

## Frequently asked questions

### 1. General

#### a. What are the mineral minimum standards and why are they needed?

NSW mining legislation allows the Division of Resources and Geoscience (the Division) to publish minimum standards a relevant decision-maker may consider when assessing applications for Exploration Licences and Assessment Leases. The Division previously published minimum standards under NSW petroleum legislation and is now developing minimum standards under the state's mining legislation. The minimum standards will assist the relevant decision-maker in assessing exploration licence and assessment lease applications. They will also create clarity and certainty for industry and other stakeholders.

Developing and publishing minimum standards is a key commitment in the NSW Minerals Strategy 2019, which is the NSW Government's public statement of intent to deliver a high-performing minerals industry with reasonable and consistent regulation that is rigorously enforced.

#### b. To which applications will the minimum standards apply?

The minimum standards will apply to applications for the grant, renewal and transfer of exploration licences and assessment leases, and to vary a work program during the term of the authorisation that are lodged after the final document's publication date. They will not apply to pending applications.

The minimum standards will not apply to applications for the grant, renewal and transfer of mining leases given the merits of mining projects are comprehensively assessed through the development consent process under NSW planning legislation. Further information on the development consent process for mining can be found [here](#). The Division will consider the need to expand the minimum standards to mining leases once they are finalised and implemented.

The Division does not intend, nor does NSW mining legislation allow for minimum standards to be used as a compliance and enforcement instrument across the term of an authorisation. The Department of Planning, Industry and Environment (the Department) has more appropriate legislative and regulatory instruments at its disposal to deal with compliance and enforcement.

While minimum standards may apply to suspension and cancellation of all authorisations issued under NSW mining legislation, the Division will limit its consideration of the standards to the major decision points. That is, at grant, renewal or when transferring an exploration licence or assessment lease.

#### c. What are the potential consequences of an applicant failing to meet the minimum standards?

The decision-maker may consider the minimum standards at their discretion. Failure to meet any or all of the minimum standards could support a decision to refuse the grant, renewal or transfer of an exploration licence or assessment lease. Where a proposed work program or work program variation does not meet the respective minimum standards, the Division will advise an applicant to revise and resubmit the respective application.

**d. What are the potential consequences of providing false or misleading evidence to demonstrate compliance with the minimum standards?**

Any person who knowingly or recklessly provides false or misleading information concerning any requirement under NSW mining legislation may be guilty of an offence under that legislation.

**e. What is the status of the minimum standards published under NSW petroleum legislation?**

The minimum standards for petroleum exploration licenses and assessment leases remains in place. The Division will review these standards for consistency with any minimum standards published under NSW mining legislation.

## 2. Work program minimum standards

**a. How will the proposed minimum standards for work programs differ from current work program requirements and why? What are the benefits of this change in approach?**

Exploration licence and assessment lease holders will no longer be required to vary their work program annually to describe their specified and intended activities for the following year. Rather, applicants will submit a proposed work program with stated and defined exploration objectives, activities and indicative timeframes for the entire term of an authority. The Division will revise its Work Program Guidelines to reflect this change.

A comparison of actual exploration outcomes against the stated and defined exploration objectives will form the basis for assessing the work program minimum standards at renewal. Significant changes to the rationale or objectives of a work program will still require variations across the term of an authority, which will be subject to the minimum standards.

This change in approach to work programs will create greater consistency and rigour around the assessment of proposed work programs and explorers' performance against these programs. It relieves administrative burden and facilitates efforts to ensure active exploration on authorities and reduce land banking.

**b. What existing requirements will continue to apply regardless of the new approach?**

In accordance with NSW mining legislation, the Division will still require exploration licence and assessment lease applicants to outline the expected activities that support the exploration objectives, along with indicative timeframes. This includes community engagement and environmental management activities. In addition, the legislative requirement for exploration licence and assessment lease holders to report annually on their exploration activities will remain.

**c. How many exploration stages will a work program typically cover during the term of an authority? How long is each stage expected to take?**

There is no set progress requirement through the exploration stages across the term of an exploration licence or assessment lease as each resource project is unique. The stage and predicted rate of progression depends on the mineral type and the level of relevant pre-existing geological knowledge. Mineral exploration tends to be highly speculative, and many projects do not advance beyond the initial exploration stages. Where there is advanced geological knowledge of resources within the area of the authority, a project may progress rapidly through

the early exploration stages or skip some stages altogether. Conversely, more advanced activities are expected to be proposed within the work program for projects in the later stages of exploration.

