

# Guide to the fit and proper person declaration

## For mineral titles and mining activities

This guide summarises the requirements for the completion of the fit and proper person declaration when a person is making a mineral title application under the *Mineral Titles Act 2010* (MTA) and *Mineral Titles Regulations 2011* (MTR) or an application for an environmental (mining) licence under the *Environment Protection Act 2019* (EP Act) and *Environment Protection Regulations 2020* (EP Regulations).

## Introduction of the fit and proper person criteria

The fit and proper person criteria provides information on what matters should be considered by the relevant Minister when determining if a person is fit and proper to hold a mineral title or environmental (mining) licence. The intent of the criteria is to ensure that only those persons with the appropriate expertise, professional integrity and high standards of personal behaviour are authorised to undertake exploration, extractive and mining activities.

The fit and proper person criteria are established by section 70A of the MTA and regulation 44A of the MTR; and by sections 62 and 124R of the EP Act and regulation 6 of the EP Regulations. The criteria are consistent across the MTA and EP Act.

Section 70 of the MTA sets out the factors that the Minister responsible for the MTA (currently the Minister for Mining and Energy) must consider before making a decision about a mineral title application. This includes considering whether the applicant is a fit and proper person.

The EP Act requires the Minister responsible for the EP Act (currently the Minister for Lands, Planning and Environment) to consider whether the applicant is a fit and proper person to hold an environmental approval, approval notice or environmental (mining) licence.

The Ministers are not required to undertake an investigation about the person making the application but rather to consider information that may come before them in determining if that person is a fit and proper person.

A mineral title application means an application for the grant or renewal of a mineral title (Part 3 or 4 of the MTA).

## Fit and proper person criteria

In summary, the information that will be requested for the Fit and Proper Person assessment includes:

- Details outlining any contravention of a law in the Territory or another jurisdiction relating to:
  - the physical or biological environment, including matters relating to pollution, biodiversity, natural resources, planning, development or waste
  - heritage, health or cultural matters, including matters relating to sacred sites

- work health and safety;
- a tax or royalty payable to the Territory
- an element of fraud or dishonesty.
- Details of any incidences where mineral titles held in the Territory or another jurisdiction have been suspended, revoked or cancelled.
- Whether in the Minister's opinion, the applicants of good character, having regard to honesty and integrity.
- Whether the applicant was during the past three years an undischarged bankrupt.
- Details of winding up orders or appointments of administrators for a body corporate.

Where the applicant is a body corporate, information will also be required relating to any contraventions for directors, associated entities and directors of associated entities.

The Fit and Proper Person assessment will also consider the financial capacity of the applicant to undertake the technical work program or (reasonably imposed) obligations under the environmental (mining) licence, and the technical capacity of the applicant to undertake the technical work program.

This assessment will also be informed by the information provided in the technical work program submitted in the application for the grant or renewal of the mineral title or the proposed activities under the environmental (mining) licence (as relevant).

## Approved Form 39 – Fit and Proper Person

The Fit and Proper Person Approved Form 39 has been designed largely as a series of yes/no responses to questions relating to the information requested. Where an answer to a question is in the affirmative, for example: "has the applicant contravened a law of the Territory or another jurisdiction that relates to work health and safety" – then additional details are required and may be provided in attachments as necessary.

Approved Form 39 must be completed and signed by the applicant, and where the applicant is a body corporate or partnership, by all directors of the body corporate or members of the partnership.

Approved Form 39 must be submitted with all applications made by an applicant for the grant or renewal of a mineral title or an environmental (mining) licence in the Northern Territory from 1 July 2024.

Where multiple applications are submitted at the same time, a single Approved Form 39 completed by the applicant will be considered sufficient.

## New applications within 12 months of a previous assessment

Where an applicant has completed a fit and proper person assessment for the purposes of the:

1. grant or renewal of a mineral title under the MTA, or

2. grant or amendment of an environmental approval or approval notice under the EP Act, or
  3. grant or amendment of an environmental (mining) licence under the EP Act
- and
4. the assessment form was submitted within the last 12 months, and
  5. the applicants' circumstances have not changed
- the applicant may submit the executed form provided for the previous application.

## Parent companies

Where an applicant is a subsidiary of another company ('parent company') the form must be completed by:

1. all directors of the applicant, and
2. all directors of the parent company.

A form does not need to be completed by any parent companies of the first (direct) parent company.