



Department of **Energy, Mines,
Industry Regulation and Safety**

Procedure

Applying for a second renewal of a mining lease made in accordance with *the Mining Act 1978*

December 2024

Contents

Purpose	3
Scope	3
Background.....	3
1. Application for renewal	4
2. Supporting information.....	4
3. Decision and notification of outcome	5

Document hierarchy for second renewal of a mining lease

Legislation	<i>Mining Act 1978</i> Mining Regulations 1981
Guidelines	This document

Disclaimer

This document has been published by the Department of Energy, Mines, Industry Regulation and Safety (DEMIRS). Any representation, statement, opinion or advice expressed or implied in this publication is made in good faith and on the basis that DEMIRS and its employees are not liable for any damage or loss whatsoever which may occur as a result of action taken or not taken, as the case may be in respect of any representation, statement, opinion or advice referred to herein. Professional advice should be obtained before applying the information contained in this document to particular circumstances.

Purpose

This document provides guidance to mining lease holders about how to apply for a second renewal of term on an existing mining lease which has been granted under the *Mining Act 1978* (the Mining Act) and the Mining Regulations 1981 (the Regulations).

Scope

This document applies to mining leases granted in accordance with section 71 of the Mining Act and approaching a second renewal under s78(2) of the Mining Act. It does not relate to mining leases affected by a State Agreement Act.

You should read this document in conjunction with the relevant legislation to gain a full understanding of the administrative activities that can be conducted on mining leases.

It is important to note failure to lodge a valid application for renewal within the prescribed time will result in the mining lease expiring. In accordance with section 114B of the Mining Act, the expiry of a mining tenement does not affect the liability on the holder: to pay any outstanding monies; to comply with any obligation; for any act done or default made on or before the expiry date in relation to the mining tenement.

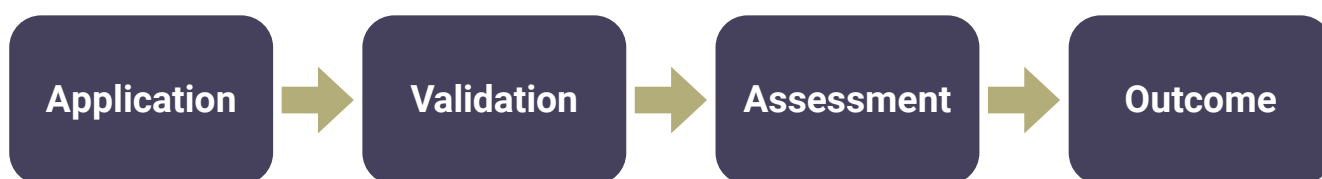
Background

Mining leases are granted under section 71 of the Mining Act for an initial term of 21 years. These leases come with a built-in right to a first renewal, but any subsequent renewals are at the discretion of the Minister.

Mining leases currently approaching their second renewal of term have received 42 years of tenure:

- an initial 21-year term pursuant to s78(1)(a); and
- a first right of renewal of term for a further 21 years pursuant to s78(1)(b).

Section 78(2) provides that a mining lease may be further renewed for successive periods not exceeding terms of 21 years.



1. Application for renewal

An application for the second renewal of a mining lease under s78(2) of the Mining Act must be made through Form 9 – Application for extension of term/renewal of a mining tenement and submitted via Mineral Titles Online (MTO). The applicant may be the leaseholder or their agent.

An application for a second renewal must be lodged prior to the expiry of the mining lease. The annual tenement rental notice contains important information about tenement expiry dates, as does the holder's MTO account.

The timing for the lodgement of a second renewal application in no way limits tenement holders from engaging with relevant parties early with a view to obtaining the relevant consents or agreements. DEMIRS encourages early and active engagement to avoid delays in determining second renewal applications.

Importantly, the Mining Act provides for the continuation of a mining lease until a renewal application can be determined (s78(3)).

2. Supporting information

Second renewals of mining leases are not exempt from the future act provisions of the *Native Title Act 1993* (NTA) and the Right to Negotiate (RTN) process provided for within that legislative framework.

