Industry Guideline for Minerals Explorers

A guide to the regulatory and titles administration framework for minerals (non-coal) exploration licences in NSW
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Introduction

1.1 Purpose

The Industry Guideline for Minerals Explorers (Guideline) summarises the key functions related to discovery and development of New South Wales’ mineral resources. It explains how the Mining Act 1992 and exploration licences work, as well as outlines the responsibilities of applicants and licence holders.

Specifically, it includes information on:

- key features of exploration licences
- how to prepare and lodge an exploration licence application
- how an application for an exploration licence is assessed
- key obligations of licence holders
- the obligations of licence holders upon the renewal, transfer, surrender and cancellation of an exploration licence.

This Guideline also includes references to Codes of Practice (Codes), policies and guidelines published by the Division of Resources and Geoscience at Department of Planning and Environment (the Department). A full schedule of the codes, policies and guidelines listed in this document, is in Appendix 1.

Improved Management of Exploration Regulation

The NSW Government introduced reforms to improve the management of exploration regulation (IMER) on 1 July 2015. These reforms affected all applications for the grant, renewal or transfer of a mineral exploration licence lodged after 1 July 2015 and included:

- new work program requirements, that include providing information about the objectives and expenditure estimates for environmental management, rehabilitation and community consultation
- an updated exploration licence instrument
- streamlined risk-based general conditions
- enforceable risk-based codes
- a streamlined exploration activity assessment process
- consolidated annual reporting.

These arrangements are summarised in this Guideline.
1.2 Who this Guideline applies to

This Guideline applies to those interested in exploration licences for all minerals, except coal and petroleum. Information about exploration licences for coal and petroleum is available on the Department’s website.

1.3 Minerals resource management in NSW

In New South Wales, the Act allows an authority (exploration licence, assessment lease or mining lease) to be granted over land of any title or tenure whether the minerals are publicly or privately owned, and any person (both companies and individuals) can seek approval from the NSW Government to explore for, and extract, these resources.

The Department administers the allocation and management of these resources on behalf of the NSW Government by issuing exploration licences, assessment leases and mining leases (known collectively as ‘authorities’) under the Act and the Mining Regulation 2016.

The Act exists to promote the discovery and development of mineral resources in NSW, while encouraging ecologically sustainable development.
The exploration and mining titles process in NSW

Common Ground helps you find current exploration, production and mining activities in your area and across the state. The role of the community and government in the assessment and decision-making process is explained in simple terms. Common Ground is a community service initiated by the NSW Government.

An interactive version of this poster, maps, titles types, glossary, abbreviations and more useful information can be found at www.commonground.nsw.gov.au
What is an exploration licence?

An exploration licence gives the holder the right to carry out exploration (prospect) for:

- particular minerals to which the licence relates
- in or on particular land (the ‘exploration area’)
- for a particular period of time (term).

The exploration licence provides the right to explore and define the quantity and quality of particular mineral resources and to investigate the viability of extracting the resource. The granting of an exploration licence does not give any right to mine, nor does it guarantee a mining lease will be granted within the exploration area. The geological information collected and reported on during the term of an exploration licence remains confidential for a period of 5 years, after the lodgement of this information to the Department. Exploration licences are issued under Part 3 of the Act and Part 3 Division 1 of the Regulation.

2.1 Mineral groups

Exploration licences may be granted in NSW for one or more ‘groups’ of minerals.

A summary of the groups is listed below. In relation to an exploration (mineral owner) licence - group of minerals means the group containing the privately owned mineral that is the subject of the relevant application or licence. A full list of the minerals in each group is set out in Appendix 2, and Schedule 2 of the Regulation.

<table>
<thead>
<tr>
<th>Group number</th>
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<td>Group 8</td>
<td>Geothermal energy</td>
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<td>Group 3</td>
<td>Semi-precious stones</td>
<td>Group 9¹</td>
<td>Coal</td>
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<td>Group 4</td>
<td>Marine aggregate</td>
<td>Group 9A</td>
<td>Oil shale</td>
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<td>Group 5</td>
<td>Clay minerals</td>
<td>Group 10</td>
<td>Mineral sands</td>
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<tr>
<td>Group 6</td>
<td>Corundum, diamond, ruby and sapphire</td>
<td>Group 11</td>
<td>Uranium and thorium</td>
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¹ Group 9, Coal is not subject to this guideline.
2.2 Identifying the application area

Exploration licences under the Act can be granted generally on any onshore land in NSW, subject to some exceptions. Applications for all mineral groups covered by this Guideline, except for group 9A (oil shale), must describe the proposed exploration area by reference to a graticular system defined in Schedule 4 of the Regulation.

This system divides the State into a series of ‘blocks’ with dimensions of five minutes of latitude by five minutes of longitude. Each block comprises 25 ‘units’ with dimensions of one minute of latitude by one minute of longitude. Although the area of a unit varies slightly depending on the location within the State, each unit is approximately three-square kilometres in area².

2.3 Overlapping authorities

Exploration licences are intended to grant a holder the exclusive right to explore for a particular group of minerals. Under section 19 of the Act, an exploration licence cannot be granted over land that is already subject to some other authorisation or prior application for the same mineral group unless the holder (or applicant) of the prior authority gives their written consent for the new exploration licence application to be granted over the area of conflict. This consent must be lodged with the exploration licence application (section 13(5)(e1)); otherwise the decision maker may refuse the application.

If consent is given, the area of overlap will normally cease to be part of the prior authority or application at the time of grant. Exploration licences for different groups can be granted over the same area as the holders will be prospecting for different mineral groups.

There is a provision in the Act, which allows the decision-maker to grant another authority (e.g. exploration licences, assessment or mining leases) over the same land or that part subject to another authorisation, if it is not likely to make the exercising of the holder’s rights under the each authorisation impracticable (see section 19(4) of the Act).

It should be noted that if some other authority (e.g. exploration licence, assessment or mining lease) is subsequently granted over an existing exploration licence, the area of the ‘new authority’ ceases to be part of the existing exploration licence (unless the other authority is an exploration licence for some other group or groups of minerals).

2.4 Opal prospecting areas and reserves

Section 18 of the Act prevents the grant of an exploration licence over:

- an opal prospecting area
- any reserve constituted under section 367 of the Act which prevents the grant of exploration licences.

² A detailed map of NSW titles is provided by the NSW Titles Viewer.
2.5 Land reserved by other legislation

Certain other legislation excludes the operation of the Act on some areas of land. This means that exploration licences will not be granted over land:

- within any national park, regional park, historic site, nature reserve, karst conservation reserve or Aboriginal area at the date of grant of the licence (whether those areas are created under the *National Parks and Wildlife Act 1974* or other legislation)
- vested in the Commonwealth of Australia
- vested in or owned by an Aboriginal Land Council (or Local Land Council under the *Aboriginal Land Rights Act 1983*) before the licence was granted, because in this case those minerals do not belong to the state of NSW. This does not apply to gold, silver, coal or uranium. Therefore exploration licences for Group 1, 9 and 11 minerals will still include this land, but only give holders the right to explore for gold, silver, coal or uranium (as relevant), and not any other minerals within the group on that land.

2.6 Term of an exploration licence

An exploration licence may be granted for a maximum term of six years. At the end of that period, a licence holder can allow it to expire, or they can apply for renewal for further periods not exceeding six years on any one occasion.
**Types of exploration licences**

Generally, exploration licences can be granted to any person (including companies), however an exploration licence cannot be granted to individuals under the age of 18 years old.

Applicants can also apply to hold an exploration licence with another person or persons. However, if there are multiple holders, each of the holders is held jointly and severally liable for the fulfilment of the obligations arising under this Act in relation to the authority.

Some restrictions apply to exploration (mineral owner) licences, and exploration licences within mineral allocation areas.

### 3.1 Standard exploration licences and low-impact exploration licences

Any person can apply for a standard exploration licence or low-impact licence. But while standard exploration licences permit the holder to carry out any exploration activity, a low-impact licence only authorises a limited range of exploration activities. A full list of these activities is provided in Appendix 3. See Part 3 Division 5 of the Act for more details.

The reason for the distinction is that standard exploration licences and low-impact licences use different processes to comply with Native Title legislation in NSW.

### 3.2 Native Title

Native Title in Australia recognises and protects communal, group or individual rights and interests of Aboriginal peoples or Torres Strait Islanders in relation to land or waters, under the *Native Title Act 1993 (Cth)* (CNTA). Mineral exploration in NSW must be administered in accordance with the CNTA.

The primary effect of the CNTA on exploration is the requirement that native title parties are given an opportunity to agree in relation to exploration occurring on native title claimable land prior to consent being given to the carrying out of activities on those lands. The process to achieve this is known as the “right to negotiate” (RTN), and it has to be followed before a person is given the right to explore over any land on which native title has not been extinguished.

In summary the process is:

- The Department will undertake advertising and notification, to alert existing and potential native title parties to the Government’s intention to do the “proposed act” (i.e. granting an exploration licence over land where Native Title has not been extinguished)
This is followed by negotiation between any registered native title body corporate, registered native title claimants, any representative Aboriginal/Torres Strait Islander body, the Government and the applicant to seek agreement about the “proposed act”

If required, there is a mediation process by the arbitral body to assist in agreement being reached

Where agreement cannot be reached, a determination is made by the arbitral body as to whether or not the act may proceed and under what conditions, and

The relevant Minister may overrule the arbitral body’s determination if that determination is considered not to be in the national interest.

Alternatively, an Indigenous Land Use Agreement (ILUA) may be negotiated.

### 3.3 Low-impact exploration licence

The RTN process does not have to be followed for the granting of a low-impact exploration licence as set out in Part 3, Division 5 of the Act. Limited activities can be carried out on these licences as proclaimed in the Ministerial Order published in the NSW Government Gazette (see Appendix 3 and Gazette No 120 of 15.10.1999, p 10011).

