

Operational policy Certificate of application – Mining lease notice – assessment of coal or oil shale mining lease application

Policy number 4/2013
September 2013
Version 2.0

Application

This policy relates to the following sections of the *Mineral Resource Act 1989 (MRA)* and the Mineral Resources Regulation 2013:

- s.233 Only eligible persons to hold mining leases
- s.245 Application for grant of mining lease
- s.252 Issue of mining lease
- s.252B Declaration of compliance with obligations
- s.318AP Additional requirements for making application
- s.318DT General requirements (*initial development plan requirements*)
- s.318DU Plan period
- s.318DV Statement about interests of relevant petroleum tenure holder
- s.318DW Requirement to optimise use of incidental coal seam gas
- 318DZ Ministerial approval of proposed plan
- s.318EA Deciding whether to approve proposed plan

These sections are to be considered when assessing an application for a coal or oil shale mining lease.

Purpose

The purpose of this policy is to provide guidance and set out the principles to be followed with respect to a mining lease notice for a coal and oil shale mining lease.

This policy is written to:

- provide guidance and clarity to both applicants and departmental officers
- promote consistency of permit administration and regulation across resource legislation
- promote the purpose and objectives of the resource legislation
- increase the department's timeliness and efficiency of processing permit applications and requests
- clarify when IDP and CSG statement should be technically assessed.

The information provided in this policy **does not limit the exercising of discretion** nor does it override legislative requirements however it reflects current practices within the department which may change from time to time. All changes will be published through a revised version of this policy.



Mining lease notice

Under Chapter 6 of the MRA *Mining Leases*, a decision maker is required to assess a mining lease application to confirm whether or not the applicant has met the obligations of the MRA with respect to making an application.

In order to be satisfied that the application has met the obligations of the MRA, the decision maker must establish that the applicant is an eligible person and assess the application against s.245 of the MRA.

If the decision maker is satisfied that applicant is an eligible person and that the application has met the requirements of s.245 of the MRA, in accordance with s.252 of the MRA the decision maker is required to prepare a mining lease notice.

Assessment of a coal or oil shale mining lease application

A coal or oil shale mining lease has additional application requirements under Chapter 8 of the MRA *Provisions for Coal Seam Gas* that must be assessed to determine whether or not the applicant has satisfied the obligations in the MRA.

Under under ss.318AP and 318DT of the MRA the following application requirements must be assessed:

- the initial development plan (IDP), and
- the coal seam gas (CSG) statement.

There are generally two types of assessment that need to be completed for a IDP and and CSG statement, they are an assessment of the statutory obligations and a technical assessment.

Assessment of the statutory obligations

An assessment against the statutory obligations requires the decision maker to ensure that the applicant has met the statutory requirements under ss.318AP and 318DT of the MRA.

This will require the decision maker to confirm:

- that the CSG statement and the IDP have been included with the application, and
- the CSG statement and the IDP comply with the content required under ss.318AP and 318DT of the MRA.

This assessment is undertaken by the decision maker when they are assessing the application against the requirements of s.245 of the MRA.

Technical assessment

A technical assessment is an assessment of the substance of the IDP and CSG statement. This will require a comprehensive assessment of the content of the IDP and CSG statement under ss.318AP, 318DT, 318DU, 318DV, 318DW and 318DZ of the MRA



The technical assessment ensures that the content that has been submitted by an applicant is sufficient for approval by the decision maker under s318EA of the MRA *Deciding whether to approve proposed plan*. If the proposed plan is not approved the mining lease application must be rejected under s318DZ of the MRA.

When is a mining lease notice issued for a coal oil shale mining lease application?

Under s.252 of the MRA the decision maker needs to be satisfied that the application has complied with the statutory requirements of the MRA for making an application. Therefore the mining lease notice may be issued after the decision maker has assessed the application against the statutory obligations of s.318AP and s.318DT of the MRA.

Important Note

Before issuing a mining lease notice the decision maker must ensure IDP and CSG Statement meet the requirements of s318AP and 318DT of the MRA. Failure to assess these requirements may be grounds for a judicial review under the *Judicial Review Act 1991*.

The decision maker does **not** need to be satisfied that the content of the IDP or a Coal Seam Gas Statement would be approved by the decision maker under s.318EA of the MRA, before issuing a mining lease notice.

The mining lease notice is issued because the application has met all of the statutory requirements with respect to making an application for a mining lease. The content of an IDP or CSG statement is not an application requirement, it is a requirement that must be satisfied before *granting* the mining lease.

Other activities which are not application requirements include:

- negotiation and consultation with a permit holder under ss.318AT, 318AW, 318AZ, 318C, 318CA and 318CB of the MRA, and
- a coordination arrangement under s.318CQ of the MRA.

Important Note

An IDP may also be amended after the mining lease notice has been issued. This will not impact on the mining lease notice or any interested parties, as the IDP will still need to be approved, and copies of the amended IDP must be provided to relevant landholders under s.252B(8) of the MRA.



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September 2016**

Enquiries:

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Disclaimer

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