

Operational policy

Renewal of exploration permits

MIN/2015/1253
25 May 2020
Version 1.04

Purpose

This policy provides guidance and clarity to applicants of the processes and departmental expectations in relation to the renewal of an exploration permit (EP) under the *Mineral Resources Act 1989* (MRA).

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.

Background

The term of an EP is for a maximum of 15 years, which may be made up of multiple renewals. An extension of the final term of up to three years may be approved due to an exceptional event (refer to Operational policy, MIN/2020/5325, Application for extension of last renewed term of an exploration permit).

Renewal applications must include a work program for the proposed renewed term, which may be either activities-based or outcomes-based.

Transitional provisions

The *Natural Resources and Other Legislation Amendment Act 2019* (NROLA) introduced a capped term of 15 years. The relevant provisions apply from 25 May 2020. Under NROLA transitional provisions apply.

Existing EPs continue and may be renewed totalling a maximum of 10 years from the first renewal after commencement of NROLA, unless an extension of the last renewed term is approved (refer to Operational policy, MIN/2020/5325, Application for extension of last renewed term of an exploration permit). For example, an EP granted in 2006 and due for renewal in 2021 may be renewed a number of times up to 10 years and will expire on 2031, if the area does not progress to a higher tenure in the meantime.

There is only one relinquishment point for EPs, which is five years after the first renewal is made after commencement. At this point a relinquishment of 50% of the area is required. Where a holder reduces more than 50% of the area, the additional percentage of the area is carried over to the next relinquishment. For example, if the holder of an EP that comprises 100 sub-blocks, reduces the area by 60 sub-blocks (instead of the required 50 sub-blocks) at the end of 5 years, the holder will be required to reduce the area by 40 sub-blocks at the end of the second term.

EP holders who have lodged an application to renew that has not yet been decided, may submit an activities-based or outcomes-based work program to comply with the new work program requirements. The proposed work program must be given to the chief executive within three months from commencement of NROLA. If the applicant does not submit a replacement proposed work program, the Minister or Minister's delegate will decide whether to approve or refuse the work program submitted with the renewal application.

Policy determination

Application to renew an EP

A holder who wishes to apply to renew an EP must apply under section 147 of the MRA on the approved form with the fee prescribed in the MRR. The application must be accompanied by a proposed work program for the further term of the permit.

Note: the types of work program for the term of an EP are provided under section 130AA of the MRA and are described more fully in the Work program guideline (MRA).

Applications must be made not more than six months before expiry date of the current term of the EP 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.¹

The reason for late lodgement must be reasonable and identify an actual cause or causes for the late lodgement.² 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.

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 EP

The decision maker may renew an EP under section 147A if satisfied that the holder has:

- observed and performed all the covenants and conditions of applying to the permit and required to be observed and performed by the holder;
- complied with the MRA in relation to the permit;
- the activities proposed to be carried out, or the outcomes proposed to be pursued, as stated in the proposed work program for the further term of the permit, are appropriate and acceptable;

¹ *Mineral Resources Act 1989*, s 147(3).

² *Mineral Resources Act 1989*, s 393.

- the financial and technical resources available to the holder to carry out the activities or pursue the outcomes are appropriate and acceptable; and
- the public interest will not be adversely affected by the renewal.

When deciding if the permit holder has satisfied these requirements, the decision maker will consider the activity reports submitted by the EP holder.

There are three types of assessment that will occur 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 EP holder. For renewals, the proposed work program must reflect and build upon the knowledge gained from the prior approved work program. The department expects that in the proposed work program for an EP, the exploration activities will become more intensive and focused as the EP area reduces and the EP holder endeavours to confirm the commerciality of any mineral resource.

The assessment officer will compare the holder's commitments to the work that has been actually undertaken and review the exploration data captured, expenditure (to validate on-ground exploration activity) and other matters specified under the MRA. The assessment officer will also assess and take into consideration activities conducted over the extent of an EP that is within an exploration project for the period under review. The holder of an EPM will need to provide the up to date, at time of lodgement, project management spreadsheet and the details of the work carried out over the project. 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 EP holder has met the EP conditions and complied with the MRA for the relevant term.

To aid in assessment, an EP holder should provide a compliance statement with each activity report that is required to be submitted for the EP.³ The compliance statement details whether the work program of activities or outcomes for the EP have been carried out or achieved for the term, including details of, and reasons for, any failure to comply with the work program. The assessment officer will also assess and take into consideration activities conducted over the extent of an EP that is within an exploration project for the period under review. The holder of an EPM will need to provide the up to date, at time of lodgement, project management spreadsheet and the details of the work carried out over the project.

c) Public interest assessment

When undertaking the public interest adversity assessment, consideration will be given to any information relevant to the subject matter, scope and purpose of the MRA with respect

³ Mineral Resources Regulation 2013, s13(3)(b).

to the EP. 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 which demonstrates that the renewal of the permit will not adversely affect the public interest with their application. This statement should identify the past, current and future 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 through a natural justice process to any information that may have adverse consequences that will be considered by the decision-maker (that was not provided by the applicant).

Demonstrating compliance

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

The responsibility for demonstrating compliance is on the EP holder as the decision maker cannot determine in advance of the renewal process whether a particular applicant will be able to demonstrate compliance. All EP holders should capture, maintain and provide evidence of activities or outcomes as described in the work program for the EP.

If the EP holder does not provide sufficient information to satisfy compliance, further information may be requested from the EP holder to allow a reasonable assessment of the application. The EP holder should maintain good documentation and records of all exploration activities and outcomes to ensure and demonstrate compliance with relevant legislation.

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.

Document information

Availability: External

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Owner and approver: Deputy Director-General, Georesources Division

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Related documents: This policy should be read in conjunction with the Operational policy MIN/2015/1254, Exploration work program and relinquishment requirements for an exploration permit; Operational policy MIN/2015/1313, Exceptional circumstances and exceptional events; Operational policy MIN/2020/5325, Application for extension of last renewed term of 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@dnrme.qld.gov.au or the Coal Assessment Hub on (07) 4936 0169 or email coalhub@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. 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.