

GUIDELINE FOR APPLICATIONS FOR THE GRANT OF EXPLORATION LICENCES



Seabed Minerals Authority
Runanga Takere Moana
COOK ISLANDS

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This document has been developed by the Seabed Minerals Authority as a general guide only. It does not replace or amend the requirements of the Seabed Minerals Act 2019 and associated regulations, which should be read in conjunction with the guideline.

It is made available on the understanding that the Cook Islands is not thereby engaged in rendering legal or other professional advice. Before relying on this material in any important matter, users should carefully evaluate its accuracy, currency, completeness and relevance for their purposes, and obtain appropriate legal or other professional advice relevant to their particular circumstances.

It is anticipated the guideline will be amended from time to time. The most up-to-date version of the guideline is available at www.sbma.gov.ck.

Prepared by the Seabed Minerals Authority October 2020



1 PURPOSE

This guideline is issued by the Seabed Minerals Authority (**Authority**) in connection with applications for the grant of exploration licences under section 59 of the Seabed Minerals Act 2019 (**Act**) and the Seabed Minerals (Exploration) Regulations 2020 (**Regulations**).

The guideline provides a broad outline of the rights and obligations involved, as well as information to assist Applicants and potential Applicants with an overview of the application and assessment process and in the preparation of the required information to support an application.

Applicants and potential Applicants should also refer to any relevant invitation to apply (**ITA**) in respect of any particular requirements under that invitation.

The Authority may issue subsequent guidelines which deal with the specific components of an application in more detail.

2 SCOPE

This guideline applies to all Applicants and potential Applicants for the grant of an exploration licence under the **Act**.

3 INTRODUCTION

Any person who wants to explore for seabed minerals on the seafloor of the Cook Islands exclusive economic zone (**EEZ**) must apply for and hold an exploration licence issued under the Act.

The responsible Minister (with Cabinet approval) will only grant a licence to an Applicant that meets certain minimum financial and technical capability, is a fit and proper person to hold a licence and together with other criteria, demonstrates a firm commitment to exploration through a minimum work plan.

An Applicant and their Application will undergo a number of procedural assessment steps and checks prior to Ministerial and Cabinet decision-making, including the opportunity for public comment on an Application.

The Government of the Cook Islands expects explorers to demonstrate a genuine commitment to the sustainable discovery and development of the Cook Islands seabed minerals resource consistent with the principles of ecologically sustainable use of the Cook Islands Marae Moana.

To this end, the Government does not seek speculative exploration investment but investment from Applicants who can motivate a genuine intent to proceed to mining, subject to the results and conclusions arising from exploration activities, including the ability to mitigate impacts on the marine environment.

4 EXPLORATION LICENCE

An Exploration Licence is designed to cover the exploration phase of a project. An Exploration Licence once granted confers exclusive rights to explore and take samples from the licensed area for testing and analysis. At a later stage of operations, licence holders may undertake testing on equipment and prototype mining collection systems. The specific exploration activities, including environmental, to be carried out, are contained in an exploration work plan and environmental management programme annexed to the licence.

A licence is valid for an initial five years and a licence holder may apply (at least 90 days prior to the end of the licence) to have the licence renewed subject to statutory requirements (section 86 of the Act).

The licence holder is required to relinquish parts of the area in accordance with the licence terms (section 78(1)(a) of the Act).

The grant of an exploration licence does not confer on the licence holder an automatic right to a retention (section 79 of the Act) or a mining licence over blocks. A licence holder must apply for a retention or a mining licence which will be considered on its merits as a separate application.

5 APPLICATIONS FOR EXPLORATION LICENCES

All Applications for an Exploration Licence made under section 59 of the Act must be made in accordance with the licensing requirements under the Act and the Regulations to be valid.

Applications should be complete and valid on the day of application.

The licensing process will be conducted based on the written information and any supporting evidence provided with each application.

Applicants will be informed in writing of any decision and the reasons for the decision with respect to their licence application.

Where applicable, applications must also comply with the relevant ITA and be received within any timeframes specified by the ITA.

Invitations to apply issued by the Authority will be made available on the Authority's website.

6 APPLICATION AREA

The responsible Minister will designate the blocks that will be released for exploration applications (section 42(1)(a) of the Act), and the Authority will decide the process for inviting applications over those blocks (section 44(1) of the Act). This may include a competitive tender process, the details of which will be set out in the ITA.

The relevant designation or invitation for applications will make clear which blocks are available, the minimum and maximum number of blocks that may be allowed under a licence, the shape of blocks in the proposed licensed area, and specific requirements for maps and block naming conventions.

The Act sets out a number of situations in which blocks are excluded from an Exploration Licence application (section 42(1)(b) & (2) of the Act). An application found to contain excluded blocks will be discussed with the Applicant and may still be considered on the basis of the remaining blocks.

