

# Mining Security Guideline and Methodology

Environmental (mining) licence

*Environment Protection Act 2019*

<b>Document title</b>	Mining Security Guideline and Methodology
<b>Contact details</b>	Mining Division Department of Environment, Parks and Water Security
<b>Approved by</b>	Minister for Environment, Parks and Water Security
<b>Date approved</b>	4 October 2024
<b>Document review</b>	
<b>TRM number</b>	42-D24-6584

Version	Date	Author	Changes made
0.1.	August 2024	DEPWS Environment Policy	Final draft to Minister

Acronyms	Full form
CEO	Chief Executive Officer
DEPWS	Department of Environment, Parks and Water Security
DITT	Department of Industry, Tourism and Trade
EP Act	<i>Environment Protection Act 2019 (as amended 1 July 2024 by the Environment Protection Legislation Amendment Act 2023)</i>
EP Regulations	<i>Environment Protection Regulations 2020 (as amended 1 July 2024 by the Environment Protection Legislation Amendment Act 2023)</i>
NT	Northern Territory
Minister	Minister for Environment (Climate Change and Water Security)
MMA	<i>Mining Management Act 2001</i>
MTA	<i>Mineral Titles Act 2010</i>

# Contents

<b>1. Introduction</b> .....	<b>4</b>
<b>2. Purpose</b> .....	<b>4</b>
<b>3. Mining security</b> .....	<b>5</b>
3.1. Transitional arrangements for mining securities.....	5
<b>4. Security Methodology</b> .....	<b>5</b>
4.1. Principles applying to securities.....	5
4.2. Factors which may be considered in calculating a security.....	6
4.3. Security calculator.....	7
<b>5. Process for calculating a security</b> .....	<b>8</b>
5.1. Self-assessment of security.....	9
5.2. Determining the security .....	9
<b>6. Recalculation of a security</b> .....	<b>10</b>
<b>7. How to pay a security</b> .....	<b>10</b>
<b>8. Transfer of a licence</b> .....	<b>11</b>
<b>9. Making a claim on a security</b> .....	<b>12</b>
<b>10. Applying for a refund of a mining security</b> .....	<b>12</b>

# 1. Introduction

From 1 July 2024 the Northern Territory's (NT) regulatory framework for managing environmental impacts of mining activities falls under the *Environment Protection Act 2019*<sup>1</sup> (EP Act) and the new environmental (mining) licence regime. On commencement of the new laws, the *Mining Management Act 2001* (MMA) has been repealed<sup>2</sup> and responsibility for the environmental regulation of mining activities falls to the Minister for Environment, Climate Change and Water Security (the Minister) and the Department of Environment, Parks and Water Security (DEPWS).

Section 124L of the EP Act requires mining operators to obtain an environmental (mining) licence (licence) for all mining activities that will involve substantial disturbance<sup>3</sup> of a mining site. Under the legislation, all granted licences are subject to a condition that the mining operator must provide a mining security (security) in the amounts or values and at the times requested by the Minister<sup>4</sup>. It is also a condition that a mining operator pay the mining levy payable under the *Legacy Mines Remediation Act 2023*.

A licence for a mining activity is not valid until any required security for the activity has been paid, and a notice of authority to commence or continue a mining activity has been issued under the *Mineral Titles Act 2010* (MTA). A notice under the MTA cannot be issued until the mining security required by the Minister under the EP Act has been paid.

## 2. Purpose

Section 132C of the EP Act requires the Minister to determine and publish the methodology for calculating the amount or value of the mining security to be provided. This guideline outlines the approved methodology under section 132C for calculating a mining security required by a licence under the EP Act. It also provides guidance on the legislative provisions and processes for the calculation, payment and return of mining securities for mining activities regulated under the EP Act. This information may be relevant for:

- mining operators submitting an application for a licence and are required to provide a mining security
- existing mining operators who are operating under a deemed mining licence from 1 July 2024 and have previously provided a security to DITT and the Minister for Mining under the MMA before its repeal
- mining operators who hold a licence and seek to vary or claim a refund on the amount of security held for their licensed mining activities
- mining operators who have received notification of the Regulator's intention to make a claim on their mining security
- departmental staff administering the mining security provisions under the EP Act
- members of the public interested in learning more about the regulatory framework for mining securities under the EP Act.

