

**PRACTICE DIRECTION NUMBER 5 of 2013**

**LAND COURT OF QUEENSLAND**

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**COMPENSATION DETERMINATIONS  
UNDER THE *MINERAL RESOURCES ACT 1989***

**INFORMATION REQUIRED FROM THE PARTIES**

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- (1) This Practice Direction repeals and replaces Practice Direction 1 of 2011.
- (2) This Practice Direction applies to the determination of compensation by the Land Court under the Mineral Resources Act 1989 (MRA). Sections 85, 85A, 279, 279A and 281 of the MRA confer jurisdiction on the Land Court to determine compensation in respect of the grant and renewal of mining claims and mining leases.
- (3) To assist the Land Court in making a determination, the parties are required to provide the Court with information regarding their position in relation to compensation in accordance with this Practice Direction.

**Parties to the Land Court Proceeding**

- (4) The applicant to the Land Court proceeding is the party who requested that the issue of compensation be referred to the Land Court for determination. This will usually be the applicant for or holder of the mining claim or mining lease (the mining tenure applicant / holder). In such cases, the landowner will be the respondent to the proceeding.
- (5) If the landowner has requested the referral to the Land Court (see ss.85(5) and 281(1) of the MRA), the landowner will be the applicant to the proceeding and the mining tenure applicant / holder will be the respondent.
- (6) In cases where neither party has requested the referral and the Department of Natural Resources and Mines is compelled to refer the matter to the Land Court after 3 months (see ss.85(12), 85A, 279(5) and 279A of the MRA), the mining tenure applicant / holder will be the applicant to the proceeding and the landowner will be the respondent.

**Procedures**

- (7) Upon receipt of a referral of compensation, the Land Court Registry will send the parties an acknowledgment letter.
- (8) Within twenty-eight (28) days after the date of the acknowledgment letter, the applicant must file in the Court and serve on the respondent:
  - (a) a compensation statement;
  - (b) any supporting affidavits or statutory declarations; and
  - (c) a hearing statement.
- (9) Within twenty-eight (28) days after being served with the applicant's material, the respondent must file in the Court and serve on the applicant:

- (a) a compensation statement (which should also identify any aspects of the applicant's compensation statement with which the respondent agrees or disagrees and the reasons for any disagreement);
  - (b) any supporting affidavits or statutory declarations; and
  - (c) a hearing statement.
- (10) If the applicant does not serve any material in accordance with paragraph (8) above, the acknowledgment letter from the Land Court Registry will nominate a due date for the respondent's material which will be no less than 28 days from the last day of the applicant's 28-day period.
- (11) Within seven (7) days after being served with the respondent's material, the applicant is to file in the Court and serve on the respondent any material in reply to the respondent's material.
- (12) If the respondent does not serve any material in accordance with paragraph (9) above, the applicant must notify the Court as soon as possible and no later than the due date nominated in the acknowledgment letter from the Land Court Registry.
- (13) If either party desires further time to comply with these procedures, that party must immediately contact the other party and seek their written consent. A written request for an extension of time, together with a copy of the other party's consent, should then be forwarded to the Court **before** the relevant due date. If the other party does not consent to the extension, a written request can still be made to the Court and the Court will determine whether it is appropriate in all the circumstances.
- (14) The due dates identified in the acknowledgment letter from the Land Court Registry remain set until formally changed by the Court.

### **Compensation Statement**

- (15) A "compensation statement" means a statement detailing the amount of compensation the party considers the Court should determine having regard to:
- (a) in the case of a mining claim – the criteria in s.85(7) and (8) of the MRA; or
  - (b) in the case of a mining lease – the criteria in s.281(3) and (4) MRA.
- (16) The compensation statement should address **all** the criteria in the relevant MRA provisions, including:
- (a) The total amount of compensation, supported by:
    - (i) sufficient information on how the amount is calculated;
    - (ii) sufficient information about any losses or expenses claimed, including management costs; and
    - (iii) sufficient evidence in support of the amount claimed for each head of compensation, in particular, valuation and economic evidence in support of each head.
  - (b) Details of what the proposed mining area:
    - (i) is currently used for; and

- (ii) is otherwise capable of being used for.
- (c) Details of how the proposed mining operations will affect the current and prospective uses of the proposed mining area; and
- (d) Any other material a party considers relevant.

**Hearing Statement**

- (17) Each party is required to submit to the Court a “hearing statement” – that is, a short statement advising whether the party wishes the matter to be dealt with by the Court:
  - (a) on the papers – which means that the Court will make a decision based on the written material supplied by the parties without an oral hearing;

OR

- (b) by way of an oral hearing – where the parties will have an opportunity to cross-examine the witnesses of the other party and make oral submissions to the Court.
- (18) Generally the matter will be dealt with by the Court on the papers unless a party specifically requests the Court to list the matter for an oral hearing.

**Paul A Smith**  
**A/President**  
16 April 2013