



## MINERAL LEASES

### Introduction

The purpose of these explanatory notes is to assist with statutory obligations that applicants will need to observe when preparing an application for a Mineral Lease. It also describes post application and post grant requirements and processes with respect to this title type.

Whilst these Notes have been provided to assist applicants in their compliance with the *Mining Act*, it is incumbent on them to acquaint themselves with the provisions of the *Mining Act* and all other laws of the Northern Territory as are applicable. Although these notes are here to assist you, in all cases the legislation prevails.

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#### For further information, please contact:

In person	Titles Division Customer Service Desk 5th Floor, Centrepont Building, The Mall, Darwin, NT 0800
By post	Customer Services Titles Division, Department of Resources GPO Box 3000, Darwin NT 0801
By fax	(08) 8981 7106 – Attention: Customer Services
By phone	(08) 8999 5322 – Customer Service Officer
By e-mail	titles.info@nt.gov.au – Customer Service Officer

## Purpose of title

A Mineral Lease authorises the holder to mine minerals and for purposes ancillary to an existing mining title. For further information please refer to Section 60 of the *Mining Act*.

## Pre-requisites

The common essential pre-requisites are:

- each applicant holds a Northern Territory Miner's Right;
- the land is available and has been surveyed prior to grant;
- state the mineral/s to be mined, or if the area is required for ancillary purposes in conjunction with the development of a mineral resource;
- the applicants have the financial and technical resources to undertake their proposed program;
- the applicants have complied with the *Mining Act* in respect of making a valid application.

## Marking Out of Area

Mineral lease areas do not have to be marked out, however the area must be surveyed prior to grant.

### Survey of Area

Prior to grant applicants will be notified to arrange for the surveying of the proposed lease area. The survey shall be in accordance with the Surveyor-General's requirements and will need to be registered with its office.

## Assistance to fill in an application form

### Part 1 - Particulars of Applicant

In this part of the form, all applicants are required to identify themselves. If there are more than four parties to the application, please use an attachment to identify further applicants.

#### Full name of applicant:

In case of individuals, please state the full name of each person. In case of corporations, state the name of each corporation as per the latest Certificate of Incorporation.

#### Principal or residential address of applicant:

Please state each applicant's principal or residential address. This is the address at which documents may be served on each applicant and NOT the address of its agent.

#### Australian Company Number (ACN):

This is the number described on the Certificate of Incorporation of a corporation.

#### Miner's Right Number:

Each applicant for a mineral lease is required to hold a valid Miner's Right.

Miner's Rights cost \$100 and may be issued to an individual over the age of 15 or to a corporation. Individuals need to produce either their Driver's Licence, Birth Certificate, Passport or some other form of evidence as proof of identity, whereas a Certificate of Incorporation

is necessary for a corporate body. The holder of a Miner's Right is referred to as "a Miner".

If you do not have a Miner's Right or if you are unsure that you have one, please contact the Customer Service section by any of the methods described on the first page of these explanatory notes.

#### Interest:

All applicants are required to state their proposed interest in percent (not shares).

### Part 2 - Particulars of Agent

An agent can be any one person or corporation, who has been nominated by the applicant/s to administer the subject application on behalf of the applicant/s. The Titles Division with respect to the subject application will address ALL correspondence to the agent.

The Agent is not required to have a Miner's Right, however contact details will be recorded into the Titles Division's Titles Administration System.

In case of a single applicant this person/corporation may be the applicant itself or its consultant, agent or attorney. In case of multiple applicants this person/corporation may be any **one** of the applicants who is nominated by the other parties or **one** nominated consultant, agent or attorney.

Full name of Agent:  
State the full name of the Agent.

Postal Address:  
This is the postal address of the Agent. This will be the 'care-of' address for the applicant/s that the Titles Division will use in communication with respect to the subject application.

Example: 'Reminder Letters', 'Offers of Grants' or 'Grant Documents' will be sent to this address with respect to the subject application.

Authorisation to Act as Agent:  
If the Agent is not the applicant, please provide a copy of authorisation to act as agent from each applicant. Such authorisations should be, in case of corporations, on company letterhead or, in case of individuals, signed by the applicant.