Instead of the RTN process, the Department must serve notices on certain Native Title parties that could be affected by a grant of a low-impact exploration licence. Following notification, at least four months must pass before a low-impact exploration licence can be granted.

### 3.4 Standard exploration licence

Standard exploration licences give individuals or companies the right to carry out all types of exploration activities. However, as mentioned above, the RTN process must be followed before the licence holder can carry out any exploration activity on land where Native Title has not been extinguished.

An applicant for a standard exploration licence can elect to carry out the RTN process either:

- before the licence is granted, or
- after the licence is granted, if required.

If the first option is selected, the applicant will have to pay fees to cover advertising costs associated with the RTN process at the time they lodge their licence application or soon after.

If the applicant selects the latter option, then the exploration licence will be granted subject to a condition, which requires the licence holder to obtain Ministerial consent before they carry out any exploration activity on land where Native Title has not been extinguished. The Minister will only give consent after the applicant has complied with the RTN process. Fees associated with the RTN process will be payable by the licence holder at the time they apply for Ministerial consent.

Unless a significant part of the proposed exploration area includes land where Native Title has not been extinguished, the latter option would generally be the most common path selected by explorers.

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3 See section 5.3 for information about Activity Approvals.
It is recommended that applicants discuss these options with their legal advisor. More information about Native Title is available on the Department’s website.

### 3.5 Mineral Allocation Areas

Under section 13(3) of the Act, a person can only apply for an exploration licence for an allocated mineral in a Mineral Allocation Area (MAA) if they have prior consent from the Minister to do so.

MAAs allow for the controlled and rational allocation of potential mineral and geothermal development areas, and they can be established for any minerals or mineral groups (with the exception of coal which is a controlled release mineral). For more information refer to the Department’s website.

All of NSW is an MAA for Group 9A (oil shale) and Group 11 (uranium) minerals. Some smaller MAAs have been created throughout the state for other minerals. Current MAAs in NSW can be viewed on MinView.

We recommend that any person considering making a request for Ministerial consent to apply for an exploration licence within an MAA, contact the Department’s Resource Operations branch for advice. Requests should include a diagram that clearly shows the area over which the person wants to apply for an exploration licence, along with a general overview of the proposed exploration activities.

### 3.6 Exploration (Mineral Owner) Licence

Ownership of some minerals in certain land has not been transferred to the state of NSW. The owner of the land privately owns those minerals. A person who still owns the minerals within their land can apply for an exploration (mineral owner) licence if they want to explore for those minerals.

Applications for an exploration (mineral owner) licence must include evidence establishing that the applicant owns the relevant minerals (e.g. advice from an Australian legal practitioner that certifies private ownership of the minerals). The application form requires identification of the mineral group to which the privately owned minerals belong (see Appendix 2).

### 3.7 Before you apply

Prospective applicants should read the provisions of the Act and the Regulation in addition to this Guideline. The most relevant parts of the Act are Parts 3, 8, 11, 12A, 13, and 14A. The Act and Regulation are available on the Parliamentary Counsel’s website.
The Application Process (EL1)

To apply for an exploration licence you may:

- Use the Resources Customer Portal (recommended); or
- Complete the EL1 form and associated templates available on the Department's website. These can be submitted by email, post, fax or in-person.4

**How to do this in the Resources Customer Portal**

To begin the process, you must register for an account:

customerportal.resources.nsw.gov.au/Account/Register

The following section provides details of what is required in response to Questions 1-10, 13 in the EL1 form.5

**Question 1: Term for which licence is sought**

**What you need to do**

Choose your proposed exploration licence term. The maximum term is six years and the proposed work program must match the proposed term.

**What the Department will do**

Note the information in the Titles Administration System (TAS).

**Question 2: Applicant details**

You must identify who the holder(s) of the licence will be if the application is granted.

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4 An application may be lodged without any of the supporting information, except the consent to apply from the existing exploration licence holder (if applicable), but you will have to provide within 10 days of or the application may be recommended for refusal.

5 Questions 11 and 12 on the EL1 form are used for Group 9 and 9A applications only. If you apply for an exploration licence for minerals using the Resources Customer Portal, Questions 11 and 12 will be skipped. Question 13 on the form is referred to as Question 11 in the Portal.
What you need to do

Provide the applicant information specified within the application form.

How to do this in the Resources Customer Portal

In the 'Applicant/s Details' tab, select an applicant from the drop-down list.

If the applicant name doesn’t appear, a new company or individual applicant can be created.

To create a new company applicant, the ACN/ARBN will be required.

What the Department will do

Note the information in TAS.

Question 3: Contact details

What you need to do

Provide the information specified within the application form.

How to do this in the Resources Customer Portal

In the 'Contact for this application tab', provide the relevant contact details in the fields, and select whether you want to receive correspondence via email or mail.

You can use the ‘Search address’ field to prepopulate all the address fields.

If the contact details for this application are identical to the details associated with your Portal account, you can click the ‘Add My Details’ button to prepopulate all the compulsory fields.

What the Department will do

Refer all correspondence concerning the application and the granted licence to this person.

Question 4: Technical advice

Applicants must supply evidence to demonstrate that they have, or have access to, the technical capabilities required to carry out the proposed work program effectively. All nominated exploration technical managers will be required to confirm their acceptance of the role.

What you need to do

Nominate an exploration technical manager who will be responsible for supervising prospecting operations and (geoscientific) exploration reporting. The person is expected to be a geoscientist or mining engineer with relevant experience in exploration.

You must provide the person’s contact details and attach confirmation of their acceptance of the role.
Note that this does not make the person liable for any other matters relating to this application.

**How to do this in the Resources Customer Portal**

You can upload the Technical Manager details and acceptance on the ‘Technical advice’ tab.

Alternatively, you can enter this information using the provided text fields.

**What the Department will do**

The Department will assess the information provided to ensure that the applicant has sufficient and appropriate technical resources to conduct the exploration specified in the work program.

**Question 5: Statements of corporate compliance, environmental performance history and financial capability**

The Department assesses applications for activities to explore and extract the resources of the state of NSW for the benefit of the people of NSW. The NSW Resources Regulator is responsible for compliance and enforcement across exploration and mining activities in the state, including the assessment of applications.

The Department requires certain information in relation to individuals and companies making an application so that a thorough assessment of the applicant’s ability to meet the obligations under the Act is made.

When assessing a grant, transfer or renewal application, the Department requires the following from each applicant, or in the case of a transfer, each transferee:

- a statement regarding corporate history (if applicable)
- information about compliance record and environmental performance, and
- a financial capability statement.

**What you need to do**

Provide particulars of your corporate history (if applicable), compliance record, environmental performance history, and financial capability by providing the Statements of corporate compliance, environmental performance history and financial capability.

The Statement must be provided by:

- In the case of a natural person – the applicant or transferee
- In the case of a Company or related body corporate – the Company Secretary or Director or an Officer of the applicant or transferee

The statement must be signed at the end of Section 3 (Other declarations) if the applicant is a company and again in Section 4 (the Statement of Financial Capability). A set of forms must be signed for each applicant and each set of forms must be signed by the either the applicant, if they are a person, or a director or officer authorised to sign the forms for the company.
How to do this in the Resources Customer Portal

You can download and upload the Statements of corporate compliance, environmental performance history and financial capability on the ‘Corporate compliance and environmental performance’ tab.

What the Department will do

The Department will assess the information provided to ensure that the applicant has adequate financial capacity to carry out the proposed work program for the term of the licence. It will also take into consideration other financial commitments in relation to work programs on all the applicant's authorities and applications within the State.

Question 6: Work Program

Applications for exploration licences must include a program of activities that the applicant proposes to undertake if the licence is granted. This is known as the work program. It must contain a description of the objectives and rationale for the proposed exploration, the nature, extent and anticipated cost of proposed exploration activities, and the environmental management, rehabilitation activities and community consultation that will be carried out by the applicant.

The Exploration Guideline: Work programs for prospecting titles contains detailed information about how to prepare a work program, and how the work program will be assessed. The Guideline includes a link to a template that applicants must use to prepare the proposed work program. If the exploration licence is granted, a condition of that licence will require the licence holder to carry out the approved work program (as may be varied from time to time, with the approval of the Minister).

What you need to do

Prepare and submit your proposed work program in accordance with the Exploration Guideline: Work programs for prospecting titles. The proposed work program submitted with the application should be appropriate to the term sought. For example, a request for a three-year term requires a work program with sufficient exploration, appropriately staged, to warrant grant for a three-year term.

How to do this in the Resources Customer Portal

You can download and upload the mineral prospecting title working program on the ‘Proposed work program’ tab.

What the Department will do

A team within the Department that includes suitably qualified geologists and environmental scientists will assess the proposed activities in a work program, and determine whether it is an appropriate program of work for the term sought, having regard to the current state of geological knowledge within the proposed exploration area.
**Question 7: Native Title**

**What you need to do**
Select the class of licence required, and then determine what steps, if any, need to be taken regarding Native Title. For further details concerning Native Title requirements, please refer to Section 3.2.

**How to do this in the Resources Customer Portal**
You can choose how you will demonstrate compliance with native title by selecting from a list of options.

If you want to prove that native title has been extinguished within the proposed exploration area, you are able to upload a document to support this option.

**What the Department will do**
Take appropriate action regarding Native Title, depending on your choice.

**Question 8: Groups of Minerals**
You can find a list of the mineral groups in Appendix 2.

**What you need to do**
Specify the mineral group/s to be covered by the exploration licence.

**How to do this in the Resources Customer Portal**
You can choose which mineral groups should be covered by the licence by selecting from the list.

