

POLICY

Assessment leases

Grant and renewal under the *Mining Act 1992*

Introduction

The *Policy on the grant and renewal of mineral and coal assessment leases* complements the NSW Government's Mineral and Coal Exploration Statement and Policy on the renewal of mineral and coal exploration licences (Renewals policy), as a critical component of the broader NSW Government mineral and coal exploration framework. This policy builds on the mineral and coal exploration framework by signalling that:

- an assessment lease is a type of prospecting authority the Department grants and renews as a retention right over an area containing a well-defined mineral resource in accordance with the orderly advancement through the Department's five-stage prospecting model; and
- such a right exists as a 'bridge' between exploration and mining, where progression to mining status is reasonably foreseeable, but commercial extraction of the resource is not currently feasible.

This policy commences on **3 October 2022**.

Purpose

This policy applies to grant and renewal of mineral and coal assessment leases under the *Mining Act 1992* (Mining Act). It is designed to provide greater certainty for industry, landholders and the community around the Department's expectations for developing well-defined mineral resources and the likelihood of, and timeframes for, future resource development in NSW. Essentially, assessment leases allow an explorer to retain rights over a sufficiently advanced potential project area without having to demonstrate effective working of tenure to the same extent as they would to retain an exploration licence.

The policy aims to:

- recognise and foster effective mineral and coal exploration that has led to significant resource discovery and definition
- clarify the function and purpose of mineral and coal assessment leases
- clarify the Department's position on the retention of areas containing well-defined mineral or coal resources over the short to medium term.

Specifically, this policy clarifies:

- that assessment leases are a limited right of retention over ground between the exploration and mining stages of resource development
- the specific eligibility for assessment leases
- the circumstances in which a mineral and coal assessment lease may be renewed.

Exploration licence holders that have a well-defined mineral resource are generally expected to progress their projects to mining status within a reasonable timeframe. This includes seeking development approval from the Department of Planning and Environment (DPE) or relevant local council and applying for a mining lease. Exploration licence holders will be eligible to apply for an assessment lease instead of progressing their project to mining status if they meet the specific criteria set out in this policy. An assessment lease may also be renewed under limited circumstances as set out in this policy.

Policy principles

The basis for this policy is the principle that mineral and coal assessment leases are granted in accordance with the need to:

- support efficient, sustainable and timely mineral and coal resource development
- balance the importance of certainty of tenure with clear and firm expectation that prospecting authority holders develop well-defined mineral resources for the benefit of the people of NSW
- recognise and uphold the rights and responsibilities conferred on assessment lease holders.

Relationship with other legislative requirements, policies and guidelines

This policy brings together and focuses on the key considerations the decision-maker may take into account when granting an assessment lease under s41 (1), Schedule 1B (4) and s114 (1) of the Mining Act respectively. This policy may be considered alongside other considerations under the Mining Act and other relevant legislation that the decision-maker takes into account as part of a broader merit assessment of an application (e.g. compliance history, relevant information requirements and the payment of fees and levies). These considerations may be relied upon as grounds to support a decision to refuse applications for assessment leases and assessment lease renewals generally. In addition, where applicable an assessment lease applicant must have provided extinguishment information or completed the right to negotiate process under the *Native Title Act 1993* (Cth) before the assessment lease application can be granted.

This policy is part of the Department's exploration framework that includes the Policy on the renewal of exploration licences and:

- Mineral prospecting minimum standards (Minimum standards)

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- [Mineral and coal prospecting work program form \(Work Program Form\)](#)
- [Exploration Guideline: Work programs for prospecting titles \(Work Program Guideline\)](#)
- [Exploration Guideline: Annual activity reporting for prospecting titles \(Annual Reporting Guideline\)](#)

This policy relates to the Department’s mineral and coal prospecting work program form and five-stage prospecting model (as set out in the Minimum standards) in two ways. Firstly, as described further in the detailed eligibility criteria set out below, an assessment lease applicant must have a well-defined mineral resource consistent with the broad stage 5 success criteria.

Secondly, as stage 5 is broad and iterative, it allows for a range of resource definition and project feasibility testing activities in accordance with the success criteria. For the purposes of the mineral and coal prospecting work program form and categorising activities under an assessment lease, the applicant must nominate stage 5 in their proposed work program. This concept is set out in the table below.

Initial status	Objectives	Typical activities	End of term success criteria
An assessment lease applicant has a well-defined JORC or JORC-equivalent Mineral Resource, of which 50% is categorised as Indicated.	<ul style="list-style-type: none"> • Resource or Reserve definition • Increase Resource or Reserve confidence • Characterise ore • Assess feasibility • Mine planning 	<ul style="list-style-type: none"> • Community consultation • Intensive systematic drill testing • Developing or revising resource estimations or geological models • Metallurgical and geotechnical testing • Ore characterisation • Bulk sampling • Validating models • Feasibility studies • Environmental impact assessment • Environmental monitoring • Marketing studies • Mine planning studies 	The assessment lease holder has made tangible an authentic progress in advancing the project toward mining status and is either ready to lodge a mining lease application or an assessment lease renewal application, subject to renewal criteria.

