

Operational policy

Special amendment of an authority to prospect work program

MIN/2015/1509
28 May 2020
Version 3.01

Purpose

This policy clarifies the limited circumstances in which a special amendment of an authority to prospect (ATP) may be approved and provides guidance to industry on how the department will assess applications for a special amendment.

This policy should be read in conjunction with Operational Policy MIN/2015/1313, Exceptional circumstances and exceptional events.

The information in this policy reflects current departmental practice 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.

Background

The special amendment provisions under ss. 107A – 107D of the P&G Act allow for approval to amend an ATP work program or relinquishment requirements for either an individual ATP or for an ATP-related project, **only** when a special amendment is necessary in the following extraordinary circumstances:

- because of an exceptional event affecting the ATP - described more fully in Operational policy MIN/2015/1313, Exceptional circumstances and exceptional events; or
- where the ATP is part of an exploration project.

The existing work program and relinquishment obligations set at the grant of an ATP, or that are otherwise approved and amended under the P&G Act, are considered to optimise the use and development of knowledge of the State's petroleum resources. Therefore, a special amendment application will be considered favourably where the proposed special amendment provides for at least the equivalent level of use and development of knowledge of the State's petroleum resources.

An application for a special amendment of an ATP can be made using the prescribed form [MMOL-25](#) in accordance with the application and assessment requirements under ss.107A – 107D of the P&G Act. It is departmental policy that a holder apply for project status using the special amendment provisions.

If there is more than one holder, then all holders must collectively apply or a holder must have consent to apply on behalf of the other holders.

Holders should apply for special amendment of an ATP **as soon as they become aware** of the need for the amendment. However, an application cannot be made in relation to a special amendment where the period of the approved work program has expired.

To avoid the potential scenario of non-compliance with a work program and to allow a full and proper assessment of those applications, applications should be submitted **at least three months** before the end of the approved work program period. This time period does not apply to a special amendment required due to an exceptional event. Applications lodged less than three months from the end of the approved work program will be considered less favourably.

An approval of a special amendment to an ATP work program takes effect from the day the notice is given. A change of conditions of an ATP takes effect on the day the approval takes effect.

Policy determination

Special amendment

An application for special amendment must state:

- the exceptional event affecting an ATP; or
- circumstances arising from the ATP forming part of an exploration project,¹ that justify the special amendment.

Where an application for special amendment has been received in the initial work program period of an ATP granted following a competitive 'call for tenders', the Minister may have regard to work programs proposed by other tenderers. For example, the Minister may consider whether the proposed amendment maintains an appropriate level of competition in the carrying out of petroleum activities.

If an ATP holder provides insufficient information to enable assessment of an application, this may result in delays in assessment and decision making while further information is sought. It may also result in refusal of the application.

Legislative changes from 25 May 2020

ATP holders should be aware that from 25 May 2020 applications for a special amendment can only be made if the amendment is required due to an exceptional event or due to circumstances arising from the existing ATP being part of an exploration project.

Any undecided applications as at 25 May 2020 must be decided by law under section 107D of the P&G Act as amended by the *Natural Resources and Other Legislation Amendment Act 2019*.

Alternatively, amendments to ATPs under section 60 of the P&G Act will still be available in some circumstances.

Project-related special amendment

An exploration project-related ATP is considered by the department to be an ATP that forms part of a group of ATPs (usually located within the same basin or geographical area with

¹ *Petroleum and Gas (Production and Safety) Act 2004*, ss 107A(1A) and 107A(2).

similar petroleum or gas targets) that have a unifying exploration or proposed development concept.

The holder of an ATP with a project-related status may apply for a special amendment to reallocate relinquishment and work program commitments across the ATPs within the project.

Project-related status under this policy **only relates to making an application for a special amendment**, i.e. to justify the circumstances requiring the amendment.

A special amendment of a work program or relinquishment condition of an ATP that forms part of an exploration project, may result in a reduced or delayed work program or relinquishment condition. However, any reduction in the work program for one ATP in a project must result in an increase in the work program for another one or more ATPs in the same exploration project. Similarly, a delay in a relinquishment condition for one ATP in an exploration project, must result in an equal reduction in the area of another ATP in the same exploration project.

To use the special amendment provisions, holders should provide a description and details about the exploration project and why the special amendment is being applied for. Details to be provided include, but are not limited to:

- the exploration project name;
- a list of all ATPs comprising the exploration project;
- how activities on the ATPs comprising the exploration project are operationally interrelated (for example the ATP is one of a group of ATPs in the same basin or geographical area that is being explored by common holders or under the one joint venture arrangement);
- the overall exploration strategy of the exploration project, including existing and proposed project wide work program and relinquishment requirements;
- the role and exploration status of each ATP in the exploration project; and
- the special amendment that is being proposed.

Although ATPs comprising an exploration project will generally have common holders, holder commonality is not a prerequisite to exploration project recognition. A special amendment that affects the work program or relinquishment of multiple holders in the exploration project should be made jointly by the affected holders in the project or with consent.

Example – relinquishment reallocation to other ATPs in an exploration project

If an ATP in an exploration project is required to be reduced by 100 sub-blocks by 30 June 2021 but the ATP holder wants to hold that land for longer, then the ATP holder may apply under section 107A to relinquish the area of another ATP in the same exploration project instead. If the special amendment is granted, the relinquishment requirement for the first ATP will be amended to zero as at 30 June 2021, but the relinquishment requirements of one or more other ATPs nominated by the applicant will be increased accordingly. This means that 100 sub-blocks are still relinquished from the exploration project by 30 June 2020, in addition to the sub-blocks the other ATPs in the exploration project would have otherwise relinquished.