Multiple minerals groups can be selected for an application, but you are unable to select group 9 or 9A in conjunction with the other mineral groups when using the Portal.

**What the Department will do**
Assess the application in accordance with current procedures and policies.

**Question 9: Mineral Allocation Area: Minister’s Consent**

**What you need to do**
Using NSW Titles Viewer or MinView, confirm whether your area of interest is within a MAA. We recommended that if you are seeking to apply for an exploration licence within a MAA, you contact Resource Operations for advice prior to applying.

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6 If you want to apply for an exploration licence that has a selection from Group 1-8, 10-11, and Group 9/9A, you are able to complete this type of application using the paper-based EL1 form that is available on resourcesandenergy.nsw.gov.au.
A diagram that clearly shows the area over which the person wants to apply for an exploration licence, along with a general overview of the proposed exploration activities, must accompany any requests for Minister’s consent. If consent is granted, a copy of the correspondence is to be attached and uploaded with the application.

**How to do this in the Resources Customer Portal**

If the proposed exploration area lies within a MAA, upload a copy of the Minister's consent as part of your application.

**What the Department will do**

Assess the application in accordance with current procedures.

**Question 10: Selecting an exploration area**

You must clearly indicate what land your application relates to (the proposed exploration area).

**Area and shape of an exploration licence**

Applications for groups 1-8, 10 and 11 minerals must specify the proposed exploration area by reference to a graticular system defined in Schedule 4 of the Regulation. This system divides the State into a series of ‘blocks’ with dimensions of five minutes of latitude by five minutes of longitude. Each block comprises 25 ‘units’ with dimensions of one minute of latitude by one minute of longitude. Although the area of a unit varies slightly depending on the location within the State, each unit is approximately three-square kilometres in area.

Applicants must specify which units they are applying for. The area can be of any shape, and the units need not be contiguous. However, if more than five units separate the proposed exploration areas, the application may be granted as separate exploration licences. Likewise, a single exploration licence can be granted for two or more applications submitted by the same applicant. Further, an exploration licence may be granted for only part of the land, which was identified in the application.

**How to describe an exploration licence area**

The proposed exploration area for all groups covered by this Guideline other than group 9A is selected by the graticular block and unit references identifying the land. The eight standard 1:1,000,000 maps which cover NSW are known as the ‘identification area’ and each identification area contains 3456 blocks, which are numbered in sequence. Each block is divided into 25 units, which are identified in alphabetical order (with the exception of the letter ‘i’). The example below shows an exploration licence (highlighted in purple hatching).

It is located within the Armidale (ARM) 1:1,000,000 identification area.
It covers the blocks and units set out in the following table:

<table>
<thead>
<tr>
<th>MAP</th>
<th>BLOCK</th>
<th>UNITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARMIDALE</td>
<td>1516</td>
<td>y</td>
</tr>
<tr>
<td>ARMIDALE</td>
<td>1588</td>
<td>d j 0 y z</td>
</tr>
<tr>
<td>ARMIDALE</td>
<td>1589</td>
<td>v</td>
</tr>
<tr>
<td>ARMIDALE</td>
<td>1660</td>
<td>d e k p</td>
</tr>
<tr>
<td>ARMIDALE</td>
<td>1661</td>
<td>f l</td>
</tr>
</tbody>
</table>

**Example of blocks and units on the Armidale 1,000,000 identification area**

In the case of an exploration (mineral owner) licence, the proposed exploration area would be the lot and deposited plan numbers of the land in which the mineral/s are owned by the applicant.

**How to locate available exploration application areas**

Much of the potential mineral-bearing areas of NSW are covered by existing exploration licences and other authorities. Selecting a potential application area requires assessment of the extent of current authorities, in order
to select an area which is unallocated. Existing authorities can be viewed and identified using NSW Titles Viewer or MinView.

If you apply over land that is already under an exploration licence for the same group of minerals, the consent of existing licence holders should be provided with your application. The consent of any prior applicants for an assessment lease or mining lease for the same minerals will also be required or else the area in conflict will be excluded from your application. There are limited situations where two titles may co-exist.

**What you need to do**

Describe the area you wish to apply over using the identification area name, block number and list of units sought in the application. For example: ARM 1516 unit ‘y’, etc.

**Proposed exploration area for mineral group 9A (oil shale)**

Provide a standard map, as described in clause 9 of the Regulation, which shows the alignment of the proposed licence boundaries relative to the Map Grid of Australia, plus a table of co-ordinates of all the points (eastings and northings) where there is a change in direction of the boundaries of the land. If the entire surface is not to be included in the licence you can specify ‘surface exception’ or indicate the application is to apply to a particular depth (depth restriction).

**How to do this in the Resources Customer Portal**

You can select the exploration area for your application using the integrated geospatial functionality. To select the blocks and units for the exploration area, you can use a number of selection tools or upload a shape file.8 Alternatively, you can manually select the name of the map sheet from a drop-down list, enter the block number, and select the unit references.

If you are applying for an exploration licence for mineral groups 9 or 9A, you are required to upload a map of the proposed exploration area. The geospatial functionality is not available for these mineral groups.

**What the Department will do**

As part of the assessment process, the proposed exploration area will be used to identify existing conflicting authorities or applications, or areas that are not available in the proposed exploration area. The applicant will be advised of any conflicts and will be requested to supply consent from competing applicants or holders of those authorities. Without these consents, the application will generally be considered for the available area only.

The exploration area will be set out at Schedule 1 of the licence instrument and reflected in an indicative diagram or survey plan (group 9 and 9A only).

**Question 13: Conflicting exploration areas**

If you apply over land the subject of an exploration licence for the same group of minerals, the consent of any existing licence holder must be provided with your application.

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8 The Resources Customer Portal supports shape files with the following extensions: .cpg, .dbf, .prj, .sbn, .sbx, .shp, .shx.
What you need to do

If the proposed exploration area overlaps with an existing licence, you should provide the Department with written consent from the other licence holder(s) as part of your application.

How to do this in the Resources Customer Portal

If your application requires written consent from the other licence holder(s), you can upload their consent on the 'Conflicting exploration area' tab.

What the Department will do

Amend the proposed exploration area as necessary.

Application Fees

Applications for exploration licences must be accompanied by the required fee. The applicant must provide information that enables immediate payment or payment confirmation (such as direct deposit details, credit card details or a cheque). If payment cannot be completed, the application may be refused due to non-compliance with section 13(4)(c) of the Act.

The prescribed fees are contained in section 9 of the Regulation. The current application fee is calculated as follows:

- The application fee is $1,000.
- The area fee is:
  - $12.50 per unit per year for the initial group of mineral; $6.25 per unit per year for additional groups; or
  - $2.00 per hectare or part hectare, per year for group 9 and 9A.

Below are sample calculations.

### EXAMPLE 1

You have applied for two groups e.g. Groups 1 and 2.
The area is 5 units and the term is 6 years.

<table>
<thead>
<tr>
<th>Application fee</th>
<th>$1,000.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit fee: 5 units @ $12.50 each x 6 years</td>
<td>$75.00</td>
</tr>
<tr>
<td>Additional unit fee: 5 units @ $6.25 x 6 years</td>
<td>$187.50</td>
</tr>
<tr>
<td><strong>Total fee</strong></td>
<td><strong>$1,562.50</strong></td>
</tr>
</tbody>
</table>

### EXAMPLE 2

You have applied for one group only - Group 9A.
The area is 2.3 hectares and the term is 6 years.

<table>
<thead>
<tr>
<th>Application fee</th>
<th>$1,000.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area fee: 3 hectares* @ $2.00 each x 6 years</td>
<td>$36.00</td>
</tr>
<tr>
<td><strong>Total fee</strong></td>
<td><strong>$1,036.00</strong></td>
</tr>
</tbody>
</table>

*Note figure is rounded up

The image above provides guidance to calculate the required fee you must pay when applying for an exploration licence.

The Portal automatically calculates the fee required.

---

8 A surcharge is applied to applications paid by credit card. Visa/Mastercard – 0.40%, American Express – 0.80%, Diners Club – 1.50%.
**What you need to do**

Pay the prescribed application fee. The fee may be paid by credit card, electronic funds transfer, cheque or cash.

**How to do this in the Resources Customer Portal**

Your fee will be calculated in the ‘Payments’ tab and can be paid online by credit card or direct deposit.

You can also pay with cheque or cash, but your application will not be considered submitted until your payment has been received by the Department.

**What the Department will do**

Confirm the payment has been received or process the payment during the application acceptance process.

**Lodging the Application**

The requirements regarding the lodgement of applications for exploration licences are set out in sections 13 and 382 of the Act, and clauses 14 and 94 and Schedule 9 of the Regulation.

**What you need to do**

When lodging the application online, make sure you have completed the application form, provided all the required information as prompted by the questions in the form, and paid the application fee.

It is the responsibility of the applicant to ensure the application form is correctly completed and all required information is provided. If you do not provide all the requested supporting information when you submit the application, you have 10 business days to do so. Failure to supply the information within this timeframe may be considered as grounds for refusing the application in accordance with Schedule 1B, clause 6(d) of the Act.

Paper-based applications may be lodged by email, fax, mailed to the office listed below, or lodged in person during business hours (9:30am – 4:30pm).

**Email:** titles.services@planning.nsw.gov.au  
**Fax:** 02 4063 6974

Resource Operations  
516 High Street  
MAITLAND NSW 2320  
(PO Box 344, HUNTER REGION MAIL CENTRE NSW 2310)

**How to do this in the Resources Customer Portal**

Before you lodge your application, a checklist will display. You can then review all items to be included in the application before you submit.

**What the Department will do**

Send a letter acknowledging receipt of an application. The letter will specify if there is any outstanding information required for your application.
There are a few differences in submitting and processing online and paper applications.

