SECTION 10

MINING TENURE AND DELINEATION

Compiled by

J.L. Knight

J.D. Lines

M.J. Halpin

1994 UPDATE

Compiled by

J.D. Lines
10.2.3 The 1891 Royal Commission on Gold Mining

This Commission reported that opinion indicated that it was a grave mistake to alienate mining lands, and once alienated it was very difficult to arrange mining on amicable terms. The Commission recommended that the geological survey of the Colony be completed with great haste proceeding with the remaining Crown Land first - a noble aim which, alas, even yet has not been completed in the detail necessary to define the full mineral potential of the State. It is doubtful whether this will ever be completed in its entirety as the continuing development of new technologies produces new information.

The subsequent Mines Act 1891 and Land Act 1891 provided that grants of land after 1 March 1892 would convey ownership of the land (usually to a prescribed depth) with minerals reserved to the Crown. One aspect which reflected poorly on the otherwise well administered Mines and Land Acts was the inclusion in section 81 of the Land Act 1890 which gave the holder of a miner's right the power to search and mine for gold and minerals on alienated land without payment of compensation for surface damages. This section of the Act was included with the object of encouraging mining once the earlier activity had subsided, however, its provisions were used by a company which mined surface clays for use in ceramics from farmland at Enfield near Ballarat, ruining the farmer's livelihood yet paying him no compensation. The section 81 provisions were abolished in about 1970.

10.2.4 Mining Administration

The administration of mining in Victoria was the responsibility of the Mines Department from 1863 until 1977 when it became known as the Department of Minerals and Energy, which later merged with the Department of Industry, Commerce and Technology, to become the Department of Industry, Technology and Resources in 1985. Since then, in 1990, the name of the Department changed to the Department of Manufacturing and Industry Development, and again to its present name of Department of Energy and Minerals in 1992.


10.3 Surveys for Mining Titles

After the gold rush years had subsided considerably, the authority responsible for the control of mining in Victoria, was able to put its house in better order. On 1 October 1888, the officer being the Secretary for Mines and Chief Mining Surveyor issued Regulations and Instructions for the Guidance of Mining Surveyors under the Mining Department of Victoria. These were quite extensive, and provided for surveys for Gold Mining Leases, Mineral Leases, Water Right Licences (races and reservoirs), Pumping Leases and Underground Surveys. In addition to field practice, they contained sample plans, computational techniques and examples of field book recording.

The Mining Surveyor was required to sign a certificate in the following form:

"I hereby certify that I personally surveyed the block of land represented by this Plan; that the instruments used were a Theodolite and Chain, both in perfect adjustment; that the bearings are taken from the Magnetic Meridian, the variation of which is given on this Plan; that the boundaries have been properly marked on the ground by trenches in accordance with the 16th paragraph of the printed Instructions to Mining Surveyors of 1st October 1888; and that it is connected with the nearest available fixed survey mark in the vicinity".

These were not Regulations in the sense of what are now known as Statutory Rules, but merely Departmental instructions. Nevertheless these instructions and the above certificate were still being used in 1939.

The recovery of these surveys by reference to a "fixed survey mark" bears further examination in the context of Paragraph 14 in the Instructions which reads:
"If there are no surveyed lands within a reasonable distance of the block to be surveyed, the Surveyor should choose some conspicuous object of a permanent nature for a connecting point, such as the corner of a building, a prominent rock or mound, or the junction of two creeks, and, where it is practicable, a substantial and legible mark should be left thereon for future reference. The connecting point should be carefully described, and bearings should be taken to other points, if possible, in order to fix it".

With these being the limiting conditions, it is evident that no strenuous efforts were made to place or locate what today might be described as permanent marks. If any posts were removed and trenches obscured, a re-establishment of ground surface boundaries would have been difficult, and open to question. 100 years after the issue of these instructions, permanent marks were not required to be placed or re-located during surveys made for mining leases. This situation has now been partially corrected by survey standards issued by the Mining Registrar with the authority of section 75 of the 1990 Act.

