

# Procedure

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12/08/2022

## Mining interests including claims/leases and the *Land Act 1994*

### Purpose

To clarify how to proceed when a mining claim or lease under the *Mineral Resources Act 1989* (MRA) is located on state land under the *Land Act 1994* (Land Act).

This procedure sets out the circumstances under the MRA where an "owner" of land may object to the application for the grant of the mining claim or lease and when compensation must be determined on state land under the Land Act.

### Procedure

#### Mining claims/leases

In terms of sections 71, 85, 260 or 279 of the *MRA*

- An "owner" may object to the granting of a mining lease/claim; and
- An applicant for a mining lease/claim is required to reach agreement for compensation with the "owner" of the land.

Where the state is the owner of land:

- Applicants for mining leases/claims must seek consents from and negotiate compensation with the Land Services business unit within the Department of Resources, in addition to giving a copy of the certificate of application (leases and claims) and a copy of the application.
- If there is no objection to the claim/lease then a **Compensation Agreement** as per attachment 1 is to be completed by the relevant delegated officer.
- Holders of prospecting permits, exploration permits and mineral development licences, who wish to enter land owned by the state, must seek consent from the Land Services business unit.
- The Government Land Register (GLR), and the department's Land Asset Management System (LAMS) must be noted in relation to the claim or lease.

## **Dealings under the *Land Act 1994***

In terms of section 20 of the Land Act unallocated State land, the subject of a mining interest, is still unallocated State land for the purpose of dealing with it under the Land Act.

However, the Land Act dealing cannot affect

- (a) the rights of the holder of the mining interest or the successors of the holder; or
- (b) an agreement made, or anything else done, under the MRA.

A mining interest means a permit, claim, licence, lease or other authority held under the MRA.

Although the Mines business unit of the department is responsible for the above legislation and has specific interest in some areas of the state including Mining Lease No 8058 Mount Isa, when giving consideration to dealing with land under the Land Act, a search of the records of the Land Services business unit should be sought, as the proposed use under the Land Act may not be consistent with the mining interest.

Note: Although section 20 of the Land Act also has reference to the *Petroleum Act 1923*, the *Petroleum and Gas (Production and Safety) Act 2004*, the *Geothermal Energy Act 2010* or the *Greenhouse Gas Storage Act 2009* and authorities under those Acts, this procedure deals only with the MRA.

## **Definitions**

Owner (general definition - for full particulars, see the definition of owner in the schedule of the MRA).

### **Reserve:**

- i. the Minister responsible for administering the Act under which it is a reserve
- ii. A resources reserve under the *Nature Conservation Act 1992* and there is a trustee - the trustee for the reserve

NOTE: If a lease "State Lease" has been granted over the reserve, the lessee is also the owner. If a "Trustee Lease" only has been granted, the state is the owner.

ROAD: The entity having control of the road

UNALLOCATED STATE LAND: The State of Queensland

## **Legislation**

*Land Act 1994*

*Mineral Resources Act 1989*

*Petroleum Act 1923*

*Petroleum and Gas (Production and Safety) Act 2004*

*Geothermal Energy Act 2010*

*Greenhouse Gas Storage Act 2009*

## Human Rights

The department is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. To the extent an act or decision under this document may engage human rights under the *Human Rights Act 2019*, regard will be had to that Act in undertaking the act or making the decision.

## Approval

Position	Name	Effective Date
Director, Operations Support – Land	Rod Kent	24/01/2017

## Version history

Version	Date	Comments
3		Endorsed
3.1	29/06/2005	Conversion Project – New WORD/XML template
4	19/11/2008	Updated and Reviewed
4.1	04/02/2009	Amended status of Notification from “NRW only” to “Public access”
4.2	04/02/2011	Updated to DERM
5	24/07/2012	MOG changes and omitting Acts other than Mineral Resources Act 1989
5.1	04/07/2013	Updated to DNRM with State government logo
5.02	28/03/2014	Updated to new DNRM template
5.03	18/08/2014	Minor amendment to correct error in attachment
5.04	24/01/2017	Minor amendment to insert text on new template
5.05	12/08/2022	Updated to new template and department name

## Further information

- Contact your nearest business centre  
([https://www.resources.qld.gov.au/?contact=state\\_land](https://www.resources.qld.gov.au/?contact=state_land)), or
- Refer to <https://www.qld.gov.au/environment/land/state>, or
- Call 13 QGOV (13 74 68).