---

<sup>1</sup> As amended by the *Environment Protection Legislation Amendment Act 2023*

<sup>2</sup> Mining activities authorised under the MMA at the time of its repeal are automatically deemed to hold an environmental (mining) licence (i.e. deemed mining licence) under the EP Act and remain authorised activities in accordance with the transition provisions provided by Part 15 of the EP Act.

<sup>3</sup> Refer to EP Regulation 233R.

<sup>4</sup> Refer to sections 124ZJ(2)(b), 124ZK(2)(c) or 124ZL(2)(b) of the EP Act.

## 3. Mining security

It is a condition of a licence that the mining operator must provide the Minister a security in the amounts or values and at the times required by the Minister by written notice to the mining operator<sup>5</sup>. A mining security is a form of financial assurance to secure costs and to contribute to the management of risks associated with the remediation and rehabilitation of environmental impacts resulting from mining activities.

A security is for the purpose of securing:

- the mining operator's obligation to comply with the Act and the licence and any applicable environmental approval; and
- the payment of the reasonable costs and expenses of the Minister or the CEO taking action to prevent, minimise or remediate environmental harm resulting from any phase of the mining activity to which the licence and any environmental approval applies; and
- the payment of the reasonable costs and expenses of the Minister or the CEO taking action to complete remediation and rehabilitation or closure of the mining site to which a licence and any environmental approval applies or any area affected by the mining activity; and
- the payment of the reasonable costs of post-closure monitoring, management and reporting.

Mining securities are calculated in a phased approach commensurate with the stage of the project and associated environmental risks and impacts of mining activities. The securities will consider the costs associated with remediation and rehabilitation of a mine site by a third-party contractor engaged by the Minister, at any time based on activities conducted on site and disturbances caused and what will foreseeably be caused. Securities are refundable at the completion of agreed closure and rehabilitation activities during each phase of mining.

The annual mining remediation levy is equal to one percent (1%) of the mining security calculated in accordance with this guideline.

Under the EP Act transitional arrangements for mining securities, if a security has been paid by a mining operator and the security is held in the securities trust account on commencement of the new laws, the security is considered a security for the licensed activity deemed under the new mining laws. The mining operator is not required to do anything unless there is a proposed change to the mining activity.

The transitional arrangements in the Act require the operator to apply for a replacement licence or a new licence before 1 July 2028. If a replacement licence or a new licence is issued, the security may be reviewed and recalculated in accordance with the approved methodology for calculating a security.

## 4. Security Methodology

### 4.1. Principles applying to securities

The following principles apply in calculating the amount or value of a security:

---

<sup>5</sup> Section 124ZJ, 124ZK & 124ZL of EP Act

1. Government and the NT public should not bear the financial liability for the ongoing management, rehabilitation and/or remediation costs resulting from mining activities.
2. The general obligations (s124G) of a mining operator in the Act underpin the calculation of a security.
3. A mining operator is responsible for preventing, minimising, remediating or rehabilitating environmental harm resulting from any phase of mining activity to which a licence applies.
4. The mining operator must ensure that the mining site is remediated, rehabilitated and returned as far as reasonably practicable to its pre-mining state unless a different land use is agreed.
5. Liability for remediation and rehabilitation of environmental harm caused by secured mining activities will become the liability of a new mining operator on transfer of a licence.
6. Progressive remediation and rehabilitation activities of a mine site during mining activities is encouraged. Completed remediation and rehabilitation activities will be taken into account in determining a security.
7. The security will be calculated as the estimated cost for Government to remediate and rehabilitate a mine site after cessation of mining activities or end of mining activity phase/stage.
8. The costs associated with post-closure monitoring, maintenance, management and reporting which may extend beyond the period of the licence will be included in the security.
9. Security will be released subject to the mining operator demonstrating that disturbance associated with licenced activities (and any related environmental harm) has been effectively remediated and rehabilitated in accordance with agreed mining rehabilitation, remediation and closure criteria.

