

Operational policy

Exploration work program and relinquishment requirements for an exploration permit

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Purpose

This policy provides guidance to industry about the processes and department's expectations with respect to conditioning exploration permit work programs and relinquishment.

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.

Policy determination

Work program for an exploration permit (EP)

Transitional provisions – work program conditions

Amendments to the MRA were introduced under the *Natural Resources and Other Legislation Amendment Act 2019* (NROLA) and commenced on 25 May 2020. Under NROLA, a work program may either be activities-based or outcomes-based.

For existing EPs:

- the approved work program in place prior to 25 May 2020 will continue until the end of the term the work program applies to; and
- a new work program to comply with the new framework will be required to accompany an application to renew the term of the exploration permit.

For applications for new EPs that have not yet been decided:

- a work program lodged with a new application may be changed by giving the chief executive the information required to comply with either an activities-based or outcomes-based work program within six months from the commencement of the legislation, but only if the application is not subject to a tender or competitive process; and
- a work program lodged with an application to renew may be changed by giving the chief executive the information required to comply with all of the information required

for either an activities-based or outcomes-based work program within three months from the commencement of the legislation.

Work program conditions

Section 141 of the *Mineral Resources Act 1989* (MRA) provides that it is a condition of the grant of an EP that the EP holder either:

- carries out the activities that are stated in the work program for the term, if the approved work program is activities-based; or
- pursues the outcomes to be achieved during the term, if the approved work program is outcomes-based.

Section 194 of the MRA provides that it is a condition that the holder shall carry out activities for which the MDL was granted.

The grant and renewal of an EP and an MDL is conditioned for the term for which the authority is granted and compliance with the work program can be assessed at any time during the term.

Types of work programs

The grant and renewal of an EP or an MDL is conditioned for the term for which the EP or MDL is granted. Work program compliance may be assessed at any time during the term.

A work program may either be activities-based or outcomes-based under section 130AA of the MRA. However, a call for tender or a request made by the Minister may state that a particular type of work program is required e.g. for moratorium day EP applications, same day applications and tenders.

An activities-based work program provides a detailed description of the activities proposed to be carried out during the term, and the estimated human, technical and financial resources proposed to be committed to exploration work during the term.

An outcomes-based work program provides flexibility in planning and allows explorers to adjust their activities in response to exploration results without the need to seek approval from the department to vary their work program. This will result in explorers being able to focus on on-ground activities rather than administration by providing authority holders more flexibility in planning their exploration activities based on exploration results.

The requirements of an outcomes-based work program include:

- the outcomes proposed to be pursued during the term;
- the strategy for pursuing the outcomes during the term;
- the information and data proposed to be collected as an indication of mineralisation during the term; and
- the estimated human, technical and financial resources proposed to be committed to exploration during the term.

In an outcomes-based work program, the department is seeking to understand the type of information and data the holder will collect during the work program term rather than the activities to be carried out to achieve the outcomes.

The proposed outcomes need to identify:

- the mineral being explored;
- the level of mineralisation expected to be discovered ; and/or
- the level of commerciality of the resource expected as a result of the exploration.

The strategy for exploration is an in-depth rationale that needs to demonstrate how this will align and achieve the outcome to the best of the holders' knowledge.

For example, a proposed outcome could be to ascertain, within a specified time period during the term of the permit, the likelihood of commercial deposits of specified minerals occurring in a specified geological area, basin, geological period, etc. within an estimated depth range of, for example, 100 to 250 metres. The strategy for pursuing the outcomes could include an in-depth rationale that demonstrates that the applicant understands the approach required in pursuit of the outcomes to the best of their knowledge.

Work program for a “moratorium day” EP application

Section 133(f)(i) provides for an activities-based work program as the only type of work program to accompany an application for an EP for minerals other than coal where the application is lodged on the day the moratorium is released. The Minister decides the priority after considering the relative merits of each application under section 134A(2) of the MRA.

Work program for a same day EP application

Under section 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. If one or more competing applications were accompanied by a proposed outcomes-based work program, before deciding the priority of the applications, the Minister may by written notice, require an applicant to give the Minister a proposed activities-based work program for the term. The written notice will require the activities-based work program to be given within three months from the date of the notice.

Work program for a tender

The type of work program required for a tender will be stated in call for tender. To preserve the integrity of the competitive tender process, the general requirement for a work program would be activities-based to allow for a consistent comparison. However, there may be circumstances that an outcomes-based work program is better suited for the tendered area, for example, in a “greenfield” area.

Work program for an application to renew an EP

An application for renewal of an EP may be accompanied by a proposed work program that is either activities-based or outcomes-based for the term.

Work program for an MDL

Section 183(1)(m) of the MRA requires a proposed work program to accompany an MDL application. A work program for an MDL is a statement of any activities proposed to be carried out under the MDL, including, for example, work programs, amounts to be spent and studies to be performed. The work program for an MDL cannot be outcomes-based.