<table>
<thead>
<tr>
<th>Resources Customer Portal (Online)</th>
<th>Paper-based application</th>
</tr>
</thead>
<tbody>
<tr>
<td>The application can be selected using the Portal.</td>
<td>The form can be completed and lodged by:</td>
</tr>
<tr>
<td>The lodgment time is the time that the applicant</td>
<td>• post – the lodgment time will be recorded as 9:30am on the day of receipt</td>
</tr>
<tr>
<td>submits the application via the Portal.</td>
<td>• email – the lodgment time is time stamped on the email</td>
</tr>
<tr>
<td>The fees are automatically calculated, and can be paid</td>
<td>• fax – the lodgment time is the time that the last page of the fax is received (the time stamp is automatically added to incoming faxes).</td>
</tr>
<tr>
<td>via the Portal.</td>
<td>• in person at the Maitland office.</td>
</tr>
<tr>
<td>The fees must be lodged with the application form.</td>
<td>The fees must be lodged with the application form.</td>
</tr>
</tbody>
</table>

Applicants can check the availability of an area, and select the block and units by using the integrated map viewer.

Applicants may use MinView or Titles Viewer to check the availability of an area.

An application is automatically entered into the TAS for processing upon submission.

The application is received by the Department, entered into TAS, and payment is processed.

An email acknowledgement is sent to the applicant at the time of lodgment.

Receipt of the application is sent to the applicant by the Department via email or mail.

Accompanying information not submitted with the application can be uploaded using the Portal within 10 business days of the application being lodged.

Accompanying information not submitted with the application form should be provided to the Department within 10 business days of the application being lodged.

The Department will then progress assessment and determination of the application. This process is described in Section 4.
Assessment and decision making process for new exploration licence grants under the Mining Act 1992.

Application Received
- checked for completeness (applicant has 10 days to provide any information specified in the application; if not supplied, application may be refused or Section 387C waiver applied if appropriate)
- Entered into TAS
- Distributed for assessment

Environment Assessment
- Protection of natural resources
- Assessment of required security

Geological Assessment
- Work program
- Proposed term of licence (taking into account work program)
- Technical & financial capability
- Exploration performance on other titles held

Compliance Assessment
- Fit and proper person test
- Compliance record
- Environmental performance record

Low Impact
- Notification to Native Title Bodies
- Limited exploration allowed

Native Title
- Right to negotiate process can be undertaken at application (but often left until activity approval)

Drafting and Titles Assessment
- Identification of land use and available area
- Preparation of diagram
- Exclusions
- Conflicts

Titles collates advice received (through checklists and summary document) and checks advertisements have been placed
- Titles Recommendation Committee (TRC) members are sent agenda and have access to applications being considered

TRC meets to consider advice (summarised in assessment summary document) and make recommendation to decision maker
- Applicant advised of proposed decision, and requirements regarding payment of rent / levy / security and offered right of reply

Proposed Decision
- Delegated decision maker notifies applicant of proposed decision after referencing: recommendation of TRC, legislation, internal decision making framework, and summary assessment document
- Applicant advised of proposed decision, and supply additional information to support their case

Final decision
- Delegated decision maker makes final decision by taking into account: recommendation of TRC, internal decision making framework, and response of applicant
- Final check made regarding payment of fund and levy, and provision of required security
- Grant or Refuse (grant can be for a reduced area, shorter term, or reduced type of minerals than originally applied for)

Review of proposed decision requested by applicant
- Additional assessment undertaken as part of review

45 days (once all information received)

TARGET PROCESSING TIME
Assessment and Determination Process

4.1 Assessment process

Once the application has been registered and checked, the following process occurs:

- the application and accompanying material is assessed by the following Departmental technical units
  - Resource Operations
  - the Geological Survey of NSW
  - the Environmental Sustainability Unit
  - the NSW Resources Regulator.
- after assessment, the technical units provide recommendations and or information to the Titles Recommendation Committee (TRC)
- the TRC considers the application and makes a recommendation to the delegated decision maker
- the delegated decision maker considers the TRC’s recommendation and all relevant information. The decision maker may propose to grant or refuse the application.

4.2 Determination process

Proposed grant of an application

If the decision maker proposes to grant the application for an exploration licence, the Department will send a letter to the applicant to notify them of the proposed grant.

The letter will:

- include a copy of the proposed licence instrument, which includes the conditions and diagram
- invite the applicant to make any submissions about the proposed decision before it is granted (including any objection to the proposed conditions)
- ask the applicant to pay the required security and authorisation fees (see following section), which must be paid before the licence can be granted.

The applicant will have 10 business days to make any submissions in relation to the licence and proposed conditions and 42 days to lodge the security and other fees. Any submissions will be considered by the decision maker before the final decision is made. The decision maker cannot grant the application until all required monies
have been received by the Department. At any stage prior to grant the applicant may withdraw their application. Depending on the stage of processing, the applicant may be entitled to a refund (or part refund) of the application fees.

**Proposed refusal of an application**

If the decision maker proposes to refuse the application for an exploration licence, the Department will notify the applicant of the proposed refusal and include the reasons for the proposed decision. The applicant will have 10 business days to make submissions regarding the proposed refusal.

The decision maker will consider any submissions made by the applicant before making a final decision (and may refer the application back to the TRC for further advice, if required). The timeframe for assessing any submission will vary as each case is judged on its own merits.
Fees and security deposits

All exploration licences are issued subject to a condition requiring the payment of a security deposit. This is to ensure that the state of NSW has funds to cover the cost of any default by the licence holder in relation to the fulfilment of obligations under the authority, including obligations that may arise in the future (primarily, defaults in respect of rehabilitation works).

The decision maker may request the security deposit before an exploration licence is granted. It will be refunded once the exploration licence is cancelled/refused or expired and all obligations have been met (see section 7.3). The minimum security deposit for an exploration licence is $10,000. The amount of the security may vary during the term of the exploration licence depending on the activities which are being carried out by the licence holder.

Annual rental and administrative levy

Part 14A Divisions 3 and 4 of the Act require licence holders to pay an annual rental fee and an administrative levy. Each authority becomes liable for these fees on the grant anniversary date.

The annual rental fee is calculated based on the area of the licence. Funds raised from the rental fee are used to continue the provision of pre-competitive geoscience information to industry and other stakeholders. Information, such as new geophysical, geochemical and mapping data, is funded from this fee. The fee is calculated in accordance with Schedule 9 of the Regulation. The minimum annual rental fee is $100.

The annual administrative levy is currently set at 1% of the required security deposit, with $100 as the minimum amount payable. Funds collected under the administrative levy are to be used to cover the Department’s administrative and enforcement costs and also the Derelict Mine Sites Fund.

More information in relation to rents and levies is available on the Department’s website.

The annual fee and administrative levy for the first year of an exploration licence must be paid before the exploration licence is granted. Subsequent payments must be made each year shortly after the grant anniversary date. An invoice will be issued.

Failure to pay any annual rental fee or annual administrative levy is an offence.
This section sets out some of the key obligations you will have if you are granted an exploration licence. As a holder of an exploration licence, you are responsible to ensure ALL obligations are complied with, including, but not limited to, requirements of:

- the Act and all other relevant legislation (including any statutory conditions imposed by the Act or conditions imposed by Regulation)
- all conditions of the exploration licence, including terms attached to any activity approvals
- the Codes referred to in the conditions of the exploration licence (as relevant to an activity).

### 5.1 General conditions of exploration licences

All exploration licences will be subject to general conditions. These general conditions are set out in Schedule 2 of an exploration licence and apply to all activities carried out under an exploration licence.

Additional conditions may be imposed on a case-by-case basis, to regulate specific risks in relation to a particular application (e.g. due to certain sensitivities of land within the exploration area) these are set out in Schedule 3 of an exploration licence. Further activity approvals may apply to regulate specific activities only. These will be issued as required.

The general conditions require the licence holder to comply with:

- **Exploration code of practice: rehabilitation** imposes a number of obligations to ensure that any surface is effectively rehabilitated. These obligations include submitting rehabilitation objectives and completing certain criteria 14 days before carrying out surface disturbing activities.

- **Exploration code of practice: community consultation** sets out mandatory requirements and provides licence holders with related guidance regarding the expected performance for engagement in adequate, inclusive and appropriate community consultation in relation to the planning for, and conduct of, exploration activities under a prospecting title. This code is applied by a condition imposed on all prospecting titles granted, renewed or transferred after 1 March 2016. Titles issued before this time will continue to be bound by any existing conditions on title relating to community consultation.

Licence holders should note that contravention of a licence condition is an offence, and constitutes grounds for suspension and cancellation of an exploration licence (in addition to being a consideration in determining applications for the renewal of an existing authority, or grant of a new authority). Information about compliance
5.2 Land access arrangements and compensation

All licence holders must obtain written permission to enter land from relevant landholders in the form of an access arrangement, before carrying out any exploration activities on their land. This may include land subject to Native Title for low-impact exploration licences.

Under section 263 of the Act, landholders on any land, whether directly subject to an exploration licence or not, are entitled to compensation for any compensable loss arising or likely to arise because of activities on the licence. Compensable loss is defined in section 262 of the Act.

Compensation is one of the matters that should be addressed in an access arrangement. An access arrangement can also include provisions regarding (but not limited to):

- when, how and where the licence holder will be permitted access to land
- kinds of exploration activities that can be carried out
- conditions to be observed
- manner for resolving disputes
- manner for varying the arrangement
- process of notification if ownership of land changes.

Applicants may commence the process of obtaining access arrangements prior to the grant of an exploration licence. If agreement cannot be reached between the licence holder and any landholder, the Act has provisions to assist in the arbitration of access arrangements. An arbitrator can be appointed to assist or determine an access arrangement. The Act provides that the licence holder pay the majority of the cost of arbitration.