Traditionally, applicants for mining leases and licences, have been required to mark out land represented in the application, by the erection of posts. Regulations relating to gold mining leases under the Mining Statute 1865,29 Victoria No. 291, and published in the Government Gazette on 23 March 1866, provide for erecting "at each angle of the proposed land to be leased, a post not less than three inches square, and standing at least three feet in height above the surface of the ground, and shall affix upon each post a plate composed of wood, or of iron, tin, zinc or other suitable metal...." Trenches were not required at this time. The plates were to bear some required particulars.

When the Mining Surveyor proceeded to make the Official Survey consequent on the application, these posts were the subject of the survey.

Regulation 30 of these 1866 Regulations provided that "All leases granted under these regulations shall be registered in the manner provided by law for the registration of deeds in the Colony". This would have been the origin of the previously longstanding practice of having mining leases entered into the Register Book at the Land Titles Office and given a Volume and Folio number. This practice has now been discontinued following the introduction of the current Mineral Resources Development Act with the requirement that the Mining Registrar establish and maintain a mining register containing an extensive array of documents. These are set out in section 69 of the Act.

A variant to this approach in the placing of posts is evident in the Second Schedule of The Mining on Private Property Act 1884, 48 Victoria No. 826. Here, after an application was received by the warden of the district, this officer using his powers to authorize a mining surveyor to enter on, mark out and survey and make a plan of the land, then directed a mining surveyor to do the work. In addition to placing posts in the positions pointed out by the applicant and the survey thereof, the surveyor was also required to submit an extensive report on the characteristics of the land, occupation, rights and easements necessary for effective mining and other matters.

The specifications for posts and requirements for survey were re-affirmed in the Victoria Gazette in Regulations Relating to Mining Leases dated 13 July 1905, in similar Regulations dated 18 August 1916, and again partly in By-Laws dated 4 February 1931.

10.3.1 The Rise and Fall of Mining Surveyors

At the turn of the century, mining surveyors were engaged by the Mining Department to work in specific Mining Divisions throughout the State. To qualify as a mining surveyor, applicants were required to pass or be exempted from examinations set by The Board of Examiners for Mining Surveyors. This Board was created by, and was answerable to the Mining Department. In 1905 the Board consisted of five members with the Chairman being Stuart Murray C.E., the Chief Engineer for Water Supply and a mining surveyor. The other four members were two mining surveyors, a Senior Inspector of Mines and the Director, Geological Survey. At this time, the regulations for qualification as a mining surveyor required a candidate to possess a certificate of competency as a land surveyor and some experience in mining operations. A candidate had then to pass examinations in the subjects of mining surveying, practical mining, hydraulic engineering and geology.

In this period, applicants for mining tenures which involved survey, were charged for surveys according to a scale of fees set by the Mining Department. The mining surveyor received these fees,
which constituted his living. A typical scale of Survey Fees, was published in the *Victoria Gazette* on 20 July 1925 in pursuance of the provisions of the *Mines Act* 1915.

No further appointment to the position of mining surveyor in the Department of Mines was made after the end of World War 1, although mining surveyors already on staff were retained under the normal conditions of public service employment. The Board of Examiners conducted its last examinations in 1925, after which these appear to have been abandoned until 1945, when the Surveyors Board, Victoria, re-introduced regulations for the examination for mining surveyors in *Victoria Gazette* No.92 on 11 July 1945. These examinations Were essentially a repeat of the earlier subject matter, and were abandoned in 1980, after attracting no applicant over the preceding 35 years.

It seems probable that the requirement for the broadly trained mining surveyor diminished because much of the underground surveying was effected by mine managers and their assistants, with surveyors required primarily for surveys connected with mining tenures which were then required to be entered in the Register Book maintained by the Office of Titles. Whatever the reasons, the practice grew to where the Department of Mines accepted survey plans from applicants for mining tenures signed by Licensed Surveyors, who were not necessarily qualified mining surveyors.

