

Operational policy

Assessment of exploration permits

Policy number 2/2012
October 2012
Version 1.01

Application

This policy relates to the following sections of the *Mineral Resources Act 1989* (MRA) and the *Mineral Resources Regulations 2013* (MRR):

- s.127 Land subject to exploration
- s.130 Exploration permit to specify minerals sought
- s.131 Who may apply
- s.132 Exclusion of land from area of exploration permit if subject to other authority under Act
- s.133 Application for exploration permit
- s.386J Request to applicant about application
- s.134A Priority of applications for grant of exploration permit
- s.136 Grant of exploration permit on application
- s.137 Prescribed criteria for grant of exploration permit
- s.97 Particular applications must not be accepted

Which are to be considered when assessing an application for an exploration permit.

Purpose

The purpose of this policy is to inform industry of the processes and criteria to be followed in assessing applications lodged for exploration permits (including competitive applications) under the requirement of the MRA.

This policy is written to:

- provide guidance and clarity to both applicants and administering officers
- promote consistency of tenure administration and regulation across the state
- increase the department's timeliness and efficiency of processing exploration permit applications and requests.

The information provided in this policy **does not limit the exercising of discretion** nor does it override legislative requirements however it reflects current practices within the department which may change from time to time. All changes will be published through a revised version of this policy.

Assessing an application for an exploration permit

The decision-maker is required to assess permit applications based on:

- The information provided on the approved application form
- The information that accompanies the application form.



When assessing the application the decision-maker must have regard for and be satisfied with each requirement or consideration under s137 of the MRA, namely:

1. The applicant is an eligible person;
2. The requirements of the MRA have been complied with (i.e. the application complies with **part 5 exploration permits** of the MRA);
3. The applicant has paid rental for the first year of the term of the permit under section 138;
4. The program of work under s133(f)(i) which accompanied the application has been approved in accordance with s137(2)(d) and 137(3);
5. The applicants previous contravention or failure to comply with any provision of the MRA, the repealed Acts or other mining legislation;
6. All or part of the land for the exploration permit is not in a fossicking area or subject to a permit for the same mineral.

Applications will be assessed against the criteria by the delegated decision maker. The assessment will be conducted in a number of separate stages as the assessors take into consideration each of the criteria and the relevant provision of the MRA.

Assessment of the requirements of the MRA and MRR

Permit applications will be assessed to confirm whether or not the application meets the requirements of the MRA and MRR with respect to making an application.

Statutory assessment

The assessing officer will assess the application to ensure that the applicant has met the basic statutory requirement of s97 of the Mineral Resources Regulations 2013, which are as follows:

- The applicant is an eligible person;
- The land, stated in the document as the land for which the application is made, is available land for the mining tenement for which the application is made;
- The document is in the approved form for an application for the mining tenement, and
- The person has paid the prescribed fee for the application.

If the assessing officer determines that the applicant has not met this criteria, the application will **not be accepted** under s97(2)(a) of the MRR.

The assessing officer will assess the application to determine whether or not the application satisfies the requirements of the MRA at s137(2)(a). The assessing officer will give particular consideration to the following provisions of the MRA:

- s.130 Exploration permit to specify minerals sought;
- s.131 Who may apply;
- s.132 Exclusion of land from area of exploration permit if subject to other authority under Act;
- s.133 Application for exploration permit, and



In accordance with s137(2) the decision-maker must be satisfied that the applicant has complied with the requirements of the legislation. If the applicant **does not** comply with all of the requirements, then the application **may be refused** in accordance with s136(1) of the MRA, unless the applicant can satisfy the requirements of s393 of the MRA.

Program of work assessment

The assessing officer will assess whether or not the applicant has provided all the required information to allow the decision-maker to decide whether to approve the program of work; having regard to the following considerations set out in s137(3) of the MRA:

- the extent of the proposed activities in the proposed area of the exploration permit;
- when and where the applicant proposes to carry out exploration activities in the proposed area of the exploration permit; and
- whether the applicant has the financial and technical capability for carrying out the work.

