

**NORTHERN TERRITORY OF AUSTRALIA**

**LANDS AND MINING TRIBUNAL RULES**

As in force at 10 January 2001

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 10 January 2001

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## LANDS AND MINING TRIBUNAL RULES

### Rules under the *Lands and Mining Tribunal Act*

#### 1 Citation

These Rules may be cited as the *Lands and Mining Tribunal Rules*.

#### 2 Definitions

In these Rules, unless the contrary intention appears:

**file** means lodge a document at the office of the Registrar by physically delivering the document to the office or, if there is a facility at the office of the Registrar for the receipt of documents by electronic transmission, by sending the document by electronic transmission.

**Registrar** includes a member of the staff of the Tribunal directed by the Registrar or Chairperson to perform the functions of the Registrar under these Rules.

#### 2A Seal of the Tribunal

- (1) There is a seal of the Tribunal, approved by the Chairperson.
- (2) The Registrar is to have in his or her custody a stamp of a design as near as practicable to the seal of the Tribunal.
- (3) A document marked with a stamp referred to in subrule (2) is to be taken to have been sealed with the seal of the Tribunal.

#### 3 Forms and documents

- (1) A reference in these Rules to a form by number is a reference to the form of that number in Schedule 1.
- (2) If a document required to be filed is not prescribed by these Rules, the document is to be in a form that is acceptable to the Tribunal and attached to a title page in accordance with Form 1.

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- (3) If there is an inaccuracy in the completion of a document (including a prescribed form) used in a proceeding, the Tribunal may:
- (a) make the amendments to the document that the Tribunal considers appropriate;
  - (b) make orders for the amendment of the document; or
  - (c) accept the document without amendment.

**3A Delivery after filing by electronic transmission**

If a document is filed by electronic transmission, a hard copy of the document is to be delivered by hand or post to the office of the Registrar:

- (a) within 3 working days after the date of filing; or
- (b) within a further period as permitted by the Tribunal or Registrar.

**4 Issue of practice directions**

The Chairperson may issue practice directions, not inconsistent with the Act or these Rules, for the purpose of regulating the practice and procedure of the Tribunal.

**5 Orders relating to conduct of proceeding**

At any stage of a proceeding the Tribunal may, of its own motion or on application, make orders that the Tribunal considers appropriate in respect of the conduct of the proceeding.

**6 Starting proceeding**

- (1) Subject to any other procedure specified by or under an Act in force in the Territory, a person starts a proceeding by filing an application to start a proceeding.
- (2) An application to start a proceeding is to:
  - (a) be in accordance with Form 2;
  - (b) state the section and name of the Act to which the application relates and the recommendation, determination or other decision sought by the applicant;
  - (c) include a statement of the relevant facts and circumstances supporting the application; and

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- (d) be filed in sufficient numbers to enable service of a copy, sealed by the Registrar, on each respondent named in the application.
  - (3) Within 14 days after an application to start a proceeding is filed the applicant must serve a sealed copy of the application, accompanied by a response in accordance with Form 3, on each respondent named in the application.
  - (4) The Tribunal may, if the Tribunal considers it appropriate, allow a person to start a proceeding by making an oral application if the person:
    - (a) is applying for a recommendation, determination or other decision considered by the Tribunal to be required urgently; and
    - (b) undertakes to file an application in accordance with Form 2 within the time directed by the Tribunal.

## **7 Response to application to start proceeding**

- (1) A respondent named in an application to start a proceeding who wishes to appear in the proceeding must file a response within 14 days after being served with the application.
- (2) A response is to be in accordance with Form 3 and is to state clearly and concisely the grounds on which the respondent opposes the application.
- (3) A respondent must serve a copy of the response on each other party to the proceeding within 14 days after filing the response, unless the Tribunal directs otherwise.

## **8 Directions hearing in respect of application to start proceeding**

- (1) No earlier than 28 days after the filing of an application to start a proceeding, the Registrar:
  - (a) must fix a time, day and place for a directions hearing and notify the parties accordingly; and
  - (b) may, unless a practice direction provides otherwise, require the parties, within the time fixed by the Registrar:
    - (i) to deliver to each other party a copy of the orders and directions the party would like the Tribunal to make or give at the directions hearing; and

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- (ii) to confer with a view to agreeing, as far as practicable, on the orders and directions the Tribunal should be asked to make or give at the directions hearing.
  - (2) At a directions hearing, the Tribunal may make the orders and give the directions about the conduct of the proceeding that the Tribunal considers appropriate.
  - (3) Without limiting subrule (2), the Tribunal may make orders and give directions about any of the following matters:
    - (a) the need for and extent of:
      - (i) disclosure of documents or other relevant material;
      - (ii) interrogatories; or
      - (iii) inspection of property;
    - (b) including other persons as parties to the proceeding;
    - (c) the manner and adequacy of service of documents;
    - (d) when and where the proceeding is to be heard and how the hearing will be conducted, including whether a view of a place or object is required;
    - (e) evidence, including expert evidence.
  - (4) This rule does not prevent the Chairperson, if he or she considers it appropriate, from fixing a time, day and place for the hearing of an application without a directions hearing being held in respect of the application.

