November 2024

Application to appoint an arbitrator

# *Form AD1, 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 attachments can be submitted through the portal.**

When to use this form

**Complete this form if you are a landholder or a holder of a prospecting authority (authority holder) applying to appoint an arbitrator.**

This form has been prepared for the purposes of sections 141(4), 144, 145A(7)(b), and 157(4) of the Mining Act*.*

This form can be used by companies or individuals. For more information visit [the Arbitration process for access to lands for exploration](https://www.regional.nsw.gov.au/meg/community/land-access-and-arbitration/the-arbitration-process-for-access-to-land) web page.

If there is insufficient room in the fields, please provide the information as an attachment.

Privacy statement

View the department’s [privacy statement](http://www.resources.nsw.gov.au/privacy) on how information in this application will be used.

How to submit this form

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

* **By email:** titles@regional.nsw.gov.au
* **By mail:** NSW Resources, Assessments and Systems, PO Box 344, Hunter Region Mail Centre NSW 2310
* **In person:** at the department’s office, 516 High Street, Maitland, NSW, business days, between 9.30 am and 4.30 pm.
* **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 1992*](https://legislation.nsw.gov.au/view/html/inforce/current/act-1992-029)(Mining Act)*.*

Lodgement information

For help with lodging this application or for more information about authorisations in NSW, contact:

NSW Resources.

**Assessments and Systems**

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

titles@regional.nsw.gov.au

Note

* any reference to the **‘department’** in this form, refers to **NSW Resources**

Important notes

Costs

For applications under **section 144** and **section 145A(7)(b)** of the Mining Act, the authority holder is, in accordance with section 152, responsible for all costs associated with the arbitration hearing. The department will initially pay the costs and issue an invoice to the authority holder for reimbursement of these costs.

For applications under **section 157** of the Mining Act, each party must generally meet their own costs, with the cost of the arbitrator being paid by the authority holder.

For applications under **section 141(4)** of the Mining Act, the authority holder is, in accordance with section 148C, responsible for all costs of the landholder associated with any arbitration hearing.

Who can complete this form?

This form can be completed by either an affected landholder or the relevant holder of a prospecting authority.

Where the authority holder is completing the application, itshould be completed by the entity that holds the prospecting authority, not a parent or otherwise related company. In addition, the section 142 and section 143 notices must have been served by the holder of the prospecting authority, not a parent or otherwise related company.

Serving of notices and providing evidence to the department

Prior to completion of this form, it is necessary that relevant notices have been served as detailed below. Section 383 of the Mining Act details the methods by which notices may be served.

For requests to appoint an arbitrator under **section 144 and section 145A(7)(b)** of the Mining Act, youneed to ensure the following:

* A minimum 28 day notice period between the section 142 and section 143 notices (plus 7 working days postage allowance[[1]](#footnote-2)), and
* A minimum 28 day notice period between the section 143 notice and the request to appoint an arbitrator under section 144 (plus 7 working days postage allowance1).

You also need to provide:

* Your section 142 notice and evidence of service on each landholder of the land concerned (such as the express post receipt where applicable),
* Your section 143 notice and evidence of service on each landholder of the land concerned (such as the express post receipt where applicable),
* Copies of certificates of title for the land the subject of the request to appoint an arbitrator, and
* An ASIC search for land owned by a company (where applicable).

For requests to appoint an arbitrator under **section 145A(7)(b)** of the Mining Act after the termination of a mediation, you should also submit evidence that the mediation process has been terminated. This is in addition to the items listed above.

For requests to appoint an arbitrator under **s141(4)** of the Mining Act*,* please provide a copy of the existing access arrangement, details of the contravention of the access arrangement and what action has been taken to date.

For requests to appoint an arbitrator under **s157(4)** of the Mining Act*,* please provide a copy of the existing access arrangement that you wish to vary, the notice issued in accordance with s157(2) and the evidence of service of the notice. You also must ensure there was a 28 day notice period between the s157(2) notice and making this application.

