

Rights and obligations of a pastoral lease holder and an exploration licence applicant or title holder

Purpose

This information bulletin briefly outlines the rights and obligations of both the pastoral lease holder (pastoralist) and the exploration licence applicant or holder of an exploration licence, including the penalties and recourse available should either party fail to observe the rights and obligations of other land users.

Introduction

The Northern Territory Government is committed to, and promotes, a **Shared Land Use** policy which assists in developing and fostering economic growth in the Northern Territory, through supporting exploration and mining of minerals on all land tenures, including pastoral land.

As the minerals are the property of the Territory (Crown) the *Mineral Titles Act 2010 (MTA)* and *Mineral Titles Regulations 2011 (MTR)* and *Environment Protection Act 2019 (EP Act)* provide the legislative basis to carry out appropriate resource exploration and exploitation for minerals.

All mineral title applications are granted under the *MTA*, which operates in conjunction with the *EP Act*. The *EP Act* deals with the management of activity for the exploration, extraction and processing of minerals whilst ensuring the protection of the environment.

These Acts are administered by the Mines Division of the Department of Industry, Tourism and Trade (DITT) and the Environment Division of the Department of Environment, Parks and Water Security (DEPWS).

The Northern Territory *Pastoral Land Act 1992* is also administered by DEPWS. A pastoral lease is granted over Crown land for pastoral purposes. This primarily refers to the grazing of stock for sustainable commercial use. Ancillary uses are also allowed.

To minimise confusion or frustration it is essential that all parties understand their rights and obligations and their mutual responsibility in complying with legislative requirements under this shared land use policy.

Part one - Rights and obligations of the pastoral lease holder

After an application for an exploration licence has been lodged with the department, the pastoralist and station manager have the right to:

- Receive a notice from the applicant that the application has been made. Under the provisions of s66 of the MTA this must occur no later than 14 days after lodging the application with the department, unless an extension to notify has been approved.

This notification is facilitated by a template form and provides the pastoralist and station manager with the opportunity to acknowledge receipt of the notice, and commence meaningful and mutual communication with prospective explorers. This acknowledgement should be returned directly to the applicant within 14 days of receiving the notice. Receipt of notice is deemed to have occurred after this period of time.

It is important to note that this initial notification **does not** provide any opportunity to object or make a submission in relation to the proposed grant of the exploration licence. The objection or submission period applies after the application has been advertised in a newspaper that circulates throughout the Northern Territory.

For the purposes of this information bulletin that newspaper is the NT News.

Advertising takes place on a Wednesday and in addition to this, a copy of the advertisements can also be obtained from the department's website.

After advertising appears in the NT News, the landowner may lodge an objection to the grant of the exploration licence and any other person may lodge a submission. Any objection or submission must be lodged in writing with the department within 30 days from the relevant notification date appearing on the bottom of the advertisement.

The address for lodgement of an objection or submission is provided on the last page of this information bulletin and it is also stated on the advertisement and on the [department's website](#)¹.

All objections and submissions received within the 30 day timeframe will be sent to the applicant who may provide a response to the department and the pastoralist (or other person), should they wish to do so. Once all objections, submissions and responses have been duly considered a decision will be made to either:

- Grant the exploration licence for all or part of the area applied for; or
- Refuse to grant the application.

The outcome of that decision will be published on the [department's website](#)².

¹ <https://dpir.nt.gov.au/mining-and-energy/mines-and-energy-publications-information-and-statistics/mineral-titles-advertising>

² <https://dpir.nt.gov.au/mining-and-energy/mines-and-energy-publications-information-and-statistics/mining-notice>

After grant of an exploration licence

Although there is no legislative requirement for a title holder to obtain consent to enter land for the purpose of conducting authorised activities under the MTA or EP Act, they **must** give 14 days' written notice to the pastoralist / station manager before they intend to commence any activities **on** the land.

This notice must include:

- The name and contact details of the proposed operator
- Name and contact details of the person who will be in charge of conducting the authorised activities
- The nature of the exploration to be conducted on the land
- The intended start date, and an estimate of the duration of the exploration
- A map of the land on which the exploration is to be conducted, clearly indicating its location and boundaries
- Details of the proposed place of entry onto the land.

The title holder may also request that the pastoralist or station manager provide information in relation to:

- Access arrangements
- Suitable campsite/s
- Pastoralists planned work programme
- Permission for the use of water
- Details of any problem weeds, noxious plants and hazardous locations
- Requirement for minimising disturbance to stock.

If proposed work involves **substantial disturbance** as defined under the EP Act, the title holder must submit an application for an environmental (mining) licence to the department for assessment and approval prior to commencing any such activity.

The title holder will also be required to pay a security in an amount commensurate with closure liabilities from the proposed exploration activity, prior to any environmental (mining) licence being issued. As soon as practicable after entering the land, the title holder must then make all reasonable attempts to contact the pastoralist or station manager prior to commencing the authorised activities specified in the notice above.

There is an expectation that all explorers, or anyone engaged by the explorer, will conduct themselves in a professional and legal manner while undertaking activities on the pastoral property.

The department strongly encourages continued communication between the exploration licence holder and the pastoralist or station manager to ensure a cordial relationship is established and maintained between the parties.

However, the pastoralist or station manager must not interfere with authorised activities being conducted under an exploration licence or the exercise of rights by the holder under the exploration licence. If a person intentionally interferes with the authorised activities or the exercise of rights, penalties apply.

Compensation

The holder of a pastoral lease is entitled to compensation from the holder of a mineral title for damages caused by activities conducted under the title and any loss suffered as a result of that damage. If the damage is caused by exploration activities, a person is entitled to compensation only in relation to damage in excess of what is reasonably necessary to conduct activities.