The NTA requires the future act process to be followed wherever native title exists, is claimed to exist, or may exist, to ensure the validity of the proposed action. A mining lease cannot be renewed under s78(2) of the Mining Act until all future act requirements are met.

Mining lease holders are encouraged to proactively engage with native title parties to secure the necessary consent well ahead of the renewal deadlines. This may be done prior to the referral to the RTN.

Evidence demonstrating the future act requirements of the NTA have been met is required before a second renewal can be determined. If consent has been sought but not yet granted, your supporting information should include details such as the required consent authority and any evidence of ongoing discussions.

Further information [on the right to negotiate process](#) can be found on the department's website.

Applicants are also encouraged to supply a statement justifying why the renewal should be granted and addressing matters such as:

- The type, extent and results of mining and the results of the work carried (e.g. mineralisation and production reporting).
- The type and location (including a map) of work planned, including the area required or likely to be required for any plant, machinery and equipment and for other activities associated with those mining operations.
- Planned future mining operations, including if the operation is in care and maintenance (e.g. mining proposal or mine closure plan).
- If the tenement holds any strategic value in the context of broader mining operations.

This is an opportunity to provide relevant information to support your application and outline any extenuating circumstances which may be relevant to the tenement or broader project area.

3. Decision and notification of outcome

After the application is lodged:

- If any further information is needed to make a determination you will be contacted.
- If the application is Mining Act compliant and the application is affected by native title it will proceed through the RTN process (unless evidence of native title party consent has been provided).
 - ▶ You will receive notice of this referral.
 - ▶ In summary, this involves notification under s29 of the NTA with a notification period of four months, and a requirement that the parties negotiate in good faith for a minimum of six months with a view to reaching agreement with each of the native title parties to the grant of the second renewal.
 - ▶ Once the application has cleared the RTN process, it will proceed to determination. If a positive outcome cannot be achieved through the RTN process, then the renewal application will be refused.
- If the application is compliant with the Mining Act and is not affected by native title it will proceed directly to determination.

If the parties have negotiated in good faith for six months, and are unable to reach agreement, any party may apply to the National Native Title Tribunal (Tribunal) for a determination. The Tribunal may determine that the grant of the second renewal may be done, may be done subject to conditions, or must not be done.

The timeframe for the assessment stage will vary based on the native title status of the land affecting the tenement. The time required to assess a second renewal application will be shorter for tenements not affected by native title or where native title has been extinguished, or where consent for the renewal has already been achieved. In situations where notification is required, this will be subject to the NTA prescribed times.

If the application for a second renewal is **intended to be refused**, DEMIRS will:

- Issue a notice of intent to refuse.
- Give the applicant 35 days in which to make any submission they may wish to make relating to that decision.
- Consider any submission lodged within the 35 days.
- Determine the application, update the status of the application in MTO as either refused or granted, and notify the applicant of the final decision.
- If the application is refused, the tenement will be expired as per the date of determination.

If the application for second renewal is **granted consistent with the application**, DEMIRS will update the status of the application in MTO to granted and notify the applicant/agent of the renewal of term.

If the application for second renewal is **granted inconsistent with the application** (e.g. for a term that is different to that sought) DEMIRS will:

- Notify the applicant about intended decision.
- Give the applicant 35 days in which to make any submission they may wish to make relating to that decision.
- Consider any submission lodged within the 35 days.
- Determine the application, update the status of the application in MTO as granted (and any variation from the application) and notify the applicant of the final decision of the renewal of term.

Government of Western Australia

**Department of Energy, Mines, Industry Regulation
and Safety**

8.30am – 4.30pm

Mineral House, 100 Plain Street
East Perth, Western Australia 6004
Tel: +61 8 9222 3333

Fax: +61 8 9222 3862

Online

Website: www.demirs.wa.gov.au
Email: REC.Consultation@dmirs.wa.gov.au

Mailing address

Locked Bag 100
East Perth WA 6892

**This publication is available on
request in other formats.**

National Relay Service: 13 36 77

Translating and Interpreting Service (TIS) 13 14 50