The Authority will make available a file (.mxd format) containing the blocks available for Application.

Applicants can only apply for blocks that are within that file. Applicants, after selecting the available blocks they wish to apply for, must export the blocks as shapefiles.

Shapefiles must be submitted as esri shapefiles and should include .shp, .shx, .dbf, and .prj files. The Authority will not accept any other file formats.

Applicants must also submit a map of the blocks they are applying for (in pdf. or png. format).

On opening an Application, the Authority will plot the proposed Application Area to ensure its availability.

An Applicant must demonstrate in its Application that it has plans to explore the blocks to be allocated under any licence.

7 CONTENT OF AN EXPLORATION LICENCE APPLICATION

Applications for Exploration Licences must be made in accordance with the Act and the Regulations.

An Application for an Exploration Licence over blocks must include the following minimum details and information: -

7.1. Details of the Applicant

An Applicant must be a Cook Islands incorporated company (section 59(2) of the Act).

The Applicant will likely be a newly or recently incorporated Cook Islands company, with little or no trading activity in relation to seabed mineral activities or otherwise. An Applicant may have to provide detailed information on its shareholders, affiliates and associates, or other third parties etc. to demonstrate the necessary competence, expertise and financial capability required.

Detailed information on these persons will also be required in demonstrating that the Applicant is a fit and proper person to hold an exploration licence (sections 64(e) and 65 of the Act, and Schedule 1(13) of the Regulations).

7.2. An approved application form and required information

Applications must be made using the standard approved digital application form (available on the Authority's website), and also provided in hard copy in accordance with Schedule 1(20) of the Regulations.

Information on lodging an exploration licence application is shown on the Authority's website.

The application form will capture certain information relating to the Applicant, its shareholders, associates and affili-

ates, application area (maps) and questions relating to compliance and performance history. The form will allow for documents to be uploaded providing supporting evidence for other information and the plans requested in the Regulations (regulation 4(2) and Schedule 1).

Unless otherwise specified by the Regulations or relevant guidelines, information does not need to be presented in a particular form or layout provided that its presentation is clear and logical.

7.3. Details of the proposed work plan

All applications must be accompanied by an exploration work plan detailing proposed minimum exploration programmes and expenditure commitments. The broad content headings for the plan is set out at Schedule 2 to the Regulations.

An accepted exploration work plan, and underlying work programmes, is a key deliverable under an exploration licence and is to be complied with during the term of the licence (subject to review and modification processes (regulations 51 and 52)).

The initial term of an exploration licence is 5-years, and a proposed work plan must cover the programme of activities for that period including minimum yearly expenditure for each major component. The 5-year work plan should be divided into a first and second term. The first term (years 1 and 2) should consist of a minimum guaranteed work programme, with the second term (years 3-5) being indicative of or contingent on work to be undertaken, and subject to modification under the Regulations.

Applications should also include geological and other maps showing the locations of the potential resource target areas and where Applicants plan to carry out the exploration work.

Proposed yearly expenditure is to be expressed in New Zealand dollars.

Further details on work plans and programmes are set out at [Attachment A](#).

7.4. Details of proposed environmental management programme

Schedule 3 to the Regulations outlines the broad content headings for the environmental management programme to accompany an application.

An Applicant must also apply to the National Environment Service (**Service**) for an environmental approval by the National Environment Council (**Council**) in connection with the proposed exploration activities. The application must be accompanied by the proposed environmental management programme. The Service and the Council will also assess the adequacy of the oceanographic and environmental baseline studies to be carried out.

Regulations made under the Environment Act 2003 will set out the required information and procedures to apply for an environmental approval.

An application form for environmental approval will be available on the Authority's website. An application must be made to the Service and consent issued by the Council prior to the commencement of exploration activities under an Exploration Licence.

Matters relating to the technical and financial capability and capacity of the Applicant to deliver the environmental management programme will be assessed by the Authority and Licensing Panel.

7.5. Details of the Applicant's ability to comply with the requirements of the Act etc.

An Application must include documentary evidence of the Applicant's ability to comply with the requirements of the Act and the Regulations to perform the regulated activity and to fulfil the requirements of the work plan, including: -

- adequate technical expertise and resources to carry out the proposed work plan and environmental management programme
- access to sufficient financial resources to carry out the proposed work plan, environmental management programme, and other obligations under a licence
- the viability of the exploration operations
- a satisfactory governance structure and risk management structure
- capability and systems to meet occupational health, safety and environment requirements
- sound labour practices, and

- the Applicant's past performance in other exploration titles in the Cook Islands or internationally.

The information required by the Authority is set out in detail at Schedule 1 to the Regulations.

Further details on matters relating to technical and financial resources and capability are set out at [Attachment B](#) and [Attachment C](#) respectively.