More details regarding access arrangements and arbitration are set out in Part 8 Division 2 of the Act. An access arrangement template and information package is available on the Department’s website.

5.3 Activity Approvals in accordance with statutory provisions of the Act

The Act requires licence holders to obtain an ‘activity approval’, before carrying out any exploration activity that is going to have more than a minimal environmental impact. The exploration activities requiring further approval are identified in section 23A and section 44A of the Act as “assessable prospecting operations”. Prior to the granting of an activity approval, the Department undertakes an environmental assessment pursuant to the requirements of the Environmental Planning and Assessment Act 1979.

Exploration activities which do not require further approval

Exploration activities classified as ‘exempt development’ under clause 10 of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (Mining SEPP) do not require further approval from
the Department before they can be carried out. The Mining SEPP provides that certain low intensity exploration
activities are exempt development if they are of minimal environmental impact. These activities include:

- geological mapping and airborne surveying
- sampling and coring using hand-held equipment
- geophysical (but not seismic) surveying and downhole logging
- accessing areas by vehicle that do not involve the construction of an access way such as a track or road.

These activities are exempt development (and can be undertaken without an activity approval) if they are of
minimal environmental impact and are on land that:

- is not within an environmentally sensitive area of State significance, or
- is within a state conservation area but is not otherwise on land referred to in section 3 of the Mining
  SEPP as being environmentally sensitive area of State significance.

See Appendix 6 for an extract from the clause 10 of the Mining SEPP.

Exploration activities which require further approval

All other exploration activities, which do not qualify as exempt development pursuant to clause 10 of the Mining
SEPP, require an activity approval prior to being carried out.

Prior to 1 March 2016, the obligation to obtain an Activity Approval to carry out certain exploration activities was a
condition of the authority. However, since 1 March 2016 the obligation to obtain an Activity Approval is a
requirement of sections 23A and 44A of the Act. As a result, regardless of what is stated as a condition of the
authority, only activities identified as exempt development under the State Environmental Planning Policy (Mining,
Petroleum Production and Extractive Industries) 2007, can be undertaken without further approval.

All other exploration activities (known as “assessable prospecting operations”) require an activity approval.

Applying for an activity approval

To apply for an exploration activity approval, complete Form ESF4: Application to Conduct Exploration Activities.

The conditions of some older authorities require holders to provide a Surface Disturbance Notice before carrying
out exploration activities. Form ESF4 has replaced the Surface Disturbance Notice requirement.

Common Exploration Activities

In order to streamline the assessment process, some exploration activities requiring approval (i.e. assessable
prospecting operations) have been identified as being unlikely to have a significant environmental impact if carried
out in a particular manner. A streamlined assessment pathway has been developed for these activities, referred to
as Common Exploration Activities (CEAs).

Activities can be assessed under the streamlined CEAs Assessment Pathway if they:

1. satisfy location requirements set out in ESG5: Assessment Requirements for Exploration Activities
2. satisfy the impact thresholds and criteria set out in ESG5: Assessment Requirements for Exploration Activities
3. can be carried out in accordance with:
   a. the conditions of the relevant exploration licence
   b. any applicable Codes (The Codes only apply to prospecting authorities granted, renewed or transferred in respect of applications received after 1 July 2015. Exploration activities undertaken pursuant to these titles must comply with the relevant Codes to be assessed under the CEA pathway for authorities).

**Non-Common Exploration Activities**

Applications to undertake exploration activities which do not meet the CEA criteria must be accompanied by additional information about the potential environmental impacts of the activity, in order to assess and determine the application. For more information about obtaining activity approvals, see ESG5: Assessment Requirements for Exploration Activities.

The application and assessment process for exploration activities is summarised below and in the following flowchart.
**Determine if Complying Exploration Activity (CEA)**

- **Petroleum exploration?**
  - **YES**
    - **Environmental Impact Assessment**
      - **Significantly affect the environment?**
        - **YES**
          - **Prepare EIS and/or SIS**
        - **NO**
    - **NO**
      - **Complete only CEA questions in Application Form ESF4**

- **Assessable Prospecting Operation?**
  - **YES**
    - **Actions by the Department**
  - **NO**
    - **Option 1:** Complete all questions in Application Form ESF4 (Targeted REF)
    - **Option 2:** Complete relevant questions in Application Form ESF4 and submit Guideline REF

**Check Whether Separate Approvals are required including:**
- Environment Protection Licence (Protection of the Environment Operations Act 1997) (for petroleum, including coal seam gas)
- Licence to take water (Water Act 1912 or Water Management Act 2000)
- Aboriginal heritage impact permit (National Parks and Wildlife Act 1974)
- Development consent (Environmental Planning and Assessment Act 1979) for activities on land to which State Environmental Planning Policy No 14—Coastal Wetlands or State Environmental Planning Policy No 26—Littoral Rainforests applies
- Actions likely to have a significant impact on a Matter of National Environmental Significance (Commonwealth Environment Protection and Biodiversity Conservation Act 1999)
Determining applications for activity approval

If an activity approval is granted, additional terms of approval may be imposed to regulate those specific activities.

Generally, these activity specific terms will require the licence holder to carry out activities as described in the application, as well as compliance with any relevant Codes.

These may include the following:

- **Exploration code of practice: environmental management.** This will be applied to all exploration activities, and requires the licence holder to carry out exploration in a manner which manages and minimises risks to the environment.

- **Exploration code of practice: produced water management, storage and transfer.** This Code will only be applied if an exploration activity is likely to require the management of produced water.

5.4 Exempted areas

Section 30 of the Act requires a licence holder to obtain Ministerial consent prior to carrying out exploration on any ‘exempted areas’. Exempted areas are certain lands set aside for public purposes. They include travelling stock routes, road reserves, water supply reserves, state forests, state conservation areas and public reserves/commons.

Information about applying for consent to explore within an exempted area is available on the Department’s website.

5.5 Reporting

The conditions of exploration licences and the Regulation require licence holders to provide various reports about the activities carried out under an exploration licence.

The general conditions of exploration licences issued in respect of applications for the grant, renewal or transfer of an exploration licence issued after 1 July 2015 require annual activity reports to be provided by a common deadline, for each year during the term of a licence.

Additional reports may also be required under the Act and Regulation to support applications for the transfer, renewal, or part cancellation of an exploration licence, as well as in conjunction with the expiry of an exploration licence.

**Annual Activity Reporting**

Annual activity reports bring together the compulsory reporting required under an exploration licence. Annual activity reports contain information, data and descriptions of all the activities undertaken, for the term covered by the reports and require the submission of:

- Annual Activity Summary and Expenditure Table
- Annual Geoscientific Report
- Annual Community Consultation Report
• Annual Environment Management and Rehabilitation Compliance Report.
• Work Program (if applicable).

The reports are due at the following times:

• annually, within one calendar month following the grant anniversary date of a licence, or
• on any other date or dates directed by the Secretary in writing.

Information about reporting is available on the Department’s website.

Reports lodged after 1 July 2016 will remain confidential for five years, and then will be published on the Department’s website.

For more information about activity reporting, including template information, see Exploration guideline: annual activity reporting for prospecting titles.

Information about how compliance with the work program will be assessed via the activity reports is also available in the Exploration guideline: work programs for prospecting titles.
Renewing an exploration licence (EL5)

Exploration licences are valid for a fixed term. If the licence holder wishes to continue exploration work beyond the end of that term, they must apply to renew the licence before it expires. An application for renewal can be made within the period of two months prior, up to midnight on the expiry date of the exploration licence.

If a valid renewal application has been lodged prior to expiry and a decision has not been made by that date, under section 117 of the Act, the exploration licence remains in force until the application for renewal is determined. This means prospecting activities may continue within the area over which the renewal application was made.

If a mineral resource has been identified, the holder may wish to obtain a more substantial form of tenure over the area. In this situation, it may be appropriate to apply for an assessment or mining lease. Licence holders are strongly encouraged to seek advice from the Department’s Royalties and Advisory Services team and Geological Survey of NSW prior to applying to renew the licence in these circumstances. Further information on assessment leases is available on the Department’s website.

Licence holders intending to apply for the renewal of an exploration licence are strongly advised to read the provisions of the Act and Regulation in conjunction with this information. The most relevant parts are Part 7 Division 1 of the Act and clause 18 of the Regulation.
Assessment and decision making process for exploration licence renewals under the Mining Act 1992.

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**Application Received**
- Checked for completeness
- Entered into TAS (applicant has 10 days to provide any information specified in the application; if not supplied, application may be refused)
- Distributed for assessment

**Drafting and Titles Assessment**
- Preparation of diagram

**Environment Assessment**
- Determines if a Part 5 Determination is required prior to renewal (e.g. if activity approvals are continuing)
- Protection of natural resources
- Assessment of required security

**Geological Assessment**
- Work program
- Proposed term of licence (taking into account work program)
- Technical and financial capability
- Exploration performance on other titles held
- Renewal justification
- Consideration of special circumstances (if more than 50% of area applied for)

**Compliance Assessment**
- Financial capability
- Compliance record
- Complaints and breaches

**Low Impact**
- Notification to Native Title bodies
- Limited exploration allowed

**Titles collates advice received (through checklists and assessment summary document)**
- Titles
- Recommendation Committee (TRC) members are sent agenda and have access to applications being considered one week prior

**Drafting and Titles Assessment**
- Preparation of diagram

**Proposed decision**
- Delegated decision maker determines proposed decision by referencing: recommendation of TRC, legislation, internal decision making framework, and assessment summary document
- Applicant advised of proposed decision, and any other requirements such as increased security and offered right of reply

**Final decision**
- Final decision made taking into account response of applicant
- Final checks made regarding compliance history and any outstanding monies
- Renew or Refuse

**Review of proposed decision requested by applicant**
- Additional assessment undertaken as part of review

**Applicant’s right of reply**
- Applicant can request a review of proposed decision and supply additional information to support case

**TRC meets to consider advice (summarised in assessment summary document) and makes recommendation to decision maker**
- Delegated decision maker gives consideration to advice as well as application summary document
- TRC meets to consider advice (summarised in assessment summary document) and makes recommendation to decision maker

**Final decision**
- Final decision made taking into account response of applicant
- Final checks made regarding compliance history and any outstanding monies
- Renew or Refuse

**Target Processing Time**
- 45 Days once all information received
6.1 Renewal Reminders

Registered users of MinView are able to activate email reminders that will send an alert regarding the pending expiry of an exploration licence. Instructions on setting up the reminder service are found in the MinView Users and Help Guide.

