

Operational Policy

Mining lease notification and transitional arrangements

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Purpose

This policy provides guidance on when the chief executive will issue a mining lease notice under the *Mineral Resources Act 1989* (MRA) to allow applicants to meet public notification requirements under the MRA and *Environmental Protection Act 1994* (EPA), where applicable.

The information in this policy does not override legislative requirements and reflects current practices within the department. These practices may change from time to time; all changes will be published through a revised version of this policy.

Relevant Legislation

This policy relates to the *Mineral Resources Act 1989* (MRA):

- s.245 Application for grant of mining lease
- s.252 Issue of mining lease notice
- s.252A Giving and publication of mining lease notice and other information

and the *Environmental Protection Act 1994* (EP Act):

- s.149 When notification stage applies
- s.150 Notification stage does not apply to particular applications
- s.152 Public notice of application

Policy Determination

Background

When a mining lease application is made, s 252 of the MRA requires the chief executive to issue a mining lease notice if satisfied that the applicant is eligible to apply for the mining lease and has complied with the application requirements.

Once the mining lease notice is issued, it triggers the requirement for notification of the mining lease application under s 252A the MRA within specified timeframes.

If a new environmental authority (EA) for the mining activities is also required, the EA application under the EP Act must also be publicly notified (unless exempted – see below). Section 152 of the EP Act requires the applicant to notify the EA application at the same time, and in the same way, as any related mining lease application.

If the mining lease notice is issued under the MRA before the EA application is ready for notification, the applicant will be unable to notify both applications at the same time.

Joint notification

For relevant projects, DNRME will not issue the mining lease notice until it has received notification from the Department of Environment and Science (DES) that the EA application is ready for public notification. This policy determination enables the applicant to jointly notify the mining lease and EA applications.

Joint notification will be required in these scenarios:

- Mining lease application and EA application that hasn't completed an Environmental Impact Statement (EIS) before the EA application was made
- Mining lease application and an EA application where an EIS has been completed before the EA application was made, but the EP Act requires notification of the EA application
- Mining lease application and an EA major amendment application with EA notification required.

In all other instances joint notification is not required and the mining lease notice will be sent without DNRME waiting for notification from DES. See section 150 of the EP Act for when the notification stage does not apply.

Transitional Provisions Guide

The *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* introduced transitional provisions for EA applications lodged before 31 March 2013. The effect of the transitional provisions is that EA applications received prior to 31 March 2013 are managed under the previous EPA process.

However the MRA does not have transitional arrangements for ML applications received prior to this date, and there is uncertainty if they should be managed under the pre-amended MRA or under the new provisions.

The department considers that:

1. The *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* does not apply to ML applications received prior to 31 March 2013. ML applications will be managed under the pre-amended s.252A of the MRA if the EA application continues under the pre-amended EP Act. This is to ensure that the administration of these ML applications will be in line with the EA applications that are being managed under the pre-amended EPA.
2. Section 252A of the MRA, as amended by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*, will not apply to ML applications where a Certificate of Application (COA) was issued before 31 March 2013. In this instance, a Certificate of Public Notice (CPN) will be issued under the pre-amended MRA when appropriate
3. In assessing ML applications made between 31 March 2013 and 26 September 2016, the decision maker will have regard to the practical interaction between the MRA process and any EPA process. If practical and appropriate, the decision-maker will issue the CPN in a manner that will allow the applicant to also satisfy its EPA obligations.

In practice, this may mean that the CPN will not be issued until after the 'Notification Stage' for an EA application commences. This will allow the applicant to comply with s.152 and s.154 under the EPA.

4. If the draft EA or advice from DES stating that the EA application has been properly made has been received, the practical concerns about complying with the EPA and MRA public notification requirements will no longer be relevant, and the decision maker may complete their assessment and the COA and subsequent CPN can be issued.
5. Under s.150 of the EPA the notification stage is not applicable where the applicant has:
 - previously notified under an EIS prior to lodging their ML application; and
 - the environmental risks have not changed; or
 - DES is satisfied that any changes to the relevant activity would not be likely to attract a submission objecting to the change.

If an EIS has been completed, the decision maker will not be required to issue the COA after commencement of the 'Notification Stage' for an EA application.

Availability:	External *
Location	Business Industry Portal
Owner:	Georesources Divisional Support
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Approving Authority	Executive Director, Georesources Divisional Support
Related documents	
Contact:	For help and information contact an Assessment Hub Coal Assessment Hub Phone: (07) 4936 0169 Email: CoalHub@dnrme.qld.gov.au Mineral Hub Phone: (07) 4447 9230 Email: MineralHub@dnrme.qld.gov.au For technical support contact the MyMinesOnline Helpdesk. Telephone: +61 7 3199 8133 Email: mines_online@dnrme.qld.gov.au 8.30am – 4.30pm (AEST) Monday to Friday on Queensland business days.

Disclaimer

The purpose of this policy is to provide a framework for consistent application and interpretation of the legislation administered by the department. Policies may be applied flexibly where individual circumstances require an alternative application of policy. Where this policy, or part of this policy, is inconsistent with relevant legislation, the legislation will prevail to the extent of the inconsistency. While this document has been prepared with care it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Queensland Government should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.