

- (1) For the purposes of section 33A (1) of the Act, the prescribed period is within 45 days after receipt of confirmation from the Secretary that the application has been lodged.
- (2) For the purposes of section 33A (2) (c) of the Act, the notice of an application for an assessment lease must be in the form, and include the information, required by the Secretary.

## **23 Renewal of assessment leases** (Former clause 22 of 2010 Reg)

- (1) For the purposes of section 113 (3) of the Act, the following information is prescribed—
  - (a) the lease number or other identifying code for the lease and the date of expiry of the lease,
  - (b) the contact details of the current lease holder,
  - (c) (Repealed)
  - (d) particulars of the financial resources and relevant technical advice available to the applicant,
  - (d1) a statement, set out in the approved form, of the corporate compliance, environmental performance history and financial capability of the applicant,
  - (e) a renewal justification statement, that is, a statement that contains the following

information—

- (i) details of the operations carried out on the land comprised in the lease during the current term of the lease, including the following—
    - (A) the types of operations carried out,
    - (B) a map showing the location of operations carried out,
    - (C) any expenditure incurred in relation to those operations,
  - (ii) a summary of the known resources, and potential resources, on the land comprised in the lease,
  - (iii) a summary of the potential for the development of resources on the land comprised in the lease,
  - (iv) a statement giving the reasons for which the applicant considers the renewal to be justified,
- (f) a work program for the proposed term of renewal that complies with the requirements of section 129A of the Act.
- (2) In the case of an application for the renewal of an assessment lease in respect of part only of the land subject to the lease, the prescribed manner for describing the land over which renewal of the lease is sought is by means of—
- (a) a standard map showing the boundaries of the land, or
  - (b) in the case of an application in respect of an assessment (mineral owner) lease—the lot and deposited plan numbers of the land, or
  - (c) a description of the area, block and unit references identifying the land, as determined in accordance with Schedule 4.

**24 Partial cancellation of assessment leases—manner of describing land** (Former clause 23 of 2010 Reg)

In the case of an application for the cancellation of an assessment lease as to part only of the land to which the lease relates, the prescribed manner for describing the land in respect of which the lease is to be retained is by means of—

- (a) a standard map showing the boundaries of the land, or
- (b) in the case of an assessment (mineral owner) lease—the lot and deposited plan numbers of the land, or
- (c) a description of the area, block and unit references identifying the land, as determined in accordance with Schedule 4.

## **Division 3 Mining leases**

### **25 Applications for mining leases** (Former clause 24 of 2010 Reg)

- (1) For the Act, section 51(4)(c), the following information must accompany an application for a mining lease—
- (a) a description, set out in the approved form, of the proposed mining area,
  - (b) a statement that the proposed mining area—
    - (i) contains no land within a protected reserve, or
    - (ii) contains land within a protected reserve, but the applicant understands that a mining lease may not be granted over land within the reserve,

**Note—**

See the Act, section 57(b).

- (c) an assessment of the mineral bearing capacity of land in the proposed mining area and of the extent of any mineral deposits in the land,
  - (d) a specification of the mineral or minerals, or the ancillary mining activity or activities, in relation to which the lease is sought,
  - (e) particulars of the financial resources and relevant technical advice available to the applicant,
  - (f) a statement, set out in the approved form, of the corporate compliance, environmental performance history and financial capability of the applicant,
  - (g) for a mining (mineral owner) lease—
    - (i) a specification of the privately owned mineral or minerals in relation to which the lease is sought, and
    - (ii) evidence of the applicant's ownership of the mineral or minerals.
- (1A) If there is more than 1 applicant for the lease, a reference in subclause (1) to the applicant is a reference to each applicant.
- (2) For the purposes of confirming an applicant's ownership of any mineral, the Secretary may require the applicant to provide further information, which may include written advice from an Australian legal practitioner certifying that the relevant evidence establishes that the applicant owns the mineral.

### **26 Notices of application for mining leases** (Former clause 25 of 2010 Reg)

- (1) For the purposes of section 51A (1) of the Act, the prescribed period is within 45 days

after receipt of confirmation from the Secretary that the application has been lodged.

- (2) For the purposes of section 51A (2) (c) of the Act, the notice of an application for a mining lease must be in the form, and include the information, required by the Secretary.

**26A Prescribed period for providing evidence of development application or development consent—the Act, s 65**

For the Act, section 65(5), the following periods are prescribed—

- (a) for evidence that an application for the development consent required by the Act, section 65 has been made—3 years after the date the application for the mining lease is made,
- (b) for evidence that the development consent has been granted and is in force—3 years after the date the application for the development consent is made.

**27 Surface activities in relation to subsurface leases** (Former clause 26 of 2010 Reg)

For the purposes of section 81 (1) of the Act, the following activities are prescribed—

- (a) prospecting operations,
- (b) the construction, maintenance and use (in or in connection with mining operations) of any drillhole or shaft for the following—
- (i) drainage of gas,
  - (ii) drainage or conveyance of water,
  - (iii) ventilation,
  - (iv) conveyance of electricity,
  - (v) conveyance of materials,
  - (vi) communications,
  - (vii) emergency access to underground workings,
- (c) the rehabilitation of surface disturbance.

**28 Renewal of mining leases** (Former clause 27 of 2010 Reg)

- (1) For the purposes of section 113 (3) of the Act, the following information is prescribed—
- (a) the lease number or other identifying code for the lease and the date of expiry of the lease,



- (b) the contact details of the current lease holder,
  - (c) (Repealed)
  - (c1) a statement, set out in the approved form, of the corporate compliance, environmental performance history and financial capability of the applicant,
  - (d) a renewal justification statement, that is, a statement that contains the following information—
    - (i) details of the operations carried out on the land comprised in the lease during the current term of the lease, including the following—
      - (A) the types of operations carried out,
      - (B) a map showing the location of operations carried out,
    - (ii) a summary of the resources on the land comprised in the lease,
    - (iii) a statement giving the reasons for which the applicant considers the renewal to be justified,
  - (e) a work program for the proposed term of renewal that complies with the requirements of section 129A of the Act.
- (2) In the case of an application for the renewal of a mining lease in respect of part only of the land subject to the mining lease, the prescribed manner of describing the land that will be subject to the mining lease if the application is approved is by means of—
- (a) a plan prepared in accordance with the statutory surveying requirements, or
  - (b) in the case of a mining (mineral owner) lease—the lot and deposited plan numbers of the land.

**29 Partial cancellation of mining leases—manner of describing land** (Former clause 28 of 2010 Reg)

In the case of an application for the cancellation of a mining lease in respect of part only of the land subject to the mining lease, the prescribed manner of describing the land in respect of which the lease is to be retained is by means of—

- (a) a plan prepared in accordance with the statutory surveying requirements, or
- (b) in the case of a mining (mineral owner) lease—the lot and deposited plan numbers of the land.

**30 (Repealed)**

**31 Preparation of proposed consolidated mining leases—manner of describing**

**land** (Former clause 30 of 2010 Reg)

For the purposes of section 86 (2) of the Act, the prescribed manner of describing the land over which a consolidated mining lease is proposed to be granted is by means of a compilation or survey of the various plans relating to the leases to be consolidated.

### **31A Standard conditions of mining leases**

(1) For the purposes of the Act, Schedule 1B, clause 7, the provisions of Schedule 8A, Part 2 are prescribed as conditions of a mining lease.

**Note—**

A contravention of a condition of a mining lease by a person—

- (a) constitutes an offence under the Act, section 378D by each holder of the lease, and
- (b) if committed by a corporation, constitutes an executive liability offence, and
- (c) is grounds for cancellation of the lease under the Act, section 125.

(2) The conditions do not apply to a mining lease that is in force on the commencement day—

- (a) for a large mine—until the day that is 12 months after the commencement day, or
- (b) for a small mine—until the day that is 24 months after the commencement day.

(3) In this clause—

**commencement day** means the day on which the *Mining Amendment (Standard Conditions of Mining Leases—Rehabilitation) Regulation 2021* commences

**large mine** and **small mine** have the same meanings as in Schedule 8A.

## **Division 4 Variation, renewal and transfer of authorities**

### **32 Review of determination of applications for variation of prospecting operations under low-impact exploration licences** (Former clause 31 of 2010 Reg)

For the purposes of section 32EA (3) (b) of the Act, the following information is prescribed—

- (a) a copy of the determination in respect of which a review is sought,
- (b) a statement of reasons as to why the determination should be changed.

### **32A Publication requirements to vary prescribed conditions—the Act, Sch 1B, cl 13**

For the Act, Schedule 1B, clause 13(1)(a), a notice must be published—

- (a) in at least 1 newspaper circulating generally in the State, and

- (b) on the website of the Department.

**32B Prescribed period for applications for renewal of authorities—the Act, s 113**

For the Act, section 113(2), an application for the renewal of an authority must be lodged with the Secretary as follows—

- (a) for the renewal of a mining lease for 1 year or less, an exploration licence or an assessment lease—within the period of 3 months before the licence or lease ceases to have effect,
- (b) for the renewal of a mining lease for more than 1 year—not earlier than 5 years and not later than 1 year before the lease ceases to have effect.

**32C Matters for deciding whether land genuinely required—the Act, s 114A**

For the Act, section 114A(3), a decision-maker may have regard to the following matters in deciding whether an area of land is genuinely required to support a proposed work program—

- (a) the applicant's performance measured against previous work programs for the exploration licence,
- (b) the renewal justification statement mentioned in clause 18(1)(e),
- (c) information or reports provided under a requirement of—
  - (i) the Act, or
  - (ii) this Regulation, or
  - (iii) a condition of the exploration licence.

**32D Information included in notice of renewal of authorities—the Act, s 115**

For the Act, section 115(2), a notice of renewal of an authority must include the following information—

- (a) any amendments to the conditions of the authority,
- (b) the period for which the authority is renewed,
- (c) if the area of land over which the authority is renewed differs from the area subject to the authority immediately before the renewal—a description of the land over which the authority is renewed.

**33 Transfer of authorities** (Former clause 32 of 2010 Reg)

- (1) For the Act, section 120(2)(b), an application for approval of the transfer of an authority must be accompanied by the following information—

- (a) the authority number or other identifying code for the authority that is to be transferred,
  - (b) the name of the holder of the authority,
  - (c) the name and written consent of the proposed transferee,
  - (d) a statement, set out in the approved form, of the corporate compliance, environmental performance history and financial capability of the proposed transferee,
  - (e) in the case of the proposed transfer of a mining lease—details of how the land that is the subject of the proposed transfer will be mined,
  - (f) particulars of financial resources available to the proposed transferee,
  - (g) in the case of the proposed transfer of an exploration licence or an assessment lease—particulars of the proposed work program,
  - (h) particulars of any technical advice available to the proposed transferee,
  - (i) (Repealed)
  - (j) a description of the land prepared in the manner prescribed by subclause (2).
- (2) The prescribed manner of describing the land to be transferred in respect of an application for the partial transfer of an authority is by means of—
- (a) in the case of an exploration licence—
    - (i) in respect of Group 9 or Group 9A minerals—a standard map showing the boundaries of the land, or
- Note—**
- Group 9 and Group 9A minerals are listed in Schedule 2.
- (ii) in any other case—by means of the area, block and unit references identifying the land, as determined in accordance with Schedule 4, or
- (b) in the case of an assessment lease—
    - (i) a standard map showing the boundaries of the land, or
    - (ii) the area, block and unit references identifying the land, as determined in accordance with Schedule 4, or
  - (c) in the case of a mining lease—a plan drawn in accordance with the statutory surveying requirements, or
  - (d) in the case of a mineral owner authority—

- (i) the lot and deposited plan numbers of the land, or
- (ii) a standard map showing the boundaries of the land.

## **Division 5 Authorities generally**

### **34 Exemptions from or variations of requirements to describe land** (Former clause 33 of 2010 Reg)

- (1) This clause applies to the requirements contained in clauses 18 (2), 19, 23 (2), 24, 28 (2), 29 and 33 (2).
- (2) The Secretary may grant an exemption from, or vary, part or all of a requirement to which this clause applies if satisfied that—
  - (a) the requirement in whole or in part is unduly onerous, or
  - (b) the Department holds a current survey of the relevant boundaries of the land.

### **35 Work programs accompanying applications for authorities and tenders—the Act, s 129A**

- (1) For the Act, section 129A, a work program for an application for an authority, or a tender, must—
  - (a) indicate the nature and extent of operations to be carried out under the authority, and
  - (b) set out commitments relating to the conduct of the operations, including the timing of the operations, and
  - (c) provide for the carrying out of activities, including community consultation and environmental management and rehabilitation, in connection with, or ancillary to, the operations, and
  - (d) for an application, or a tender, for an exploration licence or an assessment lease—include particulars of the estimated amount of money that the applicant proposes to spend on carrying out operations and activities in the authority area.
- (2) For an application for a mining lease, the requirements in subclause (1)(a)–(c) may be satisfied by providing a current development consent under the *Environmental Planning and Assessment Act 1979* for the development, within the meaning of that Act, in relation to which the mining lease is being applied for.

### **36 Records concerning authorities** (Former clause 34 of 2010 Reg)

- (1) For the purposes of section 159 (2) of the Act, the record required to be kept must be kept in written or electronic form and must contain the following particulars—
  - (a) the application number, the departmental file number, the type of authority and

its authority number or other identifying code,

- (b) the date on which the authority was first granted and, if relevant, the date of the expiration or cancellation of the authority,
- (c) the name and address of each applicant or holder of the authority,
- (d) the address of each applicant or holder of the authority, or of the registered office of any such person,
- (e) a description of the authority area,
- (f) the annual rental fee area for an authority granted or proposed to be granted, if the Secretary is required to keep a record of the annual rental fee area under Division 2 of Part 8,
- (g) the mineral or minerals, or the group or groups of minerals, to which the authority relates,
- (h) in the case of a mining lease granted in respect of one or more ancillary mining activities—the ancillary mining activity or ancillary mining activities to which the authority relates,
- (i) the period for which the authority is to have effect,
- (j) the current status of the authority (for example, “current”, “expired” or “cancelled”),
- (k) any interest in the authority registered under section 161 of the Act,
- (l) the amount of security that is required or held in relation to the authority,
- (m) the royalty rate that applies to the authority,
- (n) the name and address of the colliery or mine to which the authority relates, if relevant.

(2) For the purposes of sections 159 (3) and 161 (9) of the Act, the prescribed office of the Department is the Maitland office.

**37 Register of colliery holdings** (Former clause 35 of 2010 Reg)

- (1) For the purposes of section 163 (1) of the Act, the register of colliery holdings must be kept in written or electronic form.
- (2) For the purposes of section 163 (2) (b) of the Act, the register of colliery holdings must contain the following particulars for each colliery holding—
  - (a) the name and address of each person who has an interest in the colliery holding,

- (b) a description of the land comprised in the colliery holding,
- (c) the current status of the land (that is, “subject to mining lease” or “not subject to mining lease”).

(3) For the purposes of section 163 (10) of the Act, the prescribed office of the Department at which the register of colliery holdings must be kept is Maitland.

**38 Registration of mining subleases** (Former clause 36 of 2010 Reg)

(1) For the purposes of section 163A (1) of the Act, the following information must be recorded in the register of mining subleases—

- (a) details of the lease being sublet,
- (b) a description of the sublease area,
- (c) the term of the sublease, including the date of commencement and expiry,
- (d) the name of each sublessee of the sublease area,
- (e) the name of the primary lessee of the lease being sublet,
- (f) the sublease number or other identifying code for the sublease.

(2) For the purposes of section 163A (4) (f) of the Act, the following information must accompany an application for registration—

- (a) the name and contact details of each sublessee,
- (b) the consent of each sublessor,
- (c) the date of commencement and expiry of the sublease,
- (d) the consent of any persons with a registered interest in the lease being sublet.

(3) For the purposes of section 163A (7) of the Act, an application to register, renew or vary a sublease is exempt from the requirement to obtain the approval of the Minister under section 163A (3) of the Act if—

- (a) the sublessee is the leaseholder of an adjoining lease or sublease area, and
- (b) the total sublease area (including the area of any adjoining subleases) does not exceed 100 hectares, and
- (c) the term of the sublease does not exceed 5 years, including any consecutive sublease periods and options for extension.

(4) For the purposes of section 163A (8) of the Act, the prescribed office of the Department at which the register of mining subleases must be kept is Maitland.

**39 Rights of way** (Former clause 37 of 2010 Reg)

- (1) For the purposes of section 164 (1) of the Act, a right of way to which the holder of an authority (other than a mineral owner authority) is entitled is to be—
  - (a) indicated by marker posts located along the route of the right of way in accordance with this clause, or
  - (b) indicated or described in such other manner as is agreed in writing by the landholder and the holder of the authority.
- (2) The marker posts are to be located—
  - (a) at the start and finish of the right of way, and
  - (b) at intervals of not more than 250 metres, and
  - (c) at each point where the route of the right of way changes direction.
- (3) A marker post referred to in subclause (2) must bear a tag showing—
  - (a) the coordinates of the post's position, and
  - (b) the authority number or other identifying code for the authority, and
  - (c) the name of the holder of the authority.
- (4) For the purposes of subclause (3) (a), the coordinates of a marker post—
  - (a) are to be established by means of a Global Positioning System device, and
  - (b) must be identified in the Map Grid of Australia coordinate system.
- (5) Provided that the requirements referred to in subclause (3) are met by each holder of an authority for which a marker post indicates the right of way, the same marker post may be used to indicate a right of way in relation to 2 or more authorities.
- (6) The holder of the authority must prepare a map of the right of way and cause copies of the map to be given to each landholder affected by the right of way.
- (7) A map referred to in subclause (6) must describe the route of the right of way (which must be no more than 10 metres wide) and must indicate the coordinates of the position of each picket or post.
- (8) Each holder of an authority who is entitled to the right of way must ensure that a marker post referred to in subclause (2) is properly maintained.  
Maximum penalty—20 penalty units.
- (9) For the purposes of section 164 (6) of the Act, the exercise of a right of way conferred by that section is subject to the following conditions—



- (a) the holder of the authority who is entitled to the right of way is to pay to the landholder such amount, by way of compensation, as is agreed in writing by the holder of the authority and the landholder (or, in default of agreement, as is assessed by the Land and Environment Court at the request of the holder of the authority or the landholder),
- (b) if the right of way passes over—
  - (i) any garden, orchard or land under cultivation, or
  - (ii) any land on which is situated a significant improvement,  
  
being land that was, when the right of way was marked out, land of that nature, the holder of the authority who is entitled to the right of way is not to exercise the right of way otherwise than in accordance with the consent of the landholder.

## **Division 6 Land access arbitration**

### **39A Procedure for appointment of person as member of Arbitration Panel**

For the purposes of section 139 (2) of the Act, the Minister must, before appointing a person as a member of the Arbitration Panel—

- (a) publish a notice inviting applications for appointment to the Arbitration Panel in at least 1 newspaper circulating generally in Australia, and
- (b) give notice to at least 1 independent arbitration body recognised in New South Wales, inviting applications for appointment as a member of the Arbitration Panel, and
- (c) establish an Assessment Panel, comprising the following 3 members—
  - (i) 1 person who is an Australian legal practitioner of at least 7 years' standing who has, in the opinion of the Minister, extensive arbitration experience,
  - (ii) 1 person nominated by the Minister for Primary Industries,
  - (iii) 1 person nominated by the Minister, and
- (d) direct the Assessment Panel to—
  - (i) evaluate applications for appointment to the Arbitration Panel, having regard to the eligibility criteria specified in clause 39B, and
  - (ii) make recommendations for appointment to the Minister, and
- (e) have regard to any recommendations made by the Assessment Panel, and
- (f) consult with the Minister for Aboriginal Affairs and the Minister for Primary Industries on any proposed appointee.