7.6. Details that the Applicant is a fit and proper person

The application must also include sufficient information to allow an assessment by the Authority that the Applicant is a "fit and proper person" to hold a licence under the Act. This information is provided through responses to compliance and performance history questions contained in the application form and other information requested under Schedule 1 to the Regulations, as well as responses to any matters raised in the Authority's Operational Policy on Fit and Proper Person (available on the Authority's website).

7.7. Other plans and information

An application must also be accompanied by: -

- an incident response and management plan; and
- an occupational health and safety plan; and
- a local engagement, training and business development plan; and
- a schedule setting out the proposed relinquishment of blocks in the proposed exploration area.

Applicants must also provide the Authority with a non-technical summary of the application, including a summary of the work plan and the environmental management programme and a map showing the proposed application area. The summary will be published on the Authority's website as a part of the public notification requirements under the Regulations (regulation 15(a)(iii)).

7.8. Contribution to the national interest

An application must motivate and provide evidence of the contribution that will be made to the national interest of the Cook Islands. The information required is set out in clause 16 of Schedule 1 to the Regulations.

The content of the local engagement, training and business development plan will also be relevant. [Attachment D](#) sets out points to be considered by the Applicant in developing this plan.

7.9. Written undertaking

An application must also include a written undertaking in the form stated at clause 18 of Schedule 1 to the Regulations.

7.10. Other details

The application should include any other information the Applicant wishes to be taken into account in consideration of its application.

7.11. Applicable fee

Details of the applicable fee to accompany each application is set out in the Seabed Minerals (Exploration Fees) Regulations 2020.

8 COMMUNICATION WITH THE AUTHORITY

The Authority promotes an open and transparent dialogue with Applicants and potential Applicants.

The Authority encourages potential Applicants to submit questions in writing regarding any aspects of the application process, and to clarify the information required by the Authority under the Act and the Regulations to facilitate the completeness of an application by the time of its submission. Equally, a degree of engagement between the Authority and an Applicant will occur when an Application is being processed, particularly where additional information is required by the Authority or the Licensing Panel.

The Authority will not enter into any communication which could be perceived as giving a particular Applicant or potential Applicant an unfair advantage in the application process. This is particularly the case during a competitive tender process, unless any information or any statement made to a particular Applicant or potential Applicant is also made available to all Applicants or potential Applicants under the relevant ITA.

9 AMENDMENTS TO AN APPLICATION

Once an application is considered complete (that is, all the information requirements have been met) by the Authority, the Applicant's ability to amend an application (and the timing of any amendment) is limited to the circumstances set out in regulation 13.

10 LICENSING DECISION PATHWAY

An application will go through a number of assessment and decision-making steps following lodgement, subject to any timelines prescribed in the Regulations and the specifics of the relevant ITA.

The steps are typically: -

1. The Authority: -
 - i. acknowledges receipt of the application (regulation 8) and captures information in its application administration system
 - ii. checks the application for completeness and may request further information (regulation 10)
 - iii. determines that all the section 64 qualification criteria are met, and a grant complies with section 69(1)(a) and (b) (availability of / plotting of the application area)
 - iv. refers the application to the Licensing Panel, together with a report (regulation 11(6))
 - v. gives public notice of the application and invites comments from the public (regulations 14 and 15)
 - vi. consults with the National Environment Service (regulation 18)
 - vii. considers the public comments, together with advice or comments from other relevant Crown agencies, and
 - viii. updates its report for the Licensing Panel (regulation 17).
2. The Licensing Panel: -
 - i. considers the application or revised application and information provided (regulation 19)
 - ii. may request further information (regulation 20)
 - iii. assesses the Applicant and application against a set of evaluation criteria (regulation 21 and Schedule 7)
 - iv. where competing applications, rank the applications (regulation 21(3))
 - v. makes its recommendation to the responsible Minister as to whether to grant or decline an application (regulation 22)
3. The responsible Minister will consider the recommendations from the Licensing Panel (regulation 23)
4. If the responsible Minister intends to grant a licence, the Authority prepares a draft licence for approval by the responsible Minister and issue to the Applicant (regulation 25). This may include specific conditions determined by the Authority (section 72(2)(c), regulation 26)
5. Negotiation of licence by Authority and Applicant, including work and other plans
6. Cabinet to approve licence terms (regulation 29)
7. Authority notifies Applicant of decision and reasons (regulation 30)
8. If Cabinet approves terms, exploration licence signed (regulation 33)

9. Applicant pays applicable fee
10. Authority enters details in register of titles (regulation 34)
11. Exploration licence in force
12. Exploration activities may commence subject to: -
 - i. any conditions precedent in the licence (section 72(2)(a)(vi) of the Act); and
 - ii. the requirements of the Environment Act 2003 (environment approval).

