


# Notice of decision

Regulation 233K of the *Environment Protection Regulations 2020*

Declaration of Risk Criteria	See <i>Declaration - Extractive Operations Risk Criteria Version 2.0.pdf</i> declared on the date of this notice.
Statement of Reasons	As per the attached statement of reasons.
Minister	Hon Joshua Burgoyne, Minister for Lands, Planning and Environment
Signature	
Date of notice	2 /09/2025 10

# Declaration of risk criteria

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Northern Territory of Australia

*Environment Protection Act 2019*

## **Declaration of Risk Criteria: Extractive Operations**

I, Joshua Roland Burgoyne, Minister for Lands, Planning and Environment:

- (a) under section 124T of the *Environment Protection Act 2019* (the **Act**) and with reference to section 43 of the *Interpretation Act 1978*, revoke all previous declarations of risk criteria in relation to mining activity involving extractive operations in force immediately before the date of this instrument; and
- (b) under section 124T of the Act and with reference to regulation 233E of the *Environment Protection Regulations 2020*, declare the risk criteria specified in the Schedule applies to mining activity in relation to extractive operations.

A handwritten signature in blue ink, appearing to read 'J. R. Burgoyne', written over a dotted line.

Minister for Lands, Planning and Environment

Dated 02 OCT 2025

**Schedule**

- 1 The mining activity must not have a significant impact on the environment.
- 2 The mining activity must not involve any of the following:
  - (a) substantial disturbance to more than 20 hectares (20ha) of land, excluding access tracks used for the mining activity;
  - (b) the excavation of more than 100 000 cubic metres (100 000m<sup>3</sup>) of material per annum;
  - (c) if the mineral title is an extractive mineral permit – the excavation of material, excluding drilling, greater than 2m in depth from the natural surface of the land.
- 3 The mining activity must not be located in, or impact any of the following areas:
  - (a) a Commonwealth reserve as defined in section 528 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth);
  - (b) an area within the National Park under the *Nitmiluk (Katherine Gorge) National Park Act 1989*;
  - (c) a sanctuary or marine park defined in section 3 of the *Coburg Peninsula Aboriginal Land, Sanctuary and Marine Park Act 1981*;
  - (d) a protected environmental area under the *Environment Protection Act 2019* where mining activity is prohibited;
  - (e) an area where mining activity is prohibited under the *Environment Protection Act 2019*.
- 4 Subject to a permit to interfere with a waterway issued under the *Water Act 1992*, the mining activity must not cause any of the following:
  - (a) a material change to the shape of a waterway;
  - (b) a material change to the volume, speed or direction of the flow or likely flow of water in or into a waterway;

- (c) an alteration to the stability of the bed or banks of a waterway, including by removal of vegetation.
- 5 Subject to a waste discharge licence issued under the *Water Act 1992*, the mining activity must not involve the discharge of waste to water.

# Statement of Reasons

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## Background

1. The environmental (mining) licensing system under the *Environment Protection Act 2019* (NT) (EP Act) implements a tiered, risk-based licensing approach for mining activities.
2. If a mining operator can operate within the constraints set out in the risk criteria they are eligible for a standard or modified condition licence.
3. On 31 July 2024 pursuant to section 124T of the EP Act, the then Minister for Environment, Parks and Water Security declared risk criteria and approved standard conditions for extractive operations.
4. On 4 October 2024, pursuant to sections 124T and 124U of the EP Act, I redeclared those risk criteria and reapproved those standard conditions.
5. Pursuant to sections 124V and 124W of the EP Act, I may conduct a review of risk criteria and standard conditions, and may amend the risk criteria and standard conditions on completion of a review.
6. I must publish the decision on the declaration of revised risk criteria together with a statement of reasons per regulation 233K of the *Environment Protection Regulations 2020* (EP Regulations).
7. This statement outlines my reasons for the declaration of revised risk criteria and amendments to the standard conditions.

## Material Considered

8. The following material has been taken into account in making this decision:
  - (a) The decision brief prepared by the Department in relation to the declaration of risk criteria. The brief included:
    - i. the declaration of revised risk criteria for extractive operations
    - ii. the revised standard conditions for extractive operations that show how the risk criteria and conditions in a licence work together
    - iii. details on the methodology and consultation conducted for the development of the revised risk criteria and changes to the standard conditions
    - iv. the written comments received during the public exhibition period.
  - (b) The principles of ecologically sustainable development in Part 2 of the EP Act.
  - (c) The objects of the EP Act in section 3.