### **39B Eligibility for appointment as member of Arbitration Panel**

For the purposes of section 139 (3) of the Act, a person is eligible for appointment as a member of the Arbitration Panel if—

- (a) the person—
  - (i) is an accredited mediator under the National Mediator Accreditation System, or
  - (ii) holds practitioner membership, or advanced practitioner membership, with LEADR & IAMA (ACN 008 651 232, trading as Resolution Institute), and
- (b) the person has, in the opinion of the Minister, extensive arbitration experience, and
- (c) the person either—
  - (i) has, in the opinion of the Minister, extensive agricultural or resources industry experience, or
  - (ii) is an Australian legal practitioner of at least 7 years' standing who has, in the opinion of the Minister, extensive litigation experience.

### **39C Maximum term of office as member of Arbitration Panel**

For the purposes of section 139 (4) of the Act, the maximum period prescribed for a single term of office as a member of the Arbitration Panel is 3 years.

### **39D Making of complaints about Arbitration Panel arbitrators**

For the purposes of section 158B (3) (a) of the Act, a complaint made about an arbitrator appointed under section 144 or 145A (7) (b) of the Act—

- (a) must be made in writing to the Secretary, and
- (b) must be made within 14 days after the subject matter of the complaint first becomes known to the person making the complaint, unless the Secretary considers special circumstances exist that warrant a complaint being permitted to be made after that date.

### **39E Investigation by Secretary of complaints about Arbitration Panel arbitrators**

- (1) For the purposes of section 158B (3) (b) of the Act—
  - (a) the Secretary must provide notice of a complaint made under section 158B (1) of the Act by a party to an arbitration to—
    - (i) the other party to the arbitration, and
    - (ii) the arbitrator who is the subject of the complaint, and
  - (b) that notice must include—

- (i) the name and address of the party making the complaint, and
  - (ii) details about the nature of the complaint, and
  - (iii) details of any evidence provided by the party making the complaint that supports the complaint.
- (2) The Secretary must—
- (a) provide an arbitrator the subject of a complaint under section 158B (1) of the Act with a reasonable opportunity to make any submissions about the complaint, and
  - (b) take any submissions made by the arbitrator into consideration when determining whether to remove the arbitrator under section 158B (1) of the Act.
- (3) Any determination of the Secretary in relation to a complaint against an arbitrator must—
- (a) be in writing, and
  - (b) set out the reasons for the determination made in relation to the complaint, and
  - (c) be given to the party that made the complaint, and the arbitrator who is the subject of the complaint, as soon as practicable.

### **39F Costs relating to access arrangements**

For the purposes of section 142 (2F) of the Act, the payment of costs is not required unless documentary evidence of the incurring of those costs (including costs relating to time spent participating in negotiating the access arrangement) has been provided to the holder of the prospecting title.

## **Part 4 Small-scale titles**

### **Division 1 Mineral claims**

#### **40 Marking out of proposed claim areas** (Former clause 38 of 2010 Reg)

- (1) For the purposes of section 176 (1) of the Act, a proposed claim area is to be marked out with marker posts located along the boundaries of the proposed claim area.
- (2) A marker post may be used to mark out more than one claim area (proposed or otherwise), but only with the written consent of each applicant for the mineral claim relating to that area or of each holder of that claim area.
- (3) The area marked out for a proposed mineral claim must, as far as practicable, be square or rectangular in shape and no side of the area may exceed 200 metres in length.

- (4) The marker posts are to be located at each point where the boundaries change direction.
- (5) The boundaries of the proposed claim area are to be indicated—
  - (a) by means of trenches at least 150 millimetres in depth, or
  - (b) if the cutting of trenches is impracticable, by means of stone walls at least 150 millimetres in height,  
  
extending along the boundaries for a distance of at least one metre from each marker post.
- (6) If it is impractical to comply with subclause (5), steel direction indicators must be attached to each marker post showing the alignment of the claim boundaries. The steel direction indicators must be of a design acceptable to the Secretary.
- (7) There is to be attached to—
  - (a) the marker post indicating the northernmost corner of the proposed claim area, or
  - (b) if there are 2 or more such posts, the easternmost of them,  
  
a board or plate (made of wood or metal) to which is fixed a notice of the proposed mineral claim.
- (8) The notice is to contain the following particulars—
  - (a) the words “MINERAL CLAIM” in block letters prominently displayed at the head of the notice,
  - (b) the dimensions of the land over which the proposed mineral claim has been marked out,
  - (c) the date on which the proposed mineral claim was marked out,
  - (d) the name and address of the applicant for the proposed mineral claim.
- (9) As soon as practicable (but not later than 14 days) after a mineral claim is granted, the holder of the claim must include the following particulars on the notice—
  - (a) the date on which the mineral claim was granted,
  - (b) the mineral claim number or other identifying code for the mineral claim.
- (10) The requirements of subclause (9) are satisfied if the holder of the mineral claim replaces the notice with a new notice containing the particulars required by subclauses (8) and (9).
- (11) The applicant for a mineral claim must ensure that any marker post and any notice

required by this clause is properly maintained and replaced, if lost or damaged, until the application is determined and, if the claim is granted, while the claim is in force.

Maximum penalty—20 penalty units.

**41 Notices of intention to apply for mineral claims** (Former clause 39 of 2010 Reg)

- (1) For the purposes of section 176 (2) of the Act—
  - (a) the area marked out for a proposed mineral claim must, as far as practicable, be square or rectangular in shape, and
  - (b) no side of the area may exceed 200 metres in length.
- (2) For the purposes of section 177 (2) of the Act, the land to which an application for a mineral claim relates must be identified on a map of at least 1:100,000 scale that clearly indicates the extent and location of that land relative to property boundaries and man-made features such as roads, fences and buildings.
- (3) The notice of the proposed application for a mineral claim that is served on a landholder under section 177 of the Act must include a copy of an information sheet (if any) that—
  - (a) outlines a landholder's right to object to the application, and
  - (b) has been prepared by the Secretary and made available to proposed applicants for the purposes of this subclause.

**42 Applications for granting of mineral claims** (Former clause 40 of 2010 Reg)

- (1) For the Act, section 178(2)(b), an application for a mineral claim must identify the land to which the application relates in a manner that clearly indicates—
  - (a) the location of each marker post used to mark out the proposed claim area, and
  - (b) the length of each boundary of the proposed claim area, and
  - (c) the location of any right of way or routes giving access to the proposed claim area as provided for in an access management plan registered under section 236I of the Act.
- (2) The land must be identified by a map on which the land is shown in some distinctive manner, indicating the distance and bearing of each side of the proposed claim area and a connection, by distance and bearing, to a survey mark.
- (3) The following information must also be included in an application for the granting of a mineral claim—
  - (a) the name of the applicant,

- (b) if the applicant is an individual—the date of birth of the applicant,
- (c) the address and contact details of the applicant,
- (d) if the applicant is a corporation—the name of each director of that corporation,
- (e) a statement, set out in the approved form, of the corporate compliance, environmental performance history and financial capability of the applicant,
- (f) details of any other claims or areas applied for (whether or not held or applied for by the applicant) with which that claim will be worked as part of a single mining operation,
- (g) details of the proposed method of mining,
- (h) a specification of the mineral or minerals, or the ancillary mining activity or activities, in relation to which the mineral claim is sought,
- (i) a statement that the proposed claim area—
  - (i) contains no land within a protected reserve, or
  - (ii) contains land within a protected reserve, but the applicant understands that a mineral claim may not be granted over land within the reserve,

**Note—**

See the Act, section 182(1)(b).

- (j) a copy of the notice required to be given under the Act, section 177 and a statement by the applicant that the notice was given as required.
- (4) Despite clause 94 (1), an application for the granting of a mineral claim must be lodged as follows—
- (a) in relation to land within the Lightning Ridge Mineral Claims District—in person at the Lightning Ridge office of the Department,
  - (b) in relation to land within the White Cliffs Mineral Claims District—in person at, or by post or facsimile to, the Lightning Ridge office of the Department.

**Note—**

Clause 94 contains provisions relating to the lodgment of applications.

**43 Determination of order of dealing with simultaneous applications for mineral claims** (Former clause 41 of 2010 Reg)

- (1) For the purposes of section 190 (6) of the Act, the prescribed manner of determining the order in which simultaneous applications for mineral claims are to be dealt with is for the Secretary to conduct a lottery in accordance with the following provisions—

- (a) the names of each of the applicants are to be written on separate tickets, each of the same size and shape,
  - (b) the tickets are to be placed in a box or other receptacle and thoroughly mixed,
  - (c) the Secretary is then, without looking, to select each of the tickets, one by one, from the box or receptacle.
- (2) The lottery may be conducted in the presence of any applicant or representative of an applicant.
- (3) The applications are to be dealt with in the order in which the tickets bearing the applicants' names are drawn from the box or receptacle.

**44 Applications for renewal of mineral claims** (Former clause 42 of 2010 Reg)

Despite clause 94 (1), an application for the renewal of a mineral claim must be lodged in person at, or by post or facsimile to, the Lightning Ridge office of the Department.

**Note—**

Clause 94 contains provisions relating to the lodgment of applications.

**44A Prescribed period for applications for renewal of mineral claims—the Act, s 197**

For the Act, section 197(2)(b), an application for the renewal of a mineral claim must be lodged with the Secretary within 2 months before the day on which the claim would otherwise expire.

**45 Applications for transfer of mineral claims** (Former clause 43 of 2010 Reg)

- (1) For the Act, section 200(2)(b), an application for the transfer of a mineral claim must include the following information—
- (a) the mineral claim number or other identifying code for the mineral claim,
  - (b) the name of the holder of the mineral claim,
  - (c) the name and written consent of the proposed transferee,
  - (d) a statement, set out in the approved form, of the corporate compliance, environmental performance history and financial capability of the proposed transferee,
  - (d1) a copy of the notice required to be given under the Act, section 200(2A) and a statement by the applicant that the notice was given as required,
  - (e) the consent of any person who has a registered legal or equitable interest in the mineral claim being transferred.
- (2) Despite clause 94 (1), an application for the transfer of a mineral claim must be

lodged as follows—

- (a) in relation to land within the Lightning Ridge Mineral Claims District—in person at the Lightning Ridge office of the Department,
- (b) in relation to land within the White Cliffs Mineral Claims District—in person at, or by post or facsimile to, the Lightning Ridge office of the Department.

**Note—**

Clause 94 contains provisions relating to the lodgment of applications.

**46 Partial cancellation of mineral claims—manner of describing land** (Former clause 44 of 2010 Reg)

For the purposes of section 203 (2) (b) of the Act, the prescribed manner of describing the land in respect of which the claim is to be cancelled is by means of a map indicating the distance and bearing of each side of the area and a connection, by distance and bearing, to a survey mark.

**47 Rights of way** (Former clause 45 of 2010 Reg)

- (1) For the purposes of section 211 (1) of the Act, a right of way to which the holder of a mineral claim is entitled under that section is to be—
  - (a) indicated by marker posts located along the route of the right of way in accordance with this clause, or
  - (b) indicated or described in such other manner as is agreed in writing between the landholder and the holder of the mineral claim.
- (2) The marker posts are to be located—
  - (a) at the start and finish of the right of way, and
  - (b) at intervals of not more than 250 metres, and
  - (c) at each point where the route of the right of way changes direction.
- (3) A marker post referred to in subclause (2) must bear a tag showing—
  - (a) the coordinates of the post's position, and
  - (b) the mineral claim number or other identifying code for the mineral claim, and
  - (c) the name of the holder of the mineral claim.
- (4) For the purposes of subclause (3) (a), it is sufficient for the coordinates of a marker post to be established by means of a Global Positioning System device.
- (5) If a right of way is marked out in accordance with subclause (2), the holder of the



mineral claim must prepare a map of the right of way and cause copies of the map to be given to each landholder affected by the right of way.

- (6) A map referred to in subclause (5) must describe the route of the right of way (which must be no more than 10 metres wide) and must indicate the coordinates of the position of each marker post that bears a tag referred to in subclause (3).
- (7) Each holder of a mineral claim who is entitled to the right of way must ensure that a marker post referred to in subclause (2) is properly maintained.

Maximum penalty—20 penalty units.

- (8) For the purposes of section 211 (6) (a) of the Act, the exercise of a right of way conferred by that section is subject to the following conditions—
  - (a) the holder of the mineral claim who is entitled to the right of way is to pay to the landholder such amount, by way of compensation, as is agreed in writing by the holder of the mineral claim and the landholder (or, in default of agreement, as is assessed by the Land and Environment Court at the request of the holder of the mineral claim or the landholder),
  - (b) if the right of way passes over—
    - (i) any garden, orchard or land under cultivation, or
    - (ii) any land on which is situated a significant improvement,  
being land that was, when the right of way was marked out, land of that nature, the holder of the mineral claim who is entitled to the right of way is not to exercise the right of way otherwise than in accordance with the consent of the landholder,
  - (c) the holder of the mineral claim who is entitled to the right of way is not to exercise the right of way before 7 am or after 6 pm, unless it is with the written consent of the landholder,
  - (d) the holder of the mineral claim who is entitled to the right of way is not to exercise the right of way during or less than 24 hours after wet weather, unless it is with the written consent of the landholder.

#### **48 Register of interests in mineral claims** (Former clause 46 of 2010 Reg)

For the purposes of section 218B (9) of the Act, the prescribed office of the Department at which the register of interests in mineral claims must be kept is Lightning Ridge.

## **Division 2 Opal prospecting licences**

#### **49 Objections** (Former clause 47 of 2010 Reg)

- (1) For the purposes of section 222 (1) (b) of the Act, the prescribed grounds of objection

to the constitution of land as an opal prospecting area, or to the addition of land to an existing opal prospecting area, are as follows—

- (a) that the land to which the objection relates is a garden or an orchard or is within 50 metres of a garden or an orchard,
  - (b) that on the land, or within 200 metres of the land, there is a dwelling-house or a woolshed or shearing shed,
  - (c) that the land is, or is within 200 metres of, a watering place,
  - (d) that on the land, or within 50 metres of the land, there is situated a significant improvement other than an improvement constructed or used for ancillary mining activities and for no other purposes.
- (2) For the purposes of section 222 (4) of the Act, a person to whom the Secretary must refer any objection for inquiry and report must be—
- (a) a qualified valuer, or
  - (b) an Australian lawyer of at least 7 years' standing.
- (3) In this clause—

**qualified valuer** means a person who—

- (a) has membership of the Australian Valuers Institute (other than associate or student membership), or
- (b) has membership of the Australian Property Institute (other than student or provisional membership), acquired in connection with his or her occupation as a valuer, or
- (c) has membership of the Royal Institution of Chartered Surveyors as a chartered valuer.

#### **50 Applications for opal prospecting licences** (Former clause 48 of 2010 Reg)

- (1) For the purposes of section 226 (2) (b) of the Act, the following information must accompany an application for an opal prospecting licence over an opal prospecting block—
- (a) the name of the applicant,
  - (b) if the applicant is an individual—the date of birth of the applicant,
  - (c) the address and contact details of the applicant,
  - (d) if the applicant is a corporation—the name of each director of that corporation,

- (e) a statement, set out in the approved form, of the corporate compliance, environmental performance history and financial capability of the applicant,
- (f) evidence that the notice required to be given under the Act, section 266(4)(b) was given as required.

(2) For subclause (1)(f), the evidence referred to in clause 92(6)(b) is sufficient.

**51 Lodgment of applications for opal prospecting licences** (Former clause 49 of 2010 Reg)

- (1) Despite clause 94 (1), an application for an opal prospecting licence must be lodged as follows—
- (a) in relation to land within the Lightning Ridge Mineral Claims District—in person at the Lightning Ridge office of the Department,
  - (b) in relation to land within the White Cliffs Mineral Claims District—in person at, or by post or facsimile to, the Lightning Ridge office of the Department.

**Note—**

Clause 94 contains provisions relating to the lodgment of applications.

- (2) Only one application per person may be lodged in respect of each opal prospecting block on any day on which an application may be lodged or may be taken to have been lodged.

**52 Determination of order of dealing with simultaneous applications for opal prospecting licences** (Former clause 50 of 2010 Reg)

- (1) For the purposes of section 226 (3) of the Act, the prescribed manner of determining the order in which simultaneous applications for opal prospecting licences are to be dealt with is for the Secretary to conduct a lottery in accordance with the following provisions—
- (a) the names of each of the applicants are to be written on separate tickets, each of the same size and shape,
  - (b) the tickets are to be placed in a box or other receptacle and thoroughly mixed,
  - (c) the Secretary is then, without looking, to select each of the tickets, one by one, from the box or receptacle.
- (2) The lottery may be conducted in the presence of any applicant or representative of an applicant.
- (3) The applications are to be dealt with in the order in which the tickets bearing the applicants' names are drawn from the box or receptacle.

**53 Register of opal prospecting licences** (Former clause 51 of 2010 Reg)

For the purposes of section 235A (2) of the Act, the record must contain the following particulars—

- (a) the name of the applicant,
- (b) if the application is granted—
  - (i) the name of the holder of the licence, and
  - (ii) the licence number or other identifying code for the opal prospecting licence, and
  - (iii) the term of the opal prospecting licence, including the date of commencement and expiry of that term.

**54 Rights of way** (Former clause 52 of 2010 Reg)

- (1) For the purposes of section 235C (1) of the Act, a right of way to which the holder of an opal prospecting licence is entitled under that section is to be—
  - (a) indicated by marker posts along the route of the right of way in accordance with this clause, or
  - (b) indicated or described in such other manner as is agreed in writing by the landholder and the holder of the opal prospecting licence.
- (2) The marker posts are to be located—
  - (a) at the start and finish of the right of way, and
  - (b) at intervals of not more than 250 metres, and
  - (c) at each point where the route of the right of way changes direction.
- (3) A marker post referred to in subclause (2) must bear a tag showing—
  - (a) the coordinates of the post's position, and
  - (b) the licence number or other identifying code for the opal prospecting licence, and
  - (c) the name of the holder of the opal prospecting licence.
- (4) For the purposes of subclause (3) (a), it is sufficient for the coordinates of a marker post to be established by means of a Global Positioning System device.
- (5) If a right of way is marked out in accordance with subclause (2), the holder of the opal prospecting licence must prepare a map of the right of way and cause copies of the map to be given to each landholder affected by the right of way.
- (6) A map referred to in subclause (5) must describe the route of the right of way (which

must be no more than 10 metres wide) and must indicate the coordinates of the position of each marker post that bears a tag referred to in subclause (3).

- (7) Each holder of an opal prospecting licence who is entitled to the right of way must ensure that a marker post referred to in subclause (2) is properly maintained.

Maximum penalty—20 penalty units.

- (8) For the purposes of section 235C (6) (a) of the Act, the exercise of a right of way conferred by that section is subject to the following conditions—

(a) if the right of way passes over—

- (i) any garden, orchard or land under cultivation, or
- (ii) any land on which is situated a significant improvement,

being land that was, when the right of way was marked out, land of that nature, the holder of the opal prospecting licence who is entitled to the right of way is not to exercise the right of way otherwise than in accordance with the consent of the landholder,

- (b) the holder of the opal prospecting licence who is entitled to the right of way is not to exercise the right of way before 7 am or after 6 pm, unless it is with the written consent of the landholder,

- (c) the holder of the opal prospecting licence who is entitled to the right of way is not to exercise the right of way during or less than 24 hours after wet weather, unless it is with the written consent of the landholder.

#### **55 Register of interests in opal prospecting licences** (Former clause 53 of 2010 Reg)

For the purposes of section 235F (9) of the Act, the prescribed office of the Department at which the register of interests in opal prospecting licences must be kept is Lightning Ridge.

### **Division 3 Access management plans**

#### **56 Miners' representatives** (Former clause 54 of 2010 Reg)

For the purposes of the definition of **miners' representative** in the Dictionary to the Act, an office holder of—

- (a) the Lightning Ridge Miners' Association, who is nominated by that Association, is the miners' representative in relation to any access management plan over the land within the area covered by that Association, and
- (b) the Glengarry-Grawin Sheeppark Miners' Association, who is nominated by that Association, is the miners' representative in relation to any access management plan

over the land within the area covered by that Association.

**57 Lodgment of access management plans** (Former clause 55 of 2010 Reg)

An access management plan that has been agreed on under section 236E of the Act must be lodged with the Secretary by the miners' representative at the Lightning Ridge office of the Department.

