

Operational Policy

Conditional surrender of exploration permits

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Version 1.02

Purpose

The purpose of this policy is to provide guidance to industry of the assessment process and expectations with respect to conditionally surrendered exploration permits.

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; and
- increase the department's timeliness and efficiency of processing exploration permit documentation.

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

The department is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. To the extent an act or decision under this document may engage human rights under the *Human Rights Act 2019*, regard will be had to that Act in undertaking the act or making the decision.

Policy Determination

Application

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

- s. 133 Application for exploration permit
- s. 135 Who may apply
- s. 141 Conditions of exploration permit
- s. 141C Application to vary conditions of existing permit
- s. 161 Surrender of exploration permit
- s. 392 Substantial compliance with Act may be accepted as compliance
- s. 9 MRR Prescribed areas – Act, ss 127 and 133 MRA.

These sections are to be considered when assessing an application to conditionally surrender an exploration permit(s) in favour of a new application.

Application to conditionally surrender an exploration permit

The land within a granted exploration permit is not available for a further exploration permit unless the applicant is applying for an exploration permit for a different mineral (including coal) or the current holder surrenders a granted exploration permit over the same area in favour of a new exploration permit in the same name.

The holder of an exploration permit may surrender a permit or permits in favour of a new permit in respect to whole or part of the land granted in the first permit/s. This is commonly referred to as a **conditional surrender**.

Sections 131 and 161(4) of the MRA allow a person applying for a new exploration permit for land over which the person holds an exploration permit, to surrender that land for the purpose of being granted a further exploration permit over the whole or part of that land. The surrender will take effect immediately prior to the grant of the new exploration permit.

Conditional surrenders are considered an administrative tool to consolidate several permits in close proximity that have become more difficult to manage as the exploration program has progressed. As such it is considered a tool to ensure the areas included in the resultant permit are thoroughly assessed and evaluated prior to surrender of the entire area at the end of the first conditionally surrendered permit term (maximum 5 years).

An application to conditionally surrender is a new application made under the MRA, and is required to undergo a full assessment, which will include the environmental authority and native title processes. The applicant cannot rely on prior approvals or processes attached to the permits proposed to be surrendered.

Excess areas and non-contiguous land

If the area described in the conditionally surrendered permit application does not:

- comply with the size restrictions prescribed under 127(4) of the MRA and s9 of the MRR, and/or
- comply with the contiguous land requirements under s127(3) of the MRA.

The application shall only be granted over an excess area and/or an area with non-contiguous sub-blocks if the applicant submits that they meet one or more of the following criteria:

- The non-contiguous blocks are producing a commodity in a geological unit/s (or sequence) using a particular geological model even though the EPs are separated from each other;
- The non-contiguous blocks are for the same mineral/s and have different geological models, but will utilise a central processing site when progression is made to a mining tenure;
- The non-contiguous blocks have different target commodities but form part of the same value added project with centralised infrastructure - such as limestone, coal, iron, and chromium, for the production of steel or other refinery products;
- The non-contiguous blocks, when for different coal types in different portions of the same Basin / sub-basin, and using the resources for blending for the export market; or
- Another logical demonstrable reason that the non-contiguous blocks can be linked as an integral group for exploration and reporting purposes.

Non-contiguous areas may not be separated by more than 100 kilometres.

If the conditionally surrendered permits are a part of a project and have been approved by the department for project based administration, the applicant will not be required to make a submission.

Considerations in determining conditions

Where the new permit applies to the whole of the land within the permit being surrendered, typical processing timeframes can lead to effective delays in relinquishment of as long as two years from lodgement, particularly where the land is subject to native title. In such cases the new permit may be conditioned to require relinquishment at the end of year 1.

Limitations of making applications to conditionally surrender

Applications for conditional surrender **will not be considered**, where the applicant:

- (1) Is unable to demonstrate compliance with permit conditions on the surrendered permits at the time the application is made.

- (2) where the permit area to be surrendered is in its first term. (Any permits to be surrendered in favour of new permit applications must have been considered and approved for renewal prior to an application being made for conditional surrender).

Only a single conditional surrender will be considered for any permit or group of permits; no permit that is the result of a conditional surrender may be incorporated into a further conditional surrender.

If an applicant/s intends to surrender a current exploration permit or permit/s in favour of a new application over the whole or part of that land, the exploration permit number/s and expiry date/s of the permit/s to be surrendered, must be listed in the application for the new exploration permits.

Other conditions include:

- the granted exploration permit/s to be surrendered must be held in exactly the same name/s as the applicants for the new application; and
- the permits to be surrendered cannot be partially surrendered. The surrender will apply to the whole area of the permit/s.

The permits that are being surrendered in favour of the new application remain in force until the new application is decided. The permit must be maintained throughout this time and all conditions complied with until the surrender of the permit/s take effect. Failure to comply with these requirements may result in the new application being refused and the surrendered permit/s being cancelled.

Availability:	External*
Location	Business Industry Portal
Owner:	Georesources Division
Date of this Version	22 January 2020
Review Date	22 January 2022
Approving Authority	Deputy Director General
Related documents	This policy should be read in conjunction with Project-based Permit Administration Policy
Contact:	<p>For help and information contact the Coal Assessment Hub Phone: (07) 4936 0169 Email: CoalHub@dnrme.qld.gov.au</p> <p>For technical support contact the MyMinesOnline Helpdesk. Telephone: +61 7 3199 8133 Email: mines_online@dnrme.qld.gov.au</p> <p>8.30am – 4.30pm (AEST) Monday to Friday on Queensland business days.</p>

Disclaimer

The purpose of this policy 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.