March 2023

Application for Minister’s consent –
exempted areas or native title compliance

# *Form AD19, Mining Act 1992*

## **When to use this form**

**Complete this form if you are:**

* **The holder of an exploration licence or assessment lease and you are seeking the consent of the Minister under s 30 or s 48 of the *Mining Act 1992* (Mining Act), as applicable, to exercise a right conferred by the exploration licence or assessment lease within land in a state conservation area within an exempted area, or other land in an exempted area,[[1]](#footnote-2) or**
* **The holder of an exploration licence which is subject to a condition that prohibits the licence holder from prospecting on any land or waters within the licence area on which native title has not been extinguished under the *Native Title Act 1993* (Cth) (NT Act**) **without the prior written consent of the Minister (“the native title condition”).**

This form is an approved form under s 382 of the Mining Act for the purposes of s 30 (Exempted areas) and s 48 (Exempted areas) of the Mining Act. Any reference to the ‘d**epartment**’ in this form, refers to the Department of **Regional NSW**.

##  **How to lodge**

You can lodge your application (this form and any attachments) in the following ways:

* **By email:** titles@regional.nsw.gov.au
* **By mail:** Mining, Exploration and Geoscience, Assessments and Systems, PO Box 344, Hunter Region Mail Centre NSW 2310
* **In person:** in person at the department’s office, 516 High Street, Maitland, New South Wales business days, between the hours of 9.30am and 4.30pm.
* **Facsimile:** +61 2 4063 6973

Lodgement of your application in any of the above ways is taken to be lodgement with the Secretary under the Mining Act.

For help with lodging this application, or for more information about authorisations under the Mining Act in New South Wales contact:

Mining, Exploration and Geoscience - Assessments and Systems

**Phone: +61 2 4063 6600 (8.30am – 4.30pm)**

**Email:** titles@regional.nsw.gov.au

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**Privacy statement**

This information is collected by the Department for the purposes of assessing an application for an authorisation or an application associated with an authority as required by the *Mining Act* *1992* or Mining Regulation 2016.

This information may also be used by the Department to comply with its public register and record-keeping requirements under the *Mining Act* *1992* and Mining Regulation 2016, to confirm applicant details in the event that subsequent applications are made and to establish and maintain databases to assist the Department with its work generally.

Except for purposes required by law, your personal information will not be disclosed to third parties unless the disclosure is directly related to the purpose for which the information was collected, and the Department has no reason to believe you would object to the disclosure, or you are reasonably likely to have been aware, or have been made aware, that information of that kind is usually disclosed to that other person or body, or the Department believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.

You may apply to the Department to access and correct any personal information the Department holds about you if that information is inaccurate, incomplete, not relevant or out of date.

# Important notes

Accompanying documentation

All information specified in this form, and any required documents, things or information required to be lodged with your application, should be provided at lodgement.

Prohibition on exercising rights conferred by exploration licence or assessment lease in exempted areas without consent

Standard exploration licences are granted with a condition that requires the consent of the Minister prior to the holder of the licence prospecting on any place covered by the licence, in circumstances where native title has not been extinguished.

Exploration licence or assessment lease holders must have Minister’s consent to exercise rights within land within a state conservation area within an exempted area (as defined in the Mining Act).

Conditions prohibiting prospecting on any land or waters within the licence area on which native title has not been extinguished

Where an exploration licence is subject to the native title condition, the consent of the Minister will not be granted unless it is demonstrated to the satisfaction of the Minister that:

1. native title has been extinguished over the land, or
2. the provisions of Division 3 of Part 2 of the NT Act have been complied with (i.e. the right to negotiate process or an alternate process is undertaken, or the negotiation of an Indigenous Land Use Agreement (**ILUA**) that provides an alternative process which excludes the operation of Subdivision P of the NT Act).