Table 1 - a conceptual overview of an assessment lease term, adapted from the 5-stage prospecting model

Underpinning the assessment lease, from a geoscientific data acquisition perspective, is the limited right of retention over ground without having to commit to working the tenure effectively to the same extent expected under an exploration licence. However, the decision-maker may still use their discretion to refuse assessment lease applications that do not meet minimum standards under Schedule 1B of the Mining Act, as set out in the table above. For example, the applicant’s proposed work program would meet minimum standards where it details a rationale, objectives

and activities that support the progression of the mineral resource to mining status (e.g. marketing studies, detailed feasibility studies or any further resource definition as necessary).

In other words, the assessment lease holder may conduct prospecting activities as appropriate, though the Department will not use minimum standards to drive on-ground exploration performance. Rather, the Department will use the standards to ensure the assessment lease holder is working to make commercial extraction of the resource viable. The assessment lease holder, like an exploration licence holder, is also required to report to the Department annually on their activities.

The relevant decision-maker may also refer to the technical and financial capability minimum standards when assessing an assessment lease application. In addition, the assessment lease holder is bound by the standard conditions on mineral and coal assessment leases, which mandate that the assessment lease holder carries out the operations and other activities as stated in the work program.

General assessment lease criteria

Assessment leases can be granted for a term of no longer than six years. The decision-maker may grant an assessment lease for the term sought where the following criteria are met:

1. The exploration licence holder has a well-defined Joint Ore Reserves Committee (JORC) or JORC-equivalent Mineral Resource of which at least 50 per cent is categorised as Indicated and supported by a JORC-consistent resource or reserve statement.
2. The applicant has prepared a basic conceptual mine plan (based on the resource or reserve statement) for the Mineral Resource in question, taking into account optimal resource recovery and known surrounding constraints (geological, geographical, mining, social, environmental and cultural).
3. The applicant is yet to complete a pre-feasibility or feasibility study but has prepared a scoping or evaluation study (based on the conceptual mine plan), including basic costs and project economics, as well as highlighting the factors most likely to affect project viability and the timing of project development.
4. The application area coincides approximately with what the applicant would require if they were applying for a mining lease. It must include the mining area outlined in the conceptual mine plan, together with areas for infrastructure and any appropriate buffer zone/s.
5. The applicant cannot progress the development of the mineral resource to the development application stage (e.g. through DPIE or relevant local council) and mining lease application stage because:
 - a. doing so is not currently commercially feasible (e.g. due to sub-optimal commodity prices, immature commodity markets or inability to secure an offtake agreement) but there are reasonable prospects for future commercial extraction of the mineral resource , or
 - b. the mineral resource forms part of a project' and is earmarked for future development as part of the applicant's broader resource development strategy.
6. The applicant meets minimum standards by:
 - a. nominating stage 5 in their proposed work program, and

- b. proposing appropriate activities aimed at progressing the mineral resource toward mining status by making extraction of the mineral resource commercially viable (i.e. marketing programs, feasibility studies) or improving the feasibility of extraction.
7. The proposed work program is appropriate for the term sought.

Renewing an assessment lease

An assessment lease can be renewed for a term of up to six years. The decision-maker may renew an assessment lease for the term sought where the objects of the Mining Act are best served by doing so and will consider the following criteria when assessing an assessment lease renewal application:

1. The assessment lease renewal applicant has completed their approved work program during the previous term unless the applicant has raised a valid extenuating factor for non-completion of the work program (see below).
2. The proposed work program for the renewal term meets the minimum standards and is appropriate for the term sought (see assessment lease criterion number 6).
3. The decision-maker is satisfied that the commercial factors preventing the renewal applicant from progressing to mining status still exist and that:
 - a. the same factors would reasonably prevent another assessment lease holder in the same circumstances from progressing to mining status, and
 - b. there remain reasonable prospects for the future commercial extraction of the resource.

With respect to criterion (2) above, in some cases an assessment lease holder may need to renew their lease for use as a source tenement for a mining lease. As such, their proposed work program for the proceeding term may not propose a level of work or activities aimed at progressing the mineral resource toward mining status as this was completed during the preceding assessment lease term. The decision-maker will take this into account when deciding to renew an assessment lease.

Extenuating factors for non-completion of an assessment lease work program

As is the case with Department's Policy on the renewal of exploration licences, an assessment lease renewal applicant may raise a valid extenuating factor for the non-completion of their work program. Extenuating factors outside of the general assessment lease renewal criteria are valid insofar as they prevented the applicant from accessing ground subject to the assessment lease over the term of the lease. The onus is on the applicant to demonstrate, through evidence, the nature and timing of the extenuating factor and the extent to which it prevented the applicant from accessing ground subject to the assessment lease. Extenuating factors include the following:

1. The applicant has been unable to access all or part of the ground subject to the assessment lease over the preceding term for the purposes of resource and project feasibility assessment and can demonstrate through supporting documentation that they are taking reasonable steps to gain access to land by either:
 - a. activating the Department's formal land access arbitration framework; or

- b. giving reasonable justification for not doing so (e.g. they are in private negotiations with a relevant landholder and can demonstrate progress toward an access arrangement).
2. The applicant can demonstrate, with evidence, that an unforeseen event (or force majeure) and/or its flow-on impacts have directly or materially prevented the applicant from undertaking resource and project feasibility assessment activities over the preceding term of the assessment lease.