**58 Applications for determination of access management plans** (Former clause 56 of 2010 Reg)

- (1) An application under section 236F of the Act for determination of an access management plan over land must be accompanied by the following—
  - (a) a copy of the notice served on each landholder of the land under section 236E (1) of the Act,
  - (b) documentary evidence of the landholder's interest in the land,
  - (c) a statement as to the date on which, and the manner in which, each such notice was served,
  - (d) copies of any correspondence (including facsimiles and emails) between the miners' representative and any landholder of the land,
  - (e) a statement as to what steps have been taken to reach agreement on an access management plan over the land, and as to what matters are and are not yet agreed,
  - (f) a draft access management plan prepared by or on behalf of the applicant.
- (2) For the purpose of determining such an application, the Secretary may require the miners' representative or the landholder, or both, to provide the Secretary with alternative or amended versions of a draft access management plan.

## **Part 5 Reports**

**59 Annual reports** (Former clause 57 of 2010 Reg)

- (1) For the purposes of section 163C (2) (a) of the Act, the holder of an authority must prepare and lodge with the Secretary an annual report that complies with this clause.
- (2) An annual report must be lodged within 1 calendar month of the grant anniversary date or such other date notified by the Secretary in writing, regardless of whether an application to renew the authority area has been lodged and not yet determined.
- (3) An annual report must contain the following—
  - (a) full particulars of all surveys and other operations or activities, including details of

expenditure on operations carried out by or on behalf of the holder of the authority during the preceding 12-month period within which the authority had effect,

- (b) the results and conclusions of such surveys and any other operations,
- (c) the operations proposed to be conducted during the next 12-month period.

**60 Partial relinquishment reports** (Former clause 58 of 2010 Reg)

- (1) For the purposes of section 163C (2) (a) of the Act, the holder of an authority must prepare and lodge with the Secretary a partial relinquishment report that complies with this clause when the holder's authority has been—
  - (a) partially cancelled, or
  - (b) renewed over an area of land that is less than the area over which the authority applied prior to its renewal.
- (2) A partial relinquishment report must be lodged with the Secretary within 1 calendar month after the Secretary gives notice of the cancellation or renewal of a kind referred to in subclause (1).
- (3) A partial relinquishment report is only required in relation to the area of land which formed part of the authority before the cancellation or renewal of the kind referred to in subclause (1).
- (4) A partial relinquishment report must contain the following—
  - (a) a summary of all surveys and other operations carried out by or on behalf of the holder of the authority during the period within which the land that has been relinquished was subject to the authority,
  - (b) detailed data of all surveys and other operations,
  - (c) the results and conclusions of such surveys and any other operations.

**61 Final reports** (Former clause 58A of 2010 Reg)

- (1) For the purposes of section 163C (2) (a) of the Act, the holder of an authority must prepare and lodge with the Secretary a final report that complies with this clause.
- (2) A final report must be lodged with the Secretary within 1 calendar month after the expiry or cancellation of the authority.
- (3) A final report must contain the following—
  - (a) a summary of all surveys and other operations carried out by or on behalf of the holder of the authority during the period within which the land that has been relinquished was subject to the authority,

- (b) detailed data of all surveys and other operations not previously provided,
- (c) the results and conclusions of such surveys and any other operations not previously provided.

**62 Requirements of reports** (Former clause 58B of 2010 Reg)

- (1) The Secretary may issue further requirements relating to reports under clause 59, 60 or 61. Any such requirements must be published in the Gazette.
- (2) A report under clause 59, 60 or 61 must be prepared and lodged in accordance with any requirements issued by the Secretary.

**63 Maps, plans and data in reports** (Former clause 58C of 2010 Reg)

A report under clause 59, 60 or 61 must contain all maps, plans and data that are necessary to satisfactorily interpret and evaluate the report.

**64 Confidentiality of reports** (Former clause 58D of 2010 Reg)

- (1) For the purposes of section 163C (2) (c) of the Act, reports lodged with the Secretary under clause 59 must not be disclosed (except as authorised by the Act) during the period for which the authority to which the report relates is in force unless—
  - (a) in the case of a report lodged on or after 1 June 2016—5 years have passed since the lodgment of the report, or
  - (b) in the case of a report lodged before 1 June 2016—5 years have passed since that date.
- (2) Subclause (1) continues to apply to a report if the relevant authority in relation to which a report was made is subsequently transferred to another person.
- (3) This clause does not prevent—
  - (a) any disclosure or publication of a summary of a work program, or
  - (b) the disclosure of reports lodged with the Secretary under clause 59 after the authority to which the report relates ceases to be in force.

**65 Collection of cores and samples** (Former clause 58E of 2010 Reg)

For the purposes of section 163G of the Act, the holder of an authority must—

- (a) so far as is reasonably practicable collect, retain and preserve—
  - (i) all drill cores remaining after sampling, including any material obtained under previous authorities, and
  - (ii) all characteristic samples of the rock or strata encountered on any drill hole on the



land comprised in the authority, including any material obtained under previous authorities, and

- (b) collect, retain and preserve samples of any water discovered in any drill hole on the land comprised in the authority, where requested to do so by written notice from the Secretary, and
- (c) label any such drill cores or samples for reference, and
- (d) so far as is reasonably practicable, preserve the integrity of any such drill core or sample for the life of the authority, and
- (e) if the holder of the authority intends to dispose of any of the drill cores or samples—
  - (i) offer those drill cores or samples to the Secretary for preservation, and
  - (ii) if requested to do so, provide them to the Secretary for preservation in such manner as the Secretary determines.

**66 Publication of reports** (Former clause 59 of 2010 Reg)

- (1) The Minister may arrange for a report to be published, printed or adapted at any time after the period during which it is to be kept confidential expires.
- (2) Any report published, printed or adapted under this clause is to contain a statement acknowledging any person's copyright in the report.

**67 Extension of time to lodge reports** (Former clause 60 of 2010 Reg)

- (1) The holder of an authorisation may apply to the Secretary for an extension of the period during which an annual report or a partial relinquishment or final report must be lodged.
- (2) An application for an extension must be lodged with the Secretary not less than 15 days before the date the report is required to be lodged and must contain the following information—
  - (a) the authority number or other identifying code for the authority,
  - (b) the name of the holder of the authority,
  - (c) the period of the extension sought,
  - (d) the reason for seeking the extension.
- (3) On receipt of an application for an extension the Secretary may do either of the following—
  - (a) grant an extension of the time by which a report must be lodged,

(b) refuse the application.

- (4) The Secretary must advise the applicant of the determination in writing within 21 days of receipt of the application.
- (5) If the Secretary refuses the application, the period during which the report must be lodged is extended by 15 days.

**68 Exemption from obligation to prepare and lodge reports** (Former clause 60 of 2010 Reg)

- (1) For the purposes of section 163C (2) (b) of the Act, the Secretary may, by order published in the Gazette, exempt any person, class of persons, authorisation or class of authorisations from a requirement to prepare and lodge a report.
- (2) The holder of an authorisation may apply to the Secretary for an exemption from a requirement to prepare and lodge a report under section 163C of the Act.
- (3) An application for an exemption must be lodged with the Secretary not less than 30 days before the date the report is required to be lodged and must contain the following information—
- (a) the authority number or other identifying code for the authority,
  - (b) the name of the holder of the authority,
  - (c) the reason for seeking the exemption.
- (4) On receipt of an application for an exemption the Secretary may do either of the following—
- (a) grant an exemption,
  - (b) refuse the application.
- (5) The Secretary must advise the applicant of the determination in writing within 21 days of receipt of the application.

## **Part 6 Use of information and protected documents**

**69 Use of information** (Former clause 61 of 2010 Reg)

For the purposes of the definition of **relevant agency** in section 246T (3) of the Act, the following legislation is prescribed—

- (a) the *Crimes Act 1900*,
- (b) the *Electricity Supply Act 1995*,
- (c) the *Explosives Act 2003*,

- (d) the *Forestry Act 2012*,
- (e) the *Hunter Water Act 1991*,
- (f) the *Pipelines Act 1967*,
- (g) the *Sydney Water Act 1994*,
- (h) the *Water Act 1912*,
- (i) the *Water Management Act 2000*,
- (j) the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*.

**70 Protected documents not admissible in certain proceedings or otherwise protected** (Former clause 61AA of 2010 Reg)

- (1) For the purposes of section 246W (1) (a) of the Act, the following legislation is prescribed—
  - (a) the *Crimes Act 1900*,
  - (b) the *Electricity Supply Act 1995*,
  - (c) the *Explosives Act 2003*,
  - (d) the *Forestry Act 2012*,
  - (e) the *Hunter Water Act 1991*,
  - (f) the *Pipelines Act 1967*,
  - (g) the *Sydney Water Act 1994*,
  - (h) the work health and safety legislation.
- (2) For the purposes of section 246W (1) (b) of the Act, the following agencies, departments and authorities are prescribed authorities—
  - (a) Dams Safety NSW,
  - (b) the Department of Finance, Services and Innovation,
  - (c) the Independent Commission Against Corruption,
  - (d) a local council,
  - (e) Local Land Services,
  - (f) the Mine Subsidence Board,
  - (g) the NSW Police Force or the police force of any other State or Territory,

- (h) the Regulatory Authority (within the meaning of the *Water NSW Act 2014*),
- (i) Transport for NSW,
- (j) SafeWork NSW,
- (k) the Sydney Harbour Foreshore Authority,
- (l) (Repealed)
- (m) any other agency or authority administering any environment protection legislation, or any other relevant legislation that is New South Wales legislation.

**71 Disclosure of protected documents** (Former clause 61AB of 2010 Reg)

For the purposes of section 365 (1) (g) of the Act, the following legislation is prescribed—

- (a) the *Crimes Act 1900*,
- (a1) the *Dams Safety Act 2015*,
- (b) the *Electricity Supply Act 1995*,
- (c) the *Explosives Act 2003*,
- (d) the *Forestry Act 2012*,
- (e) the *Hunter Water Act 1991*,
- (f) the *Pipelines Act 1967*,
- (g) the *Sydney Water Act 1994*,
- (h) the *Water Act 1912*,
- (i) the *Water Management Act 2000*.

## **Part 7 Royalty**

**72 Definition**

In this Part—

**holder**, in relation to a mining lease, includes the holder of a mining sublease.

**73 Rates of royalty for minerals other than coal** (Former clause 62 of 2010 Reg)

- (1) For the purposes of section 283 (1) (a) of the Act—
  - (a) the base rate of royalty payable in respect of a mineral specified in Schedule 6 is the rate per tonne of mineral recovered that is specified in that Schedule, and

(b) the base rate of royalty payable in respect of any other mineral (other than coal) is 4% of the value of mineral recovered.

- (2) For the purposes of section 283 (4) of the Act, the quantity of minerals (other than coal) recovered during any particular period is to be calculated in accordance with the following formula—

where—

**R** represents the quantity of minerals recovered by the holder of the mining lease during that period.

**D** represents the quantity of minerals disposed of by the holder of the mining lease during that period, as determined by the Chief Commissioner having regard to any records kept by the holder of the mining lease.

**S<sub>2</sub>** represents the quantity of minerals held (in the form in which they are disposed of) by the holder of the mining lease at the end of that period, as determined by the Chief Commissioner having regard to any records kept by the holder of the mining lease.

**S<sub>1</sub>** represents the quantity of minerals held (in the form in which they are disposed of) by the holder of the mining lease at the beginning of that period, as determined by the Chief Commissioner having regard to any records kept by the holder of the mining lease.

#### **74 Rates of royalty for coal** (Former clause 63 of 2010 Reg)

- (1) For the purposes of section 283 (1) (a) of the Act, the base rate of royalty for coal is as follows—

- (a) 8.2% of the value of coal recovered by open cut mining,
- (b) 7.2% of the value of coal recovered by underground mining,
- (c) 6.2% of the value of coal recovered by deep underground mining.

- (2) For the purposes of this clause, the quantity of coal taken to have been recovered during any particular period is the quantity of coal disposed of by the holder of the mining lease during the period, as determined by the Chief Commissioner having regard to any records kept by the holder of the mining lease.

- (3) In this clause—

**deep underground mining** means mining carried out at a mine in which coal situated at a depth of 400 metres or more is extracted by means other than open cut methods.

**open cut mining** means mining carried out at a mine in which coal is extracted by

open cut methods.

***underground mining*** means mining (other than deep underground mining) carried out at a mine in which coal is extracted other than by open cut methods.

**75 Disputes** (Former clause 63A of 2010 Reg)

- (1) The Chief Commissioner is to refer a dispute about any of the following matters to the Minister and the Minister may make a determination with respect to that matter—
  - (a) the quantity of minerals disposed of or held by the holder of a mining lease,
  - (b) the quantity of coal disposed of by the holder of a mining lease,
  - (c) whether, and the extent to which, coal was recovered by open cut mining, underground mining or deep underground mining.
- (2) Any determination made by the Minister with respect to the matter is final and binding.
- (3) A certificate that is signed by the Minister and that states that, on a specified date, the Minister made a determination under this clause is admissible in evidence in any proceedings and is evidence of the fact or facts so certified.

**76 Returns** (Former clause 64 of 2010 Reg)

- (1) For the purposes of section 289 of the Act, royalty returns must include—
  - (a) in the case of a mineral specified in Schedule 6—the quantity of the mineral recovered by the holder of the mining lease during the period to which the return relates, and
  - (b) in the case of any other mineral—the value of the mineral recovered by the holder of the mining lease during the period to which the return relates, and
  - (c) in the case of any mineral—any other matters required by the Chief Commissioner to be included.
- (2) For the purposes of section 289 of the Act, royalty returns must be lodged—
  - (a) in the case of minerals other than coal—at the time at which the royalty is payable, and
  - (b) in the case of coal—monthly or in any case not later than the 21st day of the following month.
- (3) The holder of a mining lease must keep records of all minerals recovered under the lease, including—
  - (a) records of the quantity of minerals recovered during each return period, and

- (b) records of the quantity of minerals disposed of, whether by sale or otherwise, during each return period, and
- (c) records of the quantity of minerals held (in the form in which they are disposed of) by the holder of the mining lease at the beginning and at the end of each return period, and
- (d) records of the price obtained or consideration received for minerals disposed of during each return period, and
- (e) records of all royalties that became payable during each return period in connection with the disposal of minerals (including any documents relating to the calculation of that royalty), and
- (f) any other records relating to the minerals required by the Secretary to be kept.

Maximum penalty—

- (a) 100 penalty units, in the case of an offence committed by a corporation, or
  - (b) 50 penalty units, in the case of an offence committed by an individual.
- (4) The records referred to in subclause (3) must be retained by the holder of the mining lease for a period of at least 7 years after the end of the financial year in which the extraction to which the records relate occurred.

**77 Payments of royalty** (Former clause 65 of 2010 Reg)

- (1) This clause prescribes the times at which, and the periods in respect of which, a royalty is payable to the Crown under the Act, except to the extent that a determination under section 291 (1) (b) of the Act is in force.
- (2) In the case of minerals other than coal, a royalty is payable on or before 31 July in each year in respect of the period of 12 months ending on the last preceding 30 June, unless subclause (3) applies.
- (3) In the case of a person by whom, in respect of the last preceding period of 12 months that ended on 30 June, an amount of royalty greater than \$50,000 was payable in respect of minerals (other than coal), royalty on minerals (other than coal) recovered during the succeeding period of 12 months is payable—
  - (a) on or before 31 October, in respect of the period of 3 months ending on 30 September, and
  - (b) on or before 31 January, in respect of the period of 3 months ending on 31 December, and
  - (c) on or before 30 April, in respect of the period of 3 months ending on 31 March, and

(d) on or before 31 July, in respect of the period of 3 months ending on 30 June.

(4) In the case of coal, royalty payable at the base rate is payable within 21 days after the beginning of each month.

## **Part 8 Fees**

### **Division 1 General**

#### **78 Fees** (Former clause 65A of 2010 Reg)

(1) The matters for which fees are payable under the Act and this Regulation are set out in Column 1 of Schedule 9.

(2) The fee for a particular matter is the amount set out opposite the matter in Column 2 of that Schedule.

#### **79 Other fees** (Former clause 65B of 2010 Reg)

The Secretary may determine the fee payable for any service provided in connection with the administration or execution of the Act for which a fee is not prescribed by this Regulation.

#### **79A Late payment of authorisation fees—the Act, s 292R**

For the Act, section 292R(1), the late payment fee is calculated at the rate of 15% of the overdue amount per annum compounded quarterly.

#### **79B Consultation on fee and levy regulations—the Act, s 292RA**

For the Act, section 292RA(a), notice of a proposed regulation specifying or varying a method of calculation of a levy or fee must be published on the website of the Department.

### **Division 2 Annual rental fees**

#### **80 Calculation of annual rental fees** (Former clause 65C of 2010 Reg)

(1) An annual rental fee specified in Schedule 9 as per hectare, per square kilometre, per square metre or per unit is to be calculated on the basis of the annual rental fee area.

(2) The **annual rental fee area** is the number of hectares, square kilometres, square metres or units of land comprised in the annual rental fee area for the authorisation for which the annual rental fee is payable, as specified in the record kept by the Secretary under the Act.

(3) (Repealed)

(4) If the annual rental fee area includes a part of a hectare, square kilometre, square



metre or unit, that part is to be included in the calculation.

(4A) However, if the annual rental fee area includes a part of a unit outside New South Wales, the part outside New South Wales must be disregarded.

**Note—**

See also the Act, sections 4A and 172A.

(5) If there is no annual rental fee area for an authorisation for which an annual rental fee is payable, the annual rental fee is to be calculated as if the authority area, as specified in the record of the authority kept by the Secretary under the Act, were the annual rental fee area.

(6) To avoid doubt, subclause (5) continues to apply until an annual rental fee area is determined for the authorisation under this Division and specified in the record kept by the Secretary under the Act.

**81 Annual rental fee areas** (Former clause 65D of 2010 Reg)

(1) The Secretary is to determine an annual rental fee area for any authorisation that is granted or proposed to be granted on or after 1 July 2012.

(2) The Secretary may determine (and must determine, if required to do so by this Division) an annual rental fee area for an authorisation granted before 1 July 2012.

(3) The annual rental fee area is a description of the land to which the authorisation applies, or is proposed to apply, in terms that enable an annual rental fee payable under Part 14A of the Act to be calculated in respect of the authorisation.

(4) Exclusions specified, or proposed to be specified, in an authorisation are to be counted towards the annual rental fee area.

(5) The Secretary is required to record an annual rental fee area determined under this clause in the record kept by the Secretary under section 159 of the Act.

(6) The Secretary may, if the Secretary considers it is fair and reasonable to do so, revise his or her determination of the annual rental fee area for an authorisation by varying the determination or substituting a new determination.

**Note—**

For example, the Secretary might revise his or her determination of the annual rental fee area if an application for partial renewal of an authority is made and, because of section 117 of the Act, the authority continues to have effect but only in relation to a smaller area of land.

(7) If the Secretary revises his or her determination of the annual rental fee area for an authorisation, the Secretary is to update the record of the annual rental fee area kept under section 159 of the Act to reflect that revision.

(8) It is not necessary to determine an annual rental fee area in respect of an

authorisation if the authorisation is exempt from the requirement to pay an annual rental fee.

**82 Minimum annual rental fees** (Former clause 65E of 2010 Reg)

If the annual rental fee payable in respect of an authorisation under Part 14A of the Act would, but for this clause, be less than \$100, the annual rental fee is taken to be \$100.

**83 References to initial term (Schedule 9)** (Former clause 65F of 2010 Reg)

- (1) In Schedule 9, a reference to the **initial term** of an authorisation is a reference to the initial term for which the authorisation is granted.
- (2) The initial term of an authorisation does not include any period starting when the authorisation, as granted, would have expired, but for section 117 of the Act, and during which the authorisation continues to have effect under that section.
- (3) A term of an authorisation is **after** another term, for the purposes of Schedule 9, if it starts when, or at any time after, the other term ends.