Only those applications which are complete and meet ALL the qualification criteria will be referred by the Authority for an assessment of the merits of the application by the Licensing Panel.

At any time during the assessment process the Authority and the Licensing Panel may require the Applicant to clarify an Application or provide further information.

The Authority and the Licensing Panel usually interview Applicants about their technical understanding of the proposed blocks to be explored and the work plan offered by the Applicant.

Applications will be delayed or may be returned to an Applicant if the Authority or Licensing Panel are unable to make a conclusion on a material particular or where material information has been withheld.

In connection with an Application, any person who knowingly or recklessly provides false or misleading information under the Act may be guilty of an offence under section 19(3) of the Act.

The final plans to be annexed to a licence are subject to amendment during the assessment process. This will be the case particularly for the work plan which may be negotiated with the Applicant by the Authority.

11 APPLICANT'S GENUINE INTENT TO DO WORK

An Applicant must demonstrate that it genuinely intends to undertake and fulfil its proposed exploration work plan, with a view to applying for a mining licence at the end of the initial term or subsequent renewal of an exploration licence (clause 17, Schedule 1 to the Regulations).

The Authority will consider any relevant written evidence provided by an Applicant, such as (but not limited to) the delivery of previous minerals exploration programmes in the Cook Islands or internationally.

12 APPLICANT'S INTENT TO COMPLY WITH THE MARAE MOANA ACT 2017

An Applicant must demonstrate that it intends to comply with the Marae Moana Act (**MMA**), particularly with respect to the principles of ecologically sustainable use set out in section 5 of the MMA.

An application should also show how exploration will contribute to and promote the objective and purpose of the MMA and its principles. This may include incremental studies to advance the knowledge of the Marae Moana.

13 PUBLIC NOTICE OF APPLICATION

An Application is notified to the public and comments invited (regulations 14 and 15).

An Applicant is not expected to consult directly with the public at this time, unless requested to do so by the Authority (regulation 16(3)). However, the Applicant must provide the Authority with a non-technical summary of the Application (see paragraph 7.7. above).

The Authority will provide the Applicant copies of the comments received, which the Applicant may respond to (regulation 16(2)).

An Application should include details of any engagement with the Cook Islands community by the Applicant prior to making the application (whether under a licence with the Authority or otherwise), including the outcome of the engagement.

Applicants must include details of their proposed plans to engage with the public during the term of the licence in the local engagement, training, and business development plan.

14 CONSULTATION WITH GOVERNMENT DEPARTMENTS AND CROWN AGENCIES

Under the Act and the Regulations, the Authority (as the lead agency) will consult with relevant Government departments and Crown agencies in respect of the application and proposed activities. The Authority may also seek expert advice from these departments and agencies.

Agencies to be consulted with, include, (but are not limited to): -

- Ministry responsible for Foreign affairs and immigration: giving of notice to any neighbouring State (section 66(1) (a) of the Act)
- Ministry responsible for Marine Resources: to obtain information on other marine users including any supervised fisheries in the application area (if so, what conditions should be determined) and technical advice
- Ministry responsible for Transport: to obtain comments, if any, on particular navigation hazards, shipping routes or requirements which may be specific to the application area concerned, and applicant incident management response and management plans
- Ministry responsible for Finance and Economic Management / Revenue Management Division: to obtain comments, if any, on any financial aspects of the application impacting the Crown, including fees and other payments
- National Environment Service: to consult on environmental concerns, and requirements for an environmental approval by the National Environment Council, including potential conditions to be observed
- Marae Moana Council and Technical Advisory Group: opportunity to consult on marine spatial planning and zoning initiatives, and management measures
- Ministry of Internal Affairs: to obtain comments on occupational health and safety plans and other OHS requirements
- Government department responsible for submarine cables: to ensure that the proposed operations will not interfere with submarine cables.

15 PROVISION OF INFORMATION TO GOVERNMENT DEPARTMENTS AND CROWN AGENCIES

Section 17(2)(e) of the Act allows the Authority to provide any information or a copy of any document held by it under the Act to other Crown agencies if the Authority considers that the information or document may be reasonably required by other agencies to exercise its powers or perform its duties under the legislation it administers in relation to a licence application.

The information will be subject to the same confidentiality provisions as apply to the Authority under section 18 of the Act, and information management procedures reflected in the Regulations (Part 9).

16 TERMS AND CONDITIONS OF LICENCE

The terms and conditions of the licence on offer ("Model Exploration Licence") is set out in the Regulations at Schedule 8.

A licence may be subject to specific conditions contemplated by regulation 26, including the lodging of a financial guarantee (see below).

It is anticipated that the specific conditions will mostly be of an environment protection character designed to protect the environment or other marine users of the area to be covered by the licence. The Authority and the National Environment Service will discuss whether such conditions are to be included in the environment approval to be issued by the National Environment Council or as a specific condition of the exploration licence (regulation 18(3)(b)).