Relinquishment requirements for an EP

Transitional provisions - relinquishment

Changed relinquishment requirements for EPs apply with the commencement of the *Natural Resources and Other Legislation Amendment Act 2019* (NROLA). The following arrangements apply from 25 May 2020:

- All existing relinquishment requirements, including relinquishment conditions imposed under section 141 will cease to apply.
- 50% relinquishment will be necessary 5 years after the first renewal after the commencement of the new legislation, that is:
 - nil relinquishment is required at the first renewal;
 - 50% of the area as existing on the commencement is due to be relinquished by the day that is 5 years after the EP is first renewed after the commencement; and
 - the remainder of the EP is due to be relinquished 10 years after the first renewal after the commencement. This marks the end of the term of the EP. Note that relinquishment may be more or less than 50% of the area at commencement depending on reallocation of relinquishment requirements for EPs within an exploration project.
- For a current EP, a voluntary relinquishment made over the balance of the term between commencement and the next expiry, or over the first renewal term post commencement, may be used to offset the relinquishment obligation due at the end of the first renewed term after commencement.
- The Minister has the discretionary power to direct an EP holder to reduce the area of an EP by more or less than the area prescribed under section 139(1) that is more or less than 50%. This discretion:
 - allows variation of relinquishment requirements to be managed across EPs that are within an exploration project; and
 - may also be used to reduce the relinquishment requirement to benefit EP holders that have been adversely impacted by an exceptional event.
- Area from an EP that is part of an application for a higher form of tenure cannot count toward relinquishment. However, the relinquishment (required at the end of Year 5) is deferred until the higher tenure is decided. If the holder of an EP has made an application for an MDL or an ML and has made a submission to the chief executive which identifies the sub-block land to which a reduction will apply, the part of the land within the EP that is also covered by an application for an MDL or ML will not be required to be relinquished until a decision has been made on that application. If the higher tenure is granted, relinquishment occurs on the day the tenure is granted. If the application is withdrawn or refused, relinquishment is due within 20 business days of the withdrawal or refusal. The EP holder may nominate other sub-blocks to relinquish and amend the submission to the chief executive.

- Where the higher tenure would only partially contribute to the 50% of the reduction, other areas of the permit will need to be relinquished.
- Under section 857(3) of the NROLA, an EP for coal in force on the commencement of NROLA to which section 232(1) of the *Mineral and Energy (Common Provisions) Act 2017* (MERC Act) applies, and where no agreement under section 232(2) of the MERC Act has been made, is not required to be reduced by any amount. This provides an exemption from relinquishment requirements for an EP that is overlapping with a petroleum lease and the EP holder is unable to enter the land to undertake exploration activities.

It is departmental policy that upon expiry of a transitional EP (i.e. at the end of year 10 after the first renewal after 25 May 2020) that is part of an exploration project, the remaining sub-blocks of that EP may be used as a “credit” for relinquishments due for other EPs within that same exploration project.

Reduction in area of an EP

Under section 139(1) of the MRA, it is a requirement that the area of an EP must be reduced by 50% before the end of five years after the permit was granted and by a further 50% of the area remaining before the end of year 10, if the permit is renewed.

Where an EP is granted for a term of less than 5 years, it is proposed that the new relinquishment requirement of 50% will be applied at the end of each 5 year period.

Where a renewal is granted for a period of less than five years, it is proposed that the following relinquishment requirements apply:

- A four year term if renewed, will be conditioned to relinquish 50% at year one of the renewed EP term (year five of the overall EP).
- A three year EP, if renewed, will be conditioned to relinquish 50% at year two of the renewed EP term (year five of the overall EP).
- A one or two year EP, if renewed, will be required to relinquish 50% at year five (year five of the overall EP).

The area remaining after the reduction must consist of whole sub-blocks.

Relinquishment requirements can only be varied in very specific circumstances; that is where the work program for an EP has:

- been impacted by an exceptional event (refer to Operational policy, MIN/2015/1313, Exceptional circumstances and exceptional events, or
- due to circumstances arising from the EP being within an exploration project (where the relinquishment requirements can be reallocated to another EP on the exploration project).

Where the holder of an EP has had the area reduced under section 177, this area can contribute to the 50% relinquishment requirement. Relinquishment may be deferred where an area for a higher tenure is pending (refer to section 139A). If the decision is to not grant the MDL or ML, then relinquishment of that area or equivalent area will need to be met.

If the area under application is less than 50%, for example, the application area covers 15% of the area, the holder is required to relinquish 35% of the area at the time relinquishment falls due. The remaining 15% is deferred until the application is decided.

The holder is required to provide the nominated area (15% in the above example) for relinquishment within 20 business days after receiving the notice of refusal to grant the higher authority or if the holder withdraws the application.

The Minister has discretion to direct a holder to reduce the area of the EP by more or less than 50%. This allows variation of relinquishment requirements where an EP is subject to an exceptional event or to allow for relinquishment requirements to be managed across exploration permits within a project. For example, section 139(4) allows for the following:

	EP 1	EP 2	EP 3	EP4	Total
Sub-blocks held	100	100	100	100	400
number of sub-blocks relinquished for mandatory relinquishment of 50% for individual EP	50	50	50	50	200
Minister's discretion to apply more or less than mandatory of 50% for EPs within a project	Less by 50% Total percentage required = 0%	More by 25% Total percentage required =75%	More by 15% Total percentage required =65%	More by 10% Total percentage required =60%	N/A
number of sub-blocks relinquished for after relinquishment for project EP	0	75	65	60	200

Voluntary reduction in area of an EP

At any stage you may reduce the area of an EP by more than what is required under section 139(1) of the MRA. The reduction may be counted towards the 50% reduction required before the end of that term; that is, before the end of year 5 or year 10.

Document information

Availability: External

Location: Business Industry Portal

Owner and approver: Deputy Director-General, Georesources Division

Review date: 25 May 2022

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

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