6.2 Term of Renewals

Exploration licences may be renewed for a period of up to six years. If an exploration licence is renewed, the decision maker has the power to renew for a term longer or shorter than that applied for, but the applicant will be given an opportunity to provide submissions about any proposed decision that differs from the term originally sought.

6.3 Area over which a renewal can be granted

In accordance with section 114A of the Act, an exploration licence may not be renewed for more than half the area, unless ‘special circumstances’ exist. Therefore, an application for renewal over more than half of the existing exploration area must be accompanied by a detailed submission to support the renewal, based on the following criteria:

- the conditions of the licence have been satisfactorily complied with
- the full area of the licence has been explored effectively
- the proposed program satisfactorily covers the full area to be renewed.

6.4 Lodging a renewal application

Renewal applications can be lodged via the Resources Customer Portal, by email, fax, mail or in person.

What you need to do

Complete and submit Form EL5, together with the required fee and supporting information.

The supporting material required to accompany renewal applications includes:

- a description of the area over which renewal is sought (if changed from the area held in the previous term)
- a Renewal Justification Statement, summarising past and proposed activities and special circumstances if applicable
- Prospecting title work program
- Technical advice supporting documentation
• Statements of corporate compliance, environmental performance and financial capability

• Form ESF2: Rehabilitation completion and/or review of rehabilitation cost estimate, outlining the outstanding rehabilitation costs of the exploration area.

What the Department will do

Once a renewal application is received, the Department will send a letter to the licence holder acknowledging receipt of an application, and specify if there is any outstanding information.

Failure to supply the information within 10 business days may be considered as grounds for refusing the application according to Schedule 1B, clause 6(d) of the Act.

6.5 Assessment and determination of renewal application

The assessment process for a renewal application is the same as the assessment process for the grant of an application (see flowchart on page 27). However, the exploration activities are thoroughly scrutinised and there are several other factors that are taken into consideration (e.g. the licence holder’s compliance history and rehabilitation performance).

Applications for renewal of exploration licences are assessed against the Department’s Policy on renewal of exploration licences for minerals.

The renewal policy incorporates the assessment of ‘special circumstances’.

For an exploration licence to be renewed the following criteria should be satisfied:

• If applicable, the expenditure and reporting conditions of the licence have been satisfactorily complied with

• The licence area has been explored effectively

• A satisfactory proposed program for the renewal period has been submitted.

Where these criteria are not fully satisfied, extenuating factors may be taken into account when considering renewals. However, exploration licences will only be renewed based on extenuating factors if the Department is satisfied that it is in the best interests of development of the State’s mineral resources. A non-exhaustive list of extenuating factors is listed in the renewal policy.

If the decision maker proposes to renew an exploration licence for a smaller area or shorter term than that applied for, the licence holder will be notified, and be given 14 days to make a submission regarding the proposed decision. The licence holder will be asked to provide a description of the reduced area to be retained, before the Department will renew the exploration licence. The application may be refused if any requested information within the period specified is not provided.
Transferring an exploration licence

The holder of an exploration licence can transfer it with approval of the Minister. The exploration licence may be transferred wholly, or in part. The process for a transfer is similar to the grant and renewal process and is summarised below:

- Lodge Form AD2 by email, fax, post or in person. The form must be accompanied by the required information and relevant fees
- The information is assessed by technical units and referred to the TRC who make a recommendation to the decision maker
- The decision-maker will assess and determine the application
- If the application is approved, then the transferor or transferee has three months to apply to register the transfer by lodging Form AD4. The transferee will only become the holder of the exploration licence when the transfer is registered.

Detailed provisions regarding the transfer of an exploration licence are set out in Part 7 Division 2 of the Act.
Surrender of an exploration licence

Exploration may come to end over the whole or part of an exploration licence in several ways, including:

- over the whole of an exploration area, because the term of the licence expires, and the licence holder does not seek renewal within the required time frame
- over part of an exploration licence area, because part of the licence area is relinquished at renewal
- the licence holder requests cancellation of the licence, in whole or in part (see section 125(1)(a) of the Act)
- the Minister decides to cancel the licence, completely or in part (see Part 7 Division 3 of the Act).

When an exploration licence ends, a licence holder will have some final obligations they must comply with.

7.1 Final reports

In accordance with licence conditions and the Regulation, a licence holder is required to submit reports within 1 calendar month after expiry or cancellation of an exploration licence. The reports must be prepared in accordance with the Exploration Guideline: Annual activity reporting for prospecting titles.

The final reports must be accompanied by any outstanding geoscientific data that has not been previously provided.

7.2 Cores and samples

The Department holds a selection of representative cores and samples in their core libraries, for the benefit of explorers and other researches.

In accordance with clause 65 of the Regulation, if you intend to dispose any drill cores or samples obtained under the authority you must first offer, and if requested to do so provide, drill cores and samples to the Department for archival storage.

Offers of cores and samples must be made using the Core Offer Sheet and emailed to corelibrary.admin@planning.nsw.gov.au.

The Core Offer Sheet including other information about the Department’s core libraries and core and sample acceptance and disposal can be found at on the Department’s website.
7.3 Refund of security deposits

Security deposits will only be refunded if the Minister is satisfied all obligations under the exploration licence have been fulfilled, and in particular, rehabilitation of any disturbed areas has been successfully completed.

This requires licence holders to demonstrate to the Department that rehabilitation objectives and completion criteria associated with the agreed land use have been met. As part of the decision making process, the Minister will take into account whether the licence holder has completed rehabilitation to the satisfaction of the landholder.

Licence holders should provide this information within one calendar month of the expiry or cancellation of the licence by submitting *Form ESF2: Rehabilitation Completion and/or Review of Rehabilitation Cost Estimate*. Failure to provide all reports may delay the release of a security deposit.

The Department will advise the licence holder if there is a requirement for additional information or rehabilitation to be undertaken. The security deposit will only be released after rehabilitation has been carried out to the satisfaction of the Minister. Failure to undertake the required rehabilitation may result in the forfeit of the security to fund any outstanding rehabilitation works.

Once all final reports have been provided and assessed as satisfactory, the Department will refund the security deposit. Requests for cash deposits to be released will be made within 10 business days of approval to release the security being given.
Appendices

Appendix 1 – Codes, Policies and Guidelines

Codes of Practice (Codes), policies and guidelines provide information and set out requirements, including the performance expectations to be achieved during the term of an exploration licence. The application of these codes, policies and guidelines is based on the likely risk, type, and scale, phase and duration of exploration activities.

Codes

Codes set out mandatory requirements and provide licence holders with guidance regarding the expected performance to ensure that any exploration manages and minimises risks.

Codes serve three purposes:

- they provide upfront information to applicants, licence holders and the public
- they can be used to facilitate the assessment and determination of exploration activities consistent with Part 5 of the *Environmental Planning and Assessment Act 1979*
- they set out enforceable mandatory requirements.

The Codes that will apply to exploration licences for minerals include:

- Exploration code of practice: community consultation
- Exploration code of practice: rehabilitation

Other Codes which may be applied to exploration licences for minerals include:

- Exploration code of practice: environmental management
- Exploration code of practice: produced water management, storage and transfer

Policies

Policies are formal statements of the position of the Department on key aspects of its business. They are governing principles that mandate or constrain actions and provide a basis for decision-making and departmental actions to achieve Government objectives.

Policies may be developed to respond to legal or regulatory requirements, resolve a conflict or problem, or realise an overall benefit to the Department. The Department’s key policies include:

- Compliance and enforcement approach
- ESP1: Rehabilitation Security Deposits Policy
- EDP10: Public Access to Environmental Information Policy
• Policy on renewal of exploration licences for minerals
• Policy on grant of assessment leases

Guidelines

Guidelines provide licence holders with information to assist them to meet their obligations under the Act. The Department’s key guidelines include:

• Exploration guideline: work programs for prospecting titles
• Exploration reporting: a guide for reporting on exploration and prospecting in NSW
• Exploration guideline: annual activity reporting for prospecting titles
• Guide to completing a renewal justification statement
• Industry Guidelines: Native Title and the administration of exploration and mining legislation in New South Wales
• Exploration and production guideline: drilling and integrity of petroleum exploration and production wells
• ESG1: Rehabilitation Cost Estimate Guidelines
• ESG2: Guideline for Preparing a Review of Environmental Factors
• ESG4: Guideline for Preparing an Environmental and Rehabilitation Compliance Report for Exploration
• ESG5: Assessment requirements for exploration activities
• Enforceable undertakings guidelines
• Prosecutions guidelines
### Appendix 2 – Schedule 2 Groups of Minerals

