

Exploration in NSW

Overview



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Overview of exploration in NSW

Exploration in NSW is regulated under the *Mining Act 1992*. The objects of the *Mining Act* are to encourage and facilitate the discovery and development of NSW's mineral and coal resources, with a regard to encouraging ecologically sustainable development.

The *Mining Act* aims to:

- recognise and foster the significant social and economic benefits to NSW that result from the efficient development of mineral and coal resources
- provide an integrated framework for the effective regulation of authorisations for prospecting and mining operations
- ensure mineral and coal resources are identified and developed in ways that minimise impacts on the environment.

The NSW Government is committed to encouraging and facilitating sustainable and responsible exploration and development of the state's resources. Boosting responsible exploration activity in NSW requires clear policies, procedures and assessment criteria used by the Mining Exploration and Geoscience (MEG) group in the Department of Regional NSW in determining the grant, renewal and transfer of exploration licences and assessment leases.

Objective

This overview seeks to:

- encourage and facilitate responsible and efficient exploration and assessment of mineral and coal resources in NSW
- clearly outline to potential investors and applicants the framework to secure the right to explore
- provide a summary of what the minimum standards for minerals and coal prospecting mean for exploration licence applicants
- outline the lifecycle for exploration in NSW.

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Why is exploration important for NSW?

The NSW Government is committed to becoming the preferred investment destination for exploration and mining. The Government has released a Critical Minerals and High-Tech Metals Strategy, building on the *NSW Minerals Strategy* to help unlock the state's critical mineral potential and become a leading global supplier. Mineral exploration is also critical to supporting the refreshed *20 Year Economic Vision for Regional NSW*.

The NSW Government has also clearly signalled its position on coal resource development as a long-term global transition toward low carbon energy takes place.

The *Strategic Statement on the Future of Coal Mining and Exploration* identified areas where new coal exploration cannot occur, as well as committing to streamlining the process for allocating exploration licences in areas adjacent to current mines.

Exploration will drive mining development

NSW is open for business for explorers that are committed to active and responsible exploration activity. The resources project lifecycle starts with discovery and explorers are the engine room of the sector. Exploration is an iterative and dynamic process, as are the variables that influence resource development such as commodity prices, investment capital flows and technologies.

The NSW Government's approach to mineral and coal exploration directly supports the objects of the state's mining legislation by facilitating the discovery and development of the state's mineral and coal resources in a timely and effective manner. It also provides confidence to the community, stakeholders and landholders in the way resources are discovered and developed across the state.

NSW Government supporting exploration

The NSW Government provides support to the exploration sector through a range of policies, programs and initiatives driven by MEG. These play an important role in ensuring the objects of the *Mining Act* are met.

NSW Critical Minerals Strategy

The NSW *Critical Minerals and High-Tech Metals Strategy* is the Government's blueprint for unlocking the state's potential in minerals such as scandium, cobalt, zinc, antimony, heavy mineral sands (titanium-zirconium-rare earth elements), magmatic zirconium, platinum group elements and tungsten. The Critical Minerals Strategy sets out the Government's coordinated approach to building a strong critical and high-tech metals sector across the entire value chain, including supporting the industry from early-stage exploration. The Critical Minerals Strategy will directly support critical mineral exploration by:

- redirecting the focus of the Geological Survey of NSW to further investigate the state's critical mineral endowment and improve geological, geophysical and geospatial data on the state's geology and mineral resources
- providing funding support for early-stage critical minerals explorers

- investigating the potential for processing legacy mine tailings, fly ash dams and mine dumps to drive new critical mineral resource discoveries
- undertaking further geological surveys in the New England Orogen, including mapping of Permo-Triassic mineralised granites known to be associated with enhanced concentrations of critical minerals in other parts of NSW
- revising and reducing Mineral Allocation Areas (MAA) to further promote exploration
- delivering targeted education and media campaigns to further improve social licence and overall public understanding of the strategic importance of exploration and mining of critical minerals, and the role critical minerals will play in the decarbonised economy.

The [Critical Minerals Strategy](#) builds on the [NSW Minerals Strategy](#), which signalled the Government's intention for NSW to become the preferred exploration and mining investment destination. The Minerals Strategy set out an action plan to promote investment in metals mining in NSW by providing better data, improving communication, supporting a skilled workforce and providing effective and efficient regulation and services.