**84 Phasing-in of annual rental fees for authorisations granted before 1 July 2012** (Former clause 65G of 2010 Reg)

- (1) In relation to an authorisation in force on 1 July 2012 that was renewed or due for renewal before 1 July 2012, the current term of the authorisation is taken to be the initial term of the authorisation for the purposes of Schedule 9.
- (2) The **current term** of the authorisation is the term starting on the date when the authorisation was last renewed or, if the authorisation has not been renewed by 1 July 2012 but continues in effect under section 117 of the Act, the date that it was last due for renewal.
- (3) The current term of the authorisation ends when the authorisation is next due for renewal (on or after 1 July 2012) or when the authorisation ceases to have effect (whichever happens sooner).
- (4) An authorisation is **due for renewal** when the term for which it is granted or renewed is due to expire (that is, disregarding any period for which the authorisation is taken to continue to have effect under section 117 of the Act).

**85 Subsequent annual rental fees payable during period in which authorisations are automatically extended—the Act, ss 292F, 292O and 382A**

- (1) This clause applies to an annual rental fee if—
  - (a) the annual rental fee is required to be paid during a period in which the authorisation to which it relates continues to have effect because of the Act, section 117, and

(b) the decision-maker finally disposes of the application for renewal of the authorisation by rejecting or refusing it.

- (2) The Secretary must reassess the annual rental fee by applying the relevant proportion to the amount of the annual rental fee that, but for this clause, would be payable.
- (3) If necessary, the Secretary must provide a refund in accordance with the reassessment, unless the refund would be \$100 or less.
- (4) In this clause—

**relevant proportion** means the proportion of the number of days in the period from, and including, the most recent grant anniversary date until, but not including, the date the application is rejected or refused, to 366 days.

#### **85A Payment date for subsequent annual rental fees—the Act, s 292E**

For the Act, section 292E(3)(b), the date is 60 days after the grant anniversary date that begins that year of the authorisation.

### **Division 3 Administrative levies**

#### **86 Amount of annual administrative levy—the Act, s 292K**

- (1) For the Act, section 292K, the amount of an annual administrative levy is the amount calculated in accordance with this clause.
- (2) The amount of the annual administrative levy for an authorisation is—
  - (a) 1% of the security deposit amount for the authorisation, or
  - (b) if a single security deposit is required to be provided and maintained for more than one authorisation—the amount calculated in accordance with subclause (3), or
  - (c) if the amount of the annual administrative levy as calculated under paragraph (a) or (b) is less than \$100—\$100.
- (3) If a single security deposit is required to be provided and maintained for more than one authorisation, the amount of the annual administrative levy is the greater of the following at the relevant time—
  - (a) 1% of the relevant proportion of the security deposit amount,
  - (b) 1% of the minimum deposit for the authorisation.
- (4) The **security deposit amount** is the amount of the security deposit required to be provided and maintained under a security deposit condition that applies to the authorisation at the relevant time.

- (5) A security deposit is taken to be required to be provided and maintained under a security deposit condition even if the condition requires the security deposit to be provided at a future date or within a period ending on a future date.
- (6) If no security deposit is required to be provided and maintained in relation to an authorisation at the relevant time, and there is a minimum deposit for the authorisation at that time, the security deposit amount is taken to be the minimum deposit.
- (7) For an initial annual administrative levy, the decision-maker must give the applicant for the grant of the authorisation written notice of any security deposit condition that will be imposed on the grant of the authorisation.

- (8) In this clause—

**initial annual administrative levy** means an annual administrative levy that must be paid under the Act, 292I(3) before the grant of an authorisation.

**minimum deposit** has the same meaning as in the Act, Part 12A.

**relevant proportion** means the proportion of 1 to the number of authorisations for which the security deposit is required to be provided and maintained, not including authorisations that have been cancelled or have otherwise ceased to have effect before the relevant time.

**relevant time** means—

- (a) for an initial annual administrative levy—on the grant of the authorisation, and
- (b) for a subsequent annual administrative levy—the grant anniversary date that begins that year of the authorisation.

**86A Subsequent annual administrative levies payable during period in which authorisations are automatically extended—the Act, ss 292K, 292O and 382A**

- (1) This clause applies to an annual administrative levy if—
  - (a) the annual administrative levy is required to be paid during a period in which the authorisation to which it relates continues to have effect because of the Act, section 117, and
  - (b) the decision-maker finally disposes of the application for renewal of the authorisation by rejecting it or refusing it.
- (2) The Secretary must reassess the annual administrative levy by applying the relevant proportion to the amount of the annual administrative levy that, but for this clause, would be payable.
- (3) If necessary, the Secretary must provide a refund in accordance with the

reassessment, unless the refund would be \$100 or less.

(4) In this clause—

**relevant proportion** means the proportion of the number of days in the period from, and including, the most recent grant anniversary date until, but not including, the date the application is rejected or refused, to 366 days.

#### **86B Payment date for subsequent annual administrative levies—the Act, s 292I**

For the Act, section 292I(4)(b), the date is 60 days after the grant anniversary date that begins that year of the authorisation.

#### **86C Amount of term administrative levy—the Act, s 292M**

- (1) For the Act, section 292M, the amount of a term administrative levy is the amount calculated in accordance with this clause.
- (2) The amount of the term administrative levy for an authorisation is the relevant annual administrative levy multiplied by the term of the authorisation.
- (3) The **relevant annual administrative levy** is the amount of the annual administrative levy that would be payable under clause 86 if the authorisation was not a small-scale title.
- (4) The **term of the authorisation** is the number of years for which the authorisation is—
  - (a) granted, or
  - (b) for liability for an administrative levy arising on the renewal of a mineral claim—renewed.
- (5) A period of less than a year for which an authorisation is granted or renewed must be counted as a year.
- (6) The period for which a mineral claim is renewed must include any period during which, before its renewal, the mineral claim continues to have effect because of the Act, section 197(3).

## **Part 9 Boards of management**

#### **87 Boards to be constituted by Ministerial order** (Former clause 68 of 2010 Reg)

- (1) A board is constituted by means of an order published in the Gazette by the Minister.
- (2) An order must—
  - (a) specify the board's name, and

- (b) describe the board's area of operations, and
  - (c) specify the number of board members, and
  - (d) specify the persons who are to be board members by virtue of their office, and
  - (e) specify the persons or bodies who are to be authorised to nominate persons for appointment as board members, and the number of persons they are authorised to nominate, and
  - (f) specify which of the board members is to be the Chairperson of the board.
- (3) The board members (other than those who are members by virtue of their office) are to be appointed by the Minister.
  - (4) The secretary of a board is to be an employee of the Department appointed by the Secretary.
  - (5) An order under this clause commences on the day it is published in the Gazette or, if a later day for commencement is specified in the order, on the later day.
  - (6) Schedule 7 contains provisions with respect to the membership and procedure of boards.

**88 Nominations for membership of board** (Former clause 69 of 2010 Reg)

- (1) The secretary of a board must cause a written notice to be sent to each person or body who is authorised to nominate a person for appointment as an appointed member of the board.
- (2) Notices under this clause must be sent as follows—
  - (a) within one month after the publication in the Gazette of the order by which the board is constituted,
  - (b) at least one month before the end of a current appointed member's term of office,
  - (c) within one month after a casual vacancy arises in a current appointed member's office.
- (3) Despite subclause (1), a notice required to be given at the time specified in subclause (2) (b) or (c) need be given only to the persons or bodies authorised to nominate a person for appointment in respect of the following board members—
  - (a) the board member whose term of office is coming to an end (in the case of a notice required to be given at the time specified in subclause (2) (b)),
  - (b) the board member in respect of whom a casual vacancy has arisen (in the case of a notice required to be given at the time specified in subclause (2) (c)).

- (4) A notice under this clause must invite the persons or bodies concerned to send nominations to the secretary within the time specified in the notice (being at least 14 days from the date of service of the notice).
- (5) If a person or body fails to nominate a person as a board member within the specified time, the Minister may appoint, as that member, any person who in the Minister's opinion represents the interests of the person or body.

**89 Annual reports to Minister** (Former clause 70 of 2010 Reg)

- (1) On or before 31 July each year, a board is to prepare and present to the Minister an annual report for the period of 12 months ending on the preceding 30 June.
- (2) The report must set out the board's membership, a summary of its activities and achievements during the year and its plans for the following year.

## **Part 9A Royalties for Rejuvenation Fund**

### **89A Affected coal mining region—the Act, s 292W**

For the Act, section 292W(10), definition of ***affected coal mining region***, the following areas of the State are prescribed—

- (a) the Hunter, comprising the following local government areas—
  - (i) City of Cessnock,
  - (ii) City of Lake Macquarie,
  - (iii) City of Maitland,
  - (iv) Muswellbrook,
  - (v) City of Newcastle,
  - (vi) Singleton,
  - (vii) Upper Hunter Shire,
- (b) the Illawarra, comprising the local government areas of Wollondilly and the City of Wollongong,
- (c) the North West, comprising the following local government areas—
  - (i) Gunnedah,
  - (ii) Liverpool Plains,
  - (iii) Narrabri,
- (d) the Central West, comprising the local government areas of the City of Lithgow and

Mid-Western Regional.

**89B Functions of Expert Panels—the Act, s 292X**

For the Act, section 292X(4)(b), an Expert Panel has the function of advising the Minister about the following matters—

- (a) the consequences and opportunities associated with moving away from coal mining, particularly in relation to the impact on employment and economic activity in the affected coal mining region,
- (b) alternative land uses of coal mining sites,
- (c) options to support the economic diversification of the affected coal mining region in alternative industries.

**89C Operation of Expert Panels—the Act, s 292X**

- (1) For the Act, section 292X(6)(b), an Expert Panel may undertake public consultation, in the way determined by the Panel, for the purposes of advising the Minister about the matters specified in clause 89B.
- (2) If an Expert Panel undertakes public consultation, the Panel—
  - (a) must not, in consulting the public, release information to the public if the Panel considers the information is commercial in confidence, and
  - (b) must consider information received in response to the public consultation before advising the Minister.

**89D Provisions in relation to constitution and procedure of Expert Panels—the Act, s 292X**

For the Act, section 292X(6), Schedule 7A contains provisions in relation to the constitution and procedure of an Expert Panel.

**Part 9B Declarations about persons not fit and proper**

**Division 1 General**

**89E Considerations for decisions and declarations—the Act, s 393**

- (1) For the Act, section 393(3), a decision-maker may, without limitation, take into consideration, for the purposes of deciding whether a person is a fit and proper person or whether to make a declaration under the Act, section 393, one or more of the matters specified in—
  - (a) subclause (2), and
  - (b) if the person is—



- (i) an individual—subclause (3), or
  - (ii) a body corporate—subclause (4).
- (2) For subclause (1)(a), the matters relating to a person, whether or not the person is an individual or a body corporate, include the following—
  - (a) whether the person has compliance or criminal conduct issues,
  - (b) the person’s record of compliance with relevant legislation, established to the satisfaction of the decision-maker,
  - (c) whether, in the opinion of the decision-maker, the management of the activities or works that are or are to be authorised, required or regulated under the authorisation are not or will not be in the hands of a technically competent person,
  - (d) whether, in the opinion of the decision-maker, the person is not of good repute,
  - (e) whether, in the opinion of the decision-maker, the person is not of good character, with particular regard to honesty and integrity,
  - (f) whether the person has demonstrated to the decision-maker the financial capacity to comply with the person’s obligations under the authorisation,
  - (g) whether the person is in partnership, in connection with activities that are subject to an authorisation or a proposed authorisation, with a person who is a declared person under the Act, Part 18, Division 2,
  - (h) whether the person has an arrangement, formal or informal, in connection with activities that are subject to an authorisation or a proposed authorisation with a person who is a declared person under the Act, Part 18, Division 2, if the decision-maker is satisfied that the arrangement gives the declared person the capacity to determine the outcome of decisions about financial and operating policies concerning those activities.
- (3) For subclause (1)(b)(i), additional matters relating to a person who is an individual include the following—
  - (a) whether the person, during the previous 3 years, was an undischarged bankrupt or applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his or her creditors or made an assignment of his or her remuneration for their benefit,
  - (b) whether the person is or was a director of a body corporate—
    - (i) that is the subject of a winding up order, or
    - (ii) for which a controller or administrator has been appointed during the previous 3 years.

- (4) For subclause (1)(b)(ii), additional matters relating to a person who is a body corporate include the following—
- (a) whether a related body corporate, or a director of the body corporate or of a related body corporate, has compliance or criminal conduct issues,
  - (b) whether a director of the body corporate or of a related body corporate is or has been a director of another body corporate that has compliance or criminal conduct issues, but only if the person was a director of that other body corporate at the time of the conduct that resulted in the compliance or criminal conduct issues,
  - (c) the record of compliance with relevant legislation, established to the satisfaction of the decision-maker, of any director of the body corporate or a related body corporate,
  - (d) whether, in the opinion of the decision-maker, a director of the body corporate or a related body corporate is not of good repute,
  - (e) whether, in the opinion of the decision-maker, a director of the body corporate or a related body corporate is not of good character, with particular regard to honesty and integrity,
  - (f) whether the body corporate or a related body corporate—
    - (i) is the subject of a winding up order, or
    - (ii) has had a controller or administrator appointed during the previous 3 years.
- (5) A person has **compliance or criminal conduct issues** if—
- (a) the decision-maker is satisfied that the person has contravened relevant legislation, whether or not the person has been prosecuted for or convicted of an offence arising from the contravention, or
  - (b) in the previous 10 years, the person has been convicted in New South Wales or elsewhere of a serious offence or an offence involving fraud or dishonesty, or
  - (c) the person has held an authorisation, or another instrument issued or granted under relevant legislation, that has been suspended, cancelled or revoked.
- (6) In this clause—
- authorisation** has the same meaning as in the Act, Part 18, Division 2.
- relevant legislation** means the following legislation—
- (a) the Act,
  - (b) the *Petroleum (Onshore) Act 1991*,

- (c) the environment protection legislation,
- (d) the *Environmental Planning and Assessment Act 1979*,
- (e) the work health and safety legislation,
- (f) the *Coal Mine Subsidence Compensation Act 2017*.

**serious offence** means—

- (a) an offence committed in New South Wales that is punishable by a specified punishment, or
- (b) an offence committed elsewhere than in New South Wales that if committed in New South Wales would be punishable by a specified punishment, or
- (c) an offence committed under a law of the Commonwealth that is punishable by a specified punishment.

**specified punishment** means—

- (a) imprisonment for life, or
- (b) imprisonment for a term of 5 years or more, or
- (c) a fine of \$500,000 or more.

#### **89F Further actions that may be ordered—the Act, s 394**

For the Act, section 394(2)(e), a decision-maker may, for a specified period or an indefinite period, disqualify or prohibit a declared person from being involved in a financial or operating decision about activities under an authorisation or activity approval, whether or not the authorisation or activity approval is in force at the time the order is given.

### **Division 2 Joint authorisations and applications—the Act, s 396**

#### **89G Purpose of Division**

The purpose of this Division is to make provision, for the Act, section 396(4), for the application of the Act, Part 18, Division 2 to authorisations jointly held by, and applications jointly made by, more than 1 person.

#### **89H Application of Act, Pt 18, Div 2 to joint authorisations and applications**

- (1) The Act, Part 18, Division 2—
  - (a) extends to authorisations jointly held by, and applications jointly made by, more than 1 person, and
  - (b) without limiting paragraph (a), extends to authorisations jointly held by, and

applications jointly made by, a declared person.

- (2) The other provisions of this Division do not limit the application of the Act, Part 18, Division 2 to authorisations jointly held by, and applications jointly made by, more than 1 person.

### **89I Authorisations held jointly by declared person**

- (1) A decision-maker may, by order under the Act, section 394(2)(d), direct a declared person to apply for—
  - (a) approval, under the Act, Part 7, Division 2, of the transfer of an authority jointly held by the declared person to another person, or
  - (b) the transfer, under the Act, Part 9, Division 6, of a mineral claim jointly held by the declared person to another person.
- (2) The decision-maker may make other orders under the Act, section 394(2) until the transfer is approved or made.
- (3) The decision-maker may make a specified decision in relation to the authorisation if the application is not made, or is refused or not granted, within—
  - (a) 3 months, or
  - (b) a longer period specified by the decision-maker.

### **89J Joint authorisation, renewal and transfer applications**

- (1) A decision-maker may, by order under the Act, section 394(2)(d), direct a person, whether or not a declared person, to amend an application for, or for renewal or transfer of, an authorisation jointly made by more than 1 person to remove a declared person as—
  - (a) an applicant, or
  - (b) a transferee.
- (2) The decision-maker may make other orders under the Act, section 394(2) until the amendment is made.
- (3) The decision-maker may make a specified decision in relation to the authorisation if the amendment is not made within—
  - (a) 3 months, or
  - (b) a longer period specified by the decision-maker.

## Part 10 Miscellaneous

### 89K Publication of notices—the Act, ss 13A, 14, 33A, 51A, 52 and 272 and Sch 1, cl 24

- (1) This clause specifies, for the following the provisions, the way in which notice of the following must be published—
  - (a) the Act, section 13A(1)—application for an exploration licence,
  - (b) the Act, section 14(2)—invitation for tenders for an exploration licence,
  - (c) the Act, section 33A(1)—application for an assessment lease,
  - (d) the Act, section 51A(1)—application for a mining lease,
  - (e) the Act, section 52(2)—invitation for tenders for a mining lease,
  - (f) the Act, section 272(1)(b)(i)—assessment of compensation,
  - (g) the Act, Schedule 1, clause 24(1)—proposal to invite tenders for a mining lease.
- (2) The notice must be published—
  - (a) in at least 1 newspaper circulating generally in the State, and
  - (b) as follows—
    - (i) in both the print and online editions of at least 1 newspaper circulating in the local area,
    - (ii) if publication under subparagraph (i) is not possible—in the print or online edition of at least 1 newspaper circulating in the local area,
    - (iii) if publication under subparagraphs (i) and (ii) is not possible—on a website, or another online platform, that is likely to bring the notice to the attention of persons in the local area.

**Example—**

The website of the local council.

### 89L Notice of access management plans—the Act, s 236J

For the Act, section 236J(1), notice of the registration of an access management plan must be published as follows—

- (a) in both the print and online editions of at least 1 newspaper circulating in the local area,
- (b) if publication under paragraph (a) is not possible—in the print or online edition of at least 1 newspaper circulating in the local area,

- (c) if publication under paragraphs (a) and (b) is not possible—on a website, or another online platform, that is likely to bring the notice to the attention of persons in the local area.

**Example—**

The website of the local council.

**89M Devolution of rights—the Act, ss 162 and 202**

- (1) This clause prescribes, for the following the provisions, the way in which an application for the following must be made—
  - (a) the Act, section 162(2)—the recording of a person’s name as the holder of an authority,
  - (b) the Act, section 202(2)—the recording of a person’s name as the holder of a mineral claim.
- (2) The application must be made in writing.

**90 Permits to enter land** (Former clause 73 of 2010 Reg)

- (1) A permit under section 254 of the Act must not be granted to an applicant unless the Secretary is satisfied as to the applicant’s identity, having inspected a document (such as a driver licence) that bears both the applicant’s photograph and the applicant’s residential address.
- (2) The holder of a permit under section 254 of the Act, and any employee or agent of the holder, may enter the land to which the permit relates only between the hours of 9 am and 5 pm from Monday to Friday (excluding public holidays), unless the permit otherwise specifies.
- (3) The holder of a permit must comply with all reasonable requests made by the holder of the land to which the permit relates in relation to the manner and time of entry, provided the requests do not prevent the holder of the permit from carrying out the activities authorised by the permit.
- (4) For the purposes of section 260 of the Act, a permit is to be in the form set out in Schedule 8.

**90A Objection as to agricultural land—the Act, Sch 2, cl 2A**

For the Act, Schedule 2, clause 2A(1)(b), an objection must be made—

- (a) in writing addressed to the Secretary, and
- (b) by sending it—
  - (i) by post to the address specified by the Secretary as an address to which an objection may be sent, or

- (ii) by electronic transmission to an address or location specified by the Secretary as an address or location to which an objection may be sent.