Agents

If this application, or one of the notice/s required in support of this application, is lodged and/or served by an agent on behalf of the applicant, the department may seek confirmation of the authority under which the agent operates and any limits of that authority. 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 (clause 97 of the [Mining Regulation 2016](https://legislation.nsw.gov.au/view/html/inforce/current/sl-2016-0498) (Regulation)).

Please note, the authorisation to act as an agent must be in place at the time the notice/s are issued or the application is made, if the notices were served or the application was lodged by the agent.

Next steps

Once the department is satisfied all requirements have been met, arrangements will be made for an arbitrator to be appointed from the Arbitration Panel.

The department will notify you that an arbitrator has been appointed, and the arbitrator will contact you to arrange the next steps in the process. For more information, visit the [Land access arbitration procedure](https://www.regional.nsw.gov.au/meg/community/land-access-and-arbitration/the-arbitration-process-for-access-to-land) web page on the department’s website.

1. Authority details

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

1. My application for appointment of an arbitrator is in accordance with:

Choose one:

[ ]  Section 141(4) of the Mining Act include:

* a copy of the existing access arrangement,
* details of the contravention of the access arrangement, and
* a chronology of events/what actions have been taken to date, including in relation to the denial of access.

[ ]  Section 144 of the Mining Act include:

* section 142 notice and evidence of service (such as express post receipt) that satisfy the 28 day notice period,
* section 143 notice and evidence of service (such as express post receipt) that satisfy the 28 day notice period,
* certificates of title for the land the subject of this application, and
* an ASIC search for land owned by a company (where applicable).

[ ]  Section 157(4) of the Mining Act include:

* a copy of the existing access arrangement that you seek to vary, and
* section 157(2) notice and evidence of service (such as express post receipt) that satisfy the 28 day notice period.

[ ]  Section 145A(7)(b) of the Mining Act include:

* section 142 notice and evidence of service (such as express post receipt) that satisfy the 28 day notice period,
* section 143 notice and evidence of service (such as express post receipt) that satisfy the 28 day notice period,
* certificates of title for the land the subject of this application,
* an ASIC search for land owned by a company (where applicable) and
* evidence that the mediation has been terminated.
1. Applicant/s details

Indicate whether you are applying as a landholder or an authority holder:

 [ ]  landholder

 [ ]  authority holder

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

|  |
| --- |
| 1st Applicant 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 Applicant 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 Applicant 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 applicants

Provide the full name, contact details, ACN or ARBN (for foreign companies), street address (individual), registered street address (company) and postal address details of additional applicants.

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

1. Contact for this application and service

Any correspondence in relation to this application 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 application **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. For authority holders only
	1. Contact details of landholders not in agreement

Provide details of any landholders with whom you have not been able to reach agreement with regarding the appointment of an arbitrator.

|  |
| --- |
| 1st Landholder details |
| Landholder name |       |
| Contact name |       |
| Postal address |       |
| Phone (incl area code) |       |
| Mobile |       |
| Email |       |

|  |
| --- |
| 2nd Landholder details |
| Landholder name |       |
| Contact name |       |
| Postal address |       |
| Phone (incl area code) |       |
| Mobile |       |
| Email |       |

|  |
| --- |
| 3rd Landholder details |
| Landholder name |       |
| Contact name |       |
| Postal address |       |
| Phone (incl area code) |       |
| Mobile |       |
| Email |       |

Additional landholders

Provide the full name postal address and contact details of additional landholders.

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

* 1. Copies of notices

Note: this information is not required for requests to appoint an arbitrator in accordance with section 141(4).

Provide copies of notices sent to the landholders regarding access arrangements and the appointment of an arbitrator. These notices must clearly demonstrate that all the requirements of section 142, section 143, section 157 and section 383 of the Mining Act have been met.

Theses notices must be served by the **holder (or agent) of the prospecting authority**, not a parent or otherwise related company.