A **program of work** which contains sufficient information will have:

- developed a suitable program of work;
- provided details about the previous data captured regarding the resource potential;
- provided in depth rationales for the program of work;
- provided details of when and where the exploration activities will be carried out (**when and where** does not need to be evidenced by GPS coordinates or any other *exact* markers, the department only requires the general locality in relation to geological formations);
- demonstrated their work, expenditure, finance, human and technical capabilities; and
- illustrate their exploration model will significantly advance the assessment and understanding mineral or coal potential of the permit area.

The decision-maker must not grant an exploration permit unless the program of work is approved, therefore if the decision-maker is unable to approve the program of work the application **will be refused** under s136(1)(b).

During the steps of the assessment process there is no obligation on the decision-maker to request further information, although there is power at section 386J to do so. Generally, the decision-maker will not exercise this power to remedy deficient applications, once the application has been lodged; it stands as the application that the decision-maker must assess.

If the noncompliance is a minor or inconsequential departure from the statutory obligations and can be easily corrected, the decision-maker may consider that the applicant has substantially complied and the permit application may proceed to the next stage of assessment.

For further information on substantial compliance please refer to **strict compliance and substantial compliance policy**.

After the permit application is assessed against the obligations of the MRA, if it complies with the statutory obligations and there are no competing applications, the application will progress to the next stage of assessment.

IMPORTANT NOTE

The departments published **Guide to making an application for an exploration permit** provides details as to the type of information that should be included in an application to satisfy the decision maker that the requirements have been met with respect to the **application** and the **program of work**.

Assessment of competitive applications

Under s134A of the MRA, applications for exploration permits that are for the same mineral and in respect of all or some of the same land that are lodged on the same day are considered to be lodged simultaneously and to be in competition with each other.

The decision-maker must then decide which of the competition applications will be given priority and be granted the exploration permit.

A priority assessment under s134A is only required with respect to applications that comply or substantially comply with the application requirements at **part 5 of the MRA**. Applications that do not comply with the statutory requirements may be refused in accordance with s136(1)(b) and s137(2) of the MRA, before determining priority.

When determining priority, all applications will be assessed on the relative merits of the content of the applications only. In the interest of fairness to all applicants, it is not the policy of the department to request additional information under s386J of the MRA in relation to the application criteria, therefore only the information contained in the applications received will be considered.

Competitive applications will be assessed by a panel of technical assessment officers who will consider the applicant's minimum guaranteed program of work proposal (including indicative minimum expenditure) and the adequacy of financial resources and technical expertise available to the applicant.

The priority technical assessment will analyse and make a recommendation to the decision-maker about which application is most likely to accomplish the highest degree of exploration of the mineral or coal potential within the permit area and progress the exploration status of the area. The technical officers confirm the program of work and that the applicant has and will continue to have access to sufficient resources to meet the requirements of the proposed program of work.

The technical officers will prepare an assessment report for the Minister or Ministers' delegate which:

- makes recommendations about the order in which applicants should be given priority;

- makes recommendations about the term, area and expenditure commitment for the successful applicant's exploration permit; and
- where one or more applications are considered unsuitable, recommends that the application(s) not be given a priority ranking.

The report and recommendations will then be submitted to the Minister or the Minister's delegate for a decision on priority.

Once the recommended application has been given priority, and (pending any other statutory requirement) proceeds to grant, the lower ranked applications proposed will be refused.

Because of the need to ensure procedural fairness is afforded to all applicants, officers of the department will **not** discuss competitive applications with any applicants until the priority of the competitive applications has been determined.

Review rights

A person aggrieved by an administrative decision, within 28 days of notification of the decision, may apply in writing to the decision-maker for a statement of reasons under the *Judicial Review Act 1991*. If they are not satisfied with the statement of reasons for the decision they may make an application to the Supreme Court of Queensland for a Judicial Review of the decision.

Andrew Cripps MP
Minister for Natural Resources and Mines
21 October 2012

Enquiries:

For help, information and technical support contact the MyMinesOnline helpdesk.

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Disclaimer

The purpose of these policies is to provide a framework for consistent application and interpretation of the legislation administered by the department. Policies may be applied flexibly where individual circumstances require an alternative application of policy.

Where this policy, or part of this policy, is inconsistent with relevant legislation, the legislation will prevail to the extent of the inconsistency. While this document has been prepared with care it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Queensland Government should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.