Another factor in the decreasing use of surveyors emerged in by-laws made pursuant to the *Mines Act* 1928, No.3737. These by-laws published in the *Victoria Gazette* on 4 February 1931 abolished the mandatory requirement for survey in By-Law No.3-5 which states:

"Survey" - Survey of a claim shall not be necessary. If however a survey is desired, and application made to a mining surveyor, he shall, at applicant's expense, make a survey and fix the positions of the posts and trenches prescribed above".

In 1988, the requirement for survey was even more laissez-faire. The *Mines Act* 1958 No.6320 as amended to 1983 made provision in s.93 for the making of various regulations. Section 93(d) provided for regulations to prescribe "the manner in which persons desirous of having leases or licences granted to them shall mark out the land they apply for", and similarly in s.93(e) "the mode and time of making and investigating and of determining upon applications for and objections to the granting of leases and licences".

On these matters, the pertinent regulations are contained in the Mines (Mining Titles) Regulations 1983, S.R.No.255, Parts 3 and 4 covering leases and prospecting area licences. In each case the traditional, but slightly modified, requirements exist for the 'Mode of Marking Out,' but the requirements for the disclosure of the position of the lease or licence in terms of the State cadastral or the *Survey Co-ordination Act* 1958 have been reduced to lodgement of 'a parish plan, forestry map or aerial photograph showing the boundaries and location of the land applied for'. Thus the *Mines Act* 1958 provided no authority or requirement for surveys to properly identify the location of land either while it was the subject of an application, or as a pre-condition to the granting of a lease for mining purposes.

**10.3.2 Surveys for Mining Titles in the Recent Past**

The Mines Act as it stood in 1988, made no provision for surveys to be made and plans submitted as a pre-condition to the grant of a mining lease, even though the leases were then entered in the Register Book and given a volume and folio number in the same manner as Certificates of Title issued under the provisions of the *Transfer of Land Act* 1958 as it stood at that time. Unlike encumbrances noted on Certificates of Title then issued in accordance with the *Transfer of Land Act*, mining titles were not entered as an encumbrance on freehold titles.

The issue of licences associated with the use of auriferous lands as described in the *Land Act* 1958, does not confer mining rights on the licensees to use auriferous lands for purposes set out in the *Mines Act*. These licences are provided only to cultivate or to reside on and cultivate an area not exceeding in extent nine hectares of any auriferous land specified in the Second Schedule to the *Land Act*. Under stated conditions, such licences can be converted to Crown grants, which also do not confer any mining rights on land alienated after 1 March 1892. The same conditions leading to the issue of a Crown grant apply to land declared as "worked-out auriferous lands". In these dealings, the issue of a Crown grant is subject to survey approved by the Surveyor-General.

In 1985, when the Mines Act was administered by the Department of Industry, Technology and Resources, the Department issued a small pamphlet titled "Victorian Mining Law" which was a very condensed summary of the *Mines Act* 1958 (as amended to 1983) and the Mines (Mining Titles) Regulations 1983, S.R.No.414. In addition, this pamphlet set out unsubstantiated requirements for a survey for a:
Surveys were not stated to be required for any other type of licence issued by the Department. Blank plan forms were available from the Department on which a Licensed Surveyor recorded that the plan was "Certified Correct". There was no documented requirement that these surveys were required to conform with the Surveyors (Cadastral Surveys) Regulations 1985, S.R.No.209, or the Survey Co-ordination Act 1958 No.6388.

It should be noted that a variety of licences, leases, permits etc. including those set out above, which have been issued under the Mines Act 1958 will no longer be issued as such under the Mineral Resources Development Act 1990. Under this later Act all mining activities will be identified as either an exploration licence, mining licence or tourist mine authority. The translation of the descriptive terms from the 1958 Act to the 1990 Act is set out in Schedule 2 of the latter Act.

### 10.3.3 Surveys for Mining Titles - The Contemporary Scene

Section 207 of the Mineral Resources (Titles) Regulations 1991 S.R.No.222 states:

1. An applicant for a mining licence covering more than 5 hectares must provide a survey plan of the land covered by the application within 8 weeks after being requested to lodge a survey.

2. A survey plan provided under sub-regulation (1) must be certified by a licensed surveyor under the Surveyors Act 1978.