## Reasons for decision

### The nature of extractive operations and their impacts

9. Common extractive operations include:
  - (a) hard rock quarries
  - (b) limestone quarries
  - (c) gravel quarries
  - (d) alluvial/fluvial extraction
  - (e) processing of extractive minerals including crushing and screening
  - (f) offices, hydrocarbon and water storage, laydown areas
  - (g) clearing for access tracks, haul roads and site preparation
  - (h) rehabilitation of disturbance associated with extractive operations
10. Extractive operations can have adverse impacts on environmental receptors, including:
  - (a) groundwater
  - (b) surface water
  - (c) flora
  - (d) fauna
  - (e) air
  - (f) soil
  - (g) people and community.

### The purpose of the risk criteria

11. The risk criteria have been developed to identify, and promote development of, extractive operations that are lower risk due to their scale, nature or location.
12. Mining activities that can operate within the constraints set out in the risk criteria are eligible for a standard or modified condition licence.

### The risk criteria

13. The scale, nature and location of extractive operations all influence the risk of an adverse impact on an environmental receptor because, respectively:
  - (a) limiting the size (scale) of a mining activity reduces the potential impact to all environmental receptors
  - (b) limiting the nature or type of activities that can be conducted avoids or mitigates certain risks from the activity and

- (c) limiting the location of the activity protects sensitive environmental receptors from potential impacts.
14. The review of the risk criteria has considered the limits relating to size, nature and location that should be imposed.
15. I am satisfied that limits relating to location, including protected areas under the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*, *Nitmiluk (Katherine Gorge) National Park Act 1989*, *Coburg Peninsula Aboriginal Land, Sanctuary and Marine Park Act 1981*, and the *Environment Protection Act 2019* remain appropriate given the risks to these protected areas.
16. I am satisfied that extractive operations that cause an interference with a waterway within the meaning of the *Water Act 1992 (Water Act)* or require approval to discharge wastes to water are not low risk and should be excluded from the standard and modified condition licensing scheme.
17. I acknowledge that there has been some confusion about when a mining activity is considered to interfere with a waterway under the Water Act. I have retained, but reworded, this risk criteria to address this confusion, while recognising some operators may already have such activities authorised.
18. I have imposed a new risk criterion stating that the extractive operations cannot involve the discharge of waste to water, except in accordance with a licence issued under the Water Act. I consider this is an appropriate risk criterion given the potential risks and environmental impacts associated with discharge activities, while recognising some operators may already have such discharges authorised.
19. I have considered carefully the area limit for extractive operations in the context of the intent of the licencing system and the average area of surface disturbance for licenced extractive operations and determined to increase the limit from 10ha to 20ha. I am satisfied that the standard conditions will appropriately manage the environmental impacts.
20. I am satisfied that the 2m depth threshold for excavation on extractive mineral permits is consistent with the intent of the *Mineral Titles Act 2010* and have determined to retain this criterion. However, I have determined to remove the 10m depth threshold for extractive mineral leases to avoid inconsistency with the *Mineral Titles Act 2010*.
21. I have considered carefully whether access routes should be included in the 20ha limit. I consider that the risks associated with tracks can be appropriately managed through additional standard conditions limiting the width of tracks and have therefore excluded them from this limit.
22. I have reviewed the appropriateness of imposing a tonnage limit on extractive operations. Different material types have different densities resulting in substantively different scales of impact depending on the material type.
23. I therefore do not consider that a tonnage limit appropriately considers the environmental impacts associated with extractive operations. I consider that volume (cubic metres) is a more appropriate

measure of environmental impact and have chosen to impose a volumetric limit which I consider permits an acceptable level of disturbance in conjunction with the area limit.

24. I have removed a risk criterion associated with sensitive and significant vegetation. There are many types of sensitive and significant vegetation that require varying levels of protection; including riparian vegetation that may be associated with any stream order.
25. I have carefully considered the broad scope of this criterion, including the extent and distribution of drainage networks and riparian vegetation across the Territory, and its effect in triggering the requirement for a tailored condition licence for extractive operations entailing low-order stream crossings that are otherwise low risk.
26. I am satisfied that the risks to sensitive and significant vegetation can be effectively managed through conditions aligned to the different types of sensitive and significant vegetation. Therefore I have imposed additional standard conditions that I consider will provide greater flexibility while addressing those environmental risks associated with sensitive and significant vegetation.

