

# Fit and Proper Person to hold a mineral title

This information bulletin 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).

## Introduction of the Fit and Proper Person criteria

The fit and proper person criteria provides information on what matters should be considered by the Minister when determining if a person is fit and proper to hold a mineral title. 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 and mining activities.

The fit and proper person criteria in the MTA is consistent with the fit and proper person criteria contained in the *Environment Protection Act 2019*. (EP Act)

Section 70 of the MTA sets out the factors that the Minister must consider before making a decision about a mineral title application including that the applicant is a fit and proper person. The introduction of section 70A to the MTA formalises the criteria with regard to the fit and proper person requirement.

A mineral title application means:

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

## Section 70A of the Act – Fit and proper Person to hold a mineral title

The new section 70A of the MTA sets out the criteria an applicant will be assessed against to determine if they are a fit and proper person to hold a mineral title.

Section 70A also identifies that the Minister is 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 brief summary of some of 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.

## Regulation 44A – Fit and proper person

For section 70A(1)(b) of the Act, the following matters are prescribed:

- (1) Whether in the Minister’s opinion, the applicants of good character, having regard to honesty and integrity.
- (2) Whether the applicant was during the past three years an undischarged bankrupt
- (3) 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 and the technical capacity to undertake the technical work program. This will be informed by the information provided in the technical work program submitted in the application for the grant or renewal of the mineral title.

## 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; eg: 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 by an authorised person (director/secretary) declaring that the information provided is true and correct.

Approved Form 39 must be submitted with all applications made by an applicant for the grant or renewal of a mineral title in the Northern Territory from 1 July 2024. The only exception to this requirement is that where multiple applications are submitted at the same time, a single Approved Form 39 completed by the applicant will be considered sufficient.