Future of Minerals in NSW

The [Future of Minerals in NSW Report](#) aims to inform investors, project developers, miners and explorers of how global consumer trends and technology development will affect the supply and demand for minerals, especially critical minerals.

The report outlines how NSW is positioning itself to be a global supplier of raw materials for a high-tech future underpinned by its natural resource endowment, supported by world-class geoscientific information, robust regulations and a world-class mining equipment, technology and services (METS) sector. It also highlights the NSW Government's work in supporting new exploration and investment, ensure responsible sources of supply, maintain social licence to mine and provide greater certainty for the mining sector.

Online prospectus

MEG's [online prospectus](#) provides explorers and project developers with an overview of the geological potential, existing and planned infrastructure investment for regional NSW and the robust regulatory frameworks that make NSW a world-class minerals producer.

The [online prospectus](#) will be updated as new information on investment opportunities in the NSW minerals and energy resources sector becomes available.

Collecting, analysing and publishing geoscientific data

The NSW Government makes significant amounts of geoscientific data and records available at no cost, including historical exploration data. It also co-funds some mineral exploration.

MEG's data resources include:

- [MinView](#) displays and delivers various datasets including mineral potential mapping, mining operations, drillholes and titles

- Releasing a [NSW High-Tech Metals Map showing the location of a range of minerals, REEs and heavy mineral sands across NSW](#)
- [DIGS document archive - fully searchable, with free download of over 140,000 maps, publications and reports](#)
- [Statewide Seamless Geology map - one of the most complex geodata sets ever compiled](#)
- [Geological Survey of NSW products and data](#)
- [Drillcore libraries - there are currently over 1.5 million metres of drillcore representing the most informative one per cent of all samples taken by industry and they are freely available to inspect and, in some cases, resample for analysis. The library also holds cuttings and rock, mineral and fossil collections. These collections can be viewed by appointment.](#)

Strategic statement on coal exploration and mining in NSW

The NSW Government is taking a responsible, balanced approach to the effects of the global transition to a low carbon future on the coal mining sector.

The Government has set a clear and consistent policy framework for coal exploration and mining in NSW that supports investment certainty as the coal mining sector responds to global demand, while helping regional communities to manage the effects of an expected decline in thermal coal mining in the state over the longer term. The [Strategic Statement on Coal Exploration and Mining in NSW](#) sets out the NSW's Government's approach and a four-point action plan.

Government initiatives

New Frontiers Cooperative Drilling

The [New Frontiers Cooperative Drilling](#) program is a commitment to promote investment in NSW. The [New Frontiers Cooperative Drilling](#) program provides grants to successful applicants for exploration drilling programs (Group 1, 6 and 10 minerals only) that demonstrate strong prospectivity, sound financial planning and a proven technical base. As part of the Critical Minerals Strategy, the NSW Government will provide additional rounds of New Frontiers funding for eligible critical mineral projects.

MinEx Cooperative Research Centre

The NSW Government recognises the importance of helping industry through developing new concepts and technologies to expand the exploration search space at depth and in covered terranes. Through MEG's [Geological Survey of NSW](#), the NSW Government is a major participant and has committed \$16 million to the [MinEx Cooperative Research Centre](#). The program is a 10-year, \$220 million collaboration between the Australian and State Governments, CSIRO, leading Australian universities and the minerals sector.

Significant opportunities for mineral exploration

NSW has excellent opportunities for the discovery of economic mineral deposits as extensions to known mineral resources, discoveries within mine corridors or similar geological regions and increasing potential for discoveries undercover.

Brownfields discoveries and drilling deeper are extending the mine life at several operations. For example, exploration in the Tomingley mine corridor has delivered new development projects San Antonio and Roswell, and Tritton's regional exploration success includes discovery of Constellation. Depth extents of known mineralisation, for example at Cowal and Peak are also delivering extended mine life showing that current orebodies have plenty of potential beyond the known resources.

New discoveries like Federation and Wagga Tank-Southern Nights demonstrate plenty of potential still exists within the Cobar Basin and recent success within the northern Molong Volcanic Belt highlights similar rocks as the Cadia district with prospects like Boda indicating Cadia may not be the only world class porphyry style deposit in NSW.

