

Operational policy

Conditional surrender of exploration permits

MIN/2015/1248

04 March 2021

Version 1.05

1. Purpose

This policy informs industry of the processes and the department's expectations in relation to applications to conditionally surrender exploration permits (EPs).

The information in this policy reflects current practices within the department and does not override legislative requirements or the exercise of discretion. These practices may change from time to time with changes to 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.

2. Background

2.1 Application to conditionally surrender an EP

The department cannot grant an EP over an existing EP unless the grant is for a different mineral (including coal) or the current holder surrenders the granted EP over the same area in favour of a new EP in the same name.

Sections 131 and 161(4) of the MRA allow a person to apply for a new EP over land that the person already holds with an EP. The application allows the person to surrender all of an existing EP/s in order to be granted a new EP over the whole or part of that land. This is commonly referred to as a conditional surrender. The surrender will take effect immediately prior to the grant of the new EP.

Conditional surrenders allow holders to consolidate several permits in close proximity that have become difficult to manage as the exploration program has progressed.

The surrender of one or more EPs on the condition of the grant of a replacement EP will not be allowed to be used to restart the term of an EP. EP terms must not exceed 15 years (unless an exceptional event occurs and an extension of the last term is approved for a period of up to three years).

3. Policy determination

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

The term of a new EP is the term decided by the Minister however, under section 136N(6), the end of the term cannot be more than 15 years from the earliest grant date of the permits that are to be surrendered in favour of the new EP. This prevents the conditional surrender process being used to re-start the term of the new EP and circumventing the new capped term requirement.

3.1 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 section 127(4) of the MRA and section 9 of the MRR, or comply with the contiguous land requirements under section 127(3) of the MRA, it is the department's policy that the application will only be granted over an excess area or an area with non-contiguous sub-blocks if the applicant can demonstrate that the areas to be conditionally surrendered are within, or qualify for project-based exploration administration, pursuant to Operational policy, MIN/2015/1252, Project-based exploration administration.

If the department has already given status for project-based exploration administration, it will not be necessary for the applicant/s to make another submission for project-based exploration administration to include the conditionally surrendered permits. The department will update project status to reflect the conditional surrender and include the new EP/s.

3.2 Limitations on conditional surrender applications

It is the department's policy that conditional surrender applications **will not be granted** where:

- the applicant is unable to demonstrate compliance with permit conditions on the surrendered permits at the time the application is made; or
- the area to be surrendered is in the first term.

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

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

Other limitations include:

- the general rule is that granted EP/s to be surrendered are to be held in exactly the same name/s and percentage interest as the applicants for the new application. However, the department will consider the conditional surrender of granted EPs where the EPs are held by the same holders with the same equity but are subject to an agreement that sets out ownership on a case by case basis. Note that the registered holders are accountable for any noncompliance relating to the EP; and
- the EPs to be surrendered cannot be partially surrendered. The surrender will apply to the whole area of the permit/s.

Permits that are to be surrendered in favour of the new grant remain in force until the 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 application being refused and the surrendered EP/s being cancelled.

Note: Queries regarding payment of stamp duty should be made to the Office of State Revenue, which administers the *Duties Act 2001* (Qld).

Document information

Availability: External

Location: Business Industry Portal

Owner and approver: Deputy Director-General, Georesources Division

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Related documents: This policy should be read in conjunction with Operational policy MIN/2015/1252, Project-based exploration administration, Operational policy MIN/2015/1254, Exploration work program and relinquishment requirements for an exploration permit, the Work Program Guideline (MRA), and Relinquishment guideline.

Contacts: For help and information about this policy, please contact the Mineral Assessment Hub on (07) 4447 9230 or email mineralhub@resources.qld.gov.au or the Coal Assessment Hub on (07) 4936 0169 or email coalhub@resources.qld.gov.au.

Disclaimer

The purpose of this policy 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.

Keywords

MIN/2015/1248; Resources; MRA; exploration permits; conditional surrender