An Applicant may request the responsible Minister (on reasonable grounds) that a condition determined by the Authority be varied (regulation 27).

17 FINANCIAL GUARANTEE

The Act allows the Authority to impose a security deposit (financial guarantee) as a condition of the licence (section 101 of the Act) to secure compliance with conditions e.g. for clean-up and rehabilitation. The factors to be taken into account in determining this requirement are set out in the Regulations (regulation 28).

The level of security may be varied at any time if the nature of the exploration work changes (regulation 28(5)).

The security would be discharged only when the licence holder has no further obligations to comply with.

Without prejudice to individual Applicant circumstances (and to any environmental bond required under an environment approval), the Authority, in principle, will not impose a security deposit in a material amount during the commencement and early phases of exploration, particularly where insurance liability cover is in place. The Authority may require a nominal security to secure the payment of fees under a licence.

The Authority will reassess the situation under a licence as the nature and scale of activities change.

18 TIMELINES

The Regulations specify time periods for various actions to be completed under the Act and Regulations by Applicants and by decision-makers to provide certainty to the application process.

The total timeframe for processing an application is significantly affected by the thoroughness and quality of the supporting information received, and the promptness of any Applicants' responses to communications from the Authority. Processing times by the Authority and other agencies depend mainly on the nature and complexity of the Application, the volume of Applications, the risks to be assessed, the completeness of Applications and the promptness of responses to communications between Applicants and the Authority.

The total timeframe in the Regulations is set out below, from date of receipt of an Application to the approval of licence terms by Cabinet. The Authority may extend the timeframes anticipated below (regulation 32(2)).

Application type	Application processing timeframes	
Exploration Licence Application	Applications that are complete and have all the relevant information required in order to be assessed	Applications where significant further information is required to complete the assessment, or that are otherwise complex
	Approximately 130 working days	Approximately 150 working days

19 TRANSPARENCY

The Authority promotes the principle of transparency and as a general policy to maximise the public availability of information, particularly environmental information (see regulation 75(1) and (2)).

Nevertheless, Applicants may need to include commercially sensitive information in their Applications, such as financial forecasts and proprietary data. The Authority will manage any such information in accordance with sections 17, 18 and 18A of the Act, and the procedures set out in Part 9 to the Regulations.

20 COMPLIANCE AFTER GRANT OF LICENCE

An Exploration Licence does not grant carte blanche to carry out all exploration-related activities once the licensed activities commence. Some activities may be subject to further regulatory controls by the Authority and relevant government agencies. For example, certain activities (for example, the testing of equipment) may require an advance application for an environment project permit.

It is the licensee's responsibility to be aware of, and comply with, all regulatory controls and legal requirements.

Equally, work plans and work programmes will likely require modification, and revised programmes to be reviewed, and where necessary accepted or approved by the Authority.

A licence may be cancelled or not renewed if a licensee does not deliver their exploration work plan commitments (or approved variation) or is non-compliant with respect to their other licence obligations. The Authority will review the licensee's performance periodically.

21 RECORDS MANAGEMENT

Issued	October 2020
Next Review	October 2021
Version No.	1.0

ATTACHMENT A

DETAILS ON WORK PLANS AND PROGRAMMES

A. Introduction

1. A work plan, and its proposed exploration work programmes, is a description of the nature and extent of exploration, in particular the studies and surveys that will be conducted, risk management, scheduling and expenditure commitments. Integrated with the work plan's delivery under a licence is an environmental management programme, incident response and management plan, occupational health and safety plan, and local engagement, training and business development plan.
2. The work plan forms the primary basis for which the Authority and the Licensing Panel will assess that an Applicant commits to deliver the objectives of the Act, namely the exploration for and future recovery of mineral resources in the Cook Islands EEZ.
3. An exploration work plan is initially proposed by the Applicant. Modifications to the plan may be proposed by the Authority or the Licensing Panel.
4. Work plans need to reflect the existing knowledge of the proposed application area.
5. Applications can be declined if a proposed work plan is inadequate.
6. The required content for a work plan is set out at Schedule 2 to the Regulations, including that of a financing plan and risk management plan. Schedule 3 to the Regulations also sets out the same for an environmental management programme. The latter is not a separate programme per se as activities must be integrated, but to reflect the fact that environmental parameters will be assessed by the National Environment Service and National Environment Council in a separate consent application process.
7. Work plans will not remain static and will develop progressively over the period of the licence. The Regulations provide a process for the modification of a work plan.