Note that this latter Regulation, 207 (2), was revoked in Regulation 6 of the Mining Resources (Titles) (Amendment) Regulations 1992 S.R.No.254.

Section 303 of the 1991 Regulations states:

1. Subject to sub-regulation 2, the registrar may specify survey standards for the purposes of section 75 of the Act by any of the following methods or combinations of methods:

   a. by requiring surveys to be carried out in accordance with the Survey Co-ordination Act 1958; or

   b. by requiring that corner posts and boundaries of licence application areas be referenced to survey markers tied to the Australian Map Grid system; or

   c. by requiring copies of any Certificates of Title for the application area to be produced, where the area or any portion of the area corresponds with boundaries identified on those certificates; or

   d. by any other method that the registrar considers appropriate.

2. The registrar may require the submission of -

   a. copies of any field notes of a surveyor; or

   b. other information in the form of plans as specified by the registrar from time to time.

3. The registrar must not require a standard equal to or greater than the standards referred to in sub-regulation 1(a) or 1(b) for mining licence applications covering 5 hectares or less.

Late in 1993, the Mining Registrar then issued a departmental instruction setting out standards for surveys for mining licence applications in excess of 5 hectares. This instruction reads:

1. The boundaries of land covered by a mining licence application must be surveyed and marked on the ground with posts, trenches and information plates in accordance with regulations 206, 207 and 208 of the Mineral Resources (Titles) Regulations 1991.
(2) Surveys shall be made and tested to the standard of accuracy specified at Schedule 6 of the Survey Co-ordination (Surveys) Regulations 1992 in accordance with the following classification table:

<table>
<thead>
<tr>
<th>Location</th>
<th>Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban residential areas</td>
<td>C3 Rural Areas</td>
</tr>
</tbody>
</table>

Where: C and D denote classifications of linear precision of 1: 8000 and 1: 6000 respectively and 3 denotes a classification of angular precision of 20 seconds of arc per individual angle.

(3) Surveys of mining applications located on freehold land, or within 500 m of freehold land, shall be connected to the cadastral boundaries of any land affected by, or within 500 m of, the application as the case may be.

(4) Surveys requiring definition of, or connections to, cadastral boundaries shall be undertaken by a licensed surveyor and carried out in accordance with the Surveyors (Cadastral Surveys) Regulations 1985 prepared under the *Surveyors Act* 1978.

(5) Surveys shall be connected to the Australian Map Grid (AMG) co-ordinate system to the relevant standard of accuracy as described at paragraph 2 where the mining application is:

- in or adjacent to a Proclaimed Survey Area in which case connection shall be carried out by a licensed surveyor, as required under section 12(3) of the *Survey Co-ordination Act* 1958, or
- in an urban residential area, or
- in a rural area where:
  - there is existing co-ordinated control within 1 km of the survey; or
  - the survey is remote from freehold land and will not be connected to cadastral boundaries.

(6) Surveys shall be connected to any permanent marks existing in the vicinity of the application.

(7) A survey plan of the land covered by the application shall be drawn preferably on the pro-forma sheets available from the Department and show the following information:

- dimensions, area and AMG co-ordinates of the land applied for;
- all cadastral boundaries and connections thereto located inside and/or adjacent to or within 500 m of the land applied for as the case may be;
- parcel identifiers e.g. Crown allotment and section numbers, parish, township and county names; lot and plan of subdivision numbers; road names etc.;
- the status of any Crown land e.g. Government road. National Park, gravel reserve. State Forest etc.;
- overlapping mining tenements;
- permanent marks and connections thereto;
- north point;
- bar scale and representative ratio;
- certification by a licensed surveyor where appropriate.

(8) Where cadastral boundaries have been re-established, the surveyor's abstract of field notes must accompany the survey plan.

