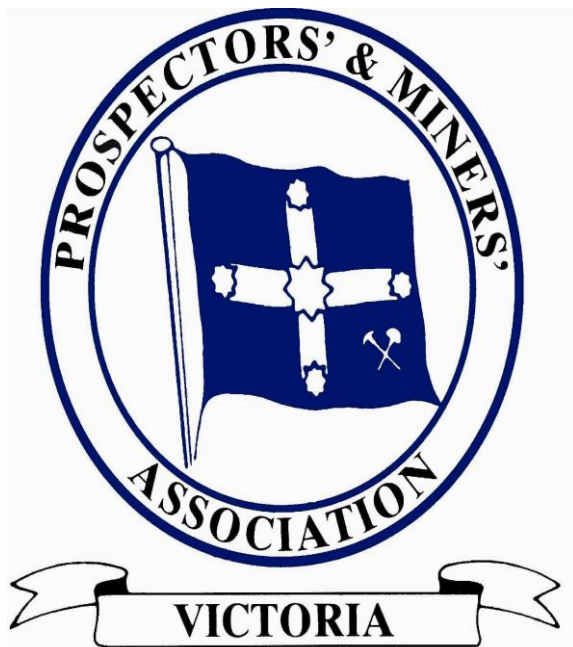


A GUIDE TO THE PMAV REGIONAL ILUA FOR SMALL SCALE MINING

PROSPECTORS & MINERS ASSOCIATION OF VICTORIA AND THE DJA DJA WURRUNG NATIVE TITLE GROUP



April 2010

The PMAV Regional ILUA for Small Scale Mining – a quick and easy way to get your Mining Licence

The PMAV Regional Indigenous Land Use Agreement for Small Scale Mining (“the Regional ILUA for Small Scale Mining”) has recently been finalised by the Prospectors & Miners Association of Victoria Incorporated (PMAV) and the Dja Dja Wurrung Native Title Group.

Who can use the Regional ILUA for Small Scale Mining?

All applicants for mining licences on tenements of 5 ha. or less which are subject to the Dja Dja Wurrung Native Title Group Native Title claims (see area shaded blue in map on last page). The Department of Primary Industries (DPI) will advise you once it has received your application if future act obligations apply under the *Native Title Act 1993* (“NTA”).

What does the Regional ILUA for Small Scale Mining offer?

It’s an easier and more streamlined way to get your mining licence application granted. The Regional ILUA has been endorsed by the PMAV and the Dja Dja Wurrung Native Title Group and satisfies the requirements of the NTA, the *Mineral Resources (Sustainable Development) Act 1990* (“the MRSDA”) and other legislation.

Why do applicants for mining licences need the Regional ILUA for Small Scale Mining?

The grant of a mining licence on Crown land that may affect native title rights and interests on that land is called a “future act” under the NTA. Applicants for mining licences must either negotiate in good faith with native title claimants or reach agreement with them using an ILUA. The only way to avoid future act obligations under the NTA is to excise all Crown land from the application which is an unsatisfactory option for many applicants.

The PMAV and the Dja Dja Wurrung Native Title Group recognise that the process of negotiating future acts can be a costly and time consuming process for both parties. Small scale miners often don’t have the time or resources to carry out lengthy negotiations. To simplify this process, the PMAV and the Dja Dja Wurrung Native Title Group negotiated the Regional ILUA for Small Scale Mining which binds the Dja Dja Wurrung Native Title Group and any mining licence applicant who agrees to be bound by the Regional ILUA for Small Scale Mining by signing a Deed of Assumption.

The Regional ILUA covers the rights and obligations of both parties under the NTA and other legislation and sets an industry wide standard for payments and benefits.

How much does it cost?

The terms and conditions of the Regional ILUA for Small Scale Mining have been agreed to by the PMAV and the Dja Dja Wurrung Native Title Group.

Each mining licence applicant must pay the Dja Dja Wurrung Clans Aboriginal Corporation a one off mining licence fee of \$2,500 (plus GST) for a small scale mining licence granted for a term of 5 years. If the mining licence is granted for a term other than 5 years, the mining licence applicant pays \$500 (plus GST) for every year of the licence. This requirement is set out in Schedule 2 of the Regional ILUA for Small Scale Mining. There is a licence renewal fee of \$1,250 (plus GST) or \$250 (plus GST) for each year the licence is renewed.

Supposing I pay \$2,500 (plus GST) for a 5 year licence but DPI only grants me a licence for 2 years?

The Dja Dja Wurrung Clans Aboriginal Corporation will refund you the difference.

Supposing I've paid my money and DPI refuses to grant the mining licence at all?

The Dja Dja Wurrung Clans Aboriginal Corporation will refund you what you've paid less 10% to cover administrative expenses.

What other obligations am I taking on in signing the Regional ILUA for Small Scale Mining?

A Dja Dja Wurrung monitor will undertake a one off one day site inspection of all proposed mining areas on Crown land in your tenement. The fee you will pay for this is \$495 (plus GST). The site inspections must take place before mining begins.