Documents/information set out in the [*Guideline for the preparation of native title assessment reports*](https://www.resourcesregulator.nsw.gov.au/sites/default/files/2022-11/guideline-the-preparation-of-native-title-assessment-reports.pdf)must be provided when submitting evidence demonstrating that native title has been extinguished.

Guidance on compliance with the NT Act in relation to the Mining Act is provided in the Industry [Guidelines](https://meg.resourcesregulator.nsw.gov.au/sites/default/files/2022-12/guideline-an-overview-of-native-title-and-the-mining-act-minerals-and-coal.pdf).

Agents

If this application is lodged by an agent on behalf of the applicant/s, the agent will need to complete the declaration at the end of this form and supply evidence of their appointment.[[2]](#footnote-3)

Determination of your application

Once your complete application has been received, it will be determined by way of granting or refusing the consent in accordance with the Mining Act and Regulation. Where the Minister grants consent to this application, such consent may be given either unconditionally or subject to conditions.[[3]](#footnote-4)

Clauses 12 and 14 of Schedule 1B of the Mining Act, which relate to varying and suspending conditions of authorisations, will apply to the variation or suspension of a condition of consent granted under s 30 or s 48 of the Mining Act in the same way as they apply to the variation or suspension of a condition of an authorisation.

1. Application type

[ ]  I am seeking Minister’s consent to exercise a right conferred by an exploration licence or assessment lease within land in a state conservation area within an exempted area, or other land in an exempted area (for which there is no access arrangement under section 140 of the Mining Act) (s 30 or s 48 of the [Mining Act](https://legislation.nsw.gov.au/view/html/inforce/current/act-1992-029))*,* and/or

[ ]  I am the holder of an exploration licence which is subject to the native title condition and I am seeking Minister’s consent to prospect on land covered by the licence where native title may exist.

Prospecting title information

|  |  |  |  |
| --- | --- | --- | --- |
| Title type (EL, AL) | Number | Act | Expiry Date |
|       |       |       |       |
|       |       |       |       |

Additional prospecting titles

Provide the title number and expiry of any other prospecting titles to which the Minister’s consent will apply.

|  |
| --- |
| Additional prospecting titles |
|       |

1. Prospecting titleholder/s details

Provide the full name of the authority holder/s and if applicable, the ACN or ARBN (for foreign companies).

|  |
| --- |
| 1st Prospecting titleholder details |
| Name |       |
| Contact phone |       |
| Contact email |       |
| ACN / ARBN |       |
| Street address (Registered street address for a company) |       |
| Postal address | [ ]  Same as above |
| Enter here if different |

|  |
| --- |
| 2nd Prospecting titleholder details |
| Name |       |
| Contact phone |       |
| Contact email |       |
| ACN / ARBN |       |
| Street address (Registered street address for a company) |       |
| Postal address | [ ]  Same as above |
| Enter here if different |

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| 3rd Prospecting titleholder details |
| Name |       |
| Contact phone |       |
| Contact email |       |
| ACN / ARBN |       |
| Street address (Registered street address for a company) |       |
| Postal address | [ ]  Same as above |
| Enter here if different |

Additional prospecting titleholders

Provide the full name, phone number, email address, ACN or ARBN (for foreign companies), street address (individual), registered street address (company) and postal address details of additional lease holders.

|  |
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| Additional prospecting titleholders |
|       |

1. Contact for this application and service

Any correspondence in relation to this application and any subsequent authority will be sent to this person, including documents that the Department is required to serve.

|  |
| --- |
| Details |
| Contact name |       |
| Position held |       |
| Company |       |
| Postal address |       |
| Phone (incl area code) |       |
| Mobile |       |
| Email (required) |       |
| Email for service of documents (required)  |  |

The department will contact you and **serve** documents related to your licence via the email address specified above.

Your preferred contact method

If you would **also** like a copy of the documents to be sent to you by mail to the postal address indicated above, please check the box below.

[ ]  I request that copies of the documents and communications are also sent to be by mail.