B. Considerations for preparing a work plan

8. In preparing a work plan, applicants should consider the following points.
 - Work plans must contain the Applicant's proposed exploration strategy and objectives that will enhance the existing geological knowledge of the area. The work activities underpinning the proposed exploration strategy for the area should be unambiguously stated and be supported by a technical assessment. Applications should contain evidence (technical data and information) to demonstrate an understanding of the potential seabed mineral resource.
 - The work plan should enable a potential licence holder to gain sufficient knowledge of the seabed minerals (and relevant environmental parameters) to determine the commercial and economic viability of the resource to meet the requirements of being able to progress to the next stage of the licence life cycle (licence renewal or mining).
 - New work programmes are expected to advance what is already known and not repeat work done at earlier stages or by previous explorers, although the iterative nature of exploration is recognised.
 - The most important return to the Cook Islands under an exploration work plan is the increase in knowledge of the resources and the marine environment, and the move toward the development of mining opportunities at a later stage. All work plans are expected to have that outcome, and it is considered a minimum requirement under an exploration work plan. Applications and work programmes that demonstrate commitment to explore large areas of the EEZ (where available) will be considered favourably by the Licensing Panel.
 - The nature of exploration activities, including sampling programmes, proposed in the work plan will be by reference to the level of pre-existing geological, bathymetric and environmental knowledge through previous exploration of the area. Where there is advanced geological knowledge of resources and its environmental setting within a proposed application area, an advanced level of exploration will be expected to be proposed within an appropriately detailed work plan.

- The logical scheduling of exploration activities, the timeliness of their delivery in meeting the objectives of the plan, and the proposed expenditure are key elements.
 - Exploration work programmes should be staged ideally to focus on clear, sequential outcomes, with commitment to specific activities that enable that outcome to be reached.
 - The Authority recognises the complexities in prescribing specific timeframes for licence holder to be working within a given exploration stage. However, as a general rule, a geo-scientifically and technically appropriate work plan should be proposed for the first 2-years of the 5-year term. An Applicant may, as a result of the initial planned activities undertaken, reappraise its exploration strategy and hence work programme. If exploration is successful, and Applicants can demonstrate authentic and tangible exploration progress over the initial term of the authority, a renewal application (if required) can be made for a second licence term under the Act and the Regulations.
 - While expenditure is not a sole determinant in the assessment of applications, higher proposed levels of expenditure at a given level of work delivery may be indicative of a greater commitment to meet delivery milestones and may be taken into consideration for competing applications.
 - Each of the major components of the work programme should be accompanied by a detailed breakdown of estimated expenditure, particularly for the first 2-years. An indicative costing for the remaining 3-years will be initially acceptable, but applicants should provide a detailed breakdown of estimated expenditure well before the commencement of exploration programmes for the last 3-years (that is, during the first 2-years).
 - A work programme is a minimum work programme. All the activities an applicant wishes to carry out do not need to be incorporated (e.g. finer details of some programme components such as sampling programmes) but applications should indicate the full scope of work intended to be carried out under a licence. The intention is to avoid excessively detailed work programmes that have high compliance risk for the potential licence holder but provide no work programme flexibility and therefore generate an unproductive change of conditions or work plan modification applications.
 - The major part of the work programme must, within reason, relate to the whole of the application area, not just a part of it. An application will be declined if it appears that the objective of the work programme is to hold ground without adequate work or rationale.
 - Good drafting of a work programme includes anticipation of possible changes and minimising the need for change of condition applications. This can avoid administrative complications while still keeping the work programme technically meaningful.
 - The activities in the work programme should enable the licence holder to achieve the outcome but should be sufficiently flexible to allow for changes in exploration focus.
 - The work programme must include a requirement covering quality control quality assurance (“QAQC”) information that demonstrates the accuracy and precision of all data.
 - Work programmes should consider and anticipate the compliance process. There should be little ambiguity in a work programme condition. Conversely, excessive detail can cause unnecessary problems when the Authority assesses compliance. Achieving the exploration objective is more important than detailed matching of activities with compliance.
 - Work programmes need to anticipate application for a subsequent mining licence or renewal of the initial exploration term. For example, if an exploration work programme does not anticipate the requirements for a mining licence, the application for a subsequent mining licence could be declined as the criteria required for grant of a mining licence are unlikely to be met. That is, the work programme must be realistic and consistent with the objectives of the work plan.
9. Specific requirements for minimum work plans may be set out in the relevant ITA.

