March 2023

Application to vary a mining lease to attach a condition regulating ancillary mining activity/s

# *Form ML15, Mining Act 1992*

**Access the** [**Titles Management System (TMS) Portal**](https://meg.resourcesregulator.nsw.gov.au/mining-and-exploration/titles-management-system) **to lodge this application electronically.**

**Any required fee payments and attachments can be submitted through the Portal.**

## **When to use this form**

**Use this form to apply to add a condition to a mining lease to regulate the carrying out of an ancillary mining activity that meets the following requirements:**

* **it is located in the vicinity of the mining lease, and**
* **it directly facilitates the mining lease, and**
* **it is not already regulated by a condition of a mining lease or authorised by another mining lease for ancillary mining activities only.**

This form is an approved form under s 382 of the Mining Act for the purposes of s 6 (Unauthorised carrying out of designated mining activities), and cl 7B (Conditions of mining leases relating to ancillary mining activities) and 12 of Sch 1B (Variation of authorisations by relevant decision-maker) of the Mining Act.

Any reference to the ‘**Department**’ 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](mailto: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](mailto: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 confirm applicant details in the event that subsequent applications are made and may also be used to establish and maintain databases to assist the Department with its work generally.

Except for purposes required by law, the information will not be accessed by any third parties in a way that would identify the person without the consent of that person.

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access and correct any information the Department holds if that information is inaccurate, incomplete, not relevant or out of date.

# Important notes

Accompanying documentation

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

A decision-maker may require you to furnish further information in connection with your application and may refuse the application if you do not furnish that information within the specified period.[[1]](#footnote-2)

Until it is amended by proclamation, cl 6 of Sch 1B of the Mining Act also provides separate grounds for the decision-maker to refuse an application on the basis that the applicant has failed to lodge any information required to accompany the application within 10 business days after the application is lodged.

If there is insufficient room in any of the fields in this form, please provide the information as an attachment submitted with this form, marking clearly the field or other requirement to which the additional information relates.

Development consent

Under s 65(1) of the Mining Act, the Minister cannot grant a mining lease over land if development consent is required under the *Environmental Planning and Assessment Act 1979* (**EPA Act**) for activities to be carried out under the lease unless an appropriate development consent is in force with respect of the carrying out of those activities on the land. A variation to a mining lease to attach a condition regulating ancillary mining activities will not be approved for any activities not specified in the existing development consent and/or not demonstrated to be lawful.[[2]](#footnote-3)

Significant improvements

If s 62 of the Mining Act applies[[3]](#footnote-4) and you are applying for a ancillary mining activity condition over the surface of any land on which, or within the prescribed distance (as set out in s 62(2) of the Mining Act) of which, is situated a dwelling-house that is the principal place of residence of the person occupying it or any garden, or on which there is anything that is taken to be a significant improvement under cl 23A of Sch 1 of the Mining Act, you must obtain written consent from:

1. the owner(s) of the dwelling-house, garden or improvement, and
2. the occupant(s) of the dwelling-house (if applicable)

and provide the written consent to the Department unless the ancillary mining activity commenced before 15 November 2010 and has not ceased for a continuous period of 12 months since that date (other than for repair or maintenance).[[4]](#footnote-5)

Survey

A survey prepared in accordance with statutory requirements may be required before a variation to the mining lease to attach an ancillary mining activity condition is approved. You will be advised in writing if this is required and the date by which the survey must be provided.

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, if not already supplied to the Department.[[5]](#footnote-6)

Determination of your application

Your application will be determined in accordance with the Mining Act including relevant provisions of Schedule 1B. If the decision-maker determines to vary the mining lease, it will be varied by notice in writing given to the holder of the authorisation.[[6]](#footnote-7) The variation will take effect when written notice of the variation is served on the holder of the mining lease or at a later time specified in the notice.[[7]](#footnote-8)

1. Mining lease details

Provide details of the applicant’s existing mining lease that will be associated with the carrying out of the ancillary mining activity/s under this application. This application may only be made by the holder of the authorisation.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Type |  | Number |  | Act Year |  |

Provide details confirming that the ancillary mining activity/s is in the vicinity and directly facilitates the existing mining lease.