With a clear correlation between minimal exploration and areas undercover, significant areas of the state remain underexplored. These have potential for the continuation of important geological terrains and as exploration techniques improve, so does the search space for economic mineral deposits.

Balancing the interests of explorers and the community

The NSW Government seeks to protect the interests of explorers and landholders and the community. This is achieved by setting out the obligations on explorers and balancing these with the rights of landholders and the community.

Community consultation

Keeping the local community informed is an important part of any exploration program. The [Exploration code of practice: community consultation](#) sets out the mandatory community engagement requirements for exploration activities under a prospecting title and provides guidance for title holders planning and undertaking exploration activities.

The code of practice enables industry to:

- adopt a risk-based approach to ensure compliance with mandatory requirements related to community consultation
- commit to measurable performance standards
- monitor performance and take corrective action if outcomes are not being achieved
- keep and maintain relevant records of activities and/or actions.

Land access

Agriculture and resource production are both vital industries in NSW. The successful coexistence of these industries has enormous benefits for the state, particularly in regional areas. While landholders in NSW have rights to the surface and subsurface of their land, the underlying mineral and coal resources are the reserve of the Crown (except for rare instances). While exploration licence holders are granted permission to explore for minerals on private land, the Mining Act affords landholders a right to negotiate a land access arrangement before exploration can occur.

The purpose of land access arrangements is to ensure the orderly search for resources, while recognising the rights of landholders to conduct their activities free from unreasonable interference or disturbance. Thousands of access arrangements are successfully negotiated between title holders and landholders.

Both landholders and explorers have clear legal rights regarding access to land for resource exploration. The Mining Act provides specific landholder protections in respect of dwellings, gardens and significant improvements. There is also a statutory right to compensation for any 'compensable loss' suffered due to exploration carried out under an exploration licence or assessment lease.

Access arrangements

An access arrangement is a written agreement between the holder of an exploration licence or assessment lease (title holder) and a landholder. It specifies the terms and conditions under which a title holder may access land for exploration. No activity may be taken by the title holder without an access arrangement in place. These arrangements may be agreed between the title holder and landholder or determined by an arbitrator.

Access arrangements may include provisions relating to:

- the times the title holder is allowed access to the land
- which parts of the land the title holder may work on
- the kinds of exploration activities which may be undertaken on the land
- the compensation payable by the title holder (this can be monetary or in-kind)
- the manner of varying the arrangement and resolving any disputes relating to the arrangement
- notification requirements
- any other conditions and requirements agreed to by the landholder and the title holder.

Access to land may be denied if a title holder contravenes the agreed access arrangement.

The Land Access Arrangement Template for Mineral Exploration has been published under the Mining Act to assist both landholders and mineral exploration companies operating in NSW to negotiate an access agreement. The use of the template is voluntary.

Compensation

Landholders become entitled to compensation for any 'compensable loss' suffered, or likely to be suffered, as a result of the exercising of rights conferred by the title.

Land access arrangements must set out compensation to be paid to landholders for loss or damage suffered as a consequence of carrying out exploration activities on the land. However, if situations arise which are not covered in access arrangements, landholders are entitled to seek further compensation.

Land access arbitration framework

The Mining Act sets out a clear arbitration framework for the resolution of land access disputes in cases where parties are unable to agree on an access arrangement through their own negotiations.

If an access arrangement cannot be agreed during negotiation between a title holder and a landholder, the legislation requires parties to enter into mediation. The holder of the prospecting title may, through written notice to the landholder or landholders concerned, request their agreement to the appointment of a mutually agreeable mediator or arbitrator to preside over the mediation. If parties have been unable to agree on an appointment, either party can apply for an appointment from a panel of arbitrators. This option is available to parties at both mediation and arbitration.

If agreement is not reached at mediation, parties proceed to arbitration where the arbitrator will make a final determination. Both parties have an express right to legal representation at mediation and arbitration and the NSW Government has published a Land Access Arbitration Procedure. A determination by an arbitrator may be appealed in the NSW Land and Environment Court.

How to explore in NSW

Before exploring for minerals and coal in NSW, an explorer must obtain an exploration licence or assessment lease.