## 4.2. Factors which may be considered in calculating a security

In determining the amount or value of security to be included as a condition of a licence, the following factors will be considered<sup>6</sup>:

- the environmental risks and impacts of the mining activity to be carried out under the environmental (mining) licence and any environmental approval applying to the activity
- the level of uncertainty in assessing those risks and impacts and the management measures to deal with them
- the level of environmental disturbance that has been caused, is caused or is likely to be caused by the mining activities that have been or are to be carried out under the environmental (mining) licence and any environmental approval applying to the activity
- the level of environmental disturbance that has been caused by mining activities carried out on a mining site by:
  - the mining operator or a previous mining operator appointed by the title holder for the mining site; or
  - an operator of the mining site under an authorisation under the MMA under which a mining security was paid before the repeal of that Act
- any proposed phase/stage of mining activity (including the development of the mining site) to be carried out under the licence

---

<sup>6</sup> Section 132C of EP Act

- any current licence or environmental approval
- an application for a new licence, replacement licence, amendment to a licence or transfer of a licence
- a security self-assessment submitted by the mining operator in determining a security
- spatial files submitted as part of the application
- any information from environmental monitoring, audits, site inspections and close out reviews
- any other relevant information to inform the calculation of a security.

### 4.3. Security calculator

The [security calculator] is to be used to determine the amount or value of security for a licence for a phase of mining. The security calculator estimates the disturbance to the environment which is likely to or may occur as a result of the mining activities, and the costs to remediate and rehabilitate environmental harm at the cessation of mining activities or end of phase/stage of mining activities. The mining site must be remediated and rehabilitated such that the environment is returned as far as reasonably practicable to its pre-mining state or the post mining land use that has been agreed.

The security required under the licence must be calculated for:

- the full life of the project; and
- each phase/stage of the project, if security is proposed to be paid in stages.

The environmental disturbance is estimated by completing a disturbance inventory in the “Key Information” worksheet in the security calculator which outlines the type of disturbance (e.g. access track), the extent (footprint) of the disturbance, and the related Unit of Measure (C/UOM). Disturbances may be grouped in “domains” (e.g. pit, waste rock dumps and stockpiles) providing that the mining operator clearly specifies what has been combined. For each disturbance, the techniques applied for remediation and rehabilitation must be populated, outlining the area/volume of each technique involved for each specific disturbance (e.g. area of earthworks, volume of fill/topsoil, revegetation). The security calculator will automatically estimate the costs of remediation and rehabilitation based on the information entered in the tool for all disturbances. The security calculator will also automatically calculate costs associated with maintenance, monitoring and assessment during closure activities<sup>7</sup>. In order for the security calculator to operate correctly, it is essential that the disturbance inventory is completed and formulas embedded in the security calculator are checked to ensure it cross-references the correct information. The mining operator may include additional techniques if not included in the calculator (e.g. costs associated with generator hire for power supply).

The rates associated with each technique will be the basis for calculating the security to remediate and/or rehabilitate each disturbance. The rates are provided as range, and mining operators are required to nominate the rate within the range provided in the security calculator (cost per UOM). The rates should be based on current day costs to government if it were required to conduct the remediation and/or rehabilitation activities. Alternative costs per UOM may be used providing that there is clear written justification and evidence to support a deviation from the approved rates.

The calculated security includes a 15% contingency to cover any costs associated with:

---

<sup>7</sup> Note: By default, the security calculator applies formulas to calculate post-closure maintenance costs for TSF and WRD structures only, which is assumed to be rehabilitated in-situ and therefore require ongoing maintenance costs. If structures, other than TSF and WRD (e.g. water dams) are also to be maintained, then the formulas in the security calculator need to be adjusted accordingly.

- making good any unsuccessful remediation and/or rehabilitation costs.
- post closure costs including monitoring, maintenance, site visits and any necessary remediation works.

The security calculator including the rates, assumptions and potential disturbances will be reviewed at least every five years to ensure the rates reflect current day costs. Any new rates will apply to any new and existing securities from the date the rates are published in the security calculator. Any changes to a calculated security as a result of a change in rates will be applied to a licence.

## 5. Process for calculating a security

Securities may be calculated or recalculated:

- in accordance with the licence conditions
- if an application for a replacement or new licence is submitted
- if an application to amend a licence is submitted
- if an application to transfer the licence submitted
- if the licence or environmental approval relating to the mining activity is amended
- if the Minister (or delegate) is satisfied that there is a substantial change in the circumstances or the basis on which the security was calculated
- at the request of the mining operator.