A sample plan and accompanying abstract of field notes of survey made in 1992 in connection with a mining licence application, have been included for reference.
NOTATIONS

DATUM VIDE SURVEY & MAPPING PROJECT
COS 60TH (A-B)
LENGTHS ARE IN METRES

CERTIFICATION BY SURVEYOR

1. ADRIAN JOHN CUMMINS
of 117 WILLIAMSON STREET BENDIGO
 certify that this abstract of field notes correctly represents the re-
the survey executed under my immediate direction and supervised
marked on the ground as in accordance with the Surveyors Act 1971
the classification of the survey is "B" and that this ab-
of field notes correctly represents the adopted boundaries and ref-
features existing on 20/15/92.

Date 20/15/92

ADRIAN CUMMINS & ASSOCIATES P/L
SURVEYORS & TOWN PLANNERS
117 WILLIAMSON STREET
BENDIGO 3550 Tel. 054 425133

Licensed Survey
Surveyors Act

AB1215-92-01
10.4 Other Related Tenures

10.4.1 Extractive Industries Act 1966 No.7499 (As at 15 April 1987)

This Act cites procedures governing exploration for stone, and the controls surrounding extraction of stone from quarries.

"Stone" is defined as "sandstone, freestone or other building stone basalt granite limestone or rock of any kind quartz (not being quartz crystals) slate gravel clay (not being fine clay bentonite or kaolin) sand earth soil or other similar materials but does not include any substance mentioned in the interpretation of "mineral" in section 3 of the Mines Act 1958 or any substance declared pursuant to sub-section (2) of that section before the commencement of this Act to be a mineral."

Leases and licences to operate a quarry are granted for a period not exceeding 30 years, be the quarry situated on Crown land or private land. These can be renewed.

10.4.1.1 Marking Out and Survey

Regulations made under the authority of the Act are contained in the Extractive Industries Regulations 1988, S.R.No.259. The provisions for marking out and survey are contained in Regulations 212 and 217.

Regulation 212 requires that the applicant or the applicant's agent must... "mark out the land by erecting at each angle of its boundaries a square post at least 80 mm by 80 mm not less than 1 metre above the ground and cut a V-trench 160 mm deep which extends at least 1 metre from each post along each boundary line."

Section (c) states “If the land required is surveyed, define the land required to conform with the survey lines or if the land is an unsurveyed area then in an approximately square block with boundaries running north and south and east and west unless this is rendered impracticable on account of natural or other difficulties”.

Each post erected must carry a metal plate containing certain prescribed information.

Under section 217, the Director-General may instruct a surveyor to survey Crown land which is the subject of an application and furnish a plan and report in respect of the land. If the land is identical to an area surveyed for the Department of Conservation, Forests and Lands or for a Mining Lease, the surveyor is required to furnish the plan of the survey and a report without further survey.

10.4.2 Extractive Industry Leases

10.4.2.1 Obligations of The Registrar of Titles

(a) Section 8 of the Transfer of Land Act 1958 provides as follows:

"(1) All unalienated lands of the Crown shall, when alienated in fee or by way of perpetual lease or (except in the case of a settlement interim lease under the Soldier Settlement Act 1958) for years, be under the operation of this Act.

(2) The Crown grants of such land shall be in duplicate and shall be delivered to the Registrar.

(3) Notwithstanding anything to the contrary in sub-section (2), it shall not be necessary for a Crown grant in fee to a prescribed authority within the meaning of section 28 to be in duplicate, unless the prescribed authority makes a request to the contrary.

By virtue of the above provision any lease for years will constitute an alienation of lands of the crown and effectively bring such lands under the operation of the Act. [see Chirnside v. The
Registrar of Titles (1921) V.L.R. p.406 which determined that "land" under the Transfer of Land Act includes "minerals".]

(b) Under sub-section (2) of section 8 a Crown lease (which is a Crown grant by virtue of section 4 of the Act) must be delivered to the Registrar.

(c) The Registrar is obliged to register Crown grants once delivered to him - see section 27. Under the provisions of section 29, such grants are registered when signed or initialled by the Registrar and such registration is deemed by sub-section (2) of section 29 to be an enrolment of record of the grant dating back to the date of the grant; hence, the provisions of the Evidence Act relating to enrolment can be applied with respect to a Crown grant only when so registered.