Minerals and mineral groups

Exploration licences must be applied for in mineral groups as prescribed under Schedule 2 of the Mining Regulation 2016:

- Group 1 (Metallic minerals)
- Group 2 (Non-metallic minerals)
- Group 3 (Semi-precious stones)
- Group 4 (Marine aggregate)
- Group 5 (Clay minerals)
- Group 6 (Corundum diamond, ruby and sapphire)

- Group 7 (Opal)
- Group 8 (Geothermal energy)
- Group 9 (Coal)
- Group 9A (Oil shale)
- Group 10 (Mineral sands)
- Group 11 (Uranium) – applications are currently prohibited.

Assessment leases must be applied for the specific mineral (as opposed to a ‘group mineral’) prescribed under Schedule 1 of the Mining Regulation.

Exploration licence

An exploration licence gives the holder exclusive rights to explore for specific minerals within a designated area, for terms of up to six years. The purpose of exploration is to locate areas where mineral resources may be present, to establish the quality and quantity of those resources and to investigate the viability of extracting the resource.

A standard exploration licence permits the holder to carry out any exploration activity. A low-impact licence only authorises a limited range of exploration activities such as aerial surveys, geological and surveying field work that does not involve clearing, sampling by hand methods, ground-based geophysical surveys that do not involve clearing, drilling and activities associated with drilling and the establishment of a drill site that do not involve clearing or excavation (other than the minimum necessary to establish a drill site) or environmental fieldwork that does not involve clearing.

An exploration licence does not permit mining and does not guarantee a mining lease will be granted.

Assessment lease

An assessment lease is designed to cater for situations between exploration and mining. The lease allows the holder to maintain an authority over a potential project area whilst undertaking further assessment without having to commit to further intensive on-ground exploration. The holder can, however, continue exploration to further assess the viability of commercial mining.

An assessment lease may be appropriate where:

- a mineral resource has been well-defined in accordance with the Minimum standards for work programs (see below) and current commercial factors render mining unviable, although there are reasonable prospects of future mining, or
- there are areas of mineral potential which are natural extensions to existing operations or projects at the appropriate time in the future.

Access to available ground

Minerals

The [Mining Act](#), allows for different exploration titles to coexist over the same area, providing the titles are for different mineral groups.

Potential explorers can use [MinView](#) to identify areas that are available to apply to explore.

Applications for mineral exploration licences are processed in the order in which they are received, against the assessment criteria. In other words, applications are dealt with on a first-in-time basis.

Under the [Mining Act](#), conflicting applications, for the same mineral groups, over all or part of the same area are assessed in priority order of lodgement, after taking into consideration the provision of the Act and [Mining Regulation 2016](#).

Mineral Allocation Areas

Mineral Allocation Areas (MAAs) have been gazetted over limited parts of NSW for Group 5 (clay minerals), Group 8 (geothermal energy), Group 9 (coal) and Group 11 (uranium) minerals. These MAAs allow the government to control the release of new exploration titles for certain mineral groups in limited areas to meet government policy goals and objectives and to provide a transparent and equitable process for applications. To lodge an application over an MAA requires Ministerial consent.

This includes being able to regulate the release of new pre-competitive information, acquired in specific areas under major initiatives such as the [National Drilling Initiative](#) to ensure orderly assessment of any subsequent industry exploration licence applications in a fair and transparent manner.

New coal exploration titles are granted to meet the goals of the [Strategic Statement on Coal Exploration and Mining in NSW](#), via competitive processes and in areas deemed appropriate by the government, using the following pathways:

- 1. Operational Allocation:** this pathway is for existing coal title holders who may apply to access coal adjacent to their existing mining and exploration titles. The [Guidelines for coal exploration licence application for operational allocation purposes](#) outline the requirements.
- 2. Competitive Allocation:** this pathway can be used to competitively allocated new coal exploration titles by public tender where:
 - a. there is sufficient market interest in an area subject to a coal exploration licence application under [Operational Allocation](#)
 - b. a coal prospecting authority holder relinquishes their authority, or
 - c. a coal prospecting authority holder has their authority cancelled.
- 3. Strategic Release:** this pathway is where the Government identifies an area for potential release. The [Strategic Release Framework for Coal and Petroleum Exploration](#) has been developed by the NSW Government to deliver greater transparency and control over the release of exploration areas and the granting of coal exploration licences.

Obligations on explorers

Minimum standards

Holding an exploration licence or assessment lease in NSW comes with certain rights and responsibilities. Explorers must demonstrate a genuine commitment to the sustainable discovery and development of the State's mineral resources.