I have attached a scaled plan showing the location of the ancillary mining activity/s relative to the mining area of the associated mining lease

**and**

I have attached details of how the ancillary mining activity/s directly facilitates the associated mining lease

1. Lease holder/s details

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

|  |  |
| --- | --- |
| 1st Lease holder 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 Lease holder 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 |

|  |  |
| --- | --- |
| 3rd Lease holder 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 lease holders

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

|  |
| --- |
| Additional details |
|  |

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.

|  |  |
| --- | --- |
| Contact 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**.

4.1 Preferred contact and service method

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

I request that copies of documents and communications are also sent to me by mail

1. Details of the ancillary mining activity
   1. Ancillary mining activity/s

Select all ancillary mining activity/s sought to be regulated by a condition attached to the mining lease and provide details.

|  |  |
| --- | --- |
| Ancillary mining activity/s | |
|  | Construction, maintenance or use of a reservoir or dam (including a tailings dam)[[8]](#footnote-9) – s6(6)(a) Mining Act  Provide details: |
|  | Construction, maintenance or use of a drain or water race[[9]](#footnote-10) – s6(6)(a) Mining Act  Provide details: |
|  | Opal puddling – s6(6)(b) Mining Act  Provide details: |
|  | Removal, stockpiling or depositing of overburden or ore, to the extent that it is associated with mineral extraction or mineral beneficiation – s6(6)(c) Mining Act  Provide details: |
|  | Removal, stockpiling or depositing of tailings, to the extent that it is associated with mineral extraction or mineral beneficiation – s6(6)(c) Mining Act  Provide details: |
|  | Any other ancillary mining activity prescribed by clause 7 of the Regulation  Provide details: |

* 1. Status of ancillary mining activity

Is the ancillary mining activity –

proposed 🞂 Go to Question 5

existing

For existing ancillary mining activities, provide the following information:

1. Date of commencement of activity (dd/mm/yyyy)      /      /
2. Is the activity currently being carried out in accordance with another mining lease in respect of an ancillary mining activity or activities only that authorises the carrying out of the activity?

No

Yes – provide details of the mining lease, and why you are submitting this application

|  |
| --- |
| Provide details |
|  |

1. Description of the surrounding environment including land use details, sensitive receivers, natural features etc.

|  |
| --- |
| Provide details |
|  |

1. Attach to this application form plans showing:
2. the location of the ancillary mining activity and its relationship with other built features in the vicinity and the surrounding environment (including natural features, sensitive receivers etc)
3. the dimensions of the ancillary mining activity

I have attached details of the ancillary mining activity

1. Development consent and other approvals
   1. Development consent

Provide the relevant current development consent under the EPA Act and/or evidence that the ancillary mining activity is lawful.

I have attached a copy of the relevant development consent that is in force in respect of the carrying out of the ancillary mining activities on the land

I have attached the development application for the proposed ancillary mining activities on the land

I have attached expert evidence (inclusive of reasoning) that the carrying out of the ancillary mining activity is lawful

* 1. Other approvals

Provide details of other approvals relating to the ancillary activity and any other development the subject of the existing development consent, including but not limited to Environmental Protection Licence(s), Water Licences, Heritage approvals etc.

|  |
| --- |
| Provide details of each approval (eg approval reference, legislation, date, etc) |
|  |

I have attached a copy of all other approvals relating to the ancillary mining activity

There are no other approvals relating to the ancillary mining activity

1. Approved or proposed final land use of ancillary mining activity land

‘Final land use’ means the intended final landform and land use following completion of the ancillary mining activity.

* 1. Approved final land use

A development consent is in force in respect of the carrying out of the ancillary mining activity, which approves a final land use for the land.

