

Frequently asked questions

1. General

a. What are the Minimum standards for work programs and technical and financial capability and why are they needed?

NSW mining legislation allows Mining, Exploration and Geoscience (MEG) to publish minimum standards, which a relevant decision-maker may consider when assessing applications for mineral prospecting authorities (exploration licences and assessment leases). MEG previously published minimum standards under NSW petroleum legislation and has now developed minimum standards under the state's mining legislation. The Minimum standards for work programs and technical and financial capability (the Standards) will assist the relevant decision-maker (i.e. the Minister or department delegate) in assessing mineral prospecting authority applications. They will also provide clarity and certainty for industry and other stakeholders. Developing and publishing the Standards is a key commitment in the NSW Minerals Strategy 2019. The Strategy is the NSW Government's public statement of intent to deliver a high-performing minerals industry with reasonable, consistent and rigorously enforced regulation.

b. To which applications will the Standards apply?

The Standards apply to applications for the grant, renewal and transfer of mineral and coal prospecting authorities (exploration licences and assessment leases), and to amend a work program during the term of the authority that is lodged after the commencement of the Standards. They will not apply to pending applications lodged before the commencement date of 1 January 2021.

The Standards do not apply to decisions on mining lease applications. 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](#). MEG will consider the case for expanding the scope of the Standards to mining leases after their commencement.

MEG does not intend, nor does NSW mining legislation allow for the Standards to be used as a compliance and enforcement instrument across the term of an authorisation. The Department of Regional New South Wales (the department) has more appropriate legislative and regulatory instruments to deal with compliance and enforcement.

While legally MEG may refer to the Standards when deciding to suspend or cancel all authorisations issued under NSW mining legislation, MEG will limit its consideration of the Standards to the grant, renewal and transfer of mineral and coal prospecting authorities, and applications to amend work programs throughout a term.

c. When do the Standards take effect?

The Standards take effect from 1 January 2021. While NSW mining legislation allows a relevant decision-maker to consider minimum standards once published, MEG will not consider applications against the Standards until this date.

d. What are the potential consequences of an applicant failing to meet the Standards?

The decision-maker may consider the Standards at their discretion. Failure to meet any or all components of the 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 amendment does not meet any or all components of the Standards, MEG will advise the applicant to revise and resubmit the respective application.

e. What are the potential consequences of providing false or misleading evidence to demonstrate compliance with the 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.

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

The minimum standards for petroleum exploration licenses and assessment leases remain in place. MEG will review these standards for consistency with the Standards under the Mining Act following commencement.

2. Work program minimum standards

a. How will the Standards for work programs change the current work program requirements and why? What are the benefits of this change in approach?

Establishing work program Standards involves changes to the way in which MEG manages work programs. These changes influence an applicant's work program preparation requirements and the way in which MEG assesses performance against the work program. After the commencement date, 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 objectives and activities will be expressed within the context of five iterative and largely sequential exploration 'stages' that categorise key exploration phases. MEG has revised its work program form and *Work program guideline* to reflect this change.

Significant changes to the rationale or objectives of a work program will still require variations across the term of an authority. After 1 January 2021, work program variations will be referred to as 'amendments' and amendment requests will be subject to the Standards.

Applicants will still be required to detail their 'proposed activities'. These are typical activities likely to occur across the term of the authority within the nominated exploration stage/s. In accordance with the Mining Act, applicants are still required to detail their proposed community consultation and environmental management activities.

Authority holders must still report annually on their exploration activities in accordance with section 163C of the Mining Act.

The basis for work program minimum standards at renewal is an assessment of the proposed work program against the exploration outcomes achieved during the preceding term.

This change in approach to work programs will create greater consistency and rigour around the assessment of proposed work programs and explorers' performance against their

overarching objectives. The new approach relieves administrative burden. In addition, by holding prospecting authorities to largely standardised outcomes at each stage of exploration, the new approach supports the NSW Government's expectation that explorers make a genuine commitment to the sustainable discovery and development of the State's mineral resources.

b. What existing requirements will continue to apply after commencement of the Standards?

In accordance with NSW mining legislation, MEG 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 a title? How long is each stage expected to take?

The Standards include high-level guidance on the expected minimum level of progress on a prospecting authority over its initial term. However, beyond the initial term there is no set progress requirement through the exploration stages 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. 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 where the applicant has not met the preceding term's work program objectives falls within the scope of MEG's [Policy on renewal of exploration licences for minerals](#) and [Policy on the renewal of exploration licences for coal](#). The renewal of an assessment lease is a less formalised process, where the authority holder must provide serious justification to MEG for the renewal of the authority.

In accordance with the renewals policies for minerals and coal respectively, MEG will consider extenuating circumstances when deciding whether or not to renew an exploration licence. MEG has committed in the NSW Minerals Strategy to also review these policies (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 to amend their work program. As stated above, work program amendments are subject to the work program minimum standards.

e. How do the Standards account for ‘project status’ in the work program?

Applicants may elect to nominate some mineral or coal prospecting authorities as being part of a broader ‘project’ by completing the relevant section of MEG’s work program form. Projects comprise a group of authorities (including mining leases) granted for the same group of minerals, located in the same geological province, targeting the same mineralisation style, operated by a common entity or joint venture and all partially or wholly located within a maximum radius of 50 kilometres. The 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 the 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.

f. Does an applicant need to secure project status each time they apply to renew an authority?

No. Unless the proprietary arrangements for any of the authorities originally nominated as part of the project change, a renewal applicant is not required to re-submit justification for project status. However, at renewal, the authority holder must still list the name of the project and the authorities comprising the project in the work program form supporting the application.

3. Technical capability standards

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

Five years’ exploration experience is usually a requirement to obtain membership from a recognised professional member organisation such as the Australasian Institute of Mining and Metallurgy (AusIMM) or the Australian Institute of Geoscientists. MEG regards such member status as an indicator of technical capability that meets the Standards. Those holding professional membership 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 title?

An assessment of a technical manager against the Standards is ‘point in time’ (i.e. at grant, transfer or renewal). MEG acknowledges technical managers can change across the term of an authority and will consider mandating that the authority holder notify MEG of such a change. This could be achieved by including such a condition on new authorities.

4. Financial capability standards

a. Why are applicants able to demonstrate the capacity to raise sufficient future capital, rather than being required to have sufficient existing capital 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. MEG 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 title 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 MEG's Renewals Policy. As stated above, MEG acknowledges the dynamic nature of exploration finance. MEG 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.