

Environmental (mining) licence

Purpose

To provide guidance on the environmental licence framework (framework) for mining activities under the *Environment Protection Act 2019* (EP Act).

Background

The Environment Protection Legislation Amendment Act 2023 (Amendment Act) introduces a new environmental (mining) licence framework (framework) for managing environmental impacts of mining.

The new laws commence on 1 July 2024 and apply to all mining activities including exploration and extraction. The *Mining Management Act 2001* (MMA) will be repealed at this time.

An environmental mining licence replaces the need for authorisation under the MMA. Transition provisions apply to mining activities that are authorised under the MMA, refer to [transitional arrangements fact sheet](#)¹.

Scope

This factsheet applies to:

- new mining operators who do not have a mining authorisation under the MMA on 1 July 2024
- an existing mining operator with an approved mining authorisation and mining management plan seeking to obtain a new environmental (mining) licence.

Environmental Mining Licence

An environmental (mining) licence is required when the activity involves substantial disturbance of the mining site. Regulation 233R in the Amendment Act identifies the types of activities that may cause substantial disturbance.

The framework establishes a tiered, risk-based, licensing scheme. There are three licence categories with each category of licence commensurate with the risk of impact of the mining activity to the environment. The three licence categories are:

- A **standard condition licence** which will apply in circumstances where the mining operator can meet pre-determined risk criteria and conditions (s.124ZJ(1) of Amendment Act) – available for activities with a low risk to the environment.
- A **modified condition licence** - applies when a mining operator can meet the risk criteria, although there may be some adjustment to the standard conditions to ensure the environment is

¹ https://depws.nt.gov.au/_data/assets/pdf_file/0009/1326996/transition-arrangements-fact-sheet.pdf

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appropriately protected from the mining activities (s.124ZK(1) of Amendment Act) – available for activities with a low to medium risk to the environment.

- A **tailored condition licence** – applies when a mining operator is unable to meet the risk criteria or standard conditions, and bespoke licence conditions are required to ensure that the mining activity does not cause significant harm to the environment (s.124ZL(1) of Amendment Act) – available for activities with a high risk to the environment.

Licence risk criteria and standard conditions of a licence are being developed and will be published prior to commencement of the framework. For further information on the process and timing of developing the [risk criteria and standard conditions](#)².

The framework is designed to regulate all potential impacts on the environment associated with mining activities, such as native vegetation clearing, management of wastes and wastewater, and the protection of sensitive receptors from mining infrastructure such as waste rock dumps, tailings facilities, and workers camps.

Wastewater discharge activities will be regulated by environmental (mining) licences under the framework. However, a licence to take water is required under the *Water Act 1992*. This is to ensure appropriate allocation and management of the Territory's water resources.

Sacred sites and heritage legislation may apply and mining operators are encouraged to engage early with the relevant agency.

Applying for a licence

A mining operator may apply to the Minister for a licence in accordance with 124ZE of the Amendment Act. The application may relate to all or any of the following:

- a single mining activity on a single mining site
- more than one mining activity or kind of mining activity on a single mining site
- a single kind of mining activity on more than one mining site
- more than one kind of mining activity on more than one mining site.

The application must be in the approved form, specifying the mining activity or activities for which the licence is sought and the type of licence being applied for.

For an application for a **modified condition licence** or a **tailored condition licence**, the application must be accompanied by:

- an assessment of the environmental risk and impacts associated with the mining activity
- information required by the Minister to enable the Minister to calculate or recalculate any mining security
- any other information required by the Minister to assess the application
- the prescribed licence application fee (if there is one).

² <https://depws.nt.gov.au/environment-information/environmental-regulation-of-mining/environmental-regulation-of-mining>

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For an application for a **tailored condition licence**, the application must also include:

- for exploration activities - a plan for the rehabilitation of any area of the mining site that is not required for an extractive operation or a mining operation
- for an extractive operation or a mining operation - a closure plan for the mining site and a costing of the proposed closure activities.

The Minister may refuse to accept an application for an environmental (mining) licence that does not include the required information to make a decision. The Minister may also direct the mining operator to provide additional information reasonably necessary to assess the application.

The Minister must publish notice of an application for a **modified or tailored condition licence** as soon as practicable after the application is received unless the application has been through another public consultation process – for example as part of an environmental impact assessment under the EP Act. The application must be made available for public review for the prescribed period. The prescribed period for public comment is listed in the table below.

Type of operation	Prescribed period – modified licence	Prescribed period – tailored licence
Exploration	15 business days	25 business days
Extractive	15 business days	25 business days
Mining	25 business days	30 business days

A mining operator may apply for an environmental (mining) licence while an environmental impact assessment and environmental approval process for a referred action or a strategic proposal is being conducted under the EP Act, or a request to transfer an environmental approval for the mining activity is being assessed.