## The standard conditions

27. The standard conditions operate to manage the adverse impacts on environmental receptors associated with extractive operations.
28. Standard conditions impose additional and specific controls on how the mining activity is conducted.
29. In conducting the review of the risk criteria, amendments to the standard conditions have been identified to:
  - (a) clarify obligations
  - (b) simplify individual conditions
  - (c) address gaps
  - (d) provide greater flexibility in how environmental objectives are met
  - (e) further streamline the licence application process
  - (f) improve reporting, and
  - (g) avoid unintended consequences.
30. I am satisfied that the standard conditions are appropriate to manage risks from extractive operations, where the mining operator is able to meet the risk criteria.
31. I have imposed a standard condition that limits the width of access tracks to 10m, in recognition of haul road requirements, to offset removal of tracks from the 10ha disturbance threshold risk criterion.
32. I have considered the standard conditions prohibiting extractive operations within the Alligator Rivers Region, or involving uranium or naturally occurring radioactive materials (NORMs). I

- acknowledge the disproportionate impact this may have on parts of the industry, and related controls imposed by other legislation (including the *Environment Protection (Alligator Rivers Region) Act 1978* (Cth) and the *Atomic Energy Act 1953* (Cth)). I have removed the restriction on the Alligator Rivers Region and have amended the condition to allow extractive operations potentially involving uranium or NORMS in accordance with an appropriate radiation management plan. This will enable such projects to qualify for a standard licence whilst ensuring associated risks are managed effectively.
33. I have replaced the standard condition requiring a 250m buffer to any area or instance of sensitive or significant vegetation with a suite of conditions requiring specific buffers for specific environmental features, consistent with the Northern Territory Planning Scheme Land Clearing Guidelines; excluding drainage depressions and first order streams.
34. I have imposed a standard condition requiring that clearing of native vegetation must minimise impacts to drainage depressions and first order streams, and am satisfied that, in addition to the other standard conditions, the risk to these features from temporary extractive operations will be appropriately mitigated.
35. I have imposed a standard condition prohibiting dewatering except in accordance with a water extraction licence granted under the Water Act, to ensure that appropriate project-specific modified conditions will be imposed to manage the associated environmental risks (should approval not be held under the Water Act).
36. I have also imposed standard conditions relating to the carrying out of bore works, to enable operators to undertake such activities under a standard condition licence without requiring a separate bore work permit to be granted under the Water Act.
37. I have considered the common requirement for operators to amend their activities within the licenced disturbance footprint (i.e. the approved activity extent) by applying to vary their licence. I acknowledge the relatively low risk associated with amending activities within an area that has previously been assessed and approved, and the limited benefit of comprehensive reassessment.
38. Therefore I have imposed a standard condition allowing operators to submit a forward program of works to the department for approval. This will enable an expedited approvals process I consider appropriate for low risk changes to the works program and I am satisfied that other standard conditions provide appropriate controls to manage this risk.

## Objects, principles and hierarchies under the EP Act

39. In accordance with s17(2), I have considered the principles of ecologically sustainable development (ESD; Part 2, Division 1) and management hierarchies (Part 2, Division 2). I have considered the

meaning of ESD, and have considered, weighted and applied each of the ESD principles and the environmental and waste management hierarchies in making my decision. In accordance with s17(3), I am not required to specify how the I have considered and applied these matters.

40. I am satisfied that the risk criteria are appropriate to identify, and promote development of, extractive operations that are lower risk due to their scale, nature or location.
41. I am satisfied that the standard conditions are appropriate to manage the risks associated with extractive operations that meet the risk criteria.
42. This helps to achieve the objects of the Act, including to:
  - (a) protect the environment of the Territory
  - (b) promote ecologically sustainable development so that the wellbeing of the people of the Territory is maintained or improved without adverse impact on the environment of the Territory; and
  - (c) recognise the role of environmental licensing of mining activities in promoting the protection and management of the environment of the Territory.