Where can I get a copy of the Regional ILUA for Small Scale Mining?

At the PMAV website (go to <http://www.pmav.org.au>).

How do I sign up?

The Deed of Assumption (found at Schedule 4 to the Regional ILUA for Small Scale Mining) is the legal document by which an applicant for an mining licence can sign up to the Regional ILUA for Small Scale Mining.

Signing the Deed of Assumption involves the following process:

1. Mining licence applicant applies for small scale mining licence with DPI. DPI notifies the applicant that their tenement is in the Regional ILUA area.
2. Mining licence applicant notifies the Dja Dja Wurrung Clans Aboriginal Corporation (C/- NTSV: contact details in Schedule 7) that they intend to sign the Deed of Assumption to the Regional ILUA for Small Scale Mining and specifies the licence term they have applied for.
3. The Dja Dja Wurrung Clans Aboriginal Corporation sends a tax invoice to the mining licence applicant for the relevant mining licence fee.
4. The mining licence applicant pays the fee and the Dja Dja Wurrung Clans Aboriginal Corporation acknowledges receipt of the payment by sending a licence confirmation letter (as shown at Schedule 5 of the Regional ILUA for Small Scale Mining).
5. The licence confirmation letter advises the mining licence applicant they can now sign the Deed of Assumption.
6. The mining licence applicant downloads the Deed of Assumption from the PMAV website <http://www.pmav.org.au> and fills in details of name, contact details, mining licence applied for.
7. The mining licence applicant signs the Deed of Assumption in accordance with applicable signing option (8 signing options are provided). By signing the Deed of Assumption, the mining licence applicant agrees to be bound by the terms and conditions of the Regional ILUA for Small Scale Mining.
8. The mining licence applicant lodges the Deed of Assumption at DPI office. Before DPI accepts the Deed of Assumption, it will need to view a copy of the licence confirmation letter sent by the Dja Dja Wurrung Clans Aboriginal Corporation to the applicant confirming payment of the mining licence fee.
9. DPI determines whether all legislative requirements under the MRSDA have been met and makes a recommendation to the Minister/Delegate to either grant or refuse the mining licence application.
10. On signing the deed of Assumption, the mining licence applicant is required to send a copy to the Native Title Signatories, PMAV, NTSV and the State of Victoria (contact details at Schedule 7 to the Regional ILUA for Small Scale Mining). The Miner is also required to inform those parties when the mining licence has been granted.

What happens if I find Aboriginal cultural heritage at the tenement?

Under Schedule 3 of the Regional ILUA for Small Scale Mining, the Native Title Signatories have appointed a Cultural Heritage Coordinator (“CHC”) with overall responsibility for cultural heritage management in the area of the Regional ILUA for Small Scale Mining. One of the CHC’s functions is to nominate a Monitor. The Monitor will be the contact point for the Miner for the Dja Dja Wurrung Native Title Group. The Miner is required to give the Monitor duplicate copies of any Work Plans (as defined in the *MRSDA*). The Monitor is also responsible for an initial site inspection of mining sites on Crown land as detailed in the Work Plan.

Schedule 3 also sets out the procedures to be followed in the event of the Miner discovering an Aboriginal object or human remains. These procedures basically entail stopping mining works in the area of the discovery and notifying the appropriate person or organization. The procedures are intended to ensure that the Miner complies with all relevant statutory obligations under the *Aboriginal Heritage Act 2006* (Vic) (AHA). For information about Cultural Heritage Management Plans under the AHA, please contact AAV on 9208 3333.

Summary: benefits of signing up to the Regional ILUA

- It’s quick, efficient and comprehensively ensures that applicants for mining licences act in accordance with their rights and obligations under the NTA and other legislation.
- Applicants for mining licences no longer have to individually negotiate the terms and conditions of an agreement with the Dja Dja Wurrung Native Title Group. The hard work has already been done by the PMAV and the Dja Dja Wurrung Native Title Group.
- The terms and conditions in the Regional ILUA for Small Scale Mining reflect industry wide practices and have been agreed to by the PMAV. The terms and conditions of the Regional ILUA for Small Scale Mining are no more onerous than the standard conditions proposed by the Dja Dja Wurrung Native Title Group which would form the basis of any individual agreement with them.
- Signing up to the Deed of Assumption enables applicants to fast track the grant of their mining licences.
- The Department of Primary Industries has estimated that it will take them approximately 6 weeks to grant a mining licence once it has received a correctly completed Deed of Assumption from an applicant. Conversely, it is common for parties to spend much longer negotiating terms and conditions of an individual agreement. A process that enables applicants to get down to mining is obviously a far more productive use of their time.

What do I do now?

If you are interested in signing up to the Regional ILUA for Small Scale Mining through the Deed of Assumption, you can download the Deed from the PMAV website at <http://www.pmav.org.au>.

AREA OF REGIONAL ILUA FOR SMALL SCALE MINING

INDIGENOUS LAND USE AGREEMENT: VI2008/06 FMAV ILUA