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# Attachment A

## CLAIM IN THE MATTER of MINING

Claim/Lease Application No \_\_\_\_\_

And the right or way thereto \_\_\_\_\_

COMPENSATION AGREEMENT – Mineral Resources Act 1989 THIS AGREEMENT is made on this..... day of .....2014 BETWEEN The Minister for Resources (“the Minister”) for and on behalf of the STATE OF QUEENSLAND of the one part AND ..... (“the applicants”) of the other part WHEREAS

1. The Minister is the owner of Reserve for ..... shown coloured red on the attached plan (“the land”).
2. The said ..... are the applicants for Mining Claim/Lease No. ....under the Mineral Resources Act 1989 for a term of .....
3. The Minister by provision of the Mineral Resources Act 1989 is the person entitled to compensation with respect to:
  - a) deprivation of possession of the surface of the land of the owner;
  - b) diminution of the value of the land of the owner or any improvements thereon;
  - c) diminution of the use made or which may be made of the land of the owner of any improvements thereon;
  - d) severance of any part of the land from other parts thereof or from other lands of the owner;
  - e) any surface rights of access; and
  - f) all loss or expense that arises; as a consequence of the grant or renewal of the Mining Lease or any right of way to the Mining Lease.
4. The applicants agree to indemnify the STATE OF QUEENSLAND and certain other parties in relation to mining operations and associated activities arising out of the grant of the Lease.

### NOW THIS AGREEMENT WITNESSES AS FOLLOWS:

1. The said Minister hereby accepts and acknowledges receipt of the sum of ..... in full and final payment for compensation described in items a) to f) inclusive for the said land.
2. The applicants hereby jointly and severally indemnify and will keep indemnified:
  - a) The Minister;
  - b) The State of Queensland;
  - c) Every instrumentality of the State of Queensland;
  - d) The ..... Council (“the Council”)
3. Every servant and agent of the above mentioned a) to d), (a) to e) jointly and severally being “the indemnified”) From and against all actions, suits, proceedings, claims, demands, costs, losses, damages and expenses which may be brought against or made upon the indemnified, or which the indemnified may pay, suffer, sustain or be put to by reason of, in consequence of, or in connection with the carrying out of mining operations and associated activities on the land by the applicants, their employees, contractors, invitees, licensees, servants or agents, and without limiting the generality of any of the provisions hereinbefore mentioned whether in respect of any

loss of life or of injury to or damage to any person (including the indemnified) or property (including any property of the indemnified) PROVIDED ALWAYS that this indemnity shall operate to include all the aforesaid actions, suits, proceedings, claims, demands, costs, losses, damages and expenses which are caused by any negligent act or omission of the indemnified which would not have arisen but for the conduct of mining operations and associated activities on the land AND THE APPLICANTS DO HEREBY RELEASE AND DISCHARGE the indemnified from any such action, suit, proceeding, claim, demand, costs, loss, damage or expense which but for the provisions hereof might be brought against or made upon the indemnified.

IN WITNESS WHEREOF the parties have set their hands this day and year herein before written.

SIGNED BY THE SAID

Name in full: \_\_\_\_\_

Signature: \_\_\_\_\_

In the presence of Justice of the Peace

Name in full: \_\_\_\_\_

Signature: \_\_\_\_\_

AND BY THE SAID

Name in full: \_\_\_\_\_

Signature: \_\_\_\_\_

as delegate of the Minister for Resources or and on behalf of the State of Queensland.