The Minimum Standards for Work Programs and Technical and Financial Capability apply to applications for the grant, renewal and transfer of mineral and coal prospecting titles submitted from **1 January 2021**.

The Minimum Standards provide the mandatory criteria decision-makers consider when assessing applications for the grant, renewal and transfer of mineral prospecting authorities under the Mining Act. They apply to an applicant's technical and financial capability to carry out their proposed work program, and clearly set out the criteria applicants must meet to demonstrate their commitment to effective and sustainable exploration.

The applicant's proposed work program must also nominate which of the following exploration stages will be worked in over the term of the title:



The exploration stages assist MEG in categorising exploration activities and ascertaining progress on a title for the purposes of the Minimum standards.

To ensure a smooth transition and enable applicants to meet the requirements of the Minimum standards (if applicable) the following transitional arrangements apply:

- prospecting title applicants awaiting determination on grant, renewal or transfer applications lodged prior to 1 January 2021 are not obliged to resubmit their application under the Minimum Standards.
- current prospecting title holders will continue to operate under their existing work program until the end of the current title term. If the existing work program requires amendment, it must be submitted in the same form in which it was approved. While these amendments are not subject to the Minimum standards, applicants and authority holders can 'opt in' to the new work program arrangement by submitting a new work program in the new form.

Lodging an application

Applicants and holders

Generally, exploration licences and assessment leases can be granted to any person over the age of 18, or company, with a satisfactory compliance history and environmental performance record. Details of the environmental performance record of the applicant enables MEG to determine if the applicant has had any prior convictions under environmental protection legislation or has had environmental protection approvals revoked or suspended. This provides confidence that holders of exploration licences are likely to undertake ecologically sustainable exploration activity.

Exploration licences or assessment leases may be held by a single holder or multiple holders (individuals or companies). If there are multiple holders, each of the holders is held jointly and severally liable for the fulfilment of the obligations arising under the Mining Act in relation to the authority.

Exploration licences and assessment leases may be granted for a maximum term of six years and may be renewed.

Applying

An application for an exploration licence or assessment lease must be completed in the specified form and manner and include all required information.

Applications must be lodged using the [relevant form](#) or electronically in the [Titles Management System](#) with any attachments and payment of the prescribed fee.

To assist industry, MEG has published [specific information](#) outlining how to submit an application.

Titles Management System

MEG has delivered the first and second phases of a fit-for-purpose platform for industry to support the end-to-end management of exploration and mining titles with increased transparency and accountability.

The third phase of the [Titles Management System](#) deliver additional functionality for convenient, online access to our services. When fully deployed, users will be able to initiate, save, submit and pay for all applications required under the [Mining Act](#).

Information required with applications

Specific information must be included with an application for an exploration licence or an assessment lease including:

- for foreign entities, proof that the applicant is authorised to operate and carry out business in New South Wales.
- technical capability documentation
- statements of compliance, environmental performance and financial history

- the proposed work program
- native title information
- details of the area to be explored
- for an allocated mineral within a mineral allocation area only – a copy of the Minister's consent to apply
- written consent of the holders of any conflicting exploration licences.

An online version of the [Statement of compliance, environmental performance and financial history](#) form is available to be completed electronically.

Proposed work programs must be prepared in accordance with the [Exploration Guideline: work programs for prospecting titles](#) and the [Prospecting authority work program form](#).

Identifying the application area

Exploration licences and assessment leases can be granted on any onshore land in NSW, subject to some exceptions. Exploration licence applications for mineral groups except Group 9 (Coal) must describe the proposed exploration area by reference to a graticular system defined in [Schedule 4 of the Mining 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.

Coal exploration licences and assessment leases are not granted in the graticular system. They are granted in square meters, hectares or square kilometres. Coal exploration licences and assessments leases are also depth restricted to a maximum depth of 900 meters below the Australian Height Datum.

Overlapping authorities

Exploration licences cannot be granted over land that is already subject to some other authorisation or prior application 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.

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 do not require written consent and can be granted over the same area as the holders will be prospecting for different mineral groups.

The decision-maker can also 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 each authorisation impracticable. 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).

Reserved land

Exploration licences and assessment leases will not be granted:

- over an opal prospecting area
- on any reserve constituted under section 367 of the Mining Act (including a reserve taken to be constituted under this section) which prevents the grant of exploration licences
- on 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)
- on land vested in the Commonwealth of Australia
- on land 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.

