

# Operational Policy

## Renewal of exploration permits

MIN/2015/1253  
Policy number 10/2012  
30 June 2019  
Version 1.02

### Purpose

This policy provides guidance to industry on the processes and expectations with respect to the renewal of an exploration permit.

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 applications and requests.

The information contained in this policy does not override legislative requirements, and reflects current practices within the department. These practices may change from time to time with all changes to be published through a revised version of this policy.

### Policy Determination

#### Relevant Legislation

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

- s. 147 Application for renewal of exploration permit
- s. 386J Minister may request information
- s. 147A Decision on application
- s. 392 Substantial compliance with Act may be accepted as compliance

These sections are applied when assessing an application for the renewal of an exploration permit.

#### Application to renew an exploration permit

A holder who wishes to apply to renew an exploration permit must make an application under s147 of the MRA on the approved form as listed on the department's website with the fee prescribed by the MRR.

Applications must be made not more than six months before the expiry date of the current term of the exploration permit and not less than three months before the expiry date of the current term (the renewal period).

If the permit holder lodges the renewal application outside the renewal period (i.e. less than three months from the expiry date) they must ask the department to accept a late application and provide reasons for lodging the application late.

The excuse for late lodgement must be reasonable and identify an actual cause or causes for the late lodgement.<sup>1</sup> For example a reasonable excuse may include force majeure circumstances over which the holder does not have control, or through the fault of the department.

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<sup>1</sup> s393 MRA; *Penfold v Department of Natural Resources and Water* [2009] QLC citing *Pascoe v The Nominal Defendant (Qld)* No. 2 [1964] Qd R 373

The department makes reasonable endeavours to ensure that a holder has reasonable notice of the renewal period by notifying the holder six months in advance of the renewal date. Reasons such as forgetfulness, busy schedules or mistakes are not accepted as reasonable.

Any application made after the expiry date of the permit term will not be accepted.

### **Assessment of application to renew an exploration permit**

Applications must satisfy the requirements of s147 of the MRA. Pursuant to s147A of the MRA the decision-maker may decide to renew an exploration permit if they are satisfied that:

- the permit holder has observed and performed all the covenants and conditions applying to the permit and required to be observed and performed by the holder;
- the permit holder has complied with the Act in relation to the permit;
- the proposed activities to be carried out during the renewed term are appropriate and acceptable;
- appropriate financial and technical resources are available to the holder to carry out the proposed activities during the renewed term; and
- the public interest will not be adversely affected by the renewal.

When deciding if these requirements are satisfied, in addition to the application, the decision-maker will assess the activity reports submitted by the permit holder.

There are three types of assessment that may be completed to determine compliance with the requirements:

#### **a) Technical Assessment**

A technical assessment will evaluate the information provided with the application and the activity reports submitted by the permit holder. The assessing officer will compare the holder's commitments to the work that has been actually undertaken and review the exploration data captured, expenditure and other matters specified under the MRA. The technical assessment will also assess the proposed activities to be carried out in the new term and determine if the financial and technical resources are appropriate.

#### **b) Compliance assessment**

The compliance assessment will involve a review of the technical assessment in addition to determining whether the permit holder has met the conditions of the permit and complied with their obligations under the MRA.

To aid the assessing officer undertaking the compliance assessment, the holder should ensure that they provide their compliance statements with their activity reports for year 3 and year 5. The compliance statement for year 3 should demonstrate how the holder has complied with the work program components in years 1 to 3 and/or justifies noncompliance with the work program in years 1 to 3. The statement for year 5 should demonstrate how the holder has complied with work program components in years 4 to 5 and/or justifies noncompliance with the work program in years 4 to 5.

A technical assessment and a compliance assessment may be completed concurrently where necessary.

### **c) Public interest assessment**

When undertaking the public interest adversity assessment, the decision-maker will give consideration to any information relevant to the subject matter, scope and purpose of the MRA with respect to the exploration permit. This may include (but is not limited to) publicly made comments, letters/submissions to the department or departmental policy.

The holder should provide a statement to the decision-maker which demonstrates that the renewal of the permit will not adversely affect the public interest with their application. This statement should identify the impact that their permit has on the community, whether it is negative or beneficial. The statement may include material such as public comments e.g. media articles, stakeholder engagement undertaken to mitigate concerns raised by public comments, or environmental/exploration reports.

The holder will be provided with an opportunity to respond to any information that may have adverse consequences that will be considered by the decision-maker (that was not provided by the applicant).

#### **How does the permit holder demonstrate compliance?**

An application to renew an exploration permit is based on the information supplied by the holder.

The permit holder should ensure that details and supporting documents included with the application are relevant and sufficient to allow a complete assessment to be conducted. The permit holder should also ensure that all activity reports and the final report have been lodged. Failing to submit this information will delay the renewal process.

The burden of demonstrating compliance is on the permit holder as the decision-maker cannot determine in advance of the renewal process whether a particular applicant will be able to demonstrate compliance. All permit holders should be capable of capturing, maintaining and providing evidence of their activities.

If the permit holder does not provide sufficient information to satisfy compliance, the decision-maker may request that the permit holder provide information to allow a reasonable assessment of the application. The permit holder should maintain good documentation and records of all exploration activities to ensure and demonstrate compliance with relevant legislation, expenditure and work program conditions. The appropriate level of documentation and record keeping will depend on the complexity and scale of the individual operation.

#### **Substantial Compliance**

Section 392 of the MRA provides that where a requirement under the Act has not been done in the prescribed way, but the administering authority is satisfied that there has been substantial compliance with the prescribed way, the requirement shall be deemed to have been completed in the prescribed way as if the noncompliance had not happened.

The effect of this section is that compliance assessors will not treat a permit holder as noncompliant where they may not have strictly complied with provisions of the MRA, but have been substantially compliant.

<b>Availability:</b>	External
<b>Location</b>	Business Industry Portal
<b>Owner:</b>	Georesources Division
<b>Date of this Version</b>	<b>30 June 2019</b>
<b>Review Date</b>	<b>30 June 2021</b>
<b>Approving Authority</b>	<b>Deputy Director General</b>
<b>Related documents</b>	This document should be read in conjunction with <b>Operational Policy Renewal of exploration resource authority in a proposed protected area under the Nature Conservation Act 1992.</b>
<b>Contact:</b>	For help and information contact an Assessment Hub  <b>Coal Assessment Hub</b> Phone: (07) 4936 0169 Email: <a href="mailto:CoalHub@dnrme.qld.gov.au">CoalHub@dnrme.qld.gov.au</a>  <b>Mineral Assessment Hub</b> Phone: (07) 4447 9230 Email: <a href="mailto:MineralHub@dnrme.qld.gov.au">MineralHub@dnrme.qld.gov.au</a>  For technical support contact the MyMinesOnline Helpdesk. Telephone: +61 7 3199 8133 Email: <a href="mailto:mines_online@dnrme.qld.gov.au">mines_online@dnrme.qld.gov.au</a> 8.30am – 4.30pm (AEST) Monday to Friday on Queensland business days.

#### 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.