10.4.2.2 Authority to Grant Leases

Section 3(1) of the Extractive Industries Act 1966 ("The Act") empowers the Minister for Industry Technology and Resources to grant leases of crown land. That section provides in part:

"Subject to this Act and the regulations the Minister may subject to such exceptions and reservations as the Minister thinks fit grant to any person a lease for a term not exceeding 30 years of any crown land not exceeding 260 hectares in area .......... for the purpose of carrying on an extractive industry on that land".

10.4.2.3 Assignment or Transfer of Leases.

(a) Section 8(1) of the Act (as amended by Act 10164) provides:

"The holder of a lease or licence may with the consent in writing of the Minister assign that lease or licence to any other person".

(b) The assignment may be given effect to by simple transfer under section 45(1) of the Transfer of Land Act 1958.

10.4.2.4 Variations of Covenants and conditions in current leases.

(a) Section 16A(1) of the Act (as amended by Act 9373) provides:

"On the application of the holder of a lease under this Act for the transfer or consolidation of the lease or the variation of any of the covenants or conditions to which the lease is subject the Minister may, on the recommendation of the Advisory Committee amend the covenants and conditions to which the lease is subject".

(b) An applicant (The Minister for Industry, Technology and Resources or the Lessee) may apply pursuant to section 106(e) of the Transfer of Land Act for the endorsement of the variation of the covenants and conditions of the relevant lease.

10.4.2.5 Renewals of Leases

(a) Section 17(1) of the Act (as amended by Act 10164) provides that:

"Any person holding a current lease or licence may at any time within twelve months before the lease or licence expires apply to the Minister for the renewal of the lease or licence.

(b) Section 17(1B) empowers the Minister to either renew the lease or refuse to renew it.

(c) Section 17AA of Act 10057 as amended by Act 10164 provides:

"Where an application for a renewal of a lease or licence has been made and the licence or lease expires before the Minister has determined the Application, the lease or licence shall be deemed to continue in force in all respects until the Minister determines the application".
(d) By virtue of section 2 of Act 10057 the above section (17AA) is deemed to have come into operation in 1966. The effect of the section is to "revive" leases which at one stage the Land Titles Office would have considered expired by the effluxion of time.

(e) Applications for renewals may be accepted under section 106(e) of the Transfer of Land Act 1958.

**10.4.2.6 Renewals and Variations of Leases.**

(a) In addition to the power given to the Minister under section 16A(1) of the Act to vary covenants and conditions in current leases the Minister upon renewing a lease is empowered to vary covenants and conditions.

(b) Section 17(3) of the Act as amended by Act 10164 provides:

"Where the Minister renews a lease or licence under this section the Minister may add to, amend, vary or revoke any covenants or conditions contained in that lease or licence and the lease or licence shall be renewed subject to those additions amendments variations or revocations (as the case may be)".

(c) It is anticipated that the majority of variations to leases lodged in the Land Titles Office will be made pursuant to the above section rather than section 16A of the Act.

(d) An application for variations of conditions in leases made pursuant to section 17 of the Act may also be lodged under section 106(e) of the Transfer of Land Act.

**10.4.3 Pipelines Act 1967 No.7541, (As at 10 September 1988)**

The Act has been specifically designed to control the planning, construction, operation and inspection of pipelines which convey hydrocarbons over land. It does not apply to pipelines which convey matter other than hydrocarbons.

In Part II - Permits for the Ownership and Use of Pipelines, s.8A provides for entry on Crown or other lands for the purpose of making surveys or examinations. S.10 requires the initial submission of a map of not less than the prescribed scale showing the proposed route of the pipeline. Sections 12H and 12I set out the conditions for compliance with the Planning and Environment Act 1987 and the submission of Environment Effects Statements required pursuant to the Environment Effects Act 1978.

In Part III - Acquisition of Rights over Land, sections 20-23 deal with the acquisition of easements by the permittee. Where compulsory acquisition is used to acquire easements, the provisions of the Land Acquisition and Compensation Act 1986 apply.

Note: Section 23(3) of the original 1967 Act required the Registrar of Titles to endorse pipeline easements on Crown Leases and Certificates of Titles. This section was repealed by the Land Acquisition and Compensation Act 1986 No.121, s.112.

