On 17 December 2002 the Department of Treasury and Finance issued two notices fixing 27 December 2002 and 30 December 2002 as the relevant dates for the purposes of an allocation statement under section 155C of the GIRP Act relating to the allocation of property, rights and liabilities of Gascor to Gascor Holdings No 1 Pty Ltd and the State Electricity Commission of Victoria respectively.

Although the time for the State to exercise the option to transfer the Gascor shares to the retailers has now lapsed, the Government has not disclosed whether or not the State exercised its option to transfer the shares to the retailers. However, on the basis of the two notices issued by the Department of Treasury and Finance, it appears likely that an election to transfer the shares has been made.

## MINERAL RESOURCES DEVELOPMENT REGULATIONS 2002*

The Mineral Resources Development Regulations 2002 commenced operation on 28 October 2002. Made under the *Mineral Resources Development Act* 1990 (Vic), the new regulations revoke the following sets of regulations which were subject to a 10-year sunset period:

- Mineral Resources (Titles) Regulations 1991;
- Mineral Resources (Royalties) Regulations 1991;
- Mineral Resources (Infringements) Regulations 1991; and
- Mineral Resources (Disclosure of Interest) Regulations 1991.

The new regulations consolidate the old regulations and provide a one-stop-shop for the regulation of mining matters, except for health and safety matters which is now found in the Occupational Health and Safety (Mines) Regulations 2002.

While the new regulations are largely similar to those in place before, outlined below are a few of the significant differences.

### Royalties

The regulations no longer provide a specific royalty rate for gypsum, but do set a default royalty rate for brown coal. The royalty rates are as follows:

- lignite (brown coal) – $0.0239 (indexed) per gigajoule unit of coal produced;
- tailings disposed under Crown land – $1.43 per cubic metre; and
- all other minerals (except gold) – 2.75% of the net market value.

Under the old regulations, royalties and royalty return statements were due quarterly. The new regulations require royalties to be paid and statements submitted within four weeks of 30 June each year.

### Application information

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When applying for a mining or exploration licence (**ML** or **EL** respectively), the procedures and information required to be submitted are largely the same except for a few new matters for which information is required. The first main difference is that applicants are now requested to indicate on the application which option they choose to deal with native title if the application covers Crown land. Applicants can choose to:

- have that portion of Crown land excised from the application;
- go through the right to negotiate procedure under the *Native Title Act* 1993 (Cth) (**NTA**); or
- enter into an indigenous land use agreement under the NTA.

The application form also asks for the applicant's preferred reporting date (for expenditure returns and technical reports) which must be one of 30 June, 30 September, 31 December or 31 March.
Apart from these changes, information requirements remain generally the same.

**Marking out**

Under the new regulations, the holder of an ML is required to mark out land within four weeks of registration of the licence and the boundary marks must be maintained until rehabilitation is complete, unless they are otherwise removed in accordance with the regulations. This contrasts with the old regulations where an ML applicant was required to mark out the land, showing the necessary application details until the licence was granted or refused. Then, within 14 days of registration of the ML, the application information had to be replaced with the licence information and maintained for the currency of the licence.

**Expenditure returns**

Under the old regulations, schedule 14 or schedule 15 expenditure returns had to be lodged six months after registration of the licence and then every six months.

The new regulations require the lodgment of returns at the "report date". The report date for MLs is 30 June each year. For ELs registered or renewed after 28 October 2002 the report date is that specified in the licence (being one of 30 June, 30 September, 31 December or 31 March). For ELs granted before 28 October 2002, the report date is that agreed between the holder and the Department (again, being one of 30 June, 30 September, 31 December or 31 March).
Schedule 16 technical reports must still be lodged annually, within four weeks of the report date (with the report dates being as above).

**Rental**

Despite an increase in rental, the new regulations simplify lodgement requirements. Instead of paying rental every six months after the date of registration of the ML, the new regulations provide two assessment dates; these are 30 June and 31 December. Rent is payable within four weeks of the assessment dates.

**Infringements**

Most penalties for infringements have increased, some remain the same and new infringements have been added. For instance, the penalty for failing to submit a royalty return or expenditure return within the due period remains at $200, while the penalty for doing work not authorised by a licence has increased from $500 to $1000. New infringements include the failure by an ML holder

to survey and mark out the land ($1000), and entering land to survey or mark out, or carrying out work under a licence without requisite insurance carry penalties of $1000. There are new $1000 penalties for holders of miner's rights and fossicking authorities who disturb Aboriginal places. Penalties for unsafe work practices have been removed and are now in the Occupational Health and Safety legislation.

**Summary**

With the exception of occupational health and safety matters, the new regulations provide a consolidated source of regulations for Victoria's mining industry. The main differences such as the inclusion of set report dates and annual expenditure returns will help to streamline administration of the state's tenement system and assist licence holders in ensuring compliance.

## GUIDELINES FOR DEVELOPMENT OF WIND ENERGY RESOURCES IN VICTORIA*

Unlike South Australia, where wind energy projects have generally been well received, the development of wind energy resources in Victoria has attracted far greater controversy, stimulating intense debate between local communities, environmental lobby groups, heritage organisations, shire councils and energy developers.

The National Trust has called for a state-wide moratorium on developments in order to protect landscapes of significant scenic or botanic value and for the government to undertake a Statewide assessment of landscapes to identify significant areas which should be excluded as potential wind farm locations.

In response to the growing number of wind energy proposals and in an effort to coordinate approvals of wind energy projects, the Victorian Government released its "Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria" (the "**Guidelines**") in September 2002.

The Guidelines were developed by the Sustainable Energy Authority of Victoria to provide guidance on wind energy planning and development in Victoria and to ensure a framework for community consultation and consideration of environmental, economic, social and cultural issues associated with wind energy projects.

The introduction of the Guidelines is an attempt to address the relatively uncoordinated approach that has been taken to wind energy development in Victoria to date, where individual proposals are considered by local councils and planning tribunals.

The Guidelines contain:

- the Victorian Government's renewable energy policy statement;
- a planning framework for a "consistent and balanced" approach to wind energy projects;
- an outline of information required for planning permit applications;

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