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). The Native Title Act imposes obligations on the decision maker when making certain decisions in relation to future acts, including the grant and renewal of exploration licences and assessment leases.

For exploration licences (noting that only options 2 and 3 are available for assessment leases), there are a number of options for compliance with the Native Title Act including:

- request a standard licence
- satisfy the Minister that native title has been extinguished
- undertake the 'Right to Negotiate' process or an applicable alternative process provided for in the Native Title Act before the application is granted, or
- apply for a low-impact licence.

Option 1:

A standard licence is subject to a licence condition (native title condition) that restricts prospecting to only land where native title has been extinguished. This condition is in compliance

with the condition described in section 4(1) of the *Native Title (Right to Negotiate (Exclusion) - NSW Land) Determination No. 1 of 1996*. The condition requires the holder to address the 'future acts regime' provisions of the Native Title Act and obtain the Minister's consent prior to conducting any prospecting activity on any land where native title has not been demonstrated to have been extinguished.

Option 2:

Applicants may provide evidence that asserts that native title has been extinguished over the entire area of the exploration licence. This evidence must be sufficient to satisfy the Minister that native title has been extinguished. If the Minister is satisfied native title has been extinguished the standard licence will issue without the native title condition. If, however native title is not extinguished over the entire application area, the native title condition will apply unless the areas where native title is not extinguished, are removed from the application area.

Option 3:

Applicants may undertake the 'Right to Negotiate' process or an alternative process (such as a procedure under an Indigenous Land Use Agreement (ILUA) that excludes the operation of Subdivision P of the Native Title Act) under the provisions of the Native Title Act, prior to a licence being granted. The 'Right to Negotiate' process is subject to advertising (at applicants cost), a wait period and if there are registered claimants, you must have completed and entered into an agreement prior to the Minister's grant of the licence. Undertaking the 'Right to Negotiate' process provides an opportunity to reach agreement on the terms of the licence with respect to native title interests. For more information visit the [National Native Title Tribunal](#) website.

Option 4:

A low-impact exploration licence is excluded from the 'Right to Negotiate' provisions of the Native Title Act but only authorises a limited range of prospecting operations. A low-impact exploration licence is also subject to a wait period of four months following notice of the application to:

- any registered native title claimant, and
- any representative Aboriginal/Torres Strait Islander body, and
- registered native title bodies corporate

as referred to in s32D(1) of the Mining Act.

The [Protocol for Evidencing Proof of Extinguishment](#) is designed to assist applicants in providing suitable and adequate evidence that native title has been extinguished over specified land.

It is recommended that applicants seek legal advice regarding the right to negotiate process or proof of extinguishment of native title.

Decision-making process

MEG's Titles Review Committee assesses high-risk title applications and makes recommendations for the decision maker to consider regarding the grant, renewal or refusal of an application.

The Coal Resource Operational Allocation Committee considers Operational Allocation applications.

The decision-maker considers published principles, priorities, policies and decision-making criteria in making a determination, with reasons for decisions appropriately documented.

Before granting, renewing or transferring an exploration licence or assessment lease, the decision maker must take into account the need to conserve and protect the environment in or on the land over which the licence or lease is sought. The decision-maker may also take into account any other relevant considerations including (but not limited to):

- whether the minimum standards for work programs and the technical and financial capability to carry out the work program have been met
- the applicant's compliance history.

Applicants may be required to provide further information in connection with an application.

Title conditions

All exploration licences and assessment leases are granted, renewed and transferred subject to statutory conditions and other special conditions included in the title instrument.

The standard conditions relate to environmental protection, management and rehabilitation, compliance with codes of practice, community consultation, security deposits and reporting.

There may also be special conditions imposed on a title to address particular characteristics, issues or concerns.

Holders of authorities must comply with all title conditions.

Exploration licences are subject to a statutory condition that you must not carry out assessable prospecting operations unless an activity approval has been first obtained. Some exploration activity may also be subject to additional environmental approvals, depending on the proposed activity.

Explorers can undertake exempt development exploration activities without the need for further approval once an exploration licence or assessment lease is granted.