### **Part 3 – Mineral Lease Name, Use and Exchange of Tenure**

Name of Mineral Lease:  
Every mineral lease is to be named. There is no restriction of the use of a name other than:

- it doesn't duplicate an existing name,
- cannot be misconstrued to be associated with Government or Royalty, and
- it is not offensive.

Mineral/s to be Mined or Associated Purpose in conjunction with Mining:  
The mineral/s to be recovered, or the ancillary purpose in conjunction with mining or mineral/s for which the mineral lease is required, is to be stated in each application.

Registration Number of Exploration and Mining Tenure to be Substituted in Exchange for the Grant of the Proposed Mineral Lease:  
Mineral leases are often sought over areas already held under some other form of tenure, predominantly exploration licences, exploration retention licences and/or mineral claims.

Where applicable, a list of the titles to be surrendered in exchange for the mineral lease should be included in an application.

### **Part 4 - Particulars of Period**

A mineral lease may be granted for such term as the Minister thinks fit. In this section please state the number of years that you require the subject application to be granted for.

### **Part 5 - Particulars of Area**

Please refer to the "Land Availability" and "Land Status" sections in order to determine what land may be applied for.

Geographic Datum:  
Please state the geographic datum on which the coordinates have been provided. (ie. GDA94, WGS84)

Datum Post:  
The Datum Post, being the North-Eastern corner post, shall be described by latitudes and longitudes.

Written description:  
All boundaries are measured in metres and all bearings true.

Example of written description:

The Datum Post is at the intersection of -13° 30' 11" and 131° 42' 52".

Thence 800m on a bearing of 180 degrees,  
Thence 400m on a bearing of 270 degrees,  
Thence 800m on a bearing of 360 degrees,  
Thence 400m on a bearing of 90 degrees  
back to the Datum Post.

In addition, digital spatial information can be e-mailed to [titles.info@nt.gov.au](mailto:titles.info@nt.gov.au) stating the geographical datum of the data.

Map of application area:  
Under Section 162 of the *Mining Act*, each application must be accompanied by a map that indicates the area of land to which the application relates, including the boundaries of existing land holdings or geographical features.

This map must be at a scale that clearly depicts the boundaries of the application. It should also depict locations of any residences/buildings that are within and up to 50m outside of the area of the application.

Maps may be printed from the Titles Information System, which is the Division's online query system. For further information please contact us or log into [www.dbird.nt.gov.au/tis](http://www.dbird.nt.gov.au/tis).

### **Part 6 – Particulars of Proposal for Developing Mineral Lease Deposits or Alternative Use**

To comply with Section 55 of the *Mining Act*, details of the proposed development need to be described in the application.

### **Part 7 - Details of Financial Resources to Fund Proposals**

Applicants need to substantiate that they have the financial resources to fund proposals:

- Companies may lodge excerpts from their Annual or Quarterly Reports containing financial details.
- Individuals may obtain a letter from their bank giving some indication as to their financial position (exact funds held not required – just an indication that there are adequate funds to undertake the proposed program).
- Company or private accountant verification on letterhead of available funds.

**Part 8 - Details of Technical Qualifications/  
Expertise or Experience and Technical  
Advice**

Applicants need to substantiate that either they have the technical qualifications, or that they have ready access to technical advice to ensure the proposed program can be undertaken.

Applicants should detail the names and credentials of the individuals or consultants that are to be utilised.

**Part 9 - Native Title Agreement**

Please advise of any written agreements that the applicant/s have entered into or are in the process of entering into with native title claimants **over the area that is the subject of this application.**

**Part 10 - Names and addresses of affected  
land owners/occupiers**

Section 55 of the *Mining Act* requires the applicants to identify the names and addresses of ALL affected land owners/occupiers. In determining who is affected by an application, consideration needs to be given to those who are likely to be affected by the access to the area sought.