**91 Compensation** (Former clause 74 of 2010 Reg)

- (1) For the purposes of section 265 (3) of the Act, the prescribed period is the period of 28 days beginning on the date on which the mining lease takes effect.
- (2) For the purposes of section 272 (1) (a) of the Act, the prescribed manner of assessing compensation is by making an assessment that has regard to the following factors—
  - (a) the nature, quality, area and particular characteristics of the land concerned,
  - (b) the proximity of the land to any building, structure, road, track or other facility,
  - (c) the purpose for which the land is normally used,
  - (d) the use of the land that is approved under any development consent that is in force in respect of the land.

**92 Compensation arising under small-scale titles** (Former clause 74A of 2010 Reg)

- (1) The Secretary is nominated as the collection agency for the purposes of section 266 of the Act.
- (2) All the functions of the collection agency may be delegated by the collection agency to Service NSW as customer service functions.
- (3) Standard compensation is to be paid to the collection agency in cash or in any other manner that is approved by the collection agency.
- (4) The collection agency must pay standard compensation collected on behalf of a landholder to the landholder as reasonably directed by the landholder.
- (5) The notice under section 266 (4) (b) of the Act must be sent by mail to the landholder.
- (6) The Secretary may rely on such evidence as the Secretary sees fit to be satisfied of a matter under section 266 (4) of the Act. However, the following evidence is taken to be sufficient for the purposes of that subsection—
  - (a) for evidence that an applicant for a small-scale title and a landholder have entered into a compensation agreement—a document signed by the landholder that identifies the small-scale title and makes it clear that an agreement has been entered into which excludes the need to pay standard compensation,
  - (b) for evidence that a notice has been sent in the mail to a landholder—a delivery receipt (such as a registered post receipt or a receipt from a courier) showing delivery to the landholder or to the postal address of the landholder.

**92A Assessed deposit for group security deposit—the Act, s 261BC**

For the Act, section 261BC(7)(a), the assessed deposit for a group security deposit must not be less than 50% of the sum of the minimum deposits for the authorisations to which the group security deposit relates as at the date of the assessment of the assessed deposit.

**92B Application for review of assessed deposit—the Act, s 261BD**

For the Act, section 261BD(2)(a), an application for a review by the Minister of the Secretary's assessment of the amount of a security deposit must—

- (a) be made in writing, and
- (b) contain particulars of the grounds for review of the assessment, including addressing the reasons given by the Secretary in the notice of assessment required under the Act, section 261BC(8), and
- (c) contain a rehabilitation cost estimate for the authorisation to which the deposit relates.

**93 Minimum deposit—security deposit conditions (Former clause 75 of 2010 Reg)**

For the purposes of section 261BF of the Act, the minimum deposit for an authorisation is—

- (a) \$200 for a small-scale title, and
- (b) \$1,000 for an environmental assessment permit, and
- (c) \$10,000 for any other authorisation.

**93A Content of security deposit conditions—the Act, s 261C**

For the Act, section 261C(1), a security deposit condition may include requirements relating to the following—

- (a) the form of the deposit,
- (b) the date by which the deposit must be provided,
- (c) the way in which the deposit must be provided and maintained,
- (d) the provision of information or other material to the Secretary or the Minister that demonstrates the condition is being complied with,
- (e) the provision of progress reports on work, and associated costs and expenses, for which the deposit is intended to provide security,
- (f) the independent auditing of the work, costs and expenses,



- (g) the extension, to the authorisation to which the condition relates, of an existing deposit that has been provided and maintained in relation to another authorisation.

**94 Applications** (Former clause 76 of 2010 Reg)

- (1) Applications made under the Act in relation to authorities may be lodged either in person, by facsimile, by post or electronically.
- (2) An application that is required to be lodged with the Secretary may be lodged instead with any other person to whom the Secretary delegates the function of receiving applications under the Act.
- (3) An application that is lodged in person with the Secretary or any other person nominated under this clause may be lodged on any day (other than a Saturday, Sunday or public holiday) between the hours of 9.30 am and 4.30 pm.
- (4) If an application is lodged in person, the application is presumed to have been lodged on the date and at the time on which it is received.
- (5) If an application is lodged by post, the application is presumed to have been lodged at 9.30 am on the day on which it is received.
- (6) Despite any other provision of this clause, if an application is required to be accompanied by a fee, the application is taken to have been lodged on the date determined in accordance with this clause only if the fee is paid to and received by the Department.
- (7) If an application is lodged by facsimile and the receiving facsimile machine records its receipt at a particular date and time, the application is presumed to have been lodged on the date and at the time shown on the last page of the application that is received by the facsimile.
- (8) If an application is lodged electronically, the application is presumed to have been lodged on the date and at the time determined by the relevant information system in accordance with the *Electronic Transactions Act 2000*.
- (9) In this clause, **information system** has the same meaning as in the *Electronic Transactions Act 2000*.
- (10) To avoid doubt, this clause does not limit or otherwise affect the *Electronic Transactions Act 2000*.

**94AA Period to lodge information to complete application—the Act, s 381B**

- (1) The purpose of this clause is to prescribe, for the Act, section 381B(1)(b), the period—
  - (a) within which an applicant must lodge information required to accompany an application under the Act, and

- (b) after which a decision-maker may reject the application on the ground that the applicant has not lodged the information.
- (2) A decision-maker may reject an application for an exploration licence lodged on behalf of an applicant by an agent on the ground that the information required by clause 14(1)(h) has not been lodged within 1 business day of making the application.
- (3) A decision-maker may reject an application for an opal prospecting licence on the ground that the applicant has not, within 7 days of making the application, lodged the information required by clause 50(f).
- (4) A decision-maker may reject an application for the following on the ground that the applicant has not, within 10 business days of making the application, lodged the information required by the following provisions to accompany the application—
  - (a) exploration licence—clauses 14(1)(a), (f) and (g) and 35,
  - (b) renewal of an exploration licence—
    - (i) clauses 18(1)(d1) and (f) and 35, and
    - (ii) for a partial renewal—the Act, section 113(5) and clause 18(2),
  - (c) assessment lease—clause 21(1)(a) and (f),
  - (d) renewal of an assessment lease—
    - (i) clause 23(1)(d1), and
    - (ii) for a partial renewal—the Act, section 113(5) and clause 23(2),
  - (e) mining lease—clause 25(1)(a) and (f),
  - (f) renewal of a mining lease—
    - (i) clause 28(1)(c1), and
    - (ii) for a partial renewal—the Act, section 113(5) and clause 28(2),
  - (g) approval of transfer of an authority—
    - (i) clause 33(1)(d), and
    - (ii) for transfer of an exploration licence or an assessment lease—clause 33(1)(g), and
    - (iii) for a partial transfer—clause 33(1)(j),
  - (h) review by the Minister of the Secretary's assessment of the amount of a security deposit—clause 92B(b) and (c).

**94A Consequences of withdrawal of invitations for competitive selection applications—Act, Schedule 1A, clause 2(4)**

- (1) This section applies if a decision-maker withdraws an invitation for competitive selection applications under the Act, Schedule 1A, clause 2.
- (2) An application made in accordance with the invitation before the withdrawal of the invitation is taken not to have been made.

**94B Participation charge for competitive selection applications—the Act, Sch 1A, cl 3A**

For the Act, Schedule 1A, clause 3A(1), the participation charge is \$50,000.

**95 (Repealed)**

**96 Mining statistics and returns** (Former clause 78 of 2010 Reg)

- (1) The Secretary may direct the holder of an authorisation—
  - (a) to keep any statistics in relation to the conduct of prospecting operations and mining operations, and to the treatment and disposal of minerals recovered, under the authorisation, and
  - (b) to furnish to the Secretary any returns in connection with those statistics.
- (2) Any statistics required to be kept under this clause are to be kept in the form that the Secretary may determine from time to time.
- (3) Any returns required to be furnished are to be furnished at any time and in respect of any periods that the Secretary may determine.
- (4) The holder of an authorisation must not fail to comply with a direction under this clause or, in purported compliance with a direction under this clause, furnish false or misleading information.

Maximum penalty—

- (a) 100 penalty units, in the case of an offence committed by a corporation, or
- (b) 50 penalty units, in the case of an offence committed by an individual.

**97 Notification of agents** (Former clause 78A of 2010 Reg)

For the purposes of section 163F of the Act, a person who has appointed an agent for the purposes of that section must provide written notice of the appointment to the Secretary.

**98 Mine safety legislation** (Former clause 79 of 2010 Reg)

For the purposes of the definition of **mine safety legislation** in section 378E (4) of the Act, the [Explosives Act 2003](#) is prescribed.

**99 Penalty notice offences and penalties** (Former clause 80 of 2010 Reg)

- (1) For the purposes of section 378K of the Act—
  - (a) each offence created by a provision specified in Column 1 of Schedule 10 is an offence for which a penalty notice may be served, and
  - (b) the penalty prescribed for each such offence is—
    - (i) in the case of an offence committed by an individual—the amount specified opposite the provision in Column 2 of the Schedule, or
    - (ii) in the case of an offence committed by a corporation—the amount specified opposite the provision in Column 3 of the Schedule.
- (2) If the reference to a provision in Column 1 of Schedule 10 is qualified by words that restrict its operation to specified kinds of offences, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.
- (3) The following persons are declared to be **penalty notice officers** for the purposes of section 378K (9) of the Act—
  - (a) the Secretary,
  - (b) an inspector.

**99A Service of documents on deregistered companies—the Act, s 383**

- (1) For the Act, section 383(1)(g), a notice or other document may be served on a company that has been deregistered by serving the document on the Australian Securities and Investments Commission by a method of service permitted by the Act, section 383(1)(b)-(f).

**Note—**

The *Corporations Act 2001* of the Commonwealth, section 601AD(2) provides generally that, when a company is deregistered, company property vests in ASIC.

- (2) In this clause—

**company** and **deregistered** have the same meaning as in the *Corporations Act 2001* of the Commonwealth.

**100 Service of documents on the Crown** (Former clause 81 of 2010 Reg)

For the purposes of section 383 (6) of the Act, the prescribed manner of service is by sending the document to the head office or regional office of the Government Department or public authority responsible for administration of the land.

**101 References to Departmental employees in authorisations** (Former clause 82 of 2010 Reg)

Pursuant to section 390 of the Act, a reference in an authorisation to an employee of the Department (other than the Secretary) is, for the purpose of exercising a specified function, taken to be a reference to the Minister, unless the function relates to a requirement for the holder of the authorisation to give notice of a certain matter to the employee.

**101A “Immediate vicinity” and “vicinity” of mining lease or mineral claim—the Act, Sch 6, cl 193**

- (1) For the Act, Schedule 6, clause 193(1), the prescribed period is 2 years.
- (2) For the Act, Schedule 6, clause 193(3), a reference to the immediate vicinity of a mining lease in an application for a mining lease made, but not finally determined, before the commencement of this clause is taken to be a reference to the vicinity of a mining lease.

**102 Repeal of Mining Regulation 2010**

The *Mining Regulation 2010* is repealed.

**Schedule 1 Minerals**

(Clause 5)

agate  
antimony  
apatite  
argon  
arsenic  
asbestos  
barite  
bauxite  
bentonite (including fuller’s earth)  
beryllium minerals  
bismuth  
borates  
cadmium  
caesium  
calcite  
chalcedony  
chert  
chlorite  
chromite  
clay/shale  
coal  
cobalt  
copper  
corundum

cryolite  
diamond  
diatomite  
dimension stone  
dolomite  
emerald  
emery  
feldspathic materials  
fluorite  
galena  
garnet  
geothermal energy  
germanium  
gold  
graphite  
gypsum  
halite (including solar salt)  
helium, other than excluded helium  
hydrogen  
ilmenite  
indium  
iron minerals  
jade  
kaolin  
krypton  
lead  
leucoxene  
limestone  
lithium  
magnesite  
magnesium salts  
manganese  
marble  
marine aggregate  
mercury  
mica  
mineral pigments  
molybdenite  
monazite  
neon  
nephrite  
nickel  
niobium  
oil shale  
olivine  
opal  
ores of silicon  
peat

perlite  
phosphates  
platinum  
platinum group minerals  
potassium minerals  
potassium salts  
pyrophyllite  
quartz crystal  
quartzite  
radon  
rare earth minerals  
reef quartz  
rhodonite  
rubidium  
ruby  
rutile  
sapphire  
scandium and its ores  
selenium  
serpentine  
sillimanite-group minerals  
silver  
sodium salts  
staurolite  
strontium minerals  
structural clay  
sulphur  
talc  
tantalum  
thorium  
tin  
topaz  
tourmaline  
tungsten and its ores  
turquoise  
uranium  
vanadium  
vermiculite  
wollastonite  
xenon  
zeolites  
zinc  
zircon  
zirconia

## **Schedule 2 Groups of minerals**

(Clause 6)

### **Group 1 (Metallic minerals)**

antimony  
arsenic  
bismuth  
cadmium  
caesium  
chromite  
cobalt  
copper  
galena  
germanium  
gold  
indium  
iron minerals  
lead  
lithium  
manganese  
mercury  
molybdenite  
nickel  
niobium  
platinum  
platinum group minerals  
rare earth minerals  
rubidium  
scandium and its ores  
selenium  
silver  
sulphur  
tantalum  
tin  
tungsten and its ores  
vanadium  
zinc  
zirconia

### **Group 2 (Non-metallic minerals)**

apatite  
asbestos  
barite  
bauxite  
beryllium minerals  
borates



calcite  
chert  
chlorite  
cryolite  
diatomite  
dimension stone  
dolomite  
emerald  
emery  
feldspathic materials  
fluorite  
garnet  
graphite  
gypsum  
halite (including solar salt)  
limestone  
magnesite  
magnesium salts  
marble  
mica  
mineral pigments  
olivine  
ores of silicon  
peat  
perlite  
phosphates  
potassium minerals  
potassium salts  
pyrophyllite  
quartzite  
reef quartz  
serpentine  
sillimanite-group minerals  
sodium salts  
staurolite  
strontium minerals  
talc  
topaz  
vermiculite  
wollastonite  
zeolites

**Group 3 (Semi-precious stones)**

agate  
chalcedony  
jade  
nephrite

quartz crystal  
rhodonite  
tourmaline  
turquoise

**Group 4 (Marine aggregate)**

marine aggregate

**Group 5 (Clay minerals)**

bentonite (including fuller's earth)  
clay/shale  
kaolin  
structural clay

**Group 6 (Corundum diamond, ruby and sapphire)**

corundum  
diamond  
ruby  
sapphire

**Group 7 (Opal)**

opal

**Group 8 (Geothermal energy)**

geothermal energy

**Group 9 (Coal)**

coal

**Group 9A (Oil shale)**

oil shale

**Group 10 (Mineral sands)**

ilmenite  
leucoxene  
monazite  
rutile  
zircon

**Group 11 (Uranium)**

thorium  
uranium

**Group 12 (Hydrogen and nonmetals)**

argon  
helium, other than excluded helium  
hydrogen  
krypton  
neon  
radon  
xenon

### **Schedule 3 Activities declared not to be prospecting or mining**

clause 13(2)

#### **1 Activities carried out on certain land at Badgerys Creek by Veolia Recycling & Recovery Pty Ltd**

An activity carried out—

- (a) by Veolia Recycling & Recovery Pty Ltd, ACN 002 902 650, and
- (b) on land within Reserve No 3228, constituted under the Act, section 367 by an order published in Gazette No 141 of 17 November 1995 at page 7866, being land situated at Badgerys Creek with an area of approximately 56.7 hectares, and
- (c) for or in connection with the use of the land for waste disposal, including the extraction of material for the purpose of recovering minerals from the material.

#### **2 Activities carried out to recover halite and magnesium, potassium and sodium salts from evaporation basins**

- (1) An activity carried out for the purpose of recovering the following from evaporation basins, but only if the person who carries out the activity has first given notice of the person's intention to carry out the activity to the Secretary—
  - (a) halite, including solar salts,
  - (b) magnesium salts,
  - (c) potassium salts,
  - (d) sodium salts.

(2) In this clause—

**evaporation basins** means depressions or structures into which saline groundwater or surface water is pumped or drained for disposal by evaporation, in association with the mitigation or prevention of salinisation of land or water resources.

#### **3 Activities carried out on certain land by Hunter Enviro-Mining (Operations) Pty Limited for rehabilitation of coal reject emplacement sites**

An activity carried out—

- (a) by Hunter Enviro-Mining (Operations) Pty Limited, ACN 096 170 633, and
- (b) on land described in the tables to this clause, as identified on the maps named “Hunter-Enviro Mining” held by the Department, and
- (c) for or in connection with the use of the land for the environmental rehabilitation of coal reject emplacement sites, including the extraction of material for the purpose of recovering minerals from the material.

### Abandoned pit top areas

Name of site	Property description	Coordinates of approximate centre of site
Aberdare South Pit Top	State Forest situated to the south of Howells Road and to the east of Ferguson Road Abernathy and Part Lot 542, DP 39553, Parish of Cessnock, County of Northumberland.	337480 E 1359810 N (ISG Zone 56/1), 350496 E 6360174 N (MGA2020 Zone 56)
Abermain No 1 Colliery Shaft 3	An irregularly shaped parcel (located on 2 parcels of Crown land) situated between the Villages of Neath and Kearsley, the South Maitland Railway and Neath Road, within the Parish of Stanford, County of Northumberland.	338630 E 1365840 N (ISG Zone 56/1), 351531 E 6366224 N (MGA2020 Zone 56)
Abermain No 1 Pit Top	Crown land situated on the southern side of the South Maitland Railway at Abermain, Parish of Stanford, County of Northumberland.	339810 E 1367820 N (ISG Zone 56/1), 352673 E 6368226 N (MGA2020 Zone 56)
Abermain No 2 Pit Top	Land within Werakata National Park adjoining Lot 260, DP 257594, off Caledonia Street, Kearsley, Parish of Stanford, County of Northumberland.	350342 E 6363012 N (MGA2020 Zone 56)
Elrington	Part Lot 28, DP 844871 and Part Lot 7, DP 263182, Parish of Stanford, County of Northumberland, and Part Lot 20, DP 778222, Parish of Stanford, County of Northumberland.	339225 E 1360853 N (ISG Zone 56/1), 352220 E 6361250 N (MGA2020 Zone 56)
Hebburn No 1	Part Lot 203, DP 829425, Parish of Stanford, County of Northumberland.	342445 E 1367255 N (ISG Zone 56/1), 355318 E 6367711 N (MGA2020 Zone 56)

Pelaw Main Pit Top	Part Crown land (partially covered by ALC 4243) located south of Mulbring Street, Pelaw Main, Parish of Stanford, County of Northumberland.	344490 E 1366395 N (ISG Zone 56/1), 357379 E 6366890 N (MGA2020 Zone 56)
Pinkeye	Crown land (partially covered by ALC 4250) located to the south of Weston on the southern side of the South Maitland Railway and bordered in the east by Lot 203, DP 829425, Parish of Stanford, County of Northumberland. Lot 203, DP 829425, located to the south of Weston, Parish of Stanford, County of Northumberland.	341822 E 1367350 N (ISG Zone 56/1), 354694 E 6367794 N (MGA2020 Zone 56)

### Chitter emplacements outside pit top areas

Name of area	Property description	Coordinates of approximate centre of area
Aberdare East	Part Lot 566, DP 821172, Aberdare adjoining the South Maitland Railway leased to the Hunter Plant Operator Training School under Special Lease 192411, Parish of Cessnock, County of Northumberland.	347000 E 6364550 N (MGA2020 Zone 56)
Abermain South	Crown land (almost entirely covered by ALC 4250) situated on the western side of Hebburn Road, south of the South Maitland Railway and southeast of the Township of Abermain, Parish of Stanford, County of Northumberland.	340718 E 1366659 N (ISG Zone 56/1), 353603 E 6367083 N (MGA2020 Zone 56)
Hebburn No 3	Crown land in Parish Reserve DP 755259 within the granted ALC 4250 adjoining CML1 and Hebburn Road, Abermain, Parish of Stanford, County of Northumberland.	353800 E 6364900 N (MGA2020 Zone 56)
Hospital Road	Part Lot 203, DP 829425, Parish of Stanford, County of Northumberland. Part Crown land located on the eastern side of Hebburn Road, Parish of Stanford, County of Northumberland.	Road commences at 340777 E 1364724 N (ISG Zone 56/1), 353699 E 6365149 N (MGA2020 Zone 56) and ends at 342589 E 1365672 N (ISG Zone 56/1), 355492 E 6366131 N (MGA2020 Zone 56)

