

January 2023

# Policy

## Item of plant registrations

### Policy statement

The purpose of this policy is to assist Resources Regulator staff, and those who have a delegation to exercise the functions of the regulator, in making decisions regarding the processing of applications for item registration in accordance with Part 5.3 of the Work Health and Safety Regulation 2017 (WHS Regulation) of items of plant specified in section 187 of the Work Health and Safety (Mines and Petroleum Sites) Regulation 2022 (WHS (MPS) Regulation) (i.e., registrable plant).

The role of the Resources Regulator in the registration process is to confirm:

- the item of plant conforms to the relevant conditions of registration;
- the item of plant has been maintained in accordance with the recommended maintenance schedule in the Australian Standard;
- the item of plant has been inspected and assessed by a competent person as being safe to operate; and
- the appropriate information about the plant is provided.

### Purpose and principles

The purpose of this policy is to:

- Fulfil legislative or regulatory obligations under Part 5.3 of the Work Health and Safety Regulations 2017 and section 187 of the Work Health and Safety (Mines and Petroleum Sites) Regulation 2022.
- Provide guidance for Resources Regulator staff on how they should undertake a process.

The principles on which this policy is based:

- obligations to act ethically and observe standards of behaviour prescribed by legislation and policy,
- transparent and fair decision making,
- adequate, respectful community and stakeholder engagement,
- health and safety of employees and the public; and
- financial accountability.

## Key requirements

### Application

1. The person applying for item of plant registration must be a person with management or control of the item of plant.
2. If an application is submitted by a person or company who is not the person with management or control of the item of plant, the application must be accompanied by a letter of authority from the person with management or control of the item of plant.
3. The application will be assessed by an administrative officer to ensure it:
  - is in the manner and form required by the regulator.
  - includes the information specified in clause 266 or 277 of the WHS Regulation, including a statement signed by competent person stating the item of plant has been inspected, assessed and (if necessary) tested as being safe to operate
  - is accompanied by the relevant fee set out in Schedule 2 of the WHS Regulation.
4. An administrative officer can return an incomplete application to the applicant for them to remedy the incomplete parts.
5. Where an application (new and/or renewal) is incomplete there is no application under clause 266 or 277 and a decision cannot be made under clause 269 of the WHS Regulation. This is a separate and distinct process to failing to provide material information under clause 269(3)(b) or making a request for additional information under clause 268.
6. The complete application will be recorded in ACES against the item record and assigned a registration number based on the item record's system identifier.

### Assessment

7. An Inspector with knowledge in the relevant discipline may be instructed to conduct an assessment and issue a recommendation to the delegated decision-maker.
8. Inspectors are to consider if the item of plant is eligible for registration under clause 266, 269 and 277 of the WHS Regulation.
9. The Inspector can request additional information from the applicant to allow them to make a recommendation. This request must be sent by the Authorisation Team based on the Inspector's instructions.
10. A request for additional information can only be requested under clause 268 of the WHS Regulation where the information provided is considered by the regulator to be inadequate. A request for information cannot be made in the case of an incomplete application
11. Requesting additional information is a delegated function and cannot be sent on the administrative officer's initiative.
12. A request for additional information must specify a date to provide the information, not less than 28 days from the date the request is sent.
13. If an applicant does not provide the additional information by the date specified in the request for additional information, the application is taken to have been withdrawn (clause 268(3) of the WHS Regulation).

### Statements to the maintenance and inspection of plant

14. An application for a new registration of an item of plant requires a statement that the item of plant has been inspected and assessed by a competent person as being safe to operate.
15. An application to renew an item of plant registration requires a declaration that the item of plant has been maintained, inspected and, if necessary, tested by a competent person.

16. The applicant, the person with management or control of the plant, must make the statements in the application form, as applicable.

## Decision

17. The power to grant an item of plant registration is delegated to appointed officials in the instrument of delegation. It is the responsibility of the Mining Competencies and Authorisations team will ensure the decision to grant or refuse to grant is made by an officer with the appropriate delegation.
18. The decision-maker can impose any conditions they consider appropriate on the registration. The template registration document contains standard conditions; the decision-maker may amend, remove, and add to the conditions placed on a registration.
19. The decision-maker must be satisfied of the matters set out in clause 269(2) of the WHS Regulation to grant the registration.
20. An item of plant registration is to be granted for 5 years and can take effect on the day it is granted or on a later date specified.
21. The decision-maker must refuse to grant an item of plant registration if satisfied that, in making the application, the applicant has:
  - given information that is false or misleading in a material particular, or
  - failed to give any material information that should have been given.
22. Before refusing to grant registration of an item of plant based on material information omitted from the application, additional information should be requested in accordance with clause 268 of the WHS Regulation.
23. If the registration is to be refused, a notice of intention to refuse with a reason for the decision must be provided to the applicant. The notice must specify a date, not less than 28 days after the date the notice is sent, by which the applicant can make a submission in relation to the proposed refusal.
24. Any submissions are to be gathered, recorded, and assessed within 28 days.
25. The decision-maker is to consider any submission by the applicant and decide whether to grant or refuse to grant the registration
26. All recommendations and decisions in relation to the item of plant registration will be recorded in ACES as per the *Item of plant registrations procedure* and the administrative processing manual.
27. The decision not to grant an item of plant registration is a reviewable decision under clause 676 of the WHS Regulation.