Example – relinquishment – direct substitute

ATP 111 and ATP 222 are ATPs that form an exploration project. ATP 111 has a relinquishment condition to reduce the area by 50 sub-blocks prior to 30 June 2021. The holder of ATP 111 has applied for a special amendment to postpone the requirement to the end of the year 12 term of this ATP. The special amendment may only be approved if the relinquishment condition for ATP 222 is also amended to increase the relinquishment requirement for it by 50 sub-blocks, to be relinquished prior to 30 June 2021.

Example – work program

ATP 111 and ATP 222 are ATPs that form part of a project. ATP 111 has an approved work program requiring the drilling of five wells in the program period ending 30 June 2021. The holder of ATP 111 has applied for a special amendment to reduce the requirement to drill five wells to three wells. The special amendment may only be approved if the work program for ATP 222 is also amended to increase its approved work program by two wells, required to be drilled prior to 30 June 2021.

Example - ATP that is part of a project being transferred

As for single ATPs, the work program for an ATP moves with the transfer of the ATP to the transferee. The transferee of an ATP that is part of an exploration project, may either commit to carrying out the existing work program or apply for approval of a special amendment to change the work program after the transfer is approved. As part of the transfer process, the transferee may contact the department for an indication as to whether the proposed updated work program would be approved for the remainder of the work program period.

ATP holders considering a special amendment of an ATP based on exploration project considerations are encouraged to contact the department pre-lodgement to discuss and agree an exploration project is sufficient for the purposes of the special amendment provisions of the P&G Act.

Conditioning of authority to prospect

In approving a special amendment pursuant to ss.107B and 107C, the Minister may also approve a change of conditions of the ATP with respect to the amendment of the work program or relinquishment. For example, the Minister may condition exploration project-related amendments as only having effect while the ATP is managed as a part of the project.

Any change to the conditions of an ATP to be imposed under these sections will be made in consultation with the holder/s of the ATP.

When project-related special amendment will not be approved

An ATP that is still in its initial work program period (the initial ATP), can form part of an exploration project. However, it can only form part of an exploration project if another ATP in the same project is reducing its later work program and increasing the initial work program of the initial ATP that is in the same project.

The initial ATP cannot form part of an exploration project if the initial ATP is proposing to reduce its initial work program and increase the later work program of another ATP that is in the same project. Any application for a project related special amendment, proposing such an amendment, will be refused.

Similarly, a delay in a relinquishment condition for an ATP in an exploration project, can result in an equal reduction in the area of an initial ATP in the same exploration project.

The initial ATP cannot delay its relinquishment condition to result in an equal reduction in the area of another ATP that is in the same project. Any application for a project related special amendment, proposing such an amendment, will be refused.

Amendments due to COVID-19

The department recognises the COVID-19 pandemic and related restrictions as an exceptional event that may necessitate ATP holders applying to vary their work program and/or relinquishment conditions.

An application to amend the conditions of the ATP can be made for impacts due to COVID-19 and related restrictions. The existing MMOL-25 application form can be accessed [here](#) for applications under s107A. The usual fee has been waived for applications made within 1 April – 30 September 2020.

This aspect of this policy will apply to activities in approved work programs for **years 2020 and 2021 only**. Work program activities that should have been completed prior to 2020 will not be able to demonstrate that the inability to complete the activities was due to COVID-19 or related restrictions. However, the department acknowledges that if the 2020 or 2021 work program activities are changed, this may require adjustments to work programs for later years, for example where future drilling work is contingent on the results of exploration that has been deferred.

All ATPs are eligible to apply, including those granted as a result of a competitive application process. If an ATP includes a condition that limits the ability to apply to amend an initial work program, please contact the Petroleum Assessment Hub to discuss before applying.

Examples of impacts ATP holders may face include the inability to source staff for exploration due to border movement restrictions, inability to move specialised exploration equipment onto site, the inability to safely undertake field work due to social distancing requirements, and as a direct consequence of the economic impacts associated with COVID-19 (e.g. cash flow, low cash reserves, access to capital).

ATP holders will need to advise why their work program has been impacted by COVID-19 and related restrictions.

For example, an ATP work program includes drilling one well in 2020, however due to COVID-19 restrictions the ATP holder requests a deferral of these on ground activities until 2021.

An ATP with a work program ending on 30 June 2020 will be unlikely to be able to show that the inability to comply with the work program was due to COVID-19 related restrictions as the majority of work program activities should already have been well underway prior to COVID-19 related disruptions taking place from March 2020.

Similarly, an amendment to activities in an approved work program proposed in 2022 will need to demonstrate how COVID -19 impacts in the years 2020 and 2021 have affected their ability to carry out the proposed 2022 activities.

Once the work program is amended, a holder will only be required to comply with the new work program and associated expenditure.

If the relinquishment condition is varied, it will defer relinquishment to the next relinquishment date.

The ATP holder remains subject to the requirements of the P&G Act, this policy and associated policies.

Document information

Availability and location: External, Business Industry Portal

Owner and approver: Deputy Director-General, Georesources Division

Review date: May 2022

Related documents: This policy should be read in conjunction with the Operational Policy, MIN/2015/1313, Exceptional circumstances and exceptional events.

Contact: For help and information contact the Petroleum Assessment Hub on (07) 3199 8118 or email petroleumhub@dnrme.qld.gov.au.

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.

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