### Rail emplacements

Name of site	Property description	Coordinates of commencement and end points
Rail Line Abermain No 1 to Abermain No 2	Traverses several Crown land parcels between Neath and Kearsley, Parish of Stanford, County of Northumberland. Commences on the southern side of Cessnock Road and continues southward along the western side of Neath Road. The easement crosses Neath Road at Kearsley and enters the Abermain No 2 Pit Top area.	Rail line commences at 339512 E 1367347 N (ISG Zone 56/1), 352384 E 6367748 N (MGA2020 Zone 56) and ends on Lake Road at 337206 E 1362375 N (ISG Zone 56/1), 350173 E 6362733 N (MGA2020 Zone 56)
Rail Line Abermain No 2 to Aberdare South	Part Crown land parcel fronting Lake Road at Kearsley, Parish of Stanford, County of Northumberland. Part Crown land comprising a narrow north-south corridor that follows the eastern side of Kearsley Road, Part PT, DP 755259, Parish of Stanford, County of Northumberland and Part PT, DP 755215, Parish of Cessnock, County of Northumberland.	Rail line commences at 337205 E 1362311 N (ISG Zone 56/1), 350173 E 6362669 N (MGA2020 Zone 56) and ends at 337516 E 1360041 N (ISG Zone 56/1), 350527 E 6360406 N (MGA2020 Zone 56)
Rail Line Hebburn No 1 to Pelaw Main	Part Lot 203, DP 829425, Parish of Stanford, County of Northumberland and Part of several Crown land parcels: Lot 697, DP 755231, Parish of Heddon, Lot 332, DP 729940, Parish of Stanford, Lot 331, DP 729940, Parish of Stanford and Crown land covering the Pelaw Main Pit Top, Parish of Stanford, County of Northumberland.	Rail line commences at 342439 E 1367555 N (ISG Zone 56/1), 355307 E 6368011 N (MGA2020 Zone 56) and ends at 344707 E 1366490 N (ISG Zone 56/1), 357594 E 6366989 N (MGA2020 Zone 56)
Rail Line Pelaw Main to Heddon Greta	Several parcels of Crown land dividing Kurri Kurri in the north from Pelaw Main and Stanford Merthyr in the south, Parishes of Stanford and Heddon, County of Northumberland.	Rail line commences at 344712 E 1366390 N (ISG Zone 56/1), 357601 E 6366889 N (MGA2020 Zone 56) and ends at 346824 E 1368363 N (ISG Zone 56/1), 359675 E 6368902 N (MGA2020 Zone 56)

Rail Line Pelaw Main to Richmond Main East	<p>Rail line traverses four parcels of Crown land within the Parish of Stanford, County of Northumberland. Crown land encompassing Pelaw Main Colliery Pit Top.</p> <p>A narrow strip of Crown land that bisects the urban area.</p> <p>Crown land (almost entirely covered by ALC 4242) located south of Mulbring Street, Stanford Merthyr, on the eastern side of Pelaw Main and Leggets Lane.</p> <p>Crown land (entirely covered by ALC 4242) located to the east of Crown land No 3, bordered in the north by Lot 327, DP 822130 and in the south by several lots including Lot 14, DP 716009.</p>	<p>Rail line commences at 344712 E 1366489 N (ISG Zone 56/1), 357599 E 6366988 N (MGA2020 Zone 56) and ends at 346962 E 1363778 N (ISG Zone 56/1), 359900 E 6364321 N (MGA2020 Zone 56)</p>
Rail Line Pinkeye to Hebburn No 2	<p>Crown land (covered by ALC 4250 on the eastern side of Hebburn Road) situated south of the South Maitland Railway and southeast of the Township of Abermain, Parish of Stanford, County of Northumberland.</p> <p>A narrow north-south section of Crown land following the western side of Hebburn Road southward to Hebburn No 2.</p>	<p>Rail line commences at 341219 E 1367093 N (ISG Zone 56/1), 351096 E 6367526 N (MGA2020 Zone 56) and ends at 340471 E 1363845 N (ISG Zone 56/1), 353409 E 6364265 N (MGA2020 Zone 56)</p>
Richmond Main Rail Line	<p>Part Lot 2, DP 533820 and Lot 14, DP 716009, Parish of Stanford, County of Northumberland.</p> <p>Part Lot 26, DP 879812, Parish of Stanford, County of Northumberland.</p> <p>Part Lot 2, DP 986081, Parish of Stockrington, County of Northumberland.</p> <p>Part Lot 4, DP 1000943, Parish of Stockrington, County of Northumberland.</p> <p>Part Crown land parcels (entirely covered by ALC 4242), Parish of Stanford, County of Northumberland, bordered in the south by several lots including Lot 14, DP 716009 and Lot 26, DP 879812.</p>	<p>Rail line commences at 345380 E 1363337 N (ISG Zone 56/1), 358327 E 6363850 N (MGA2020 Zone 56) and ends at 347928 E 1363628 N (ISG Zone 56/1), 360868 E 6364189 N (MGA2020 Zone 56)</p>

#### 4 Certain activities carried out under [Petroleum \(Onshore\) Act 1991](#)

- (1) An activity carried out by the holder of a petroleum title for the purpose of exercising rights conferred on the holder under the [Petroleum \(Onshore\) Act 1991](#), section 28A or 28B.
- (2) In this clause—

**petroleum title** has the same meaning as in the [Petroleum \(Onshore\) Act 1991](#).

## Schedule 4 Land identification

(Clauses 18 (2), 19, 23 (2), 24 and 33 (2))

### 1 Areas

An area of land that is required to be described in blocks and units in relation to an authority is to be identified in relation to the following 1:1,000,000 areas within which it is situated, based on the NSW Block Identification Index Map 2016 published by the Secretary—

- (a) the Broken Hill 1:1,000,000 area, being that area bounded by portions of meridians of longitude 138 degrees east and 144 degrees east, and by portions of parallels of latitude 28 degrees south and 32 degrees south,
- (b) the Bourke 1:1,000,000 area, being that area bounded by portions of meridians of longitude 144 degrees east and 150 degrees east, and by portions of parallels of latitude 28 degrees south and 32 degrees south,
- (c) the Armidale 1:1,000,000 area, being that area bounded by portions of meridians of longitude 150 degrees east and 156 degrees east, and by portions of parallels of latitude 28 degrees south and 32 degrees south,
- (d) the Adelaide 1:1,000,000 area, being that area bounded by portions of meridians of longitude 138 degrees east and 144 degrees east, and by portions of parallels of latitude 32 degrees south and 36 degrees south,
- (e) the Canberra 1:1,000,000 area, being that area bounded by portions of meridians of longitude 144 degrees east and 150 degrees east, and by portions of parallels of latitude 32 degrees south and 36 degrees south,
- (f) the Sydney 1:1,000,000 area, being that area bounded by portions of meridians of longitude 150 degrees east and 156 degrees east, and by portions of parallels of latitude 32 degrees south and 36 degrees south,
- (g) the Melbourne 1:1,000,000 area, being that area bounded by portions of meridians of longitude 144 degrees east and 150 degrees east, and by portions of parallels of latitude 36 degrees south and 40 degrees south,
- (h) the Bodalla 1:1,000,000 area, being that area bounded by portions of meridians of longitude 150 degrees east and 156 degrees east, and by portions of parallels of latitude 36 degrees south and 40 degrees south.

### 2 Blocks

The blocks in each 1:1,000,000 area are to be identified by numbering consecutively from west to east, commencing with 1 in the northwestern corner and concluding with 3456 in the southeastern corner, of the 1:1,000,000 area.



### **3 Units**

The units in each block are to be identified, from west to east, by letters commencing with “a” in the northwestern corner of the block, omitting the letter “i”, and finishing with “z” in the southeastern corner of the block.

## **Schedule 5 Other relevant legislation**

(Clause 3 (1), definition of “other relevant legislation”)

### **Commonwealth legislation**

*Environment Protection and Biodiversity Conservation Act 1999*

*Offshore Minerals Act 1994*

*Offshore Petroleum and Greenhouse Gas Storage Act 2006*

*Offshore Petroleum (Royalty) Act 2006*

*Petroleum (Submerged Lands) Act 1967* (repealed)

### **New South Wales legislation**

*Biodiversity Conservation Act 2016*

*Crown Land Management Act 2016*

*Dams Safety Act 1978*

*Dams Safety Act 2015*

*Environmental Planning and Assessment Act 1979*

*Fisheries Act 1935*

*Fisheries Management Act 1994*

*Heritage Act 1977*

*Local Government Act 1993*

*Local Land Services Act 2013* (Part 5A)

*Marine Estate Management Act 2014*

*Marine Parks Act 1997* (repealed)

*Marine Pollution Act 1987* (repealed)

*Marine Pollution Act 2012*

*Mining Act 1992*

*National Parks and Wildlife Act 1974*

*Native Vegetation Act 2003 (repealed)*

*Offshore Minerals Act 1999*

*Petroleum (Offshore) Act 1982*

*Petroleum (Onshore) Act 1991*

*Rivers and Foreshores Improvement Act 1948 (repealed)*

*Soil Conservation Act 1938*

*Sydney Water Catchment Management Act 1998 (repealed)*

*Threatened Species Conservation Act 1995 (repealed)*

*Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986*

*Water Act 1912*

*Water Management Act 2000*

*Water NSW Act 2014*

### **Northern Territory legislation**

*Environmental Assessment Act*

*Environmental Offences and Penalties Act*

*Heritage Act*

*Mining Act (repealed)*

*Mining Management Act*

*Petroleum Act*

*Petroleum (Submerged Lands) Act*

*Planning Act*

*Waste Management and Pollution Control Act*

*Water Act*

### **Queensland legislation**

*Aboriginal Cultural Heritage Act 2003*

*Environmental Protection Act 1994*

*Geothermal Energy Act 2010*

*Geothermal Exploration Act 2004 (repealed)*

*Greenhouse Gas Storage Act 2009*

*Integrated Planning Act 1997 (repealed)*

*Mineral Resources Act 1989*

*Nature Conservation Act 1992*

*Offshore Minerals Act 1998*

*Petroleum Act 1923*

*Petroleum (Submerged Lands) Act 1982*

*Regional Planning Interests Act 2014*

*Queensland Heritage Act 1992*

*Vegetation Management Act 1999*

*Water Act 2000*

*Wild Rivers Act 2005 (repealed)*

**South Australian legislation**

*Aboriginal Heritage Act 1988*

*Development Act 1993*

*Environment Protection Act 1993*

*Heritage Places Act 1993*

*Mining Act 1971*

*National Parks and Wildlife Act 1972*

*Native Vegetation Act 1991*

*Natural Resources Management Act 2004*

*Offshore Minerals Act 2000*

*Opal Mining Act 1995*

*Petroleum and Geothermal Energy Act 2000*

*Petroleum (Submerged Lands) Act 1982*

*River Murray Act 2003*

*South Eastern Water Conservation and Drainage Act 1992*

*Water Conservation Act 1936 (repealed)*

*Water Industry Act 2012*

**Tasmanian legislation**

*Aboriginal Relics Act 1975*

*Environmental Management and Pollution Control Act 1994*

*Historic Cultural Heritage Act 1995*

*Land Use Planning and Approvals Act 1993*

*Mineral Resources Development Act 1995*

*National Parks and Reserves Management Act 2002*

*Nature Conservation Act 2002*

*Petroleum (Submerged Lands) Act 1982*

*Pollution of Waters by Oil and Noxious Substances Act 1987*

*Threatened Species Protection Act 1995*

*Water Management Act 1999*

**Victorian legislation**

*Environment Protection Act 1970*

*Extractive Industries Development Act 1995*

*Flora and Fauna Guarantee Act 1988*

*Geothermal Energy Resources Act 2005*

*Greenhouse Gas Geological Sequestration Act 2008*

*Mineral Resources (Sustainable Development) Act 1990*

*National Parks Act 1975*

*Petroleum Act 1998*

*Petroleum (Submerged Lands) Act 1982*

*Planning and Environment Act 1987*

*Pollution of Waters by Oil and Noxious Substances Act 1986*

*Underseas Mineral Resources Act 1963*

*Water Act 1989*

*Wildlife Act 1975*

**Western Australian legislation**

*Aboriginal Heritage Act 1972*

*Conservation and Land Management Act 1984*

*Contaminated Sites Act 2003*

*Environmental Protection Act 1986*

*Heritage of Western Australia Act 1990*

*Mining Act 1978*

*Offshore Minerals Act 2003*

*Petroleum and Geothermal Energy Resources Act 1967*

*Petroleum (Submerged Lands) Act 1982*

*Planning and Development Act 2005*

*Pollution of Waters by Oil and Noxious Substances Act 1987*

*Rights in Water and Irrigation Act 1914*

*Wildlife Conservation Act 1950*

**Schedule 6 Rate of royalty**

(Clause 73)

<b>Mineral</b>	<b>\$ per tonne</b>
agricultural lime	0.35
barite	0.70
bauxite	0.35
bentonite (including fuller's earth)	0.70
borates	0.70
calcite	0.40
chert	0.35
chlorite	0.70
clay/shale	0.35
diatomite	0.70
dimension stone	0.70

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dolomite	0.40
feldspathic materials	0.70
fluorite	0.70
gypsum	0.35
halite (including solar salt)	0.40
kaolin	0.70
limestone (other than agricultural lime)	0.40
magnesite	0.70
magnesium salts	0.40
marble	0.70
mica	0.70
mineral pigments	0.70
olivine	0.70
peat	0.70
perlite	0.70
phosphates	0.70
potassium minerals	0.70
potassium salts	0.40
pyrophyllite	0.70
quartzite	0.70
reef quartz	0.70
serpentine	0.70
sillimanite-group minerals	0.70
sodium salts	0.40
staurolite	0.70
structural clay	0.35
talc	0.70
vermiculite	0.70
wollastonite	0.70
zeolites	0.70

## **Schedule 7 Membership and procedure of boards of management**

(Clause 87 (6))

### **Part 1 Membership of boards**

#### **1 Terms of office of appointed members**

Subject to this Regulation, an appointed member holds office—

- (a) for a period of 3 years from the date of the appointment, or
- (b) if the member has been appointed to fill a casual vacancy, for the unexpired portion of his or her predecessor's term of office,

but is eligible (if otherwise qualified) for reappointment.

#### **2 Deputies of members**

- (1) A board member may appoint a person to act as the member's deputy.
- (2) The appointment is invalid unless it is approved—
  - (a) by the Minister, or
  - (b) if the member has been appointed on the nomination of a particular person or body, by that person or body.
- (3) In the absence of a board member, the member's deputy—
  - (a) may act in the place of the member, and
  - (b) while so acting, has all the functions of the member and is to be regarded as a board member.
- (4) The deputy of a board member who is also the Chairperson of the board has the member's functions as Chairperson.
- (5) The Minister may revoke the appointment of a member's deputy at any time.

#### **3 Vacancy in office of appointed member**

- (1) The office of an appointed member becomes vacant if the member—
  - (a) dies, or
  - (b) resigns the office by instrument in writing addressed to the Minister, or
  - (c) is removed from office by the Minister under this clause, or
  - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment

of his or her remuneration for their benefit, or

(e) becomes a mentally incapacitated person.

(2) The Minister may remove an appointed member from office at any time.

(3) If an appointed member is convicted in New South Wales of an offence or is convicted elsewhere than in New South Wales of an offence, that person must disclose the conviction to the Minister—

(a) if the conviction occurs before the member is appointed to hold office—at the time the member is appointed to the relevant office, or

(b) if the conviction occurs after the member is appointed to hold office—as soon as is reasonably practicable after the conviction.

(4) If an appointed member discloses a conviction as referred to in subclause (3), the Minister may declare the office of that member to be vacant.

#### **4 Filling of vacancy in office of appointed member**

If the office of an appointed member becomes vacant, a person is, subject to this Regulation, to be appointed to fill the vacancy.

## **Part 2 Procedure of boards**

### **5 Calling and frequency of board meetings**

(1) An ordinary board meeting is to be called by the Chairperson at least once every 3 months.

(2) A special board meeting is to be called on the written request of at least 3 members or, if the number of members that constitutes a quorum at a board meeting is less than 3, of at least that number of members.

(3) The request must—

(a) state the purpose of the meeting, and

(b) be signed by the board members making the request, and

(c) be lodged with the secretary in time for the secretary to call the meeting.

### **6 Secretary to give notice of board meeting**

(1) The secretary of a board is to give written notice of a proposed board meeting to each member at least 7 days before the meeting.

(2) A board member must give written notice to the secretary, at least 7 days before a proposed board meeting, of any matter the member wishes to be placed on the



agenda for the meeting.

- (3) The secretary of a board (or, in the secretary's absence, a nominee of the secretary) must attend all board meetings.

## **7 General procedure at board meetings**

The procedure for the conduct of board meetings is, subject to this Regulation, to be determined by the board.

## **8 Quorum**

A majority of a board's members for the time being (of whom one must be the Chairperson or the Chairperson's deputy) constitutes a quorum at a board meeting.

## **9 Presiding member**

- (1) The Chairperson (or, in the Chairperson's absence, the Chairperson's deputy) is to preside at all board meetings.
- (2) The person presiding at a board meeting has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

## **10 Voting**

A decision supported by a majority of votes cast at a board meeting at which a quorum is present is the decision of the board.

## **11 Transaction of business outside meetings or by telephone**

- (1) A board may, if it thinks fit, transact any of its business by the circulation of papers among all the board members for the time being, and a resolution in writing, approved in writing by a majority of those members, is taken to be a decision of the board.
- (2) The board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of—
  - (a) the approval of a resolution under subclause (1), or
  - (b) a meeting held in accordance with subclause (2),the person presiding and each member have the same voting rights as they have at an ordinary board meeting.
- (4) A resolution approved under subclause (1) is to be recorded in the minutes of the board meeting.

- (5) Papers may be circulated among board members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

## **12 Disclosure of pecuniary interests**

- (1) If—

(a) a board member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a board meeting, and

(b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a board meeting.

- (2) A disclosure by a board member at a board meeting that the member—

(a) is a member, or is in the employment, of a specified company or body, or

(b) is a partner, or is in the employment, of a specified person, or

(c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of that disclosure and which is required to be disclosed under this clause.

- (3) The secretary is to record particulars of any disclosure made under this clause in a book kept for that purpose and that book is to be made available at all reasonable hours for inspection by any person.

- (4) After a board member has disclosed the nature of an interest in any matter, the member must not, unless the board otherwise determines—

(a) be present at any deliberation of the board with respect to the matter, or

(b) take part in any decision of the board with respect to the matter.

- (5) For the purposes of the making of a determination by the board under subclause (4), a board member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not—

(a) be present during any deliberation of the board for the purpose of making the determination, or

(b) take part in the making of the determination by the board.

- (6) A contravention of this clause does not invalidate any decision of the board.

- (7) Nothing in this clause applies to or in respect of an interest of a board member in a matter or thing that arises merely because the member is associated with the organisation by which the member was nominated.

### **13 Minutes**

- (1) The secretary of a board must keep full and accurate minutes of the proceedings of each board meeting.
- (2) The secretary must keep (in addition to the minutes) a separate record of resolutions decided by a casting vote.
- (3) The record is to show the date of the meeting, the name of the presiding member and the wording of the resolution.
- (4) A copy of the minutes must be forwarded to the Minister and to each member within one month of the meeting.

### **14 Calling of first meeting**

The Minister may call the first meeting of a board in such manner as the Minister thinks fit.