1. Exercising rights in exempted area

Is the application for Minister’s consent to prospect in an exempted area?

[ ]  No **- go to Part 5**

[ ]  Yes - provide details of the exempted area and a copy of the access arrangement from the controlling body (e.g. Council, NSW Forestry), and select whether the land is within a state conservation area in the exempted area, or other land in an exempted area.

|  |  |  |
| --- | --- | --- |
| Exempted area | Controlling body | Is this a state convseration area or other land in an exempted area?  |
|       |       | [ ]  land in state conservation area within an exempted area[ ]  other land in an exempted area |
|       |       | [ ]  land in state conservation area within an exempted area[ ]  other land in an exempted area |
|  |  | [ ]  land in state conservation area within an exempted area[ ]  other land in an exempted area |

Provide a diagram showing the exploration licence or assessment lease and where the affected land is situated within the licence or lease area.

|  |
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|       |

Additional exempted areas

Provide details of any additional exempted areas, the relevant controlling body and if it is located within a state conservation area within an exempted area or other land in an exempted area.

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| --- |
| Additional exempted areas |
|       |

[ ]  I have attached a copy of an access arrangement for each relevant controlling body

Note: The access arrangement should include the **holder of the prospecting authority** as a party to the arrangement, not just a parent or otherwise related company. Other parties may be included, but one party must be the **holder of the prospecting authority.**

1. Exploration licence with native title condition

Is the application for Minister’s consent to prospect on land or waters within the land covered by an exploration licence that is subject to the native title condition?

[ ]  No - **go to Part 8**

[ ]  Yes - provide details of the prospecting operations:

 [ ]  This application is related to all land within the exploration licence – **go to Part 6**

 [ ]  This application is only for the land described below – note that the consent will be subject to a direction that the Minister’s consent does not extend to land outside the land described and that access arrangements under the Mining Actare required.

Provide land description such as lot and deposited plans, road name and extent, etc.

Provide a diagram showing the exploration licence and where the affected land is situated within the licence / lease area.

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1. Native title extinguishment

Prior to the granting of the consent sought in this form, the Minister must be satisfied that:

* native title has been wholly extinguished, or
* the ‘right to negotiate’ process has been completed, or
* a registered ILUA to which the holder is a party provides for the Minister’s consent to be given without entering the right to negotiate.

Please indicate as follows:

[ ]  I am unable to demonstrate to the satisfaction of the Minister that native title is wholly extinguished - **go to Part 7**, or

[ ]  I assert that native title has been extinguished over the land, AND

[ ]  I have attached all information/documentation required by the [*Guideline: The preparation of native title assessment reports in support of applications for authorities granted under the Mining Act 1992 and the Petroleum (onshore) Act 1991*](https://www.resourcesregulator.nsw.gov.au/sites/default/files/2022-11/guideline-the-preparation-of-native-title-assessment-reports.pdf) - **go to Part 8.**

1. Right to negotiate/alternate process

The Minister must not grant the consent sought in this form where native title has not been demonstrated to have been extinguished unless the ‘right to negotiate’ process has been completed, or the act can be validated in some other way under Division 3 Part 2 of the NTA, such as an ILUA that provides an alternative process which excludes the operation of Subdivision P of the NT Act has been completed.

The ‘right to negotiate’ process is initiated by specific notification requirements in s 29 of the NT Act. It may be subject to public notification (at the applicant’s cost), a wait period and, if there are registered claimants, you will need to enter into an agreement prior to the Minister’s granting consent. More information is available in the Departments[*Right to Negotiate Guideline*](https://www.resourcesregulator.nsw.gov.au/sites/default/files/2022-11/guideline-right-to-negotiate.pdf) and on the [*National Native Title Tribunal website*](http://www.nntt.gov.au/Pages/Home-Page.aspx)*.*

If a public notice is required, the Department will contact you to request the payment of the advertising fee and a plan that complies with the Department’s advertising requirements for s 29 notices under the NT Act.

