

To: Department of Mining, Industry Regulation and Safety

**Re: Marking out for Conversion Applications under S105 (2)
of the *Mining Act 1978***

21 July 2023

Introduction

AMEC appreciates the opportunity to provide comment to the guidelines for Marking out for Conversion under Section 105(2) of the *Mining Act 1978*. The guidelines provide greater clarity as to how a Registrar is expected to apply the amendments to Section 105 made by *the Mining Act (No. 2) Amendment Bill 2021*.

About AMEC

The Association of Mining and Exploration Companies (AMEC) is a national industry association representing over 540 member companies across Australia. Our members are mineral explorers, emerging miners, producers, and a wide range of businesses working in and for the industry. Collectively, AMEC's member companies account for over \$100 billion of the mineral exploration and mining sector's capital value.

Mineral exploration and mining make a critical contribution to Australia's economy, directly employing over 274,000 people. In 2021/22 Industry generated a record high \$413 billion in resources exports, invested \$3.86 billion in exploration expenditure to discover the mines of the future, and collectively paid over \$63 billion in royalties and taxes.

General Comments

The drafting of this guideline is comprehensive. The inclusion of a Frequently Asked Questions (FAQ) and multiple examples to step through how the principles will be applied are particularly appreciated. The inclusion of these examples has made it easier to understand how it will be applied.

Length of timing specified under S105 (4) (a) (ii)

There is no upper time limit on how long a Registrar can delay marking out. Is there an ability for the time limit on marking out to be amended? We agree with the statement under FAQ 6.4 that the Registrar will apply reasonable judgement.

Transparency

Clarification on whether the date specified under S105 (4) (a) (ii) will be published and where it will be published. As there may be competing interests, the publication on Tengraph of the timeframe for marking out is needed.

Example F

As already stated, the examples are appreciated as they draw to light certain interpretations. In Example F, someone is out of State, but could hire an agent to mark out on their behalf. However, in Example A, someone is in Perth, unable to travel, but cannot hire someone in the Goldfields to do so. What is the threshold for not being able to hire someone to act as a representative? While the example is purely theoretical there are many people who are willing to act as an agent and mark out across the State. What level of evidence is required to be deemed to have made sufficient effort to not mark out?

The limitations on movement into and around Commonwealth Biosecurity zones powers, as per section 477 of the *Commonwealth Biosecurity Act 2015*, that were implemented during the COVID-19 pandemic, are a rare example of where an agent may not be procured.

FAQ 6.3

The second paragraph reads as if, despite their application that the area cannot be marked out is rejected due to insufficient evidence, the Registrar will set a new date for marking out. That appears to reward making an application. If a company applies and it is rejected, the tenement should lapse on the original date.

FAQ 6.8

The question clarifies the interpretation of “any law” provisions in S105 (3) (a).

An example that would be pertinent, and we ask is included, is the *Aboriginal Cultural Heritage Act 2021* (ACH Act). There are likely to be a range of unintended consequences that emerge out of application of the ACH Act 2021.

Section 7

Section 7 of the guideline is a welcome procedural step through of how the process will work. We suggest that it may help the flow of the document if it is moved ahead of the Section 6.

Final Comment

The Guideline for Marking out for Conversion under Section 105(2) of the *Mining Act 1978* is welcome clarification. We look forward to providing comment on the Procedural paper on the evidence required for marking out when that comes available.

For further information please contact:

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