C. Assessment by Authority and Licensing Panel

10. The Authority and the Licensing Panel will ordinarily consider the following in their review and assessment of the work plan and work programmes: -
- consistency with the Act, the Regulations and meets all relevant legislative and regulatory requirements
 - the objectives of the work programme and the technical approach to be taken
 - the appropriateness of the proposed activities and exploration objective with respect to the term of the proposed work plan
 - the geoscientific and technical appropriateness of the exploration rationale, with relevance to the application area and the level of pre-existing geoscientific data and knowledge
 - whether the proposed exploration is in accordance with good industry practice and based on current geological knowledge
 - whether proposed exploration activities and estimated expenditure are appropriate to meet the stated exploration strategy and objectives
 - whether the full area will be explored, and the timing and scale of committed work
 - the minimum exploration expenditure indicated for each stage, including the expectation of increased expenditure in line with more intensive exploration activities
 - whether the work programme will allow a commercially justifiable decision to be made on the development of a seabed mineral resource before the licence expires, including environmental considerations (environmental baselines and assessment), and
 - the time the applicant estimates is required to undertake both the committed and contingent exploration work proposed and to process and analyse the results.

ATTACHMENT B

APPLICANT'S TECHNICAL CAPABILITY

A. Introduction

11. An Applicant must demonstrate that it has the technical capability to comply with and give effect to the proposed work plan and other matters referred to in the Act and the Regulations.
12. Technical capability is also linked to an Applicant's ability to carry out the regulated activity in accordance with the concept of good industry practice throughout the licence period (and to contribute to the further development of good industry practice in the context of seabed minerals exploration).
13. Technical capability is a serious consideration in the Act and the Regulations and requires an initial assessment by the Authority (section 64 of the Act), and subsequent merits assessment by the Licensing Panel (Schedule 7 to the Regulations). The Authority may seek external technical advice to support its technical assessment.
14. An Application may be declined solely on the basis of an Applicant's technical capability.
15. The Applicant is required to demonstrate its technical capability by providing the information prescribed at clause 8 of Schedule 1 to the Regulations.
16. In assessing technical capability, the Authority and the Licensing Panel will focus on the technical capability of the Applicant, its personnel, its affiliates and associates, or other third parties to undertake the day-to-day management of the proposed work plan in accordance with good industry practice.
17. The Applicant's record in undertaking work programmes similar to that proposed is important. Evidence of a successful track record in conducting similar or relevant work programme activities in accordance good industry practice will generally be compelling evidence that the Applicant has adequate technical capability.

B. Technical capability for seabed mineral activities

18. The Authority recognises that seabed mineral recovery at great depths is a new activity, with a nascent industry. That said, the exploration for seabed minerals has taken place over many decades.
19. Applicants seeking to operate in the Cook Islands EEZ may not have had previous operational seabed mineral exploration or recovery experience. Such Applicants will need to provide details of comparable experience and capabilities that can be transferred to the offshore environment, or provide evidence of partnerships or other arrangements made with other entities who have the necessary expertise and capabilities.
20. There may be some challenges in demonstrating compliance with good industry practice as the concept has yet to fully evolve in a seabed minerals activities context. That said, the concept draws heavily on existing practices in other extractive industries, including terrestrial mining, marine dredging and offshore oil and gas.
21. The Authority will consider the relevance of an Applicant's technical capability to the proposed operation. This capability is expected to be appropriate for the scale and nature of the proposed exploration operation and the target seabed mineral resource. Evidence of technical capability should adequately reflect any unique challenges likely to be encountered (for example water depth, geographical location). The quality of the technical material provided and rationale in support of the application will also be considered.
22. Other specific considerations, include: -
 - the appropriate technical capability for identifying and delineating seabed mineral resources and evaluating the feasibility of mining
 - the appropriate experience to complete the activities involved in a work plan to determine the nature and size of a seabed mineral resource. Typical activities could include sampling, geological interpretation, and resource estimation
 - the appropriate sampling and analytical expertise relevant to the seabed mineral resource under consideration, so that data reliability is managed accordingly
 - an understanding of potential mining methods likely to be applicable to the seabed mineral resource is also important where the work plan includes mine prefeasibility / feasibility studies (note: under clause 14(c) of Schedule 1 to the Regulations, Applicants are required to provide an overview of potential mining technology)

C. Technical capability and systems in relation to occupational health and safety and environment requirements

23. Consideration of Applicant's technical capability crosses over into matters relating to occupational health and safety and the environment.
24. An Applicant will be required to demonstrate that it has the necessary capability and systems likely required to meet and manage occupational health and safety and environmental requirements. The information required by the Authority is set out at clause 11 of Schedule 1 to the Regulations.

ATTACHMENT C

APPLICANT'S FINANCIAL CAPABILITY

A. Introduction

25. Applicants are required to demonstrate at the time of their application that they can finance their exploration operations, including deliverables under the environmental management programme.
26. When exploration licences are applied for under a competitive tender process, financial capability requirements may be set out in the relevant ITA.
27. The information required by the Authority, including current and past financial position and performance, cash flows, access to funding streams as well as existing project commitments, is set out at clause 9 of Schedule 1 to the Regulations.