A substantial change in circumstances may result in increased or decreased environmental disturbance or risk to the environment. The disturbance may have been unforeseen at the time the security was calculated by the Minister. A substantial change in circumstances may include, but is not limited to, the following:

- progressing to the next phase/stage of mining
- completion of remediation and rehabilitation
- change in the operating methods or techniques which may have implications for disturbance or cost
- the mining activity is entering a different phase/stage of activity and the potential environmental disturbance is likely to increase
- if the results of mining activity monitoring indicate that the potential environmental disturbance is greater or less than the basis on which the security was calculated
- if the Minister (or delegate) becomes aware of information that was not available to the Minister (or delegate) at the time of calculating the security
- if the mining operator has contravened a provision of the Act, or a condition of the licence leading to environmental disturbance



- with periodic review of the rates prescribed in the security tool
- if the mine site is in care and maintenance for greater than 12 months
- transfer of a licence (see below).

The security must be paid in full by the mining operator before mining activities to which the security relates commences.

## 5.1. Self-assessment of security

Mining operators must use the security calculator to estimate the disturbance of a mining activity (referred to as a self-assessment) and the estimated cost of remediation and /or rehabilitation at the cessation of mining activities or end of phase/stage of mining activities.

The self-assessment should include man-hours and equipment costs to accurately reflect the scenario of a third party having to undertake the work.

Material quantities and other activity requirements should be best estimates based on operator experience and current market price. Some costs (e.g. pest and weed management, revegetation maintenance and earthwork maintenance) are automatically calculated upon entering disturbance sizes in the 'Key Information' section.

Post closure costs must also be included. These costs must include costs associated with mobilisation/demobilization of plant and equipment, infrastructure etc. as well costs associated with closure management, project management and post closure rehabilitation or monitoring such as water quality monitoring for the nominated period. If post closure monitoring requires additional monitoring, beyond water quality (e.g. sediment), then the associated costs must also be included. The nominated period for closure management is site-specific and therefore the period chosen must be appropriately justified.

Only the categories applicable to the mining activities need to be calculated and techniques used may be adjusted to suit individual sites.

The self-assessment must be accompanied with the security form, and licence application.

## 5.2. Determining the security

The Minister shall use the security calculator to determine the security amount or value to apply to a licence.

In applying the security calculator the Minister must consider the information provided in the self-assessment provided by the mining operator, and any supporting information in an application and self-assessment forms. The Minister shall also apply the principles and factors outlined in Section 4 (above).

The Minister may seek further information from the mining operator to inform the calculation of the security.

The Minister must write to the mining operator proposing the security amount or value for the licence prior to making a final decision on the security amount or value. The Minister must give the mining operator 10 business days to make a submissions on the security amount or value, and must take into consideration any submissions made by a mining operator prior in making a final decision on the security payable.

When the Minister makes a final decision on the security, the Minister must issue a written notice to the mining operator of the security amount or value payable for a licence.

### 5.3. Recalculation of a security

Securities may be recalculated at any time there is a change in circumstances which may result in a change to the potential disturbance to the environment, when the mining operator requests the security be recalculated or when a condition of licence requires the security to be reviewed.

The recalculation of the security will be done so in the same manner as calculating the security, and will include the need for a mining operator to complete and submit a new security self-assessment in accordance with the process outlined in Section 5.1 (above).

Where there is an increase in security as a result of a recalculation, the Minister will notify the mining operator of the amended security value or amount and provide the mining operator with the opportunity to make a submission on the recalculated security. The Minister will take into account any submissions prior to making a determination on the security. The Minister will send a written notice to the mining operator on the security payable.

The security must be paid in full by the mining operator by the date prescribed in the Minister's written notice before mining activities to which the security relates commence.

Where a security payable reduces as a result of a recalculation of the security, the Minister may return the amount or value of security held in trust. See below for information on refund of a security.

Alternatively, given the significant costs associated with amending bank guarantees when security values are recalculated, the mining operator may request the Minister to hold in trust the security amount or value of security above the recalculated security amount or value, rather than have it refunded.

## 6. How to pay a security

A security may be paid in the following forms:

- cash (credit card, cheque, money order, cash, direct deposit via electronic funds transfer are accepted)
- a bank guarantee
- any other form of financial accommodation acceptable to the Minister.

All securities are held in the trust account established for the purpose of holding mining securities.

Bank guarantees must be:

- a security instrument issued by a financial institution registered with Australian Prudential Regulatory Authority as an authorised deposit taking institution (permitted to conduct banking within Australia)
- made out in favour of the **Minister for Environment (Northern Territory of Australia) ABN 84 085 734 992**
- be unconditional
- have no expiry date.

The reference numbers specified in the security notice should be used as the reference when paying a security. Do not include titles or project names on the guarantee.