For further guidance on how the Department considers land access and unforeseen events in the context of renewing prospecting authorities, please refer to the Policy on the renewal of mineral and coal exploration licence.

Appendix 1 - Glossary of key terms

Term	Definition
Assessment lease	An assessment lease has the same meaning as in the <i>Mining Act 1992</i> . An assessment lease allows holder to retain mineral rights over a well-defined resource without being obligated to work the ground subject to the assessment lease as intensively as they would under an exploration licence.
Authority	An exploration licence or assessment lease granted under sections 22 and 41 of the <i>Mining Act 1992</i> or in some instances, under the <i>Mining Act 1973</i> .
Deposit	An aggregate of a mineral in an unusually high concentration.
Drilling	The perforation of the earth's surface crust by mechanical means, whether the hole caused by the perforation is vertical, inclined or horizontal, and includes all operations within the hole for activities ancillary to drilling.
Exploration	Exploration has the same meaning as in the <i>State Environmental Planning Policy (Resources and Energy) 2021</i> . Exploration includes the taking of samples, and the assessment of deposits of minerals.
Exploration licence	An exploration licence has the same meaning as in the <i>Mining Act 1992</i> . It allows the authority holder to explore an area for mineral deposits.
Exploration Results	As defined in the JORC Code, Exploration Results include data and information generated by mineral exploration programmes that might be of use to investors, but which do not form part of a declaration of a Mineral Resource or Ore Reserve (see glossary definitions).
Feasibility study	The term includes both 'pre-feasibility' and 'feasibility' studies, as defined in the JORC Code: <i>Pre-feasibility study</i> : a comprehensive study of a range of options for the technical and economic viability of a mineral project that has advanced to a stage where a preferred mining method is established, and an effective method of mineral processing is determined. <i>Feasibility study</i> : a comprehensive technical and economic study of the selected development option for a mineral project.
Indicated Resource	As defined in the JORC Code, the part of a Mineral Resource (see glossary definition) for which the quantity, grade (or quality), densities, shape and physical characteristics are estimated with sufficient confidence to allow the application of Modifying Factors in sufficient detail to support mine planning and evaluation of the economic viability of the deposit. An Indicated Resource has a higher level of confidence than an Inferred Resource.
JORC	The Joint Ore Reserves Committee. JORC is responsible for the development and ongoing update of the JORC Code. JORC comprises representatives of each of the three parent bodies: The Minerals Council of Australia (MCA), The Australasian Institute of Mining and Metallurgy (AusIMM), and the Australian Institute of Geoscientists (AiG) as well as representatives from the Australian Securities Exchange (ASX), the Financial Services Institute of Australasia (FinSIA). The committee also comprises a representative from the accounting profession and an observer from the Association of Mining and Exploration Companies (AMEC).

Term	Definition
JORC (Code)	The JORC Australasian Code for Public Reporting of Exploration Results, Mineral Resources and Ore Reserves. The JORC Code provides a mandatory system for the classification of minerals Exploration Results, Mineral Resources and Ore Reserves (see glossary definitions according to the levels of confidence in geological knowledge and economic considerations in reports prepared for the purpose of informing investors or potential investors and their advisors. For example, annual and quarterly company reports, press releases, technical papers.
Proposed work program	The work program submitted with an application for grant, renewal or transfer of an authority that describes the nature, extent and estimated expenditure of the exploration and associated activities proposed to be carried out during the proposed term of the authority.
Measured Resource	As defined in the JORC Code, the part of a Mineral Resource (see glossary definition) for which quantity, grade (or quality), densities, and physical characteristics are estimated with sufficient confidence to allow the application of Modifying Factors to support detailed mine planning and final evaluation of the economic viability of the deposit. A Measured Resource has a higher level of confidence than either an Indicated or Inferred Resource.
Mineral deposit	See deposit.
Mineral Resource	Consistent with the definition in the JORC Code, a Mineral Resource is a concentration or occurrence of solid material of economic interest in or on the Earth's crust in such form, grade (or quality), and quantity that there are reasonable prospects for eventual economic extraction. All minerals listed in Schedule 2 of the Mining Regulation 2016 are considered 'minerals' for the purpose of a Mineral Resource.
Ore Reserve	As defined in the JORC Code, the economically mineable part of a Measured and/or Indicated Mineral Resource (see above).
Resource definition	The characterisation of an informal global resource into a JORC or JORC equivalent Inferred, Indicated and/or Measured Resource or Ore Reserve (as defined in this glossary), usually via means such as feasibility studies, environmental impact assessments, market studies and/or mine planning studies.

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