[ ]  I wish to commence the ‘right to negotiate’ process

[ ]  I wish to claim that the future act is provided for in the NT Act (e.g. procedure under an ILUA that excludes the operation of Subdivision P of the NT Act)

Provide details:

|  |
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|       |

1. Checklist of items to be included with this application

|  |  |  |
| --- | --- | --- |
| Item |  | Reference |
| Access arrangement for exempted area which is a state conservation area (if applicable) | [ ]  | Part 4 |
| Where the request for Minister’s Consent doesn’t cover the entire licence / lease area, a diagram showing the exploration licence / assessment lease and where the affected land is situated within the licence / lease area. |  | Part 5 |
| Documents/information demonstrating proof of extinguishment (if applicable) | [ ]  | Part 6 |
| For agents only – evidence of appointment as agent | [ ]  | Part 9.2 |

* 1. Have you lodged all the required information with this form?

[ ]  Yes

[ ]  No - I will provide outstanding information after lodgement

1. Declaration

This form should be signed by the applicant/s (in the case of a company a duly authorised officer) or an agent authorised to act on behalf of the applicant/s.

* 1. Applicant/s (individual or company)

For each applicant (signed below):

I certify that the information provided is true and correct to the best of my knowledge and belief. I understand under the *Crimes Act 1900* NSW Part 5A, that knowingly or recklessly giving false or misleading information is a serious offence, and under the Mining Act section 378C, any person who provides information that the person knows to be false or misleading is guilty of an offence, for which they may be subject to prosecution.

(For companies only) In addition to the declaration above, by signing below**, I also** certify that I am authorised to complete and provide the information in this form on behalf of the company listed in section 2 of this form.

|  |
| --- |
| 1st Applicant details |
| Name |       |
| Position/title |       |
| Date |       |
| Signature | 1st Applications Signature |

|  |
| --- |
| 2nd Applicant details |
| Name |       |
| Position/title |       |
| Date |       |
| Signature | 1st Applications Signature |

|  |
| --- |
| 3rd Applicant details |
| Name |       |
| Position/title |       |
| Date |       |
| Signature | 1st Applications Signature |

* 1. Agent authorised to act for this applicant/s

Evidence of appointment is required.

|  |
| --- |
| Agent details |
| Name |       |
| Position/title |       |
| Company |  |
| Postal address |  |
| Phone (incl area code) |  |
| Mobile |  |
| Email |  |
| Date |       |
| Signature | 1st Applications Signature |

Evidence of appointment:

 [ ]  I have attached evidence of appointment to this application

# Office/Administrative use only

|  |
| --- |
| Application received: |
| Time: |       | Date: |       |
| Officer’s Name |       |
| Signature | Office use only signature |

# Document control

Approved by: Executive Director, Assessments and Systems, Regional NSW under delegation from the Minister administering the Mining Act*.*

CM9 Reference: RDOC22/125663

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| Amendment schedule |
| **Date** | **Version #** | **Amendment** |
| July 2020 | 1.0 | New format for Regional NSW. Form updated to reflect new Departmental name and branding, and updated links |
| August 2022 | 2.0 | New format to reflect new template Regional NSW/MEGUpdate contact details to reflect @regional email addressUpdated footer: document number and dateReviewed hyperlinks |
| March 2023 | 3.0 | Form updated to reflect amendments to Mining Act and Regulation commencing 1 March 2023, and administrative updates.  |

1. You do not need consent to exercise a right conferred by the exploration licence or assessment lease within other land in an exempted area if an access arrangement under section 140 applies to the land: s 30(1)(b), Mining Act; s 48(1)(b), Mining Act. [↑](#footnote-ref-2)
2. Clause 97, Regulation. [↑](#footnote-ref-3)
3. Section 30(2), Mining Act; s 48(2), Mining Act. [↑](#footnote-ref-4)