B. Requirements

28. At a minimum, Applicants must demonstrate at the time of their application that they hold, control or will have access to enough funds to conduct the first two years of their proposed work plan and environmental programme, including fees payable to the Crown, and demonstrate a clear and firm pathway to source further funds to complete their proposed work programme.
29. An Applicant will likely be a recently incorporated Cook Islands, with insufficient net worth to fund the work programmes. Documentary evidence of how it will fund work plan commitments from alternate third-party sources is required. Funding may be sourced from a number of different areas including borrowing, stock offerings and capital injections from shareholders. A parent company or other investor of the Applicant may execute a deed of guarantee or execute a letter of financial support (second best option).
30. Other funding arrangements may include a line of credit from a recognised financial institution, or government grants.
31. The Authority may also consider in-kind contribution commitments solely exercisable by the Applicant such as vessel time, equipment or technical personnel.
32. Full financial information relating to any funder will be required by the Authority.
33. The assessment of an Applicant's overall financial capacity to fulfil their proposed work plan may include consideration of the level of debt or existing committed funds required to fulfil other commitments.
34. If an Applicant is relying on future capital raising it should demonstrate a record of past successful capital raising and provide a detailed description of how it intends to go about raising that capital, including any independent assessment or report on the likelihood of the funds being raised.
35. In summary, Applicants must demonstrate that: -
 - they have sufficient capital (cash or near cash) currently on hand to meet the forecast committed expenditure for the first 2-years; or
 - they are subject to an agreement with a third party for the provision of finance or contribution to meet the forecast committed expenditure and objectives of the proposed work plan (e.g. a deed); or
 - their shareholders have successfully raised capital in the past for similar exploration programmes in other jurisdictions; and
 - demonstrate a clear and firm pathway to source further funds to complete their proposed work programme.
36. Documentary evidence for the above should be substantive in nature demonstrating commitment. For example, a simple letter of intent to raise the necessary funding or for the Applicant's accountant to simply state that the required funds are available is insufficient.
37. The Authority may, if it considers appropriate, impose a condition in the licence to determine a date by which any funding must be secured and available to the licence holder.

ATTACHMENT D

INDICATIVE CONTENT FOR LOCAL ENGAGEMENT, TRAINING AND BUSINESS DEVELOPMENT PLAN

A. Introduction

38. Schedule 5 to the Regulations sets out the headline content for the local engagement, training and business development plan, namely details of how the Applicant will:
- engage with, and provide information to, the Cook Islands communities in respect of the regulated activity; and
 - employ or contract nationals of the Cook Islands in the regulated activity; and
 - provide comprehensive training or capacity development to nationals of the Cook Islands; and
 - procure local goods or services in connection with the regulated activity.
39. Clause 16 of Schedule 1 to the Regulations also requires the Applicant to provide evidence of its past success in delivering the above.

B. Engagement and public awareness

40. Proactive and open engagement with the Cook Islands community is to be integrated as part of an exploration work plan and environmental management programme.
41. The proposed plan must contain sufficient information as to how an Applicant intends to engage. The plan should include details of: -
- the individual or individuals responsible for the Applicant's community outreach programme, and where they will be based
 - the mechanisms to be used e.g. workshops, webinars, website / social media, information materials, and possible stakeholder reference groups
 - the likely subject matters of outreach programmes
 - how the Applicant will consider any feedback from the public, and
 - the proposed frequency of any engagement.
42. The Authority and other Crown agencies will work with any successful Applicant to facilitate a meaningful dialogue with the community.
43. The plan should also include any social development initiatives undertaken or proposed for the Cook Islands community.

C. Employment of Cook Islanders

44. Details of any roles that will be allocated to Cook Islanders should be included in the plan, together with an estimate of the number of people to be employed, the proposed positions and estimated total remuneration.
45. This may include individuals engaged directly in exploration activities offshore or employed onshore e.g. in an office.

D. Training and capacity development

46. Training and capacity development are to be given due prominence in an Applicant's proposed exploration programme. An Applicant must include in the proposed plan details of the activities it will undertake in its work plan which lend themselves to training and capacity development of Cook Islanders.
47. An application should include a possible schedule of activities under a proposed training programme, including a general description of the training, and include a summary of the minimum number of training opportunities that will be made available each year.
48. While individually tailored training and development programmes linked to exploration activities and seabed mineral industry needs are a pre-requisite, consideration should also be given to professional development programmes that may benefit a wider community in association with international or local academic institutions. This

may include online learning opportunities.

49. The Authority, and other Crown agencies, will work with successful Applicants in developing programmes and in identifying individuals to participate in the programmes through fair and transparent processes.

E. Procurement of local good and services

50. Applicants should set out in the plan their proposals with regard to the procurement of local goods and services and provide a list of the likely categories of goods and services to be sourced locally with an estimated amount of yearly expenditure. This may include the costs relating to the operation of a local office.







Seabed Minerals Authority
Runanga Takere Moana
COOK ISLANDS

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