

Level Pegging: Managing Mineral Titles in Western Australia

Report 1 – June 2002

Background

The mineral titles system provides a regulatory framework designed to enable exploration and mining by providing fair access to mineral resources, active development of these resources, and payment of mineral royalties to the State, with minimal disruption to the environment and other land use activities. This involves granting mineral titles, monitoring exploration and mining activities, and enforcing compliance with title-holders' responsibilities.

What the examination found...

This audit examination reviewed the records of some 8400 mineral titles in Western Australia to assess the efficiency and effectiveness of the State's mineral titles administration. The main findings were in the areas of:

Regulatory Framework

Despite on-going consultation with industry to maintain the relevance of the *Mining Act 1978* to current industry needs, many proposed legislative amendments have yet to be enacted. Some of these proposals date back as far as 1996. In addition, some administrative policies and procedures have been implemented outside of the authority of the Act.

Timeliness and Cost

Irrespective of the impact of native title, the mineral titles application process can take as long as 22 months. Significant delays occur in the initial recommendation to grant by the Mining Registrar are due in part to applicants failing to respond to requests for information.

Of the 1798 applications lodged in the first six months of 2000, 50 per cent had still to be referred for consideration under the *Native Title Act (Cth) 1993* at the time of this audit examination.

Administrative Decision-making

Department of Mineral Petroleum Resources (DMPR) lacks comprehensive and authorised criteria and guidelines to guide staff in their decisions in assessing mineral title applications and applications for exemption from minimum expenditure conditions. Further, DMPR does not retain adequate records detailing how and on what basis administrative decisions are made. Consequently, DMPR is unable to reliably demonstrate that all title applicants and all applicants for expenditure exemptions are treated equitably and on the basis of objective and relevant considerations.

Managing Compliance

Only 11% of title-holders provide DMPR with information sufficient to demonstrate that at least the minimum amount of expenditure is spent on exploration or mining activity each year. 55 per cent of title-holders required to observe reporting and expenditure conditions either fail to report annual expenditure to DMPR or report expenditure that is less than the minimum required by legislation. A further 34 per cent of titleholders report compliance with minimum expenditure conditions, but they provide insufficient information to support claimed expenditure.

Mineral titles that do not comply with reporting or minimum expenditure conditions are subject to forfeiture of title either through private action in the Mining Warden's Court or through DMPR forfeiture proceedings. However, DMPR does not rigorously pursue forfeiture for non-complying titles.



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What the examination recommended...

The key recommendations contained in the report deal with matters of:

Policy and Procedures

that DMPR:

- needs to actively pursue necessary amendments to the Mining Act and ensure that all operational procedures are reliably authorised by governing legislation and are consistently applied;
- determine an appropriate set of criteria for assessing mineral titles; and
- establish clear guidelines and procedures for assessing expenditure exemptions applications.

Operational

that DMPR:

- minimise opportunities for title applicants to delay or suspend the application process;
- identify and address avoidable delays in the title application process;
- monitor and enforce compliance with the reporting requirements;
- initiate procedures to ensure that all tenements that do not comply with minimum expenditure requirements and are refused exemptions (and are not the subject of plaintiff action) are made subject to forfeiture.

Monitoring and Review

that DMPR:

- review record-keeping practices to ensure completeness and accuracy of records;
- make the creation and validation of mineral title records an integral part of operational procedures; and
- strengthen the quality controls on its information systems.