## **9 Application in proceeding**

- (1) Unless the Tribunal directs otherwise, an application in a proceeding is to:
  - (a) be in accordance with Form 4;
  - (b) include a brief statement of the orders or directions sought;
  - (c) be supported by an affidavit unless the application relates to a procedural matter; and
  - (d) be filed in sufficient numbers to enable service of a copy, sealed by the Registrar, on each other party.

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- (2) An applicant must serve a sealed copy of an application and a copy of the supporting affidavit on each other party to the proceeding at least 3 days before the day fixed for the hearing of the application, unless the Tribunal directs otherwise.
  - (3) The Tribunal may, if the Tribunal considers it appropriate, allow a party to make an oral application in a proceeding if the party undertakes to file an application in accordance with Form 4 within the time directed by the Tribunal.

## **10 Steps before hearing application in proceeding**

Before an application in a proceeding (other than an oral application made under rule 9(3)) is heard, the parties to the proceeding must confer, with a view to agreeing as far as practicable, on the orders and directions the Tribunal should be asked to make or give at the hearing of the application.

## **11 Summons for attendance**

- (1) The Tribunal may, on the filing of a summons in a proceeding, order that a person named in the summons attend before the presiding member for the purpose of giving evidence or of producing a document or thing for evidence, or for both purposes.
- (2) Order 42 of the *Supreme Court Rules* (except rules 42.09 and 42.10) and the applicable form under that Order apply, with the necessary changes, in relation to a summons filed under subrule (1) as if the summons were a subpoena.

## **12 Evidence relating to cultural and customary matters**

- (1) Without limiting sections 11 and 14 of the Act, the Tribunal may make orders in respect of the presentation of evidence that refers to a cultural or customary matter.
- (2) If evidence referring to a cultural or customary matter is to be given by way of singing, dancing, storytelling or in a manner other than in the normal course of giving evidence, the party intending to adduce the evidence must, within a reasonable time before the evidence is proposed to be given, inform the Tribunal and all other parties to the proceeding:
  - (a) where, when and in what manner it is proposed to give the evidence;
  - (b) of any issues of secrecy or confidentiality relating to the evidence or part of the evidence; and

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- (c) whether the party claims protection from disclosure of culturally sensitive information.
  - (3) If a party claims protection from disclosure of culturally sensitive information, rule 13 applies in relation to that information.

**13 Protection from disclosure of culturally sensitive information**

- (1) Without limiting section 11(2) of the Act, the practice and procedure of the Tribunal for the protection from disclosure of culturally sensitive information is to be in accordance with this rule.
- (2) The Tribunal may make orders, not inconsistent with the Act or this rule, in respect of the presentation of evidence that refers to culturally sensitive information.
- (3) A party who claims protection from disclosure of culturally sensitive information referred to in a document used in a proceeding must:
  - (a) place the document inside a sealed envelope clearly labelled "DOCUMENT CONTAINING CULTURALLY SENSITIVE INFORMATION";
  - (b) file the document attached to a notice that includes:
    - (i) a statement that the attached document refers to culturally sensitive information for which protection from disclosure is claimed; and
    - (ii) a short description of the culturally sensitive information and the reason for its confidential or secret nature; and
  - (c) serve a copy of the notice on all other parties to the proceeding.
- (4) An envelope referred to in subrule (3) may be opened only with the leave of the Tribunal, and leave may be conditional on the non-disclosure of all or part of the culturally sensitive information.
- (5) The Tribunal may determine that evidence, information, a document or other material that refers to culturally sensitive information is prohibited from disclosure or publication (in whole or part) other than that:
  - (a) the facts asserted by the party claiming protection from disclosure are to be disclosed to a party to the proceeding; or
  - (b) a comprehensible and comprehensive summary of those facts is to be disclosed to a party to the proceeding,

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if a failure to do so would constitute prejudice to that party.

**14 Fees in respect of proceeding**

- (1) Subject to subrule (3), the fee payable in respect of a proceeding for a matter specified in Schedule 2 is the amount specified opposite the matter.
- (2) A fee specified in Schedule 2 is payable to the Tribunal on demand by the Registrar.
- (3) No fee is payable to the Tribunal in respect of a proceeding conducted by or on behalf of the Territory.

**Schedule 1**

rule 3(1)

FORM 1

rule 3(2)

NORTHERN TERRITORY OF AUSTRALIA

LANDS AND MINING TRIBUNAL

(This form is to be used as the title page of any document for which there is no prescribed form only)

Received:  
(Tribunal use

File No:

Applicant(s) (name) \_\_\_\_\_

AND

Respondent(s) (name) \_\_\_\_\_

Name of document (e.g. Affidavit, etc.)