Mining operators should appropriately consult and engage with affected communities during the design of mining activities, and developing an application for a licence. Affected stakeholders may include any pastoral land holders, communities in the vicinity of proposed activities, native title holders, local councils and relevant environment groups.

Grant of a licence

The Minister may grant an environmental (mining) licence after considering the following:

- the application and any information given in conjunction with the application
- the objects of the EP Act
- whether the mining operator is a fit and proper person to hold an environmental (mining) licence
- the type of mineral interest applying to the mining site and whether the mining activity is authorised under the mineral interest
- any submissions received during the public comment period (where relevant)

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- any other matters the Minister considers relevant.

The Minister must make a decision to grant or refuse to grant a licence within the prescribed period outlined in the Amendment Act. The prescribed periods for the different types of mining activities and licences are listed in the table below.

Type of operation	Prescribed period – standard licence	Prescribed period – modified licence	Prescribed period – tailored licence
Exploration	30 business days	40 business days	60 business days
Extractive	30 business days	50 business days	80 business days
Mining	40 business days	80 business days	120 business days

If a decision on an application is not made within the prescribed timeframe, this does not result in any automatic decision (approval or refusal), and a decision may still be made following the expiration of the timeframe (refer section 284A of the Amendment Act).

Where an environmental approval is also required under the EP Act, but not yet granted, the time for making a decision on an environmental (mining) licence application commences after the decision by the Environment Minister to grant or refuse the environmental approval has been made.

Where an application to transfer an environmental approval has been made, but not yet determined, the time for making a decision on an environmental (mining) licence application commences after the decision by the Environment Minister to grant or refuse that transfer. In all other instances, the time for making a decision on an environmental (mining) licence application commences on receipt of the application, subject to the application being complete.

The Minister must ensure when granting a licence, that the licence is consistent with any environmental approval applying to the activity.

The Minister may grant a modified condition licence or a tailored condition licence regardless of which of those types of licence is applied for.

The Minister must publish a notice of a decision and statement of reasons in relation to granting a modified and tailored condition licences, as soon as practicable after the decision is made. There is no requirement for the Minister to give a statement of reasons for granting a standard condition licence. However, the Minister is required to publish a statement of reasons for refusing to grant a standard condition licence.

The licence is in force for the period of the mining activity.

A licence does not take effect until any required mining security for the mining activity has been paid by the mining operator, and a 'notice of authority to commence the mining activity' has been issued by the Minister for Mining under Part 5, Division 2A of the *Mineral Titles Act 2010*.

A notice to commence cannot be issued under the *Mineral Titles Act 2010* until receipt of the required mining security.

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Environmental obligations

The environmental licensing framework is supported by obligations that apply to mining operators. Every person on a mining site or a site where an action is carried out in relation to the mining activity has an obligation to protect the environment. In addition, all mining operators are subject to environmental obligations in relation to mining sites and activities (see Part 5A Division 3 of the Amendment Act). This includes, but is not limited to, obligations to:

- prevent or minimise environmental impacts in the establishment, operation, care and maintenance and closure of the mining site
- design, maintain, operate, decommission, remediate and rehabilitate structures and facilities on the mining site in a manner that minimises environmental impacts
- maintain and operate structures and equipment erected or installed at the mining site to a standard that enables their proper and efficient use so as to minimise environmental impacts
- during any care and maintenance period for the mining site, maintain structures and facilities and implement an appropriate program of maintenance to ensure that structures and facilities do not cause environmental impacts.

Conditions of a licence

The Minister may impose conditions on an environmental (mining) licence to manage any impact on the environment, including obligations to manage environmental impacts during care and maintenance periods.

Licence conditions will be periodically reviewed to ensure they continue to facilitate expected environmental outcomes. A review period may be specified in the licence, or a review may be undertaken by the Minister in specified circumstances.

The Minister may amend the conditions (other than the standard conditions) of an environmental (mining) licence during the period of the licence, in specified circumstances. These circumstances include at the request of the mining operator, if in the reasonable opinion of the Minister changes are necessary or convenient as a result of a review of the licence under section 124ZR of the Amendment Act or a review of the standard conditions under section 124V of the Amendment Act, or if the amendment is an administrative amendment.

Before amending an environmental (mining) licence, the Minister must consult with the mining operator.

If the Minister considers the proposed amendment to the licence is required as the result of a substantial alteration to the mining activity, the Minister must publish the proposed amendment to the conditions of a licence and invite public comment.

Further information

Further information on the environmental licensing framework for mining activities is available at [Environment | Department of Environment, Parks and Water Security](https://depws.nt.gov.au/environment-information)³.

Enquiries can be emailed to environment.policy@nt.gov.au

³ <https://depws.nt.gov.au/environment-information>

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