

TOPIC 1. Applications

If the land is open, how do we get the tenement?

Administration of the Mining Act

- **Minister for Mines**

- Most important role is to grant and forfeit "senior tenements".
 - Exploration licence: s 59
 - Retention licence: s 70D
 - Mining lease: s 75
 - General purpose lease: s 86
- Policy role and considers public interest: s 111A, Mining Act
 - Can reject any application on public interest grounds - it is a very broad power (see next section).
- Cannot fetter discretion: Cudgen Rutile
 - Deals with limitations on Minister's power.
 - FACTS:
 - Involved sand mining on Sunshine Coast.
 - Minister granted applicant authority to prospect sand, and also put a condition with it saying you have a right to a grant of the mining lease when you make application.
 - Govt changed and rejected the app, party then brought an action for specific performance due to that breach.
 - HELD:
 - Not permissible to a Minister to have fettered his or her discretion before hand.
 - Must be exercised at that time the application comes - **Minister cannot enter into some private contractual arrangement beforehand.**
 - KEY POINT:
 - **Minister has a policy role (s 111A) - private arrangements are unacceptable.**

- **Mining Warden**

- Grants and forfeits junior tenements - they do not have to go up to ministerial level.
 - Prospecting licence: s 42
 - Miscellaneous licence: s 91
- Considers compliance with Mining Act (Tortola - see below), but must give substantive consideration to the application **Warden does not simply tick off the boxes - they must look substantively at the application and consider it.:** Sinclair
 - They can hear objections.
- Recall that warden has judicial and administrative role - two distinct responsibilities.