Although there are obligations and conditions imposed on exploration licence and assessment leases under the Mining Act, there may be other obligations and approvals required under other legislation. For example, obligations and approvals may be required under the *Fisheries Management Act 1994*, *Forestry Act 2012*, *National Parks and Wildlife Act 1974*, *Protection of the Environment Operations Act 1997*, *Water Act 1912* and *Water Management Act 2000*.

It is the responsibility of the title holder to identify, understand and comply with any other obligations.

Codes of practice

Codes of practice have been published that set out mandatory requirements and related guidance that title holders may need to comply with as required by conditions of title and legislation:

- [community consultation](#)
- [produced water management](#)
- [rehabilitation](#)
- [environmental management.](#)

Renewing a title

Holders of exploration licences or assessment leases must demonstrate a genuine commitment to discovering and developing the state's resources

An exploration licence or an assessment lease may be renewed when the requirements for renewal have been met and doing so is consistent with the objects of the Mining Act.

MEG has developed an [exploration licence renewal policy](#) and an [assessment lease grant and renewal policy](#) that:

- sets firm expectations on the working of mineral and coal exploration licences and assessment leases to encourage the efficient, timely and sustainable development of the state's mineral and coal resources
- ensures the progressive relinquishment and where appropriate, 'turn over' of ground subject to exploration licences or assessment leases, to allow other explorers to apply their own concepts, skills or technologies.

To renew a title, holders must demonstrate that they are conducting their operations in an environmentally responsible manner and in accordance with the conditions of the title.

Title holders must also demonstrate that rehabilitation is being carried out to the satisfaction of MEG. Renewal applications may be refused because of unsatisfactory environmental performance or because of failure to meet the conditions of the title.

Renewal applications must be lodged using the [relevant form](#) or electronically in the [Titles Management System](#) and lodged within the period of two months before the licence or lease ceases to have effect, i.e. up to two months before the expiry date, including on the expiry date.

Renewal applications must be accompanied by a renewal justification statement that contains information about the operations carried out during the term, including a statement of reasons for which the applicant considers the renewal to be justified. This statement may include a description of any special circumstances that the applicants claims to exist to justify renewal over more than half of the area.

Monitoring exploration performance

Exploration reports are assessed by MEG to monitor performance against work program licence conditions, and to ensure results of exploration are reported in full and in the prescribed format.

Reporting

Holders of exploration licences and assessment leases must submit periodic reports on their exploration activities electronically.

Annual activity reports must be prepared and submitted in accordance with the Exploration guideline: annual activity reporting for prospecting titles. This report includes an annual exploration report and an annual community consultation report.

Explorers must also submit an annual Environmental and Rehabilitation Compliance Report, separately or as part of a Rehabilitation Completion application, and can do so via the Resources Regulator Portal.

Reports must be submitted as a requirement of the exploration licence standard conditions.

Incident reporting

Reporting of environmental incidents is a requirement for all exploration activities.

MEG's Resources Regulator is responsible for investigating community complaints and certain environmental incidents. A range of compliance and enforcement mechanisms are available in accordance with the legislative and policy framework including penalty infringement notices and, if required, prosecution.

The enforcement approach to non-compliances depends upon the nature or consequences of the non-compliance and the previous performance of the titleholder, including responses to previous notices or sanctions.

The Resources Regulator's Compliance and Enforcement Approach sets out the principles that underpin the compliance and enforcement processes and regulatory actions and forms part of our risk-based and outcomes-focused approach to compliance and enforcement.

Rehabilitation and financial security

All exploration licence and assessment lease holders are required to lodge a security deposit.

The security deposit must cover the NSW Government's full costs in undertaking rehabilitation in the event of default by the title holder. The title holder is required to provide MEG with an estimate of rehabilitation costs.

MEG is responsible for determining when rehabilitation has met the required standard, taking into account the rehabilitation objectives and completion criteria, before the title is relinquished and the security deposit released.

When determining whether to release a security deposit, the following will be considered:

- whether the rehabilitation objectives and completion criteria have been met (the titleholder must demonstrate that rehabilitation has met the required standards)
- whether all other legal obligations relating to environment and safety have been met, and
- the responsibilities for ongoing management of the site.

Title holders must undertake progressive rehabilitation over the life of the exploration project. They must demonstrate that rehabilitation has met the required standards. Before relinquishing part or all of an exploration authority, the titleholder must demonstrate that all environmental obligations have been met and that rehabilitation has achieved the required standards. The security deposit will be refunded once a rehabilitation completion report has been submitted demonstrating to the Government that the title holder has satisfactorily completed rehabilitation.

