

MT1: Administrative changes

Purpose

To outline the proposed administrative changes under the *Mineral Titles Act 2010* (the Act) and Mineral Titles Regulations 2011 (the Regulations). While not significant, these changes would improve certainty and the overall usability of the Act for both government and industry.

Fixing minor administrative issues

New definitions

Current arrangements	Proposed arrangements
<p><u>Bulk sample</u> There is no definition of bulk sample in the Act.</p>	<p>Bulk sample is to mean a large sample of ore under a mineral exploration licence (EL).</p>
<p><u>Occupier</u> There is no definition of occupier in the Act.</p>	<p>Occupier is to mean a person who is in occupation or control of the property. For example, a station manager of a pastoral lease.</p>
<p><u>Operational year</u> An operational year for a mineral title means the period of 12 months immediately after the title comes into force and each subsequent period of 12 months.</p>	<p>It is proposed to exclude mineral titles that have approved amalgamated reporting from the definition of operational year. This exclusion would only relate to reporting requirements.</p> <p>Mineral titles that have approved amalgamated reporting would instead be subject to the definition of a reporting period (see below).</p> <p>It is also proposed to include:</p> <ul style="list-style-type: none"> • Annual and Expenditure Reports for mineral leases (MLs) for MLs granted before December 1999 – the operational year is the 12 month period commencing 1 January and not the grant date • Annual and Expenditure Reports for ELs – that were previously part of the Tanami Exploration Agreement (TEA), the operational year is the 12 month period immediately following the exit date from the TEA and not the grant date.
<p><u>Reporting period</u> There is no definition of reporting period in the Act.</p>	<p>Reporting period is to mean the reporting period approved as part of the process for obtaining amalgamated reporting.</p>

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	The reporting period could be greater or less than 12 months, depending on what the Minister considers appropriate to the particular circumstance.
<p><u>Geocentric Datum of Australia (GDA)</u> The Act currently refers to GDA94 which is the national datum used for surveying, mapping and spatial referencing of geographical data.</p>	It is proposed to replace the definition with GDA, the national datum used for surveying, mapping and spatial referencing of geographical data that is in use in Australia from time to time.
<p><u>Extractive mineral</u> The Act currently defines extractive mineral as soil, sand, gravel, rock or peat, or another substance prescribed by regulation.</p>	<p>The proposed definition of extractive mineral would align with Section 253 of the <i>Native Title Act 1993 (Cth)</i> to also include extracting, producing or refining minerals from the sand, gravel, rocks or soil; or processing the sand, gravel, rocks or soil by non-mechanical means.</p> <p>It is also proposed to include a reference of the definition on an extractive mineral permit (EMP).</p>
<p><u>Landowner for native title land</u> The Act currently defines the landowner for native title land as the holder of the native title.</p>	The proposed definition of landowner would also require notification of any registered native title claimants when a person applies for the grant of an ancillary ML or access authority on native title land.
<p><u>Block</u> A block is so much of a graticular section¹ as is within the land of the Territory.</p>	It is proposed to include in the definition of a block that the geographical coordinates of the graticular sections are to be determined on the basis of the GDA.

Minor administrative changes

Current arrangements	Proposed arrangements
<p><u>Public notice of mineral title applications</u> The Act currently requires the Minister to publish a notice in a newspaper stating that an application for the grant of a mineral title has been made.</p>	<p>To enable other avenues in which a notice may be published (e.g. on a government website), it is proposed to allow the Minister to determine how mineral title applications can be published.</p> <p>It is also proposed that applicants pay advertising costs or a small administrative fee for advertising which is required under the Act.</p>
<p><u>Survey of proposed title area</u> The Act requires the applicant to survey the proposed title area of the mineral title and provide a copy of the survey plan before the mineral title can be issued or granted.</p>	To better reflect what currently occurs in practice, it is proposed to require the applicant to survey the proposed title area of the mineral title, once the application has progressed to a stage where the grant is likely to occur.

¹ For exploration purposes, the Northern Territory including Territory waters is divided into a virtual grid. Each square within the grid is called a graticule or graticular block.