This address can be obtained either from the:

- Northern Territory Land Title Office  
GPO Box 3021, Darwin NT 0801  
Phone: 8999 6520; Fax: 8999 6239.  
In this case please attach a copy of the land title search, which you would have obtained for a fee from that office.
- Integrated Land Information System (ILIS)  
Contact NT Land Information Systems  
Dept. Planning and Infrastructure  
Telephone: 89244128  
Email: ilis.support@nt.gov.au

**Part 11 - Fees**

On lodgement of an application, certain fees and charges apply, which are determined by the cadastral (land) status of the application area.

Please note that applications received without correct payments cannot be accepted. The same applies for applications that are received with insufficient payments.

<b>Application area entirely over Freehold land:</b>	
ML Application Fee	\$292.00
NT News Advertising Fee	\$291.04
<b>TOTAL:</b>	<b>\$583.04</b>
<b>PLUS</b>	
Centralian Advocate Advertising Fee (if applicable)	\$208.36
<b>TOTAL:</b>	<b>\$791.40</b>

<b>Application area is over land that maybe affected by native title:</b>	
Charge Type	Amount Due
Application Fee	\$292.00
NT News Advertising Fee	\$291.04
Koori Mail Advertising Fee	\$205.00
<b>TOTAL</b>	<b>\$788.04</b>
<b>PLUS</b>	
Centralian Advocate Advertising Fee (if applicable)	\$208.36
<b>TOTAL</b>	<b>\$996.40</b>

Please Note: Advertising and associated fees are subject to change without notice.

**Part 12 - Payment methods:**

**Acceptable payment methods:**

Personal cheques or Money Orders are payable to the Receiver of Territory Monies and must accompany the application.

Visa or Master card requires written authorisation either on the application form or in a covering letter accompanying the application.

Direct debit to the Department's account can be arranged by contacting the Mineral Titles Division and obtaining the Department's account number.

EFTPOS is only available for applications that are lodged in person.

Cash payment is only available for applications that are lodged in person.

**Part 13 - Signatures of applicants**

Applications will not be accepted without the signatures of the applicants' or the agent. Exceptions to this are emailed applications.

## Land Status

There are 3 main categories of land tenure, which determine the grant process of an application:

- Freehold Land;
- Aboriginal Freehold Land; and
- Native Title Affected Land.

It is a policy of the Department to split applications that are/may be over more than one type of land tenure.

### Freehold Land

Freehold land title, sometimes referred to as a Grant in Fee Simple or Estate in Fee Simple, means that the Crown (or Government) has passed all interest in the land, other than minerals, onto the owner. An example of freehold land is the average house block in a city or town.

Applications over Freehold land titles can proceed under the *Mining Act*. Therefore it is in the applicant's interest to separate areas over Freehold land from other land tenure and allow the application to be processed without any unnecessary delay.

### Aboriginal Freehold Land

Aboriginal Land Rights (Northern Territory) Act 1976 (Commonwealth)

For the purposes of the *Mining Act*, any Freehold land title that is owned by an Aboriginal Land Trust is referred to as Aboriginal Freehold Land. Applications over Aboriginal Freehold Land must be processed through the *Mining Act* as well as the Aboriginal Land Rights Act (ALRA). Please also refer to the "Additional requirements for application on Aboriginal Land" section of these explanatory notes.

Note: Due to the provisions of the Aboriginal Land Rights Act, applications on Aboriginal Freehold Land which traverse across Land Council boundaries cannot be accepted and the application will need to be split.

### Native Title Affected Land

*Native Title Act 1993* (Commonwealth)

The expression native title or native title rights and interests means the communal, group or individual rights and interests of Aboriginal peoples or Torres Strait Islanders in relation to land or waters, where the rights and interests are possessed under the traditional laws acknowledged, and the traditional customs observed, by the Aboriginal peoples or Torres Strait Islanders; and the Aboriginal peoples or Torres Strait Islanders, by whose laws and customs, have a connection with the land or waters; and the rights and interests are recognised by the common law of Australia.

For a complete definition refer to Section 223 of the *Native Title Act 1993*.