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Filing Details

Filed on behalf of: (name of party)

Address:

Telephone:

Facsimile:

Email:

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FORM 2

rule 6(2)(a)

NORTHERN TERRITORY OF AUSTRALIA  
LANDS AND MINING TRIBUNAL  
APPLICATION TO START A PROCEEDING

Please print clearly, preferably using a black pen.

If insufficient space, use separate numbered sheets.

Sheets attached (    )

Received:  
(Tribunal use only)

File No:  
(Tribunal use only)

APPLICANT(S)

Name:  
(if a company or firm,  
include correct trading name and ACN)

Address:

Name of legal representative  
and firm, or agent: (if applicable)

Business address: (if applicable)

Address for service:

Telephone:

Facsimile:

Email:

RESPONDENT(S)

Name:  
(if a company or firm,  
include correct trading name and ACN)

Address:

Is this your address for service? YES/NO

Telephone:

Facsimile:

Email:

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DETAILS OF APPLICATION

Section and name of Act to which application relates:

Recommendation, determination or other decision sought by applicant:

Relevant facts and circumstances supporting the application:

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Filing Details

Filed on behalf of: (name of party)

Address:

Telephone:

Facsimile:

Email:

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FORM 3

rule 7(2)

NORTHERN TERRITORY OF AUSTRALIA  
LANDS AND MINING TRIBUNAL  
RESPONSE

Please print clearly, preferably using a black pen.

Received:

If insufficient space, use separate numbered sheets.

(Tribunal use only)

Sheets attached ( )

File No:

Applicant: \_\_\_\_\_

AND

Respondent: \_\_\_\_\_

NOTE TO RESPONDENT

If you wish to appear in this proceeding you must –

- (a) within 14 days after being served with the application to start a proceeding, complete this response and file it at the office of the Tribunal; and
- (b) within 14 days after you have filed the response, you must serve a copy on the applicant.

PARTICULARS OF RESPONDENT(S)

Name:

(if a company or firm,  
include correct trading name and ACN)

Address:

Name of legal representative  
and firm, or agent: (if applicable)

Business address: (if applicable)

Address for service:

Telephone:  
Facsimile:  
Email:

#### GROUNDS FOR OPPOSING APPLICATION

The grounds on which the respondent opposes the application to start a proceeding are as follows:

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#### Filing Details

Filed on behalf of: (name of party)

Address:

Telephone:

Email:

Facsimile:

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FORM 4

rule 9(1)(a)

NORTHERN TERRITORY OF AUSTRALIA  
LANDS AND MINING TRIBUNAL  
APPLICATION IN A PROCEEDING

This form is to be used for any application in a proceeding that has already started.

Please print clearly, preferably using a black pen.

Received:

If insufficient space, use separate numbered sheets. (Tribunal use only)

Sheets attached ( )

File No:

Applicant: \_\_\_\_\_

(As in Application to Start Proceeding)

AND

Respondent: \_\_\_\_\_

(As in Application to Start Proceeding)

Name of party applying for orders or directions:

Orders or directions sought:

(Briefly describe the orders you want)

NOTICE TO ALL PARTIES  
(To be completed by Registrar)

This application will be heard by the Tribunal at (place)  
at a.m./p.m. on 20 .

Registrar

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Filing Details

Filed on behalf of: (name of party)

Address:

Telephone:

Email:

Facsimile:

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**Schedule 2 Fees in respect of proceeding**

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Item No.	Matter in respect of which fee is prescribed	Fee
1	Inspection and purchase of determination (including written reasons) made under section 131 of the <i>Planning Act</i> :	
	(a) inspection – per determination	\$10
	(b) photocopying by Tribunal staff – per page	\$1.20
2	Photocopying by Tribunal staff – per page	\$1.20

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**ENDNOTES****1 KEY**

Key to abbreviations

amd = amended  
app = appendix  
bl = by-law  
ch = Chapter  
cl = clause  
div = Division  
exp = expires/expired  
f = forms  
Gaz = Gazette  
hdg = heading  
ins = inserted  
lt = long title  
nc = not commenced

od = order  
om = omitted  
pt = Part  
r = regulation/rule  
rem = remainder  
renum = renumbered  
rep = repealed  
s = section  
sch = Schedule  
sdiv = Subdivision  
SL = Subordinate Legislation  
sub = substituted

**2 LIST OF LEGISLATION*****Lands and Mining Tribunal Rules (SL No. 51, 2000)***

Notified	25 October 2000
Commenced	25 October 2000

***Amendments of Lands and Mining Tribunal Rules (SL No. 63, 2000)***

Notified	10 January 2001
Commenced	10 January 2001

**3 LIST OF AMENDMENTS**

r 2A	ins No. 63, 2000, r 2
r 3	amd No. 63, 2000, r 6
r 3A	ins No. 63, 2000, r 3
r 9	amd No. 63, 2000, r 6
r 11	amd No. 63, 2000, r 6
r 14	ins No. 63, 2000, r 4
sch 1	amd No. 63, 2000, r 6
sch 2	ins No. 63, 2000, r 5