#### Group 1 (Metallic minerals)
- antimony
- arsenic
- bismuth
- cadmium
- caesium
- chromite
- cobalt
- columbium
- copper
- galena
- germanium
- gold
- indium
- iron minerals
- lead
- lithium
- manganese
- mercury
- molybdenite
- nickel
- niobium
- platinum group minerals
- platinum
- rare earth minerals
- rubidium
- scandium and its ores
- selenium
- silver
- sulphur
- tantalum
- tin
- tungsten and its ores
- vanadium
- zinc
- zirconia
- feldspathic materials
- fluorite
- garnet
- graphite
- gypsum
- halite (including solar salt)
- limestone
- magnesite
- magnesium salts
- marble
- mica
- mineral pigments
- olivine
- ores of silicon
- peat
- perlite
- phosphates
- potassium minerals
- potassium salts
- pyrophyllite
- quartzite
- reef quartz
- serpentine
- sillimanite-group minerals
- sodium salts
- staurolite
- strontium minerals
- talc
- topaz
- vermiculite
- wollastonite
- zeolites

#### Group 2 (Non-metallic minerals)
- apatite
- asbestos
- barite
- bauxite
- beryllium minerals
- borates
- calcite
- chert
- chlorite
- cryolite
- diatomite
- dimension stone
- dolomite
- emerald
- emery
- agate
- chalcedony
- jade
- nephrite
- quartz crystal
- rhodonite
- tourmaline
- turquoise
- marine aggregate

#### Group 3 (Semi-precious stones)
- agate
- chalcedony
- jade
- nephrite
- quartz crystal
- rhodonite
- tourmaline
- turquoise

#### Group 4 (Marine aggregate)
- marine aggregate

#### Group 5 (Clay minerals)
- bentonite (including fuller’s earth)
- clay/shale
- kaolin
- structural clay

#### Group 6 (Corundum, diamond, ruby and sapphire)
- corundum
- diamond
- ruby
- sapphire

#### Group 7 (Opal)
- opal

#### Group 8 (Geothermal energy)
- geothermal energy

#### Group 9 (Coal)
- coal

#### Group 9A (Oil shale)
- oil shale

#### Group 10 (Mineral sands)
- ilmenite
- leucoxene
- monazite
- rutile
- zircon

#### Group 11 (Uranium)
- thorium
- uranium
Appendix 3 – Low-impact Exploration Licence Activities

The following kinds of prospecting operations are authorised by a low-impact exploration licence:

a. aerial surveys
b. geological and surveying field work that does not involve clearing (as defined below)
c. sampling by hand methods
d. ground-based geophysical surveys that do not involve clearing
e. drilling and activities associated with drilling and the establishment of a drill site that do not involve clearing or excavation (as defined below), other than the minimum necessary to establish a drill site
f. environmental fieldwork that does not involve clearing.

For the purposes of (e) above, the following are not permitted:

- side hill excavation for access or drill pads, as would be necessary on steep slopes
- drilling in a watercourse or any stream diversion
- cutting down or pushing over trees
- clearing or excavation for the purpose of obtaining access to drill sites.

The terms ‘clearing’, ‘excavation’ and ‘topsoil horizon’ have the following meanings:

- **Clearing** - In the case of grass, scrub or bush, ‘clearing’ means the removal of vegetation by disturbing root systems and exposing underlying soil, but does not include:
  a. the flattening or compaction of vegetation by vehicles, where the vegetation remains living
  b. the slashing or mowing of vegetation to facilitate access tracks, provided root systems remain in place and vegetation remains living
  c. the clearing of noxious or introduced plant species.

In the case of trees, ‘clearing’ means cutting down, ringbarking or pushing over trees.

- **Excavation** - ‘Excavation’ means the use of machinery to dig below the ‘topsoil horizon’, but does not include:
  a. minor levelling of a site to allow a drill rig to operate on a level surface for safety reasons (e.g. to provide a safe working area or for fire prevention)
  b. the construction of a small sump for operational purposes.

- **Topsoil horizon** - The ‘topsoil horizon’ means the top level or layer of soil, which is generally less than 30cm thick.

Notwithstanding the kinds of prospecting operations authorised under (e) above, further activity approval will be required before actual drilling can occur.
### Appendix 4 – Legislative requirements

The table below lists the provisions of the *Mining Act 1992* and *Mining Regulation 2016* that are particularly relevant to exploration licences for minerals. It also shows the general responsibilities for applicants, licence holders and the Department for each of the provisions.

Note: The table only provides a very general overview of the key requirements of the Act and Regulation. Applicants and licence holders must understand their detailed obligations under the legislation and we recommend that you obtain independent legal advice.

### Application, Assessment and Determination

<table>
<thead>
<tr>
<th>Section of the Act</th>
<th>Applicant responsibilities</th>
<th>Departmental responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td><strong>Apply for an exploration licence using the approved form and provide all of the information set out in section 13 of the Act and clause 14 of the Regulation. Note, the Ministers consent is required if the application relates to an allocated mineral.</strong></td>
<td><strong>Assess applications for completeness and send an acknowledgement letter to the applicant stating if any details are missing.</strong></td>
</tr>
</tbody>
</table>
| 13A                | **Publish a notice of your application within 45 days after you receive a letter from the Secretary of the Department acknowledging that your application has been lodged (see also clause 15 of the Regulation).**  
The notice must:  
- be published in a newspaper with State-wide circulation, as well as in at least one newspaper with circulation in the locality of the proposed exploration area  
- comply with the guidelines available on the Department’s website. | **Check that the notices are published in accordance with the guidelines and in the required timeframe.** |
<p>| 14                 | <strong>No action required.</strong>                                                                      | <strong>Comply with the requirements set out in this section of the Act before putting an exploration area out for tender.</strong> |
| 15                 | <strong>Ensure that your application in response to an invitation for tender meets the minimum requirements includes all of the information specified in the tender information.</strong> |                                                                                               |
| 16                 | <strong>Repealed. Provisions to request further information moved to Schedule 1B.</strong>                 | <strong>Request any further information needed to determine an application, and assess that information.</strong> |
| 17                 | <strong>Comply with any order to remove land from an application or tender for an exploration licence.</strong> | <strong>Direct (by order) that an area be removed from an application or tender for an exploration licence.</strong> |
| 18 | No action required. | Do not grant an exploration licence over any land in an opal prospecting area or reserve where new exploration licences are prohibited. |
| 19 | Obtain written consent to the grant of your exploration licence from any person who: | Do not grant an exploration licence over land subject to a conflicting authority, or a conflicting application without the written consent of that holder / applicant. |
| | • holds an exploration licence for the same group of minerals |
| | • holds a mining lease, assessment lease or mineral claim or |
| | • has lodged an application for any of the above authorisations over land that is in your application. |
| 21 | Repealed. | If written consent is given, remove that area from the conflicting authority or application (as relevant) if and when the new application is granted. |
| 22 and 23, 292I and 292K, 261BA | Review the proposed conditions set out in the licence instrument sent by the Department and advise if there are any concerns, by the date nominated in the letter. | Send a letter to the applicant advising whether or not the decision-maker proposes to grant the application, including any conditions the successful applicant will be required to abide by. If the decision is to grant, request payment for the prescribed fees for the first year and security deposit. Consider any submissions in response, and determine to grant an exploration licence over all or part of the area sought in an application, or refuse the application. If the decision is to grant; impose appropriate conditions. Remove land from any conflicting authority or application, as required. Record the security and fees as having been received. |
| 261BC | Pay the amount the Secretary may assess as the required security deposit. There is no guarantee that the security will be the minimum amount. | Record the payment of the assessed security. |
| 23A | Be aware this statutory condition will apply to any exploration licence and must be complied with; no action required at the time of application. The holder may apply for cancellation of an activity approval. | Will assess any application for assessable activities when required. |
| 24 | No action required. | Ensure an exploration licence application complies with the Act regarding the land and mineral groups specified in the application or tender. |
| 25 | Describe the application area in accordance with the Regulation. | Ensure an exploration area complies with the Act and Regulation (cl. 16) regarding its shape and size, and that it is land specified in the application. |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>26</td>
<td>Repealed – powers to impose conditions moved to Schedule 1B.</td>
</tr>
<tr>
<td>27</td>
<td>Request a licence term that is no greater than six years. Determine a commencement date and term of the exploration licence.</td>
</tr>
<tr>
<td>29</td>
<td>Prospect on the relevant land for the relevant minerals, in accordance with the conditions of your licence. Provides for the continued operation of an exploration licence if the determination of an application for an assessment lease, mining lease or mineral claim is not complete.</td>
</tr>
<tr>
<td>30</td>
<td>Seek and obtain the Minister’s consent before carrying out any operations within an exempted area (as defined in the dictionary in the Act). Consent will only be given once you comply with the CNTA and have obtained access arrangements with the landholder. Facilitate compliance with the CNTA. Once the CNTA has been obtained and access arrangements have been agreed with the controlling authority of the land, consent could be granted to prospect in the exempted area.</td>
</tr>
<tr>
<td>31</td>
<td>Do not exercise any rights within prescribed distances of certain places without the prior written consent of the relevant owner. Respond to any allegations of breach of this requirement.</td>
</tr>
<tr>
<td>32C</td>
<td>If a low-impact licence is granted, comply with any conditions which limit the prospecting operations authorised by the licence. Determine (by order published in the Gazette) what kinds of prospecting operations can be carried out under a low-impact licence, and if a low-impact licence is granted, impose conditions to limit the rights under a low-impact licence to those activities.</td>
</tr>
<tr>
<td>32D</td>
<td>No action required. Comply with clause 17 of the Regulation and do not grant a low-impact licence until at least 4 months have passed since serving notice on the representative bodies referred to in section 32D of the Act.</td>
</tr>
</tbody>
</table>
| 32E | If you want to carry out unauthorised prospecting operations, apply for a variation. Comply with the ‘right to negotiate’ provisions of the CNTA, if required because of the variation being granted. Upon receipt of an application for variation:  
- consider whether the variation triggers the ‘right to negotiate’ provisions of the CNTA  
- if yes, advise the licence holder of its options and requirements to comply with the ‘right to negotiate’ provisions of the CNTA  
- if required, convert the low-impact licence to a standard exploration licence. |
<p>| 32EA | If you are unsatisfied with the determination of your application to vary your low-impact exploration licence, apply for a review within 30 days of being served the written notice of the outcome of your application. Make any application for review, and then confirm or change the determination in writing. |</p>
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>113 and 114A</td>
<td>Apply for renewal of your exploration licence within the period of two months before your licence ceases to have effect, and in any case, before it expires. Lodge this renewal application, provide all required information (including as referred to in clause 18 of the Regulation), and pay the required fees. Make sure the renewal application relates to a maximum of five separate parts of land. Include special circumstances justification if seeking renewal for more than half of the area covered by the exploration licence.</td>
<td>Assess the application for renewal and advise the applicant if anything is incorrect or missing from the application.</td>
</tr>
</tbody>
</table>
| 114 | Provide written submissions (if any) in response to the notification of the proposed decision. | Assess the application and give the applicant notice of the proposed decision and an opportunity to make submissions. Consider the submissions (if any) and decide whether to grant or refuse renewal. If the decision is to grant, ensure that:  
  - the term of renewal is no more than six years  
  - the exploration area being renewed only covers land which is within the existing exploration area  
  - the exploration area being renewed is no more than half of the existing exploration area, unless the decision maker is satisfied that special circumstances exist that justify renewal of the licence over a larger area. |
| 115 | No action required. | Serve notice of the renewal on the holder of the exploration licence. |
| 117 | Continue to carry out approved operations on the area sought for renewal after the date the licence would have expired but for the lodgment of a renewal application. | No action required. |
| 120 | Prior to applying, to transfer the holder must have notified any person who has a registered interest in the authority, of the proposed transfer. Apply to transfer your exploration licence using Form AD2. Include the required information and pay the prescribed fee. | Assess the application for transfer and advise the applicant if anything is incorrect or missing from the application. |
121 Pay any rent and levy related to the partial transfer which results in an entirely new exploration licence. Determine the application and give the applicant notice of the transfer approval (including any proposed variation of licence conditions).