## **Schedule 7A Constitution and procedure of Expert Panels**

clause 89D

### **Part 1 Preliminary**

#### **1 Definition**

In this Schedule—

**Panel member**—see clause 2.

### **Part 2 Constitution of Expert Panels**

#### **2 Panel members**

- (1) An Expert Panel must be constituted by at least 5, but not more than 10, persons appointed by the Minister (each a **Panel member**).
- (2) The Minister must not appoint a person unless, in the Minister's opinion, the person has at least one of the following attributes—
  - (a) knowledge of the economic or commercial activity of the affected coal mining region to which the Expert Panel relates,
  - (b) represents the interests of a group likely to be affected by a move away from coal mining.

- (3) The following persons must be selected from the appointed Panel members—
  - (a) 1 Chairperson, selected by the Minister,
  - (b) 1 Deputy Chairperson, selected by the Expert Panel.
- (4) The following persons are not eligible to be appointed to an Expert Panel—
  - (a) Public Service employees,
  - (b) a person appointed to a statutory office,
  - (c) a person elected to a civic office, within the meaning of the *Local Government Act 1993*.
- (5) The provisions of the *Government Sector Employment Act 2013* in relation to the employment of Public Service employees do not apply to a Panel member.
- (6) In this clause—

**Public Service employee** has the same meaning as in the *Government Sector Employment Act 2013*.

### 3 Term of office of Panel members

- (1) A Panel member holds office for a term, not exceeding 3 years, specified by the Minister in the Panel member's instrument of appointment.
- (2) A Panel member is eligible for reappointment—
  - (a) if the member is otherwise eligible for appointment, and
  - (b) for only one further term, whether consecutive or non-consecutive.

### 4 Vacancy in office of Panel members

- (1) The office of a Panel member becomes vacant if the member—
  - (a) dies, or
  - (b) completes a term of office and is not reappointed, or
  - (c) resigns the office by written notice given to the Minister, or
  - (d) is removed from office, or
  - (e) is absent from 3 consecutive meetings, unless the Chairperson has granted the Panel member leave or the Panel has excused the Panel member's absence, or
  - (f) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an

assignment of the member's remuneration for the benefit of the member's creditors, or

(g) becomes an incapacitated person, or

(h) is convicted in New South Wales of an offence punishable by imprisonment for 12 months or more, or

(i) is convicted outside of New South Wales of an offence that, if committed in New South Wales, would be an offence punishable by imprisonment for 12 months or more.

(2) If the office of a Panel member becomes vacant, a person may, subject to this Part, be appointed to fill the vacancy.

### **5 Removal of Panel members**

The Minister may remove a Panel member.

## **Part 3 Procedure of Expert Panels**

### **6 General procedure**

An Expert Panel may, subject to the Act and this Regulation, determine procedures for—

(a) the calling of Expert Panel meetings, and

(b) the conduct of business at Expert Panel meetings.

### **7 Quorum**

The quorum for an Expert Panel meeting is a majority of the Panel members.

### **8 Presiding member**

(1) The Chairperson, or, in the Chairperson's absence, the Deputy Chairperson, must preside at Expert Panel meetings.

(2) If the Chairperson and the Deputy Chairperson are absent, a Panel member elected by the Panel members present at the Panel meeting must preside.

(3) The presiding member at a meeting has a second or casting vote if there is an equality of votes.

### **9 Voting**

A decision supported by a majority of votes cast at an Expert Panel meeting at which a quorum is present is the decision of the Expert Panel.

## **10 Conduct of business**

- (1) An Expert Panel may conduct the business of the Panel by—
  - (a) circulating papers to the Panel members, or
  - (b) telephone, teleconference or other electronic means, but only if a Panel member who speaks on a matter may be heard by other Panel members.
- (2) If an Expert Panel conducts the business of the Panel in accordance with subclause (1), a written resolution approved by a majority of the Panel members—
  - (a) is taken to be a decision of the Panel, and
  - (b) must be recorded in the minutes of the Panel meeting.

## **11 Disclosure of pecuniary interests**

- (1) This clause applies if—
  - (a) a Panel member has a pecuniary interest in a matter being considered, or about to be considered, at an Expert Panel meeting, and
  - (b) the pecuniary interest appears to be in conflict with the proper performance of the Panel member's duties in relation to the matter.
- (2) A Panel member must, as soon as possible after becoming aware of the pecuniary interest, disclose the nature of the Panel member's pecuniary interest at an Expert Panel meeting.
- (3) For subclause (1), a pecuniary interest held by the following persons is taken to be a pecuniary interest of a Panel member—
  - (a) the Panel member's spouse or de factor partner,
  - (b) a relative of the Panel member,
  - (c) a partner or employer of the Panel member,
  - (d) a company or other body of which the Panel member, or Panel member's partner or employer, is a member.
- (4) Subclause (3) does not apply—
  - (a) if the Panel member is not aware of the pecuniary interest, or
  - (b) on the basis the Panel member is employed by a local council, a statutory body or the Crown, or
  - (c) on the basis the Panel member is a member of a company or other body that has a pecuniary interest in the matter, if the Panel member has no beneficial interest

in the shares of the company or body.

- (5) A Panel member's disclosure of the following matters is sufficient disclosure of a pecuniary interest in relation to any matter that may relate to the company, body or person—
  - (a) that the Panel member, spouse, de facto partner, relative, partner or employer is a member, or employed by, a company or other body,
  - (b) that the Panel member, spouse, de facto partner, relative, partner or employer is a partner, or employed by, a person,
  - (c) that the Panel member, spouse, de facto partner, relative, partner or employer has another interest in relation to a company, body or other person.
- (6) Information about a Panel member's disclosure must be recorded by the Panel.
- (7) A record made under subclause (6) must be available for inspection on the request of a person.
- (8) If a Panel member has disclosed a pecuniary interest in a matter, the member must not, unless the Minister or the Panel otherwise determines—
  - (a) be present at a Panel meeting while the matter is considered, or
  - (b) participate in the making of a Panel decision in relation to the matter.
- (9) When determining if a Panel member should be present at a Panel meeting, or participate in the making of a Panel decision in relation to a matter in which the Panel member has a pecuniary interest, the Panel member must not—
  - (a) be present at a Panel meeting at which the matter is determined, or
  - (b) participate in the making of a Panel decision in relation to the determination.
- (10) Contravention of this clause does not invalidate a Panel decision.

## Schedule 8 Form of permit to enter land

(Clause 90 (4))

### Form Permit

*Mining Act 1992*, section 260

*Mining Regulation 2016*, clause 90 (4)

This permit is granted to *[insert name of person]* under section 254 of the *Mining Act 1992* in respect of the following land: *[insert description of land to which the permit relates]*.

This permit is granted subject to the following conditions: *[insert conditions to which the permit is subject]*.

This permit authorises the holder, whose signature appears below, and any employee or agent of the holder, to exercise the powers conferred on permit holders by Part 12 of the *Mining Act 1992*.

[signature of holder of permit]

This permit has effect for the period commencing on [insert commencement date] and ending on [insert end date].

Dated—

[Secretary]

## Schedule 8A Standard conditions of mining leases

clause 31A

### Part 1 Preliminary

#### 1 Definitions

In this Schedule—

**activities** under a mining lease includes ancillary mining activities—

- (a) authorised to be carried out under the mining lease on the mining area, or
- (b) the carrying out of which is regulated by a condition referred to in the Act, Schedule 1B, clause 7B.

**annual rehabilitation report**—see clause 13(2).

**annual reporting period**—see clause 13(5).

**final land use**—see clause 6.

**final landform and rehabilitation plan**—see clause 12(1)(c).

**forward program**—see clause 13(1).

**large mine** means a mine the subject of one or more mining leases, the carrying out of activities under at least one of which requires an environment protection licence under the [Protection of the Environment Operations Act 1997](#).

**mining area** includes—

- (a) for a mining lease relating to a mineral or minerals—land—
  - (i) in the vicinity of the land subject to the mining lease, and
  - (ii) on which an ancillary mining activity is carried out to directly facilitate the mining lease, and
  - (iii) identified as part of the mining area for the purposes of this Schedule in a written direction given to the holder of the mining lease by the Secretary, and



- (b) for a mining lease that does not include the surface of land—the part of the surface of land on which the holder of the mining lease is authorised, in accordance with the Act, section 81, to carry out activities.

**Note—**

This definition extends the definition of *mining area* included in the Act, Dictionary.

**rehabilitation completion criteria statement**—see clause 12(1)(b).

**rehabilitation management plan**—see clause 10(1).

**rehabilitation objectives statement**—see clause 12(1)(a).

**rehabilitation outcome documents**—see clause 12(1).

**small mine** means a mine that is not a large mine.

## **2 Functions of Secretary—approval of rehabilitation outcome documents**

- (1) In deciding whether to approve a rehabilitation outcome document under clause 12, the Secretary must take into account—
  - (a) the extent to which the document is consistent with the final land use for the mining area, and
  - (b) any other matters the Secretary considers relevant.
- (2) If the Secretary does not approve the document, the Secretary must give written notice to the holder of the mining lease of the following—
  - (a) the refusal,
  - (b) the reasons for the refusal,
  - (c) the time within which a revised document must be given to the Secretary for approval.

## **3 Assessments and documents may relate to more than 1 mining lease**

- (1) The Secretary may, on application by a person (the **applicant**), approve multiple mining leases relating to the same mine being treated as a single lease for the purposes of Part 2 if—
  - (a) the applicant is the holder of all the mining leases, or
  - (b) the applicant—
    - (i) is the holder of 1 or more of the mining leases, and
    - (ii) has obtained the written consent of the holders of the other mining leases

authorising the applicant to exercise the functions of the other holder under Part 2 on their behalf.

- (2) This clause does not remove any liability from the holder of a mining lease if the applicant fails to comply with a requirement of Part 2.
- (3) An application under this clause must be in the form approved by the Secretary.

## Part 2 Standard conditions

### Note—

The conditions in this Part prevail over conditions imposed under the Act by the relevant decision-maker to the extent of any inconsistency between them—see the Act, Schedule 1B, clause 7(4).

## Division 1 Protection of the environment and rehabilitation

### 4 Must prevent or minimise harm to environment

- (1) The holder of a mining lease must take all reasonable measures to prevent, or if that is not reasonably practicable, to minimise, harm to the environment caused by activities under the mining lease.
- (2) In this clause—

***harm*** to the environment has the same meaning as in the [Protection of the Environment Operations Act 1997](#).

### 5 Rehabilitation to occur as soon as reasonably practicable after disturbance

The holder of a mining lease must rehabilitate land and water in the mining area that is disturbed by activities under the mining lease as soon as reasonably practicable after the disturbance occurs.

### 6 Rehabilitation must achieve final land use

- (1) The holder of a mining lease must ensure that rehabilitation of the mining area achieves the final land use for the mining area.
- (2) The holder of the mining lease must ensure any planning approval has been obtained that is necessary to enable the holder to comply with subclause (1).
- (3) The holder of the mining lease must identify and record any reasonably foreseeable hazard that presents a risk to the holder's ability to comply with subclause (1).

### Note—

Clause 7 requires a rehabilitation risk assessment to be conducted whenever a hazard is identified under this subclause.

- (4) In this clause—

**final land use** for the mining area means the final landform and land uses to be achieved for the mining area—

- (a) as set out in the rehabilitation objectives statement and rehabilitation completion criteria statement, and
- (b) for a large mine—as spatially depicted in the final landform and rehabilitation plan, and
- (c) if the final land use for the mining area is required by a condition of development consent for activities under the mining lease—as stated in the condition.

**planning approval** means—

- (a) a development consent within the meaning of the *Environmental Planning and Assessment Act 1979*, or
- (b) an approval under that Act, Division 5.1.

## **Division 2 Risk assessment**

### **7 Rehabilitation risk assessment**

- (1) The holder of a mining lease must conduct a risk assessment (a **rehabilitation risk assessment**) that—
  - (a) identifies, assesses and evaluates the risks that need to be addressed to achieve the following in relation to the mining lease—
    - (i) the rehabilitation objectives,
    - (ii) the rehabilitation completion criteria,
    - (iii) for large mines—the final land use as spatially depicted in the final landform and rehabilitation plan, and
  - (b) identifies the measures that need to be implemented to eliminate, minimise or mitigate the risks.
- (2) The holder of the mining lease must implement the measures identified.
- (3) The holder of a mining lease must conduct a rehabilitation risk assessment—
  - (a) for a large mine—before preparing a rehabilitation management plan, and
  - (b) for a small mine—before preparing the rehabilitation outcome documents for the mine, and
  - (c) whenever a hazard is identified under clause 6(3)—as soon as reasonably practicable after it is identified, and

(d) whenever given a written direction to do so by the Secretary.

### **Division 3 Rehabilitation documents**

#### **8 Application of Division**

This Division does not apply to a mining lease unless—

- (a) the security deposit required under the mining lease is greater than the minimum deposit prescribed under the Act, section 261BF in relation to that type of mining lease, or
- (b) the Secretary gives a written direction to the holder of the mining lease that this Division, or a provision of this Division, applies to the mining lease.

#### **9 General requirements for documents**

A document required to be prepared under this Division must—

- (a) be in a form approved by the Secretary, and

**Note—**

The approved forms are available on the Department's website.

- (b) include any matter required to be included by the form, and
- (c) if required to be given to the Secretary—be given in a way approved by the Secretary.

#### **10 Rehabilitation management plans for large mines**

- (1) The holder of a mining lease relating to a large mine must prepare a plan (a **rehabilitation management plan**) for the mining lease that includes the following—
  - (a) a description of how the holder proposes to manage all aspects of the rehabilitation of the mining area,
  - (b) a description of the steps and actions the holder proposes to take to comply with the conditions of the mining lease that relate to rehabilitation,
  - (c) a summary of rehabilitation risk assessments conducted by the holder,
  - (d) the risk control measures identified in the rehabilitation risk assessments,
  - (e) the rehabilitation outcome documents for the mining lease,
  - (f) a statement of the performance outcomes for the matters addressed by the rehabilitation outcome documents and the ways in which those outcomes are to be measured and monitored.
- (2) If a rehabilitation outcome document has not been approved by the Secretary, the holder of the mining lease must include a proposed version of the document.

- (3) A rehabilitation management plan is not required to be given to the Secretary for approval.
- (4) The holder of the mining lease—
  - (a) must implement the matters set out in the rehabilitation management plan, and
  - (b) if the forward program specifies timeframes for the implementation of the matters—must implement the matters within those timeframes.

## 11 Amendment of rehabilitation management plans

The holder of a mining lease must amend the rehabilitation management plan for the mining lease as follows—

- (a) to substitute the proposed version of a rehabilitation outcome document with the version approved by the Secretary—within 30 days after the document is approved,
- (b) as a consequence of an amendment made under clause 14 to a rehabilitation outcome document—within 30 days after the amendment is made,
- (c) to reflect any changes to the risk control measures in the prepared plan that are identified in a rehabilitation risk assessment—as soon as practicable after the rehabilitation risk assessment is conducted,
- (d) whenever given a written direction to do so by the Secretary—in accordance with the direction.

## 12 Rehabilitation outcome documents

- (1) The holder of a mining lease must prepare the following documents (the **rehabilitation outcome documents**) for the mining lease and give them to the Secretary for approval—
  - (a) the **rehabilitation objectives statement**, which sets out the rehabilitation objectives required to achieve the final land use for the mining area,
  - (b) the **rehabilitation completion criteria statement**, which sets out criteria, the completion of which will demonstrate the achievement of the rehabilitation objectives,
  - (c) for a large mine, the **final landform and rehabilitation plan**, showing a spatial depiction of the final land use.
- (2) If the final land use for the mining area is required by a condition of development consent for activities under the mining lease, the holder of the mining lease must ensure the rehabilitation outcome documents are consistent with that condition.

### 13 Forward program and annual rehabilitation report

- (1) The holder of a mining lease must prepare a program (a **forward program**) for the mining lease that includes the following—
  - (a) a schedule of mining activities for the mining area for the next 3 years,
  - (b) a summary of the spatial progression of rehabilitation through its various phases for the next 3 years,
  - (c) a requirement that the rehabilitation of land and water disturbed by mining activities under the mining lease must occur as soon as reasonably practicable after the disturbance occurs.
- (2) The holder of a mining lease must prepare a report (an **annual rehabilitation report**) for the mining lease that includes—
  - (a) a description of the rehabilitation undertaken over the annual reporting period,
  - (b) a report demonstrating the progress made through the phases of rehabilitation provided for in the forward program applying to the reporting period,
  - (c) a report demonstrating progress made towards the achievement of the following—
    - (i) the objectives set out in the rehabilitation objectives statement,
    - (ii) the criteria set out in the rehabilitation completion criteria statement,
    - (iii) for large mines—the final land use as spatially depicted in the final landform and rehabilitation plan.
- (3) If a rehabilitation outcome document has not been approved by the Secretary, the holder of the mining lease must rely on a proposed version of the document.
- (4) The holder of the mining lease must give the forward program and annual rehabilitation report to the Secretary.
- (5) In this clause—

**annual reporting period** means each period of 12 months commencing on—

  - (a) the date on which the mining lease is granted, or
  - (b) if the Secretary approves another date in relation to the mining lease—the other date.

### 14 Amendment of rehabilitation outcome documents and forward program

- (1) This clause applies to—
  - (a) a rehabilitation outcome document if it has been approved by the Secretary, and

- (b) a forward program if it has been given to the Secretary.
- (2) The holder of a mining lease must not amend a document to which this clause applies that relates to the mining lease unless—
  - (a) the Secretary gives the holder a written direction to do so, or
  - (b) the Secretary, on written application by the holder, gives a written approval of the amendment.
- (3) The holder of the mining lease must amend the document in accordance with the Secretary's direction or approval.
- (4) Nothing in this clause prevents the holder of a mining lease preparing a draft amendment for submission to the Secretary for approval.

**15 Times at which documents must be prepared and given**

- (1) The holder of a mining lease must do the following before the end of the initial period—
  - (a) prepare a rehabilitation management plan, and
  - (b) prepare rehabilitation outcome documents and give them, other than the rehabilitation completion criteria statement, to the Secretary for approval, and
  - (c) prepare a forward program and give it to the Secretary.
- (2) The holder of the mining lease must prepare a forward program and annual rehabilitation report and give them to the Secretary before—
  - (a) 60 days after the last day of each annual reporting period, commencing with the annual reporting period in which the forward program was given to Secretary under subclause (1)(c), or
  - (b) a later date approved by the Secretary.
- (3) A rehabilitation completion criteria statement relating to completion of rehabilitation during a period covered by a forward program must be given to the Secretary for approval when the forward program is required to be given to the Secretary.
- (4) The holder of the mining lease must prepare updated rehabilitation outcome documents for the mining lease and give them to the Secretary for approval before—
  - (a) 60 days after a development consent is modified following an application referred to in clause 20(1)(b), or
  - (b) a later date approved by the Secretary.
- (5) A rehabilitation completion criteria statement is not required to be given to the

Secretary under subclause (4) unless a rehabilitation completion criteria statement has already been given to the Secretary under subclause (3).

- (6) The Secretary may, by written notice, direct the holder of a mining lease to prepare, or give to the Secretary, a document required to be prepared under this Division at a time other than that specified in this clause.
- (7) The holder of the mining lease must comply with the direction.
- (8) In this clause—

***initial period*** means the period commencing when the mining lease is granted and ending—

- (a) 30 days, or other period approved by the Secretary, after this Division first applies to the mining lease, or
- (b) if this Division applies to the mining lease because of an increase in the required security deposit—
  - (i) when the surface of the mining area is disturbed by activities under the mining lease, or
  - (ii) at a later date approved by the Secretary.

## **16 Certain documents to be publicly available**

- (1) This clause applies to the following documents—
  - (a) a rehabilitation management plan,
  - (b) a forward program,
  - (c) an annual rehabilitation report.
- (2) The holder of a mining lease must make a document to which this clause applies publicly available by—
  - (a) publishing it on its website in a prominent position, or
  - (b) if the holder does not have a website— providing a copy of it to a person—
    - (i) on the written request of a person, and
    - (ii) without charge, and
    - (iii) within 14 days after the request is received.
- (3) If a document is published on the website of the holder of the mining lease, the holder must ensure that it is published—



- (a) for a rehabilitation management plan—within 14 days after it is prepared or amended, or
  - (b) for a forward program or an annual rehabilitation report—within 14 days after it is given to the Secretary or amended,
- (4) Personal information within the meaning of the *Privacy and Personal Information Protection Act 1998* is not required to be included in a document made available to a person under this clause.