In practical terms, land that is neither Freehold nor Aboriginal Freehold is considered to be land that is affected by Native Title. The Department uses the 'Right to Negotiate' procedures under the Commonwealth *Native Title Act 1993* to process applications over land which may be affected by native title.

### *Mining Act 1980* Section 4 Interpretation

Crown Land means all land in the Territory **other than** – a reserve or park, private land, Aboriginal land, land the subject of a mining tenement or exploration retention licence, land reserved from occupation under section 178 of this Act, land reserved for or dedicated to a public purpose.

Private Land means land that is – alienated from the Crown for an estate of freehold, the subject of a conditional purchase agreement, or the subject of a lease or concession, with or without a right of acquiring the fee simple, other than a lease or concession for pastoral or timber purposes.

#### **But does not include –**

Aboriginal land, land held for an estate in fee simple, or in a lease from the Crown, by the Conservation Land Corporation established by section 27 of the Parks and Wildlife Commission Act; or land held or occupied for mining purposes under the *Mining Act* or the repealed *Mining Act*.

In addition, where a pastoral lease is subdivided and the resultant parcels are 150 square kilometres or less in area the parcels are considered private land for the purposes of the *Mining Act* (Section 4(5) of the *Mining Act*).

### Northern Territory National Parks

The Department of Resources and the Parks and Wildlife Commission have entered into an arrangement whereby mineral leases can be granted, subject to stringent conditions, over Northern Territory National Parks.

### Telecommunication Sites

It is the practice of the Department to exclude from the grant of any mineral claim any telecommunication sites. For further information concerning this, please contact the Titles Division.

### Council or Shire Rates

Titles, when granted, may be assessed for Local Council or Shire rates. To be assessable for rates a title must also have an Authorisation granted under the Mining Management Act. Rates do not apply to titles for exploration purposes. Contact your Local Government Office for more information.

**Note: Applications that cover both Aboriginal Freehold land and land that may be affected by Native Title cannot be accepted. Applicants will be requested to split such applications into single landforms to allow processing under the appropriate Act.**

## Land Availability

### Current Title Maps

The Department maintains an electronic spatial database for the recording and maintenance of Mineral Title information. The Title Information System (TIS) provides an online public access to this database. TIS depicts areas currently held or sought by miners and those which are reserved from occupation.

In order to determine areas that are available or that are likely to become available, through Titles Information System (TIS) a web browser (like Internet Explorer) a dynamic map of the Territory can be viewed and current information printed. Registered users can access queries and textual information on all current titles. Registration is free and application forms can be printed from:

**[www.minerals.nt.gov.au](http://www.minerals.nt.gov.au)**

For further information or assistance please contact us by either of the methods described on the first page of these explanatory notes.

### Conflicting Land Tenure

Land Status determines what land can be included in any one exploration licence application.

Applications for exploration licences which combine Aboriginal Freehold land with either Native Title affected

land or NT Freehold land (or both), will not be accepted. Applicants will be requested to split such applications into single landforms to allow processing under the appropriate Act.

Exception to this may be where there are small (less than 1 graticular block) areas of Freehold land within the boundaries of an application that is otherwise exclusively over Aboriginal Freehold land or exclusively over Native Title affected land. In such cases, applicants may be asked to either exclude the smaller areas or submit a separate application as mentioned above.

It is the practice of the Department to exclude any Telecommunication Sites or Commonwealth Land from the grant of an exploration licence.

Where an application for a mineral lease is made over Aboriginal land, unless the applicant is a Traditional Owner, the applicant will need to be the holder of an exploration licence or exploration retention licence.

### Conflicting Mining Tenure

Mineral lease applications **cannot** be made over land that is currently the subject of:

- an application for an exploration licence (unless the lease is for ancillary purpose);
- a Reservation from Occupation under section 178 of the *Mining Act*.

## Mining Management Act 2001

**Prior to any activities** taking place, holders of mineral leases are required to obtain an Authorisation under the *Mining Management Act 2001*.

The Mines Division's 'Mining Operation Pack' contains explanatory notes on how to apply for an authorisation to mine under the *Mining Management Act 2001*.