Claiming compensation

A person who may be entitled to compensation under the Act from the holder of a mineral title, that person may give a notice of claim stating the following:

- The details of the damage caused and any loss suffered;
- The date (or approximate date) on which the damage and any loss occurred;
- The amount of compensation claimed for the damage and any loss; and
- Any other information relevant to the claim.

Generally the notice of claim must be lodged within 3 years after the occurrence of the alleged damage for which compensation is claimed.

Application to Tribunal if no agreement about compensation

Under section 111 of the Act, a claimant may apply to the Northern Territory Civil and Administrative Tribunal for a decision if they reasonably believe no agreement can be reached. Such an application must be made within 12 months after the claimant gives notice of the claim.

Part two - rights and obligations of the exploration licence applicant or holder

After making an application for an exploration licence on pastoral land the applicant must:

- Within 14 days of making the application, notify the pastoralist **and** station manager, using the template provided, in accordance with s 66 of the Act.
- Notices to the station manager should be emailed to the department for re-direction to the station manager of the pastoral lease.
- Within a further 14 days, provide evidence of proof of service of these notices to the department.

These notices, and any acknowledgements received from the pastoralist or station manager **must** be provided to the department as evidence of two way communications and will be included for consideration when a mining management plan is lodged for review and approval, should the exploration licence be granted.

After grant of an exploration licence the holder of an exploration licence has the right to:

- Occupy the area specified on the licence for the purpose of exploring for minerals in the title area (s 26);
- Access the licence area by the shortest practicable route from a council or Territory road, a railway line, an airstrip, the sea or a waterway (s 83);
- Enter the land to construct or maintain a road and do other work required to enable access (s 84) and use the assistance of any persons, vehicles and equipment as necessary to carry out this work (s 83);
- Take or divert water, sink a well or a bore, and take water from the well or bore in the licence area (s 81), but they must not use water artificially conserved by the pastoralist without consent (s 90).
- Use water located on an exploration licence held by another person, for the purpose of conducting authorised activities (s 82 MTA).
- Undertake other activities for the purpose of ascertaining the quality or quantity of ore by the extraction and removal of ore and other substances in amounts reasonably necessary for the evaluation of the potential for mining in the area (s 31MTA).

These rights do not in any way diminish the title holder's responsibility to consult with the pastoralist or station manager **before** undertaking any work that may impact on pastoral activities. The title holder must also ensure that where relevant, the work is approved under the EP Act.

Obligations of the Exploration Licence Holder

Specific obligations relating to conducting authorised activities on pastoral land

The holder of an exploration licence must not:

- Conduct authorised activities on pastoral land within 200 m of a building that is not enclosed by a fence, or within 50 m of a fence (r 73 MTR).

General obligations

The holder of an exploration licence is required to:

- Provide the pastoralist and station manager with a written notice at least 14 days before the holder intends to enter pastoral land to start conducting any authorised activities on the land (s 32 MTA) and (r 71 MTR). This should be undertaken on an annual basis, prior to the commencement of each field season, or when proposed activities change.
- Actively conduct authorised activities in the title area (s 86 MTA). Authorised activities in connection with the exploration of minerals include sampling, digging trenches, drilling and sinking bores. The holder is also permitted to undertake other activities for the purpose of ascertaining the quality or quantity of ore by the extraction and removal of ore and other substances in amounts reasonably necessary for the evaluation of the potential for mining in the area (s 31 MTA).
- Before carrying out any exploration activities or works that include substantial disturbance on the licence area, the holder must hold a valid environmental (mining) licence issued under the EP Act.
- Carry out work in accordance with the technical work program and expenditure requirements specified in the exploration licence.
- Notify the Minister within 28 days (s 32 MTA) if a mineral is discovered that may be of economic or scientific interest or underground water is found.

The holder of a mineral title must not:

- Cut timber in the licence area except for the authorised activities conducted under the title (s 91 MTA);
- Interfere with any animal in the licence area that is owned by, or under control of, the pastoralist in or adjoining the licence area. This includes impounding or otherwise disturbing the animal and

Rights and obligations of a pastoral lease holder and an exploration licence applicant or title holder preventing the pasturing of an animal in any part of the area that is not fenced off for authorised activities (s 92 MTA); and

- Without written consent from the pastoralist or relevant Minister, damage or otherwise disturb improvements on land in the area, or a council or Territory road (s 88 MTA).

Application to the Tribunal – Disputes

A dispute may relate, but not limited to, such things as boundaries of a proposed title area or title area; the use of water; and entry onto land to construct, maintain and use infrastructure (r 123 MTR).

If such a dispute arises during the life of an exploration licence, a person (includes a pastoralist or a title holder) may apply to the Northern Territory Civil and Administrative Tribunal for a decision about the dispute. Before referral to the Tribunal it is recommended that both parties avail themselves of available mediation services.

Offences

The holder of a mineral title commits an offence if the holder engages in conduct that results in a contravention of a condition of the mineral title. If a person intentionally engages in such conduct, penalties may apply (s 147 MTA).

A person commits an offence by conducting exploration for, or mining or other extraction of, minerals or extractive minerals on an area of land without a mineral title giving the person the right to do so. If a person intentionally conducts such activities, penalties including imprisonment, may apply (s 148 MTA).

Contact Information

Department of Industry, Tourism and Trade - Mineral Titles
5th Floor Centrepont Building, 48-50 Smith Street, DARWIN NT 0800
GPO Box 4550, DARWIN NT 0801
Phone: 08 8999 5322
Email: titles.info@nt.gov.au
Website: [NT Government Website](http://www.nt.gov.au/mining-energy)³

³ <http://www.nt.gov.au/mining-energy>