122 If the transfer application is approved, apply for registration of the transfer using the approved form within three months of the approval. Register the transfer.

125 Apply to cancel your exploration licence using Form AD6. If the cancellation is for only part of the exploration area, then describe the land as required by clause 19 of the Regulation. Assess the application for cancellation and advise the applicant if anything is incorrect or missing from the application. Other provisions in this section allow (if the decision maker is satisfied sufficient grounds exist) the cancellation of the exploration licence.

126 Provide written submissions (if any) in response to the notification of the proposed decision. Before the Department cancels your authority you will be served a notice of the proposed cancellation and have an opportunity to make submissions. Consider the submissions (if any) and decide whether to cancel.

163C Prepare and submit final and relinquishment reports within one calendar month of the cancellation (see clause 61 of the Regulation). Assess reports, and if satisfied, refund any relevant security.

163D Keep your records in legible form so they can be provided to any inspector. Request and inspect the records if required.

163E All records must be kept for at least four years after the authority ceases to have effect. Request and inspect the records if required.

163G The holder must collect, label and preserve any samples of strata, minerals, water or any other thing required by the Regulations. Request and preserve the samples if required.

### Appointment of Agent

<table>
<thead>
<tr>
<th>Section of the Act</th>
<th>Applicant responsibilities</th>
<th>Departmental responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>163F</td>
<td>Notice of appointment of an Agent must be provided in writing to the Secretary.</td>
<td>Will treat all information provided by a duly appointed and notified agent as being from the holder, applicant, tenderer or any person who occupies the land over which the authorisation or application relates.</td>
</tr>
</tbody>
</table>
Conditions – including imposing, variation, suspension and other matters that can be taken into account when considering an application.

Schedule 1B – due to the complexity of this schedule, only key provisions have been included.

<table>
<thead>
<tr>
<th>Clause of the Sch.</th>
<th>Applicant responsibilities</th>
<th>Departmental requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td></td>
<td>This schedule applies to applications, tenders, and decisions in relation to, the grant, renewal, transfer approval, imposition of conditions on, or variation or suspension of conditions.</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>Protection of the environment must be taken into account when considering applications. Additional matters may also be taken into account. Further information may be requested. Grounds that may be taken into account when refusing application.</td>
</tr>
<tr>
<td>7</td>
<td></td>
<td>Imposing conditions by the decision maker and Regulation. Exemptions from conditions imposed by Regulation.</td>
</tr>
<tr>
<td>12</td>
<td>Holder may request variation of conditions.</td>
<td>Will consider request and notify any decision in writing.</td>
</tr>
<tr>
<td>14</td>
<td>Holder may request suspension of conditions.</td>
<td>Will consider request and notify any decision in writing.</td>
</tr>
</tbody>
</table>
### Appendix 5 – Glossary of terms and definitions

Words in this Guideline have the definition given to those words in the *Mining Act 1992*, unless otherwise defined below. Additional terms used in this Guideline are also set out below.

<table>
<thead>
<tr>
<th>Term</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>APRA</td>
<td>Australian Prudential Regulation Authority.</td>
</tr>
<tr>
<td>Block</td>
<td>Five minutes of latitude by five minutes of longitude making up a 1,000,000 area map.</td>
</tr>
<tr>
<td>CNTA</td>
<td><em>Native Title Act 1993 (Cth).</em></td>
</tr>
<tr>
<td>Delegated decision-maker</td>
<td>The person holding a position to which the decision-maker has delegated their decision-making powers through the provisions of section 363 of the <em>Mining Act 1992</em>.</td>
</tr>
<tr>
<td>Department</td>
<td>NSW Department of Planning and Environment.</td>
</tr>
<tr>
<td>Exploration</td>
<td>To carry out works on, or to remove samples from, land for testing the mineral bearing qualities of the land (defined as ‘prospect’ in the <em>Mining Act 1992</em>).</td>
</tr>
<tr>
<td>Graticular system</td>
<td>Grid based on lines of latitude and longitude, which defines ‘blocks’ and ‘units’.</td>
</tr>
<tr>
<td>Mineral resource</td>
<td>Mineral concentration within the earth where exploration results indicate or could indicate that there is a reasonable prospect for eventual economic extraction.</td>
</tr>
<tr>
<td>Mineral group</td>
<td>Group of similar minerals defined by Schedule 2 of the <em>Mining Regulation 2016</em>.</td>
</tr>
<tr>
<td>Private mineral</td>
<td>A mineral that is not owned by, or reserved to, the Crown.</td>
</tr>
<tr>
<td>Registered Native Title Claimant</td>
<td>Has the same meaning as in the <em>Native Title Act 1993 (Cth).</em></td>
</tr>
<tr>
<td>Security deposit</td>
<td>Monetary security held by Department to cover the rehabilitation liability on a title.</td>
</tr>
<tr>
<td>Right to negotiate</td>
<td>The process whereby the rights under the <em>Native Title Act 1993 (Cth)</em> are protected prior to the grant of an exploration licence or the approval of certain exploration activity.</td>
</tr>
<tr>
<td>Term (of an exploration licence)</td>
<td>Period for which an exploration licence is granted or renewed.</td>
</tr>
<tr>
<td>Titles Administration System (TAS)</td>
<td>Database fulfilling the requirements of section 161 of the <em>Mining Act 1992</em> in which all interests created under that Act and some other Acts are recorded. Serves as the statutory register of mining interests in NSW.</td>
</tr>
<tr>
<td>Titles Recommendation Committee (TRC)</td>
<td>A departmental committee that assesses and makes recommendations to the decision maker in relation to exploration licences.</td>
</tr>
</tbody>
</table>
Appendix 5 – Exempt Development

Assessable prospecting operations are any activities that are not exempt development as described in clause 10 of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.

10 Exempt development

1) This clause applies to development that is on land that:

(a) is not within an environmentally sensitive area of State significance, or

(b) is within a state conservation area but is not land referred to in paragraphs (a)–(e) or (g)–(i) of the definition of environmentally sensitive area of State significance.

2) Development for any of the following purposes is exempt development if it is of minimal environmental impact:

(a) low intensity activities associated with mineral exploration or petroleum exploration, including the following:

(i) geological mapping and airborne surveying,

(ii) sampling and coring using hand-held equipment,

(iii) geophysical (but not seismic) surveying and downhole logging,

(iv) accessing of areas by vehicle that does not involve the construction of an access way such as a track or road.

environmentally sensitive area of State significance means:

(a) coastal waters of the State, or

(b) land to which State Environmental Planning Policy No 14—Coastal Wetlands or State Environmental Planning Policy No 26—Littoral Rainforests applies, or

(c) land reserved as an aquatic reserve under the Fisheries Management Act 1994

(d) or as a marine park under the Marine Parks Act 1997, or

(e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention, or

(f) land identified in an environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance, or

(g) land reserved as a state conservation area under the National Parks and Wildlife Act 1974, or

(h) land, places, buildings or structures listed on the State Heritage Register, or
(i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes, or land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.⁹

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⁹ The *Threatened Species Conservation Act 1995* was repealed and replaced by the commencement of the *Biodiversity Conservation Act 2016* on 23 November 2016. Under the savings and transitional provisions, any area that was, immediately before the commencement of the *Biodiversity Conservation Act 2016*, declared to be critical habitat under Part 3 of the *Threatened Species Conservation Act 1995* is taken to have been declared under Part 3 of the *Biodiversity Conservation Act 2016* as an area of outstanding biodiversity value. Existing critical habitat continues as declared areas of biodiversity value.