[ ]  I have attached copies of all section 142 notices requesting access arrangements and evidence of service.

[ ]  I have attached copies of all section 143 notices requesting the appointment of an arbitrator and evidence of service.

[ ]  I have attached copies of all section 157(2) notices requesting a variation to the existing access arrangement and evidence of service *(for section 157(4) applications only).*

* 1. Description of land

For requests to appoint an arbitrator in accordance with section 144 of the Mining Act, also include:

* certificates of title for the land the subject of this application, and
* an ASIC search for land owned by a company.

|  |
| --- |
| Lot and deposited plan numbers |
| Lot number |       |
| Deposited plan |       |
|  |
| Lot number |       |
| Deposited plan |       |
|  |
| Lot number |       |
| Deposited plan |       |

Other land

If there is inadequate space above, provide lot and deposited plan details for any additional land.

|  |
| --- |
| Other details |
|       |

* 1. Landholder/s land in relation to authority

Attach a plan/s showing the relationship of the landholder/s land to the boundary of the authority. The plan should clearly identify the boundary of the authority and the location of the landholder’s property. It should identify the lots which are the subject of this application.

[ ]  Yes – I have attached a plan

1. Checklist of items to be included with this application

|  |  |  |
| --- | --- | --- |
| Item |  | Reference |
| For applications under s144 and s145A(7)(b), copies of notices requesting access arrangements and the appointment of an arbitrator. | [ ]  | Questions 2 & 5.2 |
| For applications under s157(4), copies of the notices requesting a variation to an access arrangement. | [ ]  | Questions 2 & 5.2 |
| Evidence that you have correctly served any notices, including the 28 day notice period *(this information is not required for requests to appoint an arbitrator in accordance with s141(4))*. | [ ]  | Questions 2 & 5.3 |
| Certificates of title for the land the subject of this application and an ASIC search showing the registered address for any land owned by a company *(for appointments under s144 and s145A(7)(b) only)* | [ ]  | Questions 2 & 5.1 |
| A copy of the existing access arrangement *(for appointments under s141(4) and s157(4))*. | [ ]  | Question 2 |
| Evidence that the mediation process has been terminated *(for applications under s145A(7)(b) only)*, | [ ]  | Question 2 |
| Details of the contravention of the access arrangement and what action has been taken to date *(for appointments under s141(4) only)*. | [ ]  | Question 2 |
| A plan showing the relationship of the landholder's land to the boundary of the authority. | [ ]  | Question 5.4 |
| For agents only – evidence of appointment as agent, if this has not been previously supplied to the Department | [ ]  | Question 7.2 |

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 1992* 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 | 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 if this has not been previously supplied to the department.

|  |
| --- |
| 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.

 [ ]  I have previously supplied evidence of appointment to the department.

Office/Administrative use only

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

View the department’s privacy statement on how information in this application will be used: [www.resources.nsw.gov.au/privacy](http://www.resources.nsw.gov.au/privacy)

# Document control

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

CM10 Reference: RDOC24/170244

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| --- |
| Amendment schedule |
| **Date** | **Version #** | **Amendment** |
| November 2024 | 4.0 | Form updated to reflect NSW Resources and administrative amendments |
| July 2020 | 1.0 | New format for Regional NSW. Form updated to reflect new department 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 date. Reviewed links |
| March 2023 | 3.0 | Form updated to reflect commencement of Mining Regulation 2016 on 1 March 2023 with Administrative amendments |

**© State of New South Wales through Department of Primary Industries and Regional Development 2024**. The information contained in this publication is based on knowledge and understanding at the time of writing (November 2024). However, because of advances in knowledge, users are reminded of the need to ensure that the information upon which they rely is up to date and to check the currency of the information with the appropriate officer of the Department of Primary Industries and Regional Development 2024 or the user’s independent adviser.

1. Where notices are sent via post, a notice is deemed to be served seven working days after it was posted, unless there is clear evidence showing that service was affected at a different date. [↑](#footnote-ref-2)