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	It is also proposed the Minister is given the authority to request a survey and that a six month timeframe be imposed to complete the survey.
<p><u>Surveys not required to be carried out by a licensed surveyor</u></p> <p>For surveys that are not required to be carried out by a licensed surveyor, applicants are required to provide the Minister with sufficient information to ensure the accuracy of the survey being validated.</p>	<p>It is proposed to include photographic evidence of the datum post, plate and corner boundary markers, along with relevant position references.</p> <p>A photo would only be required of the datum post, plate and the other corner boundary markers. A photo of each boundary marker would not be required.</p>
<p><u>Discretions relating to title area</u></p> <p>Section 77 refers to 'separate title areas' rather than just 'separate areas' when discussing the grant of a single mineral title.</p>	To avoid misinterpretation, the word 'title' should be removed in the phrase 'separate title areas' to clarify the intent of the section.
<p><u>Division of title area into separate parts</u></p> <p>The Act currently provides the Minister with the power to divide a title into two or more parts and after dividing the title area into parts, the Minister may subsequently vary the description of the title area as required.</p>	To further clarify the intent of this provision, it is proposed to include details that the Minister may vary block numbers, coordinates, size and title numbers of the title area.
<p><u>Construction of road for access to title area</u></p> <p>The Act currently specifies that the holder of a mineral title has a right of access to the title area by the shortest practicable route from a road, railway, airstrip, sea or waterway.</p>	To ensure landholders are part of these consultations, it is proposed to amend the phrase 'shortest practicable route' to 'the shortest and most practicable route in consultation with the landholder'.
<p><u>Transfer of mineral rights interest</u></p> <p>The Act provides that on application by either party to the transfer of a mineral rights interest, the Minister must give the parties a notice of the approval of the transfer, which may include a statement that the transfer will be registered on a date or occurrence, or subject to a condition, specified in the notice.</p>	<p>To remove the current misconception that either of the transfer parties may impose conditions on the transfer, it is proposed to:</p> <ul style="list-style-type: none"> • explicitly state that only the Minister may set a condition on the registration of transfer of the mineral rights interest • extend the fit and proper person test (consequential amendments under the <i>Environment Protection Act 2019</i> commencing on 1 July 2024) to the transfer of mineral rights interest.
<p><u>Cessation of caveat</u></p> <p>The Act currently refers to a caveat that ceases to be in force as a 'cancelled caveat'.</p>	Since the term 'cancelled' is used elsewhere in the Act to refer to a situation where the Minister takes an action to cancel something, it is proposed to amend the term 'cancelled caveat' to a 'caveat which ceases to be in force'.
<p><u>Conducting activities without a mineral title</u></p> <p>Section 148 states it is an offence to conduct exploration, mining or other extraction of minerals without a mineral title.</p>	For greater clarity, it would be beneficial if Section 148 made reference to the exemptions provided at Sections 12(3) and 50(3) as mentioned above.

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<p>However, there are exemptions for:</p> <ul style="list-style-type: none"> • Section 12(3) – the extraction of extractive minerals where it is incidental to construction work or if the extractive minerals are for use elsewhere on the land by the landowner (e.g. to build a dam) • Section 50(3) – the requirement to hold an extractive mineral permit (EMP) if the extraction of extractive materials is incidental to a construction project and not for the sale of the extractive minerals. 	
<p><u>Written consent to access Aboriginal land</u> Section 168 requires a person to obtain the written consent of a landowner before the person may take an action such as entering the landowner's land.</p> <p>It also provides that the landowner is taken to have given consent if the person has served the landowner a notice requesting the consent and the landowner has not responded in writing within two months after the day the notice was served.</p>	<p>Since separate legislative processes must be followed in order to obtain consent under the <i>Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)</i>, this section is inappropriate for Aboriginal land.</p> <p>It is proposed to include a note in Section 168 to specify that the section does not apply to Aboriginal land for the purposes of preliminary exploration or fossicking.</p>
<p><u>Release or publication of information</u> The Act currently does not allow for information to be released to other government agencies where appropriate. This has led to some confusion in releasing Production Report details to the Department of Treasury and Finance in assessing outstanding royalties and other matters.</p>	<p>To improve regulatory efficiency, it is proposed to provide the Minister discretion to release information, collected or acquired under the Act to another Minister if the release:</p> <ul style="list-style-type: none"> • is for the purposes of the calculation, collection or recovery of a fee or charge payable to the Territory under this Act, royalty payable on minerals, or a levy payable to the Territory under this Act • relates to the exercise of a power or the performance of a function by another Minister under this Act.
<p><u>Functions of authorised officers</u> The Act outlines the functions and powers of an authorised officer and sets out the matters that can be investigated. In the past, pastoralists and the broader public have filed complaints about fossicking activities, however complaints relating to fossicking are not covered under the Act.</p>	<p>To mitigate community concerns, it is proposed to include receiving and investigating complaints concerning fossicking activities as a matter that can be investigated.</p>

Administrative changes to geological investigations and samples

Current arrangements	Proposed arrangements
<p><u>Scientific geological investigations</u></p> <p>The Act currently does not recognise the geological activities undertaken by the NT Geological Survey (NTGS). These non-ground disturbing activities require access to the land, irrespective of whether a mineral title exists.</p>	<p>It is proposed to formalise this process by:</p> <ul style="list-style-type: none"> • allowing authorised persons to access land in order to carry out geological investigations • include a maximum penalty of 40 penalty units for persons interfering with the exercise of these powers. <p>The intention of this proposed change is to allow NTGS staff and contractors to enter and remain on land by notice rather than formal agreements. NTGS would need to demonstrate that access is essential and required for carrying out official duties. It is proposed that notification requirements could follow the process that already exists for preliminary exploration.</p> <p>The Aboriginal Engagement and Land Access Unit within NTGS would continue to notify and negotiate the terms of access with landowners, including route, dates and times.</p>
<p><u>Examination and analysis of geological samples</u></p> <p>The Regulations provide that geological samples recovered from an EL or mineral exploration licence in retention (ELR) can be released for examination by any person.</p> <p>However, it is unclear whether the analysis of the geological sample included in the Annual Report can be released for examination.</p>	<p>It is proposed to make the following changes in relation to the examination of geological samples:</p> <ul style="list-style-type: none"> • in cases where Regulation 125 authorises the Minister to release or publish information contained in the relevant Annual Report, it is proposed that a portion of the geological sample recovered from an EL or ELR can be released for examination • remove Regulation 128(5) and (6) so that a person cannot apply to the Minister to remove part of a geological sample for analysis • include geological samples recovered from exploration activities on a ML.