Transferring a licence or lease

The holder of an exploration licence or assessment lease can transfer the authorisation with the approval of the Minister. The exploration licence or assessment lease may be transferred wholly, or in part. The process for a transfer is similar to the grant and renewal process. After a transfer is approved, it does not take effect until it is registered. There are separate applications forms to apply for a transfer and to register a transfer.

More information

For more information about exploration in NSW, visit the MEG and Resources Regulator websites at:

www.regional.nsw.gov.au/meg

www.resourcesregulator.nsw.gov.au

Appendix A

Exploration and mining titles process



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.

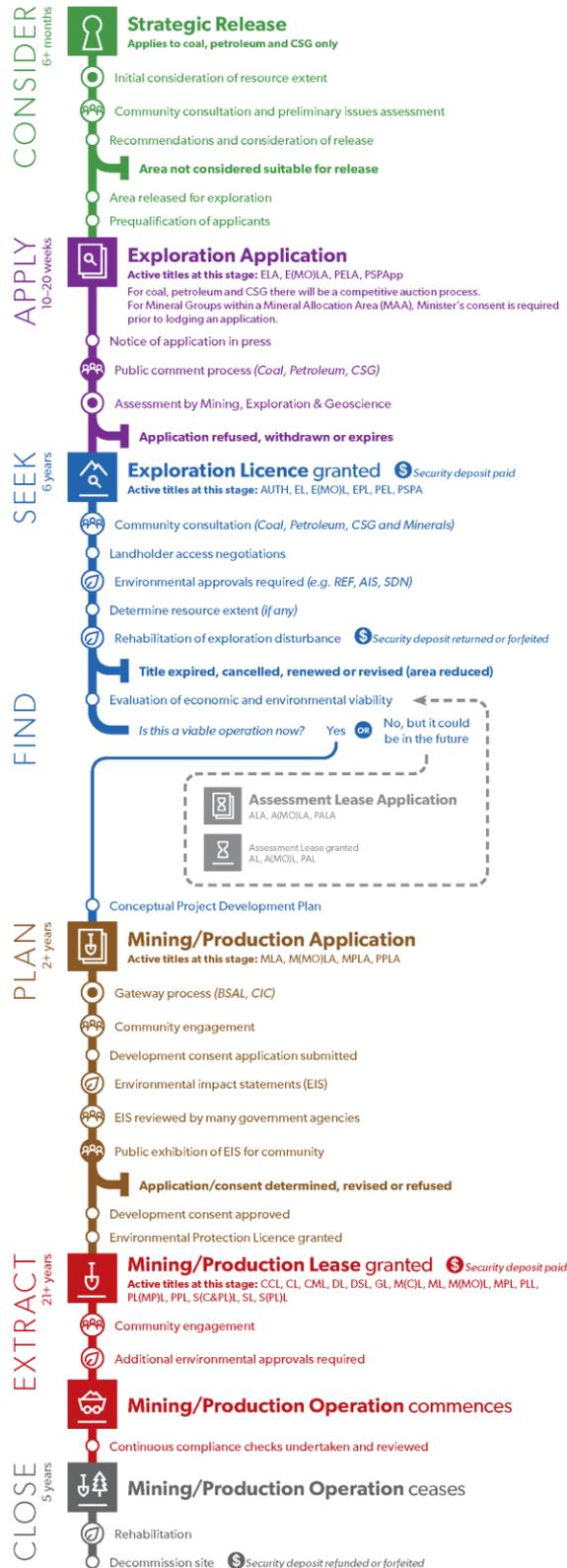
An interactive version of this poster, maps, titles types, glossary, abbreviations and more useful information can be found at

www.commonground.nsw.gov.au

LEGEND

- General event
- Multiple government departments
- Environmental event
- Community engagement
- Community response
- Money exchange

Disclaimer: This poster is intended to be an overview of the resource discovery and development cycle. It shows a simplified version of the process and where title types sit relative to the stages and typical steps in the life cycle of a project. This diagram does not cover all variations in project discovery and development. Timings are estimates. More details about specific resources can be found at www.resourcesandgeoscience.nsw.gov.au



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