## Notification of decision

28. The registration document or refusal letter will be signed electronically by the decision-maker.
29. The registration document or refusal letter will be kept within ACES in electronic format.
30. The Authorisations Team will send the registration document/s or refusal letter via email to the applicant within 2 working days of a decision being made.

## Refund of monies

31. Refunds of registration fees will be issued in the following circumstances:
  - application made in error and subsequently withdrawn,
  - duplicate fees paid for the same item,
  - application is withdrawn or incomplete; or

- exceptional cases identified and justified, where not refunding their fees in part or in full would be regarded as unfair.
31. The regulator cannot hold any monies and must issue a refund as soon as reasonable.
32. Manager level approval is required to refund any monies received (6.1 of Schedule 2 of the Government Sector Finance Act 2018 Instrument of delegation).

## Responsibilities

- Principal Inspector - Mechanical will:
  - Review the recommendation by the Inspector and approve/refuse the item registration.
- Inspectors will:
  - Assess applications according to this policy and procedure.
  - Make a recommendation to the Principal Inspector as to whether the item registration should be granted or refused.
- Manager Mining Competencies & Authorisations will:
  - Ensure the decision maker has the required delegation
  - Consider any refunds.
- Administrative Officers will:
  - Process applications according to this policy and procedure.
  - Facilitate communications between inspectors undertaking assessments and the applicant
  - Reconcile payments.

## Further information

For further information contact the Competencies and Authorisation Unit at [mca@regional.nsw.gov.au](mailto:mca@regional.nsw.gov.au).

## Related documents

Other policies that should be read in conjunction with this policy:

- Policy– Design registrations (DOC20/101023)
- Procedure – Design registrations (RDOC22/246104)

Other documents that should be read in conjunction with this policy:

- WHS Laws (Mines and Petroleum Sites) Instrument of Delegation 2022 (as amended from time to time)
- Manual - Mining Authorisation Unit - Administrative staff
- Request for internal review procedure

## Approval

Name	Date	Approval
Andrew Palmer Manager, Mining Competencies and Authorisations Unit	04/07/2022	Approved
Garvin Burns Chief Inspector of Mines	02/12/2022	Approved
Peter Day Executive Director, Resources Regulator	5/12/2022	Approved

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## Document control

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This document applies to			
All staff			
Mine Safety Inspectorate	✓	Mining Competencies & Authorisations	✓
Major Investigations		Mining Act Inspectorate	

## Appendices

Ref	Description
Appendix 1	Relevant legislation detail
Appendix 2	Definitions

## Appendix 1 – Relevant legislation detail

Legislation	Relevant sections or clauses
<i>Work Health and Safety Regulation 2017</i>	<u>Part 5.3</u>
<i>Work Health and Safety (Mines and Petroleum Sites) Regulation 2022</i>	<u>Section 187</u>

## Appendix 2 – Definitions

All references have the same meaning as defined in the regulations.

Word	Definition
<b>Additional information</b>	<p>Information to enable the regulator to make a decision whether or not to grant the registration (clause 255 of the WHS Regulation). Clarification of technical and/ or material information. This should only be information that supports or clarifies what has been provided in accordance with the application form. It is not additional information beyond what is required to be provided with the application.</p> <p>For clarity, additional information should be requested before an application is rejected for failing to have material information.</p>
<b>Complete application</b>	<p>A complete application includes all the information that has been identified on the application form as being required to process a registration. This includes the receipt of any additional information requested to provide support to, or clarification of, information provided as part of the registration process.</p>
<b>Incomplete application</b>	<p>Missing information that an administrative person or inspector can identify e.g., phone number or missing attachment. An administrative person can contact the applicant to seek information to make the application complete.</p>
<b>Material information</b>	<p>Any information that enables the Regulator to make a decision.</p>
<b>Material particular</b>	<p>Any matter of relevance and significance.</p>
<b>Person with management or control</b>	<p>In most instances is the owner of the item plant, except in instances where the control of the item of plant has been transferred to another entity.</p>

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