Describe the approved final land use for the land the subject of the ancillary mining activity.

|  |
| --- |
|  |

**🞂 Go to Question 7**

A development consent is in force in respect of the carrying out of the ancillary mining activity, but it does not approve a final land use for the land. 🞂 **Go to Question 6.2**

A development consent for the ancillary mining activity does not exist **🞂 Go to Question 6.2**

* 1. Proposed final land use

|  |  |
| --- | --- |
| Proposed final land use | |
|  | Describe the proposed final land use for the land the subject of the ancillary mining activity. |
| Provide details: |
|  | Provide evidence of the stakeholder consultation that has occurred as part of the process to determine the proposed final land use of the land the subject of the ancillary mining activity. |
| Provide details: |

1. Indicative map of the area

The area of land where the ancillary mining activity is (or is proposed to be) located must be sufficient to enable effective rehabilitation to be undertaken so that the approved or proposed final land use can be achieved.

The area and shape of the area will be guided by the approved or proposed final land use and should take into account the following factors:

* The nature and scale of the ancillary mining activity such that the area of land is proportionate to the activity (for example, large overburden dumps require greater surrounding area than a small water race)
* The sensitivity of the surrounding environment and presence of buffer zones
* The potential connectivity of the ancillary mining activity to the primary mining lease and compatibility of final land uses (i.e. whether there is an opportunity to manage both sites collectively due to the compatibility of final land use and similarity of environment)
* The proximity and location of other non-ancillary mining activities, being activities that are not required to be regulated under the Mining Act.

As a minimum, the area must:

* provide adequate access to enable rehabilitation to occur (for example, for large earthwork machinery, monitoring points); and
* provide adequate buffer zones to manage risks (such as failures of dumps, drainage, erosion, contamination containment).

|  |  |
| --- | --- |
| Indicative map of the area | |
|  | Provide an indicative map showing the alignment of the boundaries for the ancillary mining activity relative to the Map Grid of Australia coordinates of all the points where there is a change in direction of the boundaries of the land. |
| **Note:** Following the Department’s review of this application, feedback will be provided to the applicant about the suitability of the above map and whether further details are required to be incorporated prior to the applicant’s submission of the Final Survey of the area of land where the ancillary mining activity is to be carried out. |
|  | Describe how the ancillary mining activity land area is sufficient to enable effective rehabilitation to be undertaken so that the final or proposed land use can be achieved. |
| Provide details: |

* 1. Coordinates of the area compliant with Map Grid of Australia (MGA94) where ancillary mining activities to be carried out

Attach the MGA94 coordinates as a separate electronic file in a CSV format.

I have attached the MGA94 coordinates to this application

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| MGA94 coordinates to this application | | | | |
| Total area |  | m2 | ha | km2 |
| Surface area |  | m2 | ha | km2 |

1. Ancillary mining activity over the surface of any land that is situated on or within the prescribed distance of a dwelling-house, garden or significant improvement
   1. Did the ancillary mining activity commence before 15 November 2010 and has it not ceased for a continuous period of 12 months since that date (other than for repair or maintenance)?

Yes – if yes, **go to Question 9**

No – if no, **continue to Question 8.2**

* 1. Is the ancillary mining activity to be carried out over the surface of land on which, or within the prescribed distance of which, is situated a dwelling-house that is the principal place of residence of the occupant(s), garden, or significant improvement?

No – if no, **go to Question 9**

Yes – if yes, **continue to Question 8.3**

* 1. Have you obtained written consent from the owner(s) and, if applicable, the occupant(s)?

I have obtained written consent and attached the consent this to the application

No – I have attached a submission justifying why consent is not required

1. Fee payment

Payment, proof of payment or details that allow the payment to be made must accompany this application form. Until it is amended by proclamation, cl 6 of Sch 1B of the Mining Act also provides as a ground for refusal of this application that the applicant has not paid any fee payable in connection with the application.