**d. What happens if the application is granted but the explorer encounters issues that prevent implementing the proposed work program as originally described?**

This scenario would come into focus when an exploration licence or assessment lease holder wishes to renew their authority. A decision to renew an exploration licence or assessment lease where the applicant has not met the preceding term's work program objectives falls within the ambit of the Division's [Policy on renewal of exploration licences for minerals](#) (Renewals Policy). In accordance with the policy, the Division will consider 'extenuating circumstances' when deciding whether or not to renew an exploration licence or assessment lease. The Division has committed to also review this policy in the NSW Minerals Strategy (action 4.2).

Alternatively, an exploration licence or assessment lease holder may seek to adjust their objectives and intended outcomes if a change in circumstances occurs. They can do so by applying for a work program variation. As stated above, work program variations are subject to the work program minimum standards.

**e. How do the work program minimum standards account for 'project status'?**

Applicants may elect to nominate some authorities as being part of a broader 'project' by completing the relevant section of the Division's work program submission form. Projects comprise a group of authorities held by the same entity that are either physically connected or are geoscientifically or spatially related (including Mining Leases). For this reason, the work program minimum standards enable consideration of the strategic, technical and economic benefit of conducting exploration activities as a project.

Activities on some authorities forming part of a project may progress at different rates. For example, a significant discovery may be made on one authority within the project, justifying a reallocation of budget, focus and resources from other authorities for a period of time. When assessing a renewal application against minimum standards, the decision-maker will consider 'project status' and whether the objects of the Mining Act are best served by renewing the authority despite delays in progress on that authority.

### 3. Technical capability minimum standards

**a. Why is five years of exploration experience (in the nominated mineral group or deposit setting) or accreditation from a relevant professional organisation an appropriate benchmark for determining technical capability?**

Five years' field experience is usually a requirement to obtain professional accreditation from a recognised professional member organisation such as the Australasian Institute of Mining and Metallurgy (AusIMM) or the Australian Institute of Geoscientists. The Division regards a professional accreditation from such organisations as an indicator of technical capability that meets the Division's minimum standards. Those holding accreditation are also bound by organisational codes of practice and codes of ethics that have the practical effect of ensuring the objects of the Mining Act are realised.

### **b. What happens if the application is granted but the nominated technical manager leaves during the term of the authority?**

An assessment of a technical manager against the minimum standards outlined in the document is 'point in time' (i.e. reflecting the merits of an applicant at the time of grant or renewal). The Division acknowledges technical managers can change across the term of an authority and will consider including a condition on new authorities mandating an authority holder notify the Division of a change in technical manager.

## **4. Financial capability minimum standards**

### **a. Why are applicants able to demonstrate the capacity to raise sufficient future capital, rather than being required to have sufficient existing cash assets available to meet the required expenditure and commitments?**

Mineral exploration is a highly speculative undertaking subject to external variables influencing an authority holder's cash flow. In some cases, accessing finance may also be contingent on obtaining an authorisation in the first instance. The Division acknowledges exploration is conducted by individuals and companies of various size and scale and onerous upfront financial capability requirements may create barriers to entry.

### **b. What happens if the application is granted, but the authority holder no longer has access to sufficient cash assets and/or is unable to raise sufficient capital to meet its commitments?**

Excluding extenuating factors, an authority holder's fulfilment of the commitments in their respective work program can indicate their financial capability over the term of the authority. At the end of the term of an authorisation, where these commitments are not met without valid justification, an authority holder risks having their renewal application refused in accordance with the Division's Renewals Policy. As stated above, the Division acknowledges the dynamic nature of exploration finance. The Division will closely consider the merits of an exploration licence or assessment lease applicant against the financial capability minimum standards in determining their suitability to hold exploration tenure in NSW.

## **Have your say**

The Division is consulting with industry stakeholders and the community. All stakeholders will have the opportunity to make a submission. All submissions will be carefully considered in developing the final standards.

Submissions can be made up to **5pm on 5 December 2019** online via the Division's Consultation Mailbox at: [consultation.drg@planning.nsw.gov.au](mailto:consultation.drg@planning.nsw.gov.au).

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