Bank guarantees should also be supported by:

- evidence of appointment as an Attorney (or other authorised officer) for the Financial Institution issuing the security instrument for the person(s) signing the security instrument
- evidence the relevant person issuing the security instrument on behalf of the financial institution is authorised to issue the type, form and amount of security
- evidence the financial institution will ratify and be bound by the acts of the person issuing the security instrument on behalf of the financial institution, for verification purposes.

Cheques and money orders must be made out to the Receiver of Territory Monies

Bank guarantees, cheques and money orders are to be posted to:

Northern Territory Government GPO Box 4550 DARWIN NT 0801
---

Direct debits via electronic funds transfer can be paid using the details listed below:

Department of Industry, Tourism and Trade National Australia Bank BSB: 085 933 Account Number: 187 960 924
---

Use the reference number specified in the security notice.

A security can be made in person, from 8am to 4pm, Monday to Friday, at:

The Mineral Titles front counter  
5th Floor Paspalis Centrepoint Building  
48-50 Smith Street  
Darwin NT 0800

## 7. Transfer of a licence

If an application to transfer a licence is made, the security will be calculated by the Minister in accordance with the security methodology and process outlined in this guideline for the mining activities proposed by the transferee. The transfer of the licence will not take effect until the security has been paid in full by the new mining operator.

The security paid by the mining operator (i.e. the transferor) for the licensed mining activities will continue to be held in trust until the transferee has paid the security required under the transferred licence. A mining operator (i.e. the transferor) may request in writing that a security held in trust be transferred to the new mining operator (transferee). Alternatively, the current mining operator may apply for a refund of the security. A refund of security will not occur until the security required by the transferred licence is paid in full by the transferee.

## 8. Making a claim on a security

The Minister or the Chief Executive Officer (CEO) may make a claim on the mining security to secure:

- the mining operators obligations to comply with the objects of the Act and licence and any applicable environmental approval
- the payment of the reasonable costs and expenses of the Minister or the CEO taking action to prevent, minimise or remediate environmental harm resulting from any phase of the mining activity to which the environmental (mining) licence and any environmental approval applies
- the payment of the reasonable costs and expenses of the Minister or the CEO taking action to complete remediation and rehabilitation or closure of the mining site to which the environmental (mining) licence and any environmental approval applies or any area affected by the mining activity
- the payment of the reasonable costs of post-closure monitoring, management and reporting.

Prior to making a claim on a mining security, the Minister or CEO must give the mining operator written notice of the intent to make a claim on a security, the amount of claim and the reason for making the claim.

The mining operator may make submissions to the Minister or CEO in relation to the matters in the notice within the specified period in the notice. The period for submissions must be at least 10 business days. The Minister or CEO must consider any submissions made by the mining operator before making a decision to make a claim. The Minister or CEO must notify the mining operator of the decision to make a claim on the security.

If the amount of mining security held in trust is less than the reasonable costs and expenses incurred by the Minister or CEO to which the claim applies, the Minister or CEO may seek to recover the remaining costs and expenses from the mining operator (Regulation 234A).

## 9. Applying for a refund of a mining security

A mining operator may apply to the Minister for a refund of mining security to which they are entitled. The Minister may approve the refund (in full or in part) if there is a substantial alteration in mining activities and the mining security is no longer required for the purpose it was required.

The Minister may only approve refund of the mining security when a mining operator can demonstrate that the rehabilitation, remediation and closure requirements of the licence have been met.

A request for a refund must be on the approved form providing notice to the Minister of completion of a mining activity, and be supported by evidence that demonstrates that the approved rehabilitation, remediation and closure obligations have been met to the Minister's satisfaction (s.124ZZI). Evidence includes but is not limited to a final mining activity report that provides information on:

- mining activities undertaken
- environmental impacts associated with the mining activities
- remediation and rehabilitation activities completed

- whether agreed closure criteria have been met
- post-closure monitoring, management and reporting undertaken.

A portion of the mining security may continue to be held in trust for a period which extends beyond the licence for post-closure monitoring, management and reporting as required.

Any amount owing to the Territory by the mining operator under the EP Act, the MTA or the *Legacy Mines Remediation Act 2023* may be deducted from the mining security at the time of the refund of the security.

Where part of the security is refunded to the mining operator, any remaining security will be held in the securities trust account and at the written request of the mining operator may be held in credit for future mining activities.