Please contact the Mines Division for further information:

Mine Audit Officer  
GPO Box 3000, Darwin NT 0801  
Telephone: (08) 8999 6528  
Facsimile: (08) 8999 6527

## Competing applications

Competing applications over the same area made on the **same day** have equal priority, and are determined on their merits.

Factors taken into account include:

- the proposed development program;
- the technical expertise available, and
- the financial resources available.

## Additional requirements for applications on Aboriginal Land

Where an application for a mineral lease is made over Aboriginal land, unless the applicant is a Traditional

Owner, the applicant will need to be the holder of an exploration licence or exploration retention licence.

## Post Application Requirements

### Unauthorised Activity

Unless authorised under pre-existing tenure that will ultimately be surrendered in exchange for the grant of an mineral lease, no activity may take place on the area under application until the mineral lease is granted.

### Service of Notice

Within fourteen days **after** lodging an application, the applicant is required, pursuant to Section 57 of the *Mining Act*, to serve written notice on the affected land owners and occupiers.

Serving notice prior to the lodgement of the application with the Department is not in compliance with the *Mining Act*, and applicants will be requested to re-serve the notice to ensure the validity of their application.

Where possible the following should be included in the notice to the affected land owner/occupier:

- Application number and name of project (if applicable);
- Resume of the applicant – latest achievement, technical expertise and reputation;
- Purpose of the mineral lease;
- Details of development proposals and likely disturbance to property;
- A map depicting the area sought in relation to the area owned or occupied by the affected land owner/occupier;
- Contact names in full, telephone and facsimile numbers, including those of any contractors;
- An invitation to the affected land owner/occupier to visit the applicant's office or seek a mutually convenient time to visit the affected land owner's/occupier's home or office to discuss proposals;
- An undertaking to fully discuss the proposed program should the mineral lease be granted.

Within 14 days of serving the above mentioned notice, the applicant is required to lodge a **copy of the notice and evidence of the service** of the notice with the Mining Registrar.

The usual practice is to provide a copy of the certified mail slip. However, a statutory declaration stating to whom and when the notice was dispatched will also suffice. In both cases a copy of the letter served will be required.

### Unknown or Absentee Land Owner

Where a notice has to be served on a person whose name or present address is not known to the applicant, the following procedure applies.

Applicants must, with the prior approval of the Secretary, publish a notice in the NT News on at least 3 occasions and not less than 7 days apart. Additionally, a notice must be posted on the public notice board in the office of the Secretary for 7 days. The notice board is located at the Titles Customer Service Desk on the 5<sup>th</sup> Floor of the Centrepoint Building, Darwin.

### Advertising

As soon as practicable after the application is received, the Department will arrange to have a notice of the application published in the appropriate newspaper.

### Securities

Where a mineral lease is sought over private land, a reserve/park, or over land which may have some form of sensitivity, a security bond in the form of cash or a bank guarantee may be required.

Applicants will be advised in due course if they are required to pay a security.

## Notification of Determination

### Survey of Area

Prior to grant applicants will be notified to arrange for the surveying of the proposed lease area. The survey shall be in accordance with the Surveyor-General's requirements and will need to be registered with its office.

### Grant of Mineral Lease over an Exploration Retention Licence

The Minister cannot refuse the grant of a mineral lease over an exploration retention licence held by the applicant, except with the approval of the Administrator. (Section 62 of the *Mining Act*)

An exploration retention licence is automatically cancelled upon the grant of a mineral lease.

However, pursuant to Section 65 of the *Mining Act*, where a mineral lease is not granted over an exploration retention licence, and the refusal is not due to the non-compliance of the applicant or is not beyond the control of the Minister, then the Minister is required to pay to the applicant such amount as he thinks reasonable to compensate the applicant for his exploration and development evaluation expenses, plus an amount calculated for the loss of interest on that amount.

### Grant of Mineral Lease over public roads

A mineral lease cannot be granted over a public road unless the applicant has constructed an alternative road over a route and to a standard acceptable to the Minister, or has given a written undertaking to the Minister to construct such a road.

