

Submission exchange process under section 111A of the *Mining Act 1978*

Issue

This paper seeks to clarify how the Resource Tenure Division (RTD) of the Department of Energy, Mines, Industry Regulation and Safety conducts the submission exchange process when a person makes a submission to the Minister under section 111A of the *Mining Act 1978* (Mining Act).

Background

The Minister has a discretionary power to terminate or summarily refuse an application for a mining tenement if, in respect of the whole or any part of the land to which the application relates, the Minister is satisfied on reasonable grounds that in the public interest the application should not be granted - section 111A(1)(c)(ii) of the Mining Act.

Position

When dealing with a request that the Minister exercise the section 111A discretion to terminate or summarily refuse an application for a mining tenement, the usual practice of the RTD, as part of seeking to ensure procedural fairness is accorded to any affected party, is to undertake a submission exchange process.

On receipt of a section 111A submission made to the Minister, either directly or indirectly through the department, the usual practice of the RTD is to:

1. Notify any party that has a direct interest in the subject matter that a section 111A submission has been made and invite them to lodge a submission in support of the application for the mining tenement within 30 days.
2. Provide the requesting party with a copy of any submission(s) received from any interested party, and provide any interested party with a copy of the requesting party's submission, seeking any written comments within 14 days.
3. Provide the requesting party and any interested party with a copy of any comments received in response to their submission.
4. Forward all submissions and comments to the Minister for their consideration.

Note – Requesting parties and interested parties are encouraged to raise all relevant matters when making their submissions to the Minister and to limit any comments provided pursuant to the process outlined in point 2 above to the content of the opposing party's submission.