## **Division 4 Records, reporting and notification**

### **17 Records demonstrating compliance**

The holder of a mining lease must create and maintain records of all actions taken that demonstrate compliance with each of the conditions set out in this Part.

**Note—**

The Act, sections 163D and 163E provide for the form in which records must be kept and the period for which they must be retained.

### **18 Report on non-compliance**

- (1) The holder of a mining lease must provide the Minister with a written report detailing any non-compliance with—
- (a) a condition of the mining lease, or

**Note—**

The Act, section 364A contains provisions relating to the use and disclosure of information provided under this condition.

- (b) a requirement of the Act or this Regulation relating to activities under the mining lease.
- (2) The holder of the mining lease must provide the report within 7 days after becoming aware of the non-compliance.
- (3) The holder of the mining lease must ensure the report—
- (a) identifies the condition of the mining lease, or the requirement of the Act or this Regulation, to which the non-compliance relates, and
  - (b) describes the non-compliance and specifies the date or dates on which, or the period during which, the non-compliance occurred, and
  - (c) describes the causes or likely causes of the non-compliance, and
  - (d) describes the action that has been taken, or will be taken, to mitigate the effects, and to prevent any recurrence, of the non-compliance.

## 19 Nominated contact person

- (1) The holder of a mining lease must nominate a natural person to be the contact person with whom the Secretary can communicate in relation to the mining lease for the purposes of the Act.

### Note—

The Act, section 383 sets out the ways in which notices or other documents may be issued or given to, or served on, a person for the purposes of the Act.

- (2) The holder of the mining lease must give written notice to the Secretary of—
  - (a) the full name and contact details of the nominated person—within 28 days after the date on which the standard conditions apply to the mining lease under clause 31A of this Regulation, and
  - (b) any change in nomination or in the nominated person’s contact details—within 28 days after the change occurs.
- (3) The holder of the mining lease must ensure that the contact details for the nominated person include the person’s phone number and postal and email addresses.

## Division 5 Applications relating to development consent

### 20 Additional requirements—application for or to modify development consent

- (1) The holder of a mining lease must give written notice to the Secretary within 10 days after—
  - (a) making an application for development consent that relates to the mining area, or
  - (b) making an application for modification of a development consent—
    - (i) under the *Environmental Planning and Assessment Act 1979*, section 4.55(2), and
    - (ii) that proposes to modify a condition of the consent that relates to rehabilitation of the mining area in a way that may affect an obligation under the mining lease relating to rehabilitation of the mining area.
- (2) This clause does not apply if the development is State significant development.

## Schedule 9 Fees

(Part 8)

**Column 1**

**Column 2**

**Matter**

**Fee**

**Exploration licences**

1	Application for exploration licence—Groups 1-8, 10 and 11 minerals (Division 1 of Part 3 of the Act)—	
	(a) application fee, and	\$1,000
	(b) per year of tenure for each unit or part unit of land to which the application relates—	
	(i) for initial group of minerals, and	\$12.50
	(ii) for each additional group of minerals	\$6.25
2	Application for exploration licence—Groups 9 and 9A minerals (Division 1 of Part 3 of the Act)—	
	(a) application fee, and	\$1,000
	(b) per year of tenure for each hectare or part hectare of land to which the application relates	\$2
3	Application for exploration (mineral owner) licence (Division 1 of Part 3 of the Act)—	
	(a) application fee, and	\$1,000
	(b) per year of tenure for each hectare or part hectare of land to which the application relates	\$2
4	Tender for exploration licence—Groups 1-8, 9A, 10 and 11 minerals (section 15 of the Act)—	
	(a) tender fee, and	\$1,000
	(b) per year of tenure for each unit or part unit of land to which the tender relates—	
	(i) for initial group of minerals, and	\$12.50
	(ii) for each additional group of minerals	\$6.25
5	Tender for exploration licence—Groups 9 and 9A minerals (section 15 of the Act)	\$2,200
6, 7	(Repealed)	
8	Application for renewal of exploration licence—Groups 1-8, 10 and 11 minerals (section 113 of the Act)—	

	(a) application fee, and	\$2,000
	(b) per year of tenure for each unit or part unit of land to which the application relates—	
	(i) for initial group of minerals, and	\$12.50
	(ii) for each additional group of minerals	\$6.25
9	Application for renewal of exploration licence—Groups 9 and 9A minerals (section 113 of the Act)—	
	(a) application fee, and	\$2,000
	(b) per year of tenure for each hectare or part hectare of land to which the application relates	\$2
10	Application for renewal of exploration (mineral owner) licence (section 113 of the Act)—	
	(a) application fee, and	\$2,000
	(b) per year of tenure for each hectare or part hectare of land to which the application relates	\$2
11	Annual rental fee (section 292F of the Act)	\$0.20 per ha or \$20 per sq km or \$0.00002 per sq m or \$60 per unit
<b>Assessment leases</b>		
12	Application for assessment lease (section 33 of the Act)—	
	(a) application fee, and	\$2,000
	(b) per year of tenure for each hectare or part hectare of land to which the application relates	\$6
13	Application for renewal of assessment lease (section 113 of the Act)—	
	(a) application fee, and	\$2,000
	(b) per year of tenure for each hectare or part hectare of land to which the application relates	\$6
14	Annual rental fee (section 292F of the Act)—	
	(a) for a year during the initial term of the lease, and	\$12 per ha or \$1,200 per sq km or \$3,600 per unit

(b) for a year during a term of the lease after the initial term \$24 per ha or \$2,400 per sq km or \$7,200 per unit

### Mining leases

15	Application for mining lease (section 51 of the Act)	\$10,000
16	Tender for mining lease (section 53 of the Act)	\$10,000
17	On grant of mining lease (section 63 of the Act)—per hectare or part hectare of land to which the lease relates	\$85
18	Application for suspension of operations under mining lease—the Act, Schedule 1B, clause 14(1)	\$250
19	(Repealed)	
20	Application for addition of petroleum to mining lease (section 78 of the Act)	\$6,000
21	(Repealed)	
21A	Application for variation of mining lease (clause 12 of Schedule 1B to the Act) to impose a condition to regulate the carrying out of an ancillary mining activity on land that is not within the mining area that is the subject of the mining lease	\$8,000
22	Application for consolidation of mining leases (section 86 of the Act)	\$1,000
23	(Repealed)	
24	Application for renewal of mining lease (section 113 of the Act)—	
	(a) application fee, and	\$3,000
	(b) per hectare	\$36
25	Lodgment of objection to significant improvement claim (section 62 (6A) of the Act and clause 23A of Schedule 1 to the Act) (exclusive of GST)	\$2,000
26	(Repealed)	
27	Annual rental fee (section 292F of the Act)	\$6.50 per ha or \$650 per sq km or \$0.00065 per sq m

### Authorities generally

28	Application for approval of transfer of authority (section 120 of the Act)	\$1,000
29	Application for approval of partial transfer of authority (section 120 of the Act)	\$1,650
30, 31	(Repealed)	
32	Application for cancellation of authority (section 125 of the Act)	\$250

33 Application for partial cancellation of authority (section 125 of the Act) \$500

34-37 (Repealed)

### Records and registration

38 Application for registration of each interest (section 161 of the Act) \$250

39-44 (Repealed)

### Mineral claims

#### Note—

The class of a mineral claim is specified by the Minister, by order published in the Gazette, under section 175 of the Act.

45	Application for Class A mineral claim in the Lightning Ridge Mineral Claims District (section 178 of the Act)—	
	(a) if mineral claim area is no more than 0.25 of a hectare, or	\$130
	(b) if mineral claim area is more than 0.25 of a hectare and less than or equal to 1 hectare, or	\$330
	(c) if mineral claim area is more than 1 hectare and less than or equal to 2 hectares	\$470
46	Application for Class B mineral claim in the Lightning Ridge Mineral Claims District (section 178 of the Act)	\$470
47	Application for Class C mineral claim (prospecting following opal prospecting licence) in the Lightning Ridge Mineral Claims District (section 178 of the Act)	\$180
48	Application for Class D mineral claim (ancillary mining activity—processing) in the Lightning Ridge Mineral Claims District (section 178 of the Act)	\$470
49	Application for Class E mineral claim (ancillary mining activity—mullock stockpiling) in the Lightning Ridge Mineral Claims District (section 178 of the Act)	\$470
50	Application for Class F mineral claim (prospecting outside opal prospecting block in Opal Prospecting Areas 1, 2 and 3) in the Lightning Ridge Mineral Claims District (section 178 of the Act)	\$180
51	Application for Class G mineral claim (open cut mining operations) in the Lightning Ridge Mineral Claims District (section 178 of the Act)	\$470
52	Application for mineral claim area in the White Cliffs Mineral Claims District (section 178 of the Act)	\$130
53	Application for renewal of mineral claim area in the White Cliffs Mineral Claims District (section 197 of the Act)—per year of tenure	\$100

54	Application for renewal of Class A mineral claim in the Lightning Ridge Mineral Claims District (section 197 of the Act)—	
	(a) if mineral claim area is no more than 0.25 of a hectare—per year of tenure, or	\$100
	(b) if mineral claim area is more than 0.25 of a hectare and less than or equal to 1 hectare—per year of tenure, or	\$300
	(c) if mineral claim area is more than 1 hectare and less than or equal to 2 hectares—per year of tenure	\$470
55	Application for renewal of Class B mineral claim in the Lightning Ridge Mineral Claims District (section 197 of the Act)	\$470
56	Application for renewal of Class D mineral claim (ancillary mining activity—processing) in the Lightning Ridge Mineral Claims District (section 197 of the Act)	\$470
57	Application for renewal of Class E mineral claim (ancillary mining activity—mullock stockpiling) in the Lightning Ridge Mineral Claims District (section 197 of the Act)	\$470
58	Application for renewal of Class G mineral claim (open cut mining operations) in the Lightning Ridge Mineral Claims District (section 197 of the Act)	\$470
59	Application for transfer of mineral claim (section 200 of the Act)	\$120
60–63	(Repealed)	

**Opal prospecting licences**

64	Application for opal prospecting licence (section 226 of the Act)	\$30
65	Registration of legal or equitable interest (section 235F (3) of the Act)	\$65

**Miscellaneous**

66	Application for environmental assessment permit (section 252 of the Act)	\$420
67	(Repealed)	
68	Fee per hour for provision of information (not including prescribed records available at prescribed locations) (exclusive of GST)	\$150

**Schedule 10 Penalty notice offences**

(Clause 99)

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Offence</b>	<b>Individual</b>	<b>Corporation</b>

**Offences under the Act**

Section 5	\$2,500	\$5,000
Section 6	\$2,500	\$5,000
Section 12 (4) and (6)	\$750	—
Section 12B	\$2,500	—
Section 75 (3)	\$750	\$1,500
Section 76 (2)	\$750	\$1,500
Section 140	\$1,250	\$2,500
Section 163 (3) or (6D)	\$750	\$1,500
Section 163C (3)	\$2,500	\$5,000
Section 164 (3)	\$750	\$1,500
Section 175A	\$1,250	\$2,500
Section 211 (3)	\$750	\$1,500
Section 213 (1) or (2)	\$750	\$1,500
Section 235C (3)	\$750	\$1,500
Section 240C	\$2,500	\$5,000
Section 246R	\$2,500	\$5,000
Section 248S(1) in relation to failure to comply with requirement under section 248B(1)	\$1,250	\$2,500
Section 248S (1) (in relation to failure to comply with requirement under section 248E (2) (i))	\$1,250	\$2,500
Section 248S (1) (in relation to failure to comply with requirement under section 248N)	\$500	—
Section 248S (3)	\$2,500	\$5,000
Section 257	\$750	\$1,500
Section 258	\$110	\$110
Section 288 (2)	\$750	\$1,500
Section 291 (1A)	\$2,500	\$5,000
Section 292C (3)	\$500	\$1,000
Section 365	\$750	—
Section 378B	\$2,500	\$5,000
Section 378C	\$1,250	\$2,500



Section 378D (1)	\$1,250	\$2,500
Section 378D(2)	\$1,250	\$2,500
Section 378ZFE	\$2,500	\$5,000
Section 394(5)	\$2,500	\$5,000

### **Offences under this Regulation**

Clause 12 (1) or (2)	\$750	\$1,500
Clause 39 (8)	\$750	\$1,500
Clause 40 (11)	\$750	\$1,500
Clause 47 (7)	\$750	\$1,500
Clause 54 (7)	\$750	\$1,500
Clause 76 (3)	\$750	\$1,500
Clause 96 (4)	\$750	\$1,500

## **Schedule 11 Savings and transitional provisions**

### **Part 1 Provision consequent on the repeal of [Mining Regulation 2003](#)**

#### **1 Survey mark placed by mining registrar**

Any mark in the nature of a survey mark that was placed for the purposes of the Act by, or at the direction of, a mining registrar before the commencement of this Regulation is taken to be a survey mark placed in accordance with this Regulation.

### **Part 2 Provisions consequent on the enactment of [Mining Amendment Act 2008 No 19](#)**

#### **2 Saving of appointments of inspector or royalty officer**

Any person appointed as a royalty officer or an inspector immediately before the commencement of section 361 of the Act (as substituted by the [Mining Amendment Act 2008](#)) is taken to be an inspector appointed under section 361 of the Act.

#### **3 Groups of minerals**

- (1) An application for an exploration licence (pending immediately before the commencement of the [Mining Regulation 2010](#)) in respect of Group 2 or Group 8 minerals is, on and from that commencement, taken to be an application in respect of the Group 2 or Group 8 minerals specified in Schedule 2 to this Regulation.
- (2) An exploration licence (as in force immediately before the commencement of the [Mining Regulation 2010](#)) granted in respect of Group 2 or Group 8 minerals is, on and

from that date, taken to be granted in respect of the Group 2 or Group 8 minerals specified in Schedule 2 to this Regulation.

- (3) An application for an assessment lease or a mining lease (pending immediately before the commencement of the *Mining Regulation 2010*) in respect of agricultural lime is taken to be an assessment lease or mining lease granted in respect of limestone.
- (4) An assessment lease or a mining lease (as in force immediately before the commencement of the *Mining Regulation 2010*) granted in respect of agricultural lime is taken to be an assessment lease or mining lease granted in respect of limestone.
- (5) An application for an assessment lease or a mining lease (pending immediately before the commencement of the *Mining Regulation 2010*) in respect of geothermal substances is taken to be an assessment lease or mining lease granted in respect of geothermal energy.
- (6) An assessment lease or a mining lease (as in force immediately before the commencement of the *Mining Regulation 2010*) granted in respect of geothermal substances is taken to be an assessment lease or mining lease granted in respect of geothermal energy.

## **Part 3 Provisions consequent on enactment of *Mining Legislation Amendment (Uranium Exploration) Act 2012***

### **4 Definitions**

In this Part—

***transitional exploration application*** means an application for an exploration licence in respect of Group 1 minerals that, because of clause 5, are taken to include thorium.

***transitional exploration licence*** means an exploration licence in respect of Group 1 minerals that, because of clause 5, are taken to include thorium.

### **5 Changes to mineral groups**

Despite the amendment made by Schedule 2 [2] to the *Mining Legislation Amendment (Uranium Exploration) Act 2012*, thorium is taken to continue to be a Group 1 mineral for the following purposes—

- (a) the determination of an application for, and the granting of, an exploration licence or a renewal of an exploration licence, if the application was made (but not determined) before the commencement of that amendment,
- (b) the operation of an exploration licence in respect of Group 1 minerals, and an application for the renewal of, and the renewal of, any such licence, if the original licence was granted before that commencement or granted as referred to in paragraph (a).

## **6 Exploration licence applications relating to land subject to transitional existing exploration licence or transitional exploration application**

- (1) This clause applies to an application for an exploration licence in respect of Group 11 minerals in respect of land that is subject to a transitional exploration application or a transitional exploration licence.
- (2) For the purposes of the application of section 19 of the Act to an application for an exploration licence to which this clause applies—
  - (a) the transitional exploration application or transitional exploration licence is taken to include Group 11 minerals, and
  - (b) consent to the application is not required under that section if the application is accompanied by a statutory declaration by or on behalf of the applicant to the effect that it is not intended to prospect for thorium on the land to which the transitional exploration application or transitional exploration licence applies.
- (3) If an exploration licence is granted after an application for which consent is not obtained because of subclause (2) (b), the exploration licence is taken, to the extent that it applies to land covered by the transitional exploration application or transitional exploration licence to be a licence over Group 11 minerals (other than thorium).
- (4) An exploration licence referred to in subclause (3) is taken to be a licence over all Group 11 minerals if—
  - (a) the transitional exploration application lapses or is refused, or
  - (b) the transitional exploration licence ceases to be in force and is not succeeded by a mining lease or assessment lease that is taken to include thorium.

## **7 Assessment lease applications relating to land subject to transitional exploration application**

For the purposes of the application of section 37 (1) (c) (i) of the Act to an application for an assessment lease sought in respect of thorium on land that is subject to a transitional exploration application, the transitional exploration application is taken to include Group 11 minerals.

### **Note—**

The effect of this provision is to require the consent of the applicant under a transitional exploration licence to the proposed assessment lease. Because clause 5 deems thorium to be included as a Group 1 mineral covered by a transitional exploration licence or a transitional exploration application, the consent of the holder of the transitional exploration licence is also required to be obtained under section 37 of the Act to an application for an assessment lease that applies to thorium on the same land. Similarly, the consent of the holder of a transitional exploration licence or a transitional exploration application is also required to be obtained under section 58 of the Act to an application for a mining lease in respect of thorium on the same land.

## **Part 4 Provision consequent on enactment of [Mining and Petroleum](#)**

## Legislation Amendment Act 2014

### 8 Operation of section 380AA (Restrictions on planning applications for coal mining)—transitional consents for authorities

- (1) For the purposes of section 380AA of the Act, a person who holds a transitional consent is deemed to be the holder of the authority that the transitional consent permits the person to apply for.
- (2) A person who has applied for an authority pursuant to a transitional consent is still considered to hold the transitional consent while the application for the authority is pending.
- (3) A development application made or purporting to have been made before the commencement of this clause that would have been validly made had this clause been in force at that time is taken to have been validly made (despite section 380AA of the Act).
- (4) In this clause—

**development application** means an application for development consent or modification of development consent.

**transitional consent** means a consent of the Minister under section 13, 33 or 51 of the Act to the making of an application for an authority in respect of coal, given before the commencement of section 380AA of the Act.

## Part 5 Provision consequent on making of Mining Amendment (Licences for Operational Allocation Purposes) Regulation 2015

### 9 References to Group 9 minerals—oil shale

- (1) On and from the commencement of the amendment made by the *Mining Amendment (Licences for Operational Allocation Purposes) Regulation 2015* to Schedule 2 to the *Mining Regulation 2010*—
  - (a) a reference in any mining document to a Group 9 mineral, to the extent that the reference applies in respect of oil shale, is to be read as a reference to a Group 9A mineral, and
  - (b) a reference in any mining document prepared before that commencement to Group 9 minerals generally is to be read as a reference to Group 9 minerals and Group 9A minerals, generally.
- (2) In this clause, **mining document** means any authorisation or other document that has any operation in connection with the Act or an authorisation.

## Part 6 Provision consequent on making of Mining Legislation

## **Amendment (Harmonisation) Regulation 2016**

### **10 Construction of reference**

In clause 70 (2) (a) of this Regulation, the reference to Dams Safety NSW includes a reference to the Dams Safety Committee constituted under the *Dams Safety Act 1978*, until that Act is repealed.

## **Part 7 Provision consequent on repeal of Mining Regulation 2010**

### **11 Savings**

Any act, matter or thing that, immediately before the repeal of the *Mining Regulation 2010*, had effect under that Regulation is taken to have effect under this Regulation.