The Pipeline Regulations 1988, S.R.No.243 came into operation on 30 June 1988. The items of immediate interest to surveyors are contained in Regulations 201,202,206 and 212.

Regulation 201, which relates to an application to enter land to make surveys or examinations requires in part:

(a) The name and address of the person or organization engaged to carry out the survey or examination of the route of the pipeline;

(b) The steps previously taken to obtain permission to enter the land and any known reason for the failure to obtain permission;

(c) Inclusion of a map drawn to a scale of not less than 1 millimetre to 25,000 millimetres showing:

• the relevant portion of the intended route along which the survey or examination is proposed to be made; and
the location, allotment and section numbers and the parish and municipal names and the boundaries of lands relating to the proposed survey or examination.

Regulation 202 provides that a person who has obtained the consent of the Minister under section 8A of the Act must produce the consent to the owner or occupier of the property before entering the property to conduct any survey or examination.

Regulation 206(b) requires that the holder of a permit must as soon as possible after the completion of the laying of the pipeline, lodge with the Surveyor-General, Division of Survey and Mapping, Department of Property and Services, a map showing the route of the pipeline and details of the land through which the pipeline is laid. Regulation 212 specifies the scale of the map to accompany applications made under sections 10(l)(d) and 12A(2)(c) of the Act to be 1 millimetre to 25 000 millimetres.

10.4.4 Petroleum (Submerged Lands) Act 1967 No.7591

The preamble to this legislation reflects an example of the relationship between International law, Commonwealth law and State law. Portion of this preamble reads:

"Whereas in accordance with international law Australia as a coastal state has sovereign rights over the Continental Shelf beyond the limits of Australian territorial waters for the purpose of exploring it and exploiting its natural resources:

And whereas Australia is a party to the Convention on the Continental Shelf signed at Geneva on the twenty-ninth day of April, One thousand nine hundred and fifty eight, in which those rights are defined:

And whereas the exploration for and the exploitation of the petroleum resources of submerged lands adjacent to the Australian coast would be encouraged by the adoption of legislative measures applying uniformly to the Continental Shelf and to the sea-bed and subsoil beneath territorial waters:

And whereas the Governments of the Commonwealth and of the States have accordingly agreed to submit to their respective Parliaments legislation relating both to the Continental Shelf and to the sea-bed and subsoil beneath territorial waters and have also agreed to co-operate in the administration of that legislation: ........

Permits and licences to explore for and extract and convey petroleum (defined as a naturally occurring hydrocarbon whether in gaseous, liquid or solid state), are geographically based on blocks. Blocks may comprise whole or part graticular sections situated in the adjacent areas specified for the State of Victoria.

Section 17 defines the graticulation of the Earth's surface as follows:

"(I) For the purposes of this Act, the surface of the Earth shall be deemed to be divided -

(a) by the meridian of Greenwich and by meridians that are at a distance from that meridian of five minutes, or a multiple of five minutes, of longitude; and

(b) by the equator and by parallels of latitude that are at a distance from the equator of five minutes, or at a multiple of five minutes, of latitude -

into sections each of which is bounded -

(c) by portions of two of those meridians that are at a distance from each other of five minutes of longitude; and

(d) by portions of two of those parallels of latitude that are at a distance from each other of five minutes of latitude."
Section 8 stipulates that certain surveys be related to the Australian Geodetic Datum:

"(1) Where, for the purposes of this Act or the regulations, or for the purposes of an instrument under this Act or the regulations, it is necessary to determine the position on the surface of the Earth of a point, line or area, that position shall be determined by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6,378.160 metres and a flattening of 100/29825 and by reference to the position of the Johnston Geodetic Station in the Northern Territory of Australia.

(2) That station shall be taken to be situated at 133 degrees, 12 minutes and 30.0771 seconds of East Longitude, and at 25 degrees, 56 minutes and 54.5515 seconds of South Latitude and to have a ground level of 571.2 metres above the spheroid referred to in the last preceding sub-section."