* 1. Fees

The application fee amount is $8,000

* 1. Select your payment method

|  |  |
| --- | --- |
| Select | Payment Method |
|  | **Direct deposit**  Account name: Department of Regional NSW  BSB: 032 001  Account number: 183837  Reference: ML [authority type and number] (eg ML1234)  If you are paying by direct deposit, attach a copy of the receipt issued by your banking authority as evidence that you have paid. |
|  | **Credit card\*** (enter details below) |
| To pay by credit card, please tick the credit card box and contact Assessments and Systems on (02) 4063 6600 to speak to a customer service representative. To comply with PCI-DSS your Credit Card information is never stored on file. Alternatively, you may submit the application on TMS. |
| \*Credit card merchant fees are applicable to all credit card payments and will be added to the payment amount at the following rates:  Visa & Mastercard: 0.4% Amex: 1.4% |

1. Checklist of items to be included with this application

|  |  |  |
| --- | --- | --- |
| Item |  | Reference |
| Details of how ancillary mining activity is in the vicinity and directly facilitates the mining lease |  | Part 1 |
| Form plans for ancillary mining activity |  | Part 4 |
| Current development consent |  | Part 5 |
| Final land use details and stakeholder consultation |  | Part 6 |
| Rehabilitation cost estimate |  | Part 7 |
| An indicative map of the area |  | Part 8 |
| Coordinates of the area (if applicable) |  | Part 8 |
| Description of how the land area is sufficient to allow for effective rehabilitation |  | Part 8 |
| Landholder/s consent or submission (if applicable) |  | Part 9 |
| For payments made by direct deposit – proof of payment |  | Part 10 |
| For agents only – evidence of appointment as agent |  | Part 12 |

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

Yes

No – I will provide outstanding information within 10 business days of lodging this application\*

Failure to supply the information within this timeframe may be considered as grounds for refusing the application under cl6(d) sch1B

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 3 of this form.

|  |  |  |
| --- | --- | --- |
| 1st Applicant details | | |
| Name |  | |
| Position/title |  | |
| Date |  | |
| Signature | 1st Applications Signature | |
| 2nd Applicant details | | |
| Name |  | |
| Position/title |  | |
| Date |  | |
| Signature | 2nd Applications Signature |
| 3rd Applicant details | | |
| Name |  | |
| Position/title |  | |
| Date |  | |
| Signature | 2nd 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 | Agent 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 | | |
| **Application fee amount:** $8,000 | | | |
| Fee amount | $ | | |
| **Receipt number** |  | | |

# Document control

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

CM9 Reference: RDOC22/104261

|  |  |  |
| --- | --- | --- |
| 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 |
| July 2022 | 2.0 | Update credit card details, hyperlinks. Update contact details.  New format to reflect new template Regional NSW/ MEG  Update contact details to reflect @regional email address  Updated footer; document number and date  Reviewed links to legislation |
| March 2023 | 3.0 | Form updated to reflect amendments to Mining Act and Regulation on 1 March 2023 and administrative updates. |

1. Sch. 1B, cl 5, Mining Act. [↑](#footnote-ref-2)
2. Section 65(4), Mining Act. [↑](#footnote-ref-3)
3. See ss 62 and Sch 6 cl 179 of the Mining Act to determine whether s 62 applies. [↑](#footnote-ref-4)
4. Sch. 1B, cl 7B(8), Mining Act; s 62, Mining Act; Sch 6 cl 179, Mining Act. [↑](#footnote-ref-5)
5. Clause 97, Regulation. [↑](#footnote-ref-6)
6. Sch 1B, cl 12(6), Mining Act. [↑](#footnote-ref-7)
7. Sch 1B, cl 12(7A), Mining Act. [↑](#footnote-ref-8)
8. This **does not** include the construction, maintenance or use of a reservoir or dam (including a tailings dam) that is not constructed, maintained or used in connection with mining operations. [↑](#footnote-ref-9)
9. This **does not** include the construction, maintenance or use of a drain or water race that is not constructed, maintained or used in connection with mining operations. [↑](#footnote-ref-10)