

ADVISORY NOTE

Transfer of Authorised Tenements

This advisory note outlines the process where an authorised mining tenement is transferred to a new operator and the requirements for a security for the existing liabilities in addition to security for proposed mining activities to be conducted by the incoming operator. This may be read in conjunction with the Advisory note "Authorisation of a Mining Interest Guide".

INTRODUCTION

The Northern Territory Government is supportive of development projects that result in net material benefit for the community. Nevertheless the protection of the community's interest and the prevention of environmental harm, particularly in the event of project failure, remain a high priority. If a mining tenement (mineral lease, mineral claim, extractive mineral lease or extractive mineral permit) is to be transferred to a new operator then the liability is transferred and hence there is a requirement for a replacement security for existing liability.

BACKGROUND

The *Mining Management Act* (MMA) effectively overlays the *Mining Act* (MA) and prohibits mining activities without an Authorisation backed by a mining management plan (MMP) and security. On transfer of tenements, a new operator taking over an existing tenement Authorised under the MMA assumes the risks and responsibility for that tenement and needs to be appointed as the operator and have an approved authorisation as well as obtaining Ministerial consent to the transfer of ownership of the tenement (under the MA).

CONTINUITY OF OPERATIONAL ACTIVITIES ON AUTHORISED TENEMENTS

The process which enables continuity of an existing Authorised mining operation under the MMA for mining tenements which are to be transferred to a new owner, is essentially the same as that for the Authorisation of a new mining interest.

- Under the MMA, prior to the transfer of the mining tenements under the MA, the original owner must nominate the new operator;
- The new operator must apply for an Authorisation as per 35(1) of the MMA;
- As part of the new operators application for Authorisation, under section 40 of the MMA the new operator is required to submit a MMP for activities which they propose to conduct;
- The MMP is to include management of rehabilitation of the previous operator's activities as detailed in that operators accepted MMP, as well as for the proposed new activities;

- The new operator may resubmit the previous operators MMP if an agreement has been reached with that operator. The new operator must ensure that their activities and management systems are in accordance with that plan;
- The level of security required to be submitted is based on the existing and proposed disturbances outlined in the MMP. Where an existing MMP is resubmitted by the new operator as part of the application for Authorisation, the existing level of security will be required to be replaced by the new operator.
- On transfer of tenements under the MA, the original nomination of operator form (in which the original tenement owner nominates the new operator) would no longer be valid.
- A new nomination of operator form would only need to be submitted if the new tenement owner is not the operator.

Alternatively, if the new company has purchased the Authorised company, the Authorisation may continue under the existing operators name, MMP and security arrangements until such time as the new company wish to change the name of the Authorised entity or the renewal date becomes due.

For further information or advice on this subject please contact

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