

# Operational Policy

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## Assessment of exploration permits

### Purpose

This policy provides guidance to industry on the assessment process and DNRME's expectations when assessing exploration permit (EP) applications (including competitive applications) under the *Mineral Resources Act 1989* (MRA).

This policy relates to the following sections of the MRA that are considered when assessing an EP application:

- 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.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.386J Request to applicant about application
- s.393 Prescribed person excused for neglect or default of other entities or circumstances beyond person's control

and Mineral Resources Regulation 2013 (MRR):

- s.97 Particular applications must not be accepted.

This policy does not apply to the assessment of exploration permits for coal other than by competitive tender.<sup>1</sup>

This policy also relates to the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERCPC), Chapter 5 Applications and other documents.

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.

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.

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<sup>1</sup> Chapter 4, Part 3, Division 5 of the *Mineral Resources Act 1989*.

## Policy Determination

### Assessing an application for an exploration permit

The decision-maker is required to assess EP 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 to and be satisfied with each requirement or consideration under s.137 of the MRA, namely that:

- the applicant is an eligible person;
- the application complies with Chapter 4 of the MRA, which deals with EPs;
- the applicant has paid rental for the first year of the term of the EP under section 138;
- the program of work under s133(f)(i) which accompanied the application has been approved in accordance with s137(2)(d) and 137(3);
- the applicant is not disqualified from being granted an exploration permit pursuant to section 137(2)(e) and for previous contravention or failure to comply with any provision of the MRA, the repealed Acts or other mining legislation;
- all or part of the land for the exploration permit is not in a fossicking area or subject to an EP for the same mineral (section 136(3)).

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 provisions of the MRA.

### Assessment of the requirements of the MRA and MRR

EP applications will be assessed to confirm whether 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 statutory requirements of s. 97 of the MRR, namely that:

- the applicant is an eligible person;
- the land applied for is available for exploration;
- the document is made in the approved form for an application of an EP;
- the prescribed fee has been paid.

If the assessing officer determines that the applicant has not met this criteria, the application will **not be accepted** under s. 97(2)(a) of the MRR.

The assessing officer will assess the application to determine whether or not the application satisfies the requirements of s. 137(2)(a) of the MRA, that applies to obtaining an EP for minerals other than coal (MRA, Chapter 4, Part 2) and to obtaining an EP for coal (MRA, Chapter 4, Part 3). 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.

In accordance with s.137(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 s.136(1) of the MRA, unless the applicant can satisfy the decision-maker that it has been unable to comply due to the neglect or default of other entities or circumstances beyond the applicant's control.

## Program of work assessment

The assessing officer will ascertain 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 s.137(3) of the MRA:

- the extent of the proposed activities in the proposed area of the EP;
- when and where the applicant proposes to carry out exploration activities in the proposed area of the EP;
- 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 EP area.

The decision-maker must not grant an EP 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 s. 136(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 s.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 EP application may proceed to the next stage of assessment.

After the EP 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 **Mineral and Coal Exploration Guide** 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 s.134A of the MRA, applications for the grant of an EP that are made in respect of the same area, for the same mineral and 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 competing applications will be given priority and be granted the EP.

A priority assessment under s. 134A is only required with respect to applications that comply with the application requirements at Chapter 4 Exploration Permits of the MRA. Applications that do not comply with the statutory requirements may be refused in accordance with s. 136(1)(b) and s. 137(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 s. 386J 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 applicants' minimum guaranteed program of work (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 EP area and progress the exploration status of the area. The technical assessment officers verify the work program and confirm 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 assessment officers will prepare an assessment report for the decision-maker (Minister or Minister's 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 EP; and
- recommends that the application(s) not be given a priority ranking (only where one or more applications are considered unsuitable).

The report and recommendations will then be submitted to the decision-maker, for a decision on priority.

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

Strict probity is required during this process to ensure procedural fairness is afforded to all applicants. Departmental officers will not discuss competitive applications with any applicants until the priority of the competitive applications has been determined.

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<b>Location</b>	Business Industry Portal
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<b>Approving Authority</b>	<b>Deputy Director-General</b>
<b>Related documents</b>	This policy should be read in conjunction with the <b>Development Plans and Work Program Guideline</b> .
<b>Contact:</b>	For help and information contact the Coal or Mineral Assessment Hub:  Phone: (07) 4936 0169 Email: <a href="mailto:CoalHub@dnrme.qld.gov.au">CoalHub@dnrme.qld.gov.au</a>  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.