### Successful Applications

Applicants of successful applications will be notified of the Department's intention to grant the mineral lease by an "Offer of Grant" letter. Generally the grant may be subject to:

- the applicant paying the prescribed rent within the timeframe specified in the "Offer of Grant" letter;
- lodging any security required within the timeframe specified in the "Offer of Grant" letter.

The date of issue of the receipt for the rent or security, whichever is latest in time, will be the date of grant of the licence.

### Unsuccessful Applications

Shall an application be found unsuccessful, a letter of refusal will be sent to the applicants.

In cases where the refusal occurred prior to advertising of the application, advertising fees will be refunded. Please note that application fees will be retained in all cases.

## Post Grant Requirements

### Lease Conditions

**Before undertaking any mining activity, the holder of a mineral lease must obtain an Authorisation under the *Mining Management Act 2001*.**

Please contact the Mines Division of the Department of Resources to apply for such an Authorisation:

Mine Audit Officer  
GPO Box 3000  
DARWIN NT 0801  
Telephone: (08) 8999 6528  
Facsimile: (08) 8999 6527

In addition, the holder of an mineral lease should read and fully understand the conditions attached to the lease and the statutory provisions under the *Mining Act*.

The conditions applicable to each mineral lease may vary to those applying to a previous lease. Upon receipt of a notification of the grant of an mineral lease, the assumption must not be made by the holder that the conditions will be identical to those of a previous lease.

### Sacred Sites

Holders of mineral leases should be familiar with the provisions of the Northern Territory Aboriginal Sacred Sites Act. It is recommended that mineral lease holders visit the Aboriginal Areas Protection Authority to determine whether there are any registered sacred sites within the lease area, and consider whether to apply for an Authority Certificate in accordance with Section 20 of the Northern Territory Aboriginal Sacred Sites Act 1989 prior to commencing.

Advice on that Act is available from the Aboriginal Areas Protection Authority:

1<sup>st</sup> Floor T.I.I. Building  
74 Cavenagh Street, Darwin  
Northern Territory  
Telephone: (08) 8981 4700  
Facsimile: (08) 8981 4169

## Rights of Fossickers

By virtue of Section 130D of the *Mining Act*, a fossicker may fossick for minerals within an area the subject of a mineral lease or an application for a mineral lease, but only with the written consent of the holder of, or applicant for that lease as the case may be.

## Partial Surrender

Where a portion of a mineral lease area is to be surrendered, the area to be retained is to be surveyed by a licensed surveyor and the Surveyor-General's certificate of survey is to be lodged with the Principal Registrar.

## Renewal

The holder of a mineral lease may, at any time before 3 months before the expiry of the lease, make an application for the renewal of that lease.

Where an application for renewal is not determined until after the date of expiry of the previous term of the lease, by virtue of Section 68(5) of the *Mining Act*, the mineral lease is deemed to continue in force until the application for renewal is determined.

Mineral leases can be renewed for such term as the Minister thinks fit and the Minister may vary or add to the conditions attached to the mineral lease.

To apply for a renewal of a mineral lease, the applicant must be the holder of the mineral lease to be renewed and submit the following:

### Compliance with Conditions

The holder of a mineral lease needs to demonstrate to the Minister's satisfaction compliance with all conditions attached to the mineral lease. Particular details are required where special conditions apply.

To substantiate an application for renewal, applicants should give full details of the project including production and details of any reasons that the leaseholder feels would justify the renewal of the mineral lease.

### Fees

The following fees and charges are required at the time of lodgement of the renewal application:

Renewal Application Fee	\$28.00
Annual Rent (inc GST)	\$11.00/Ha

Please note that renewal applications received without correct payments cannot be accepted.

## Disclaimer

Whilst these Notes have been provided to assist applicants in their compliance with the *Mining Act*, it is incumbent on them to acquaint themselves with the provisions of the *Mining Act* and all other laws of the Northern Territory as are applicable. The Minister may grant a title in respect of all or part of the land over which an application is made. Where other interests exist over the area applied for, applications may not be successful. Fees are subject to change.