

# Operational policy

## Exploration work program and relinquishment requirements for an exploration permit

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### 1. 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 (HR Act), 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 HR Act, regard will be had to that Act in undertaking the act or making the decision.

### 2. Background

#### 2.1 Work program for an Exploration Permit (EP)

##### 2.1.1 Transitional provisions – work program conditions

Amendments to the *Mineral Resources Act 1989* (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 either an activities-based or outcomes-based work program within three months from the commencement of the legislation.

## 2.1.2 Work program conditions

Section 141 of the 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 Mineral Development Licence (MDL) was granted.

The grant or 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.

## 2.2 Types of work programs

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 i.e. for tender of EPs for coal, moratorium day applications, and for same day applications for EPs for minerals.

Section 130AA(1) of the MRA provides that a work program for a term of an EP is a work program that is either activities-based or outcomes-based.

Under section 130AA(2), an activities-based work program for a term of an EP is a document stating:

- (a) the activities proposed to be carried out during the term; and
- (b) the estimated human, technical and financial resources proposed to be committed to exploration during the term.

An activities-based **work program** which complies with section 137(3) should contain:

- a sufficiently detailed rationale document for the work program which includes statement about:
  - how the exploration model will significantly advance the assessment for the work program outlining the basis of prospectivity with consideration of the exploration maturity of the area;
  - details of when and where 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);
  - maps that show target formations and where exploration activities are proposed to be carried out;
  - details about previous exploration undertaken including any identified mineral or resources within the area of the EP;
  - justification for the area of the permit with respect to the proposed exploration program;

- if the proposed permit supports other permits or forms part of a broader project, the work program must describe how it is to operate in the context of the project and clearly show the relationship to the other permits; and
- detail on resource or infrastructure studies proposed to be carried out.

For further information on an activities-based work program refer to the [Work Program Guideline \(MRA\)](#).

Under section 130AA(3), an outcomes-based work program for a term of an EP is a document stating:

- (a) the outcomes proposed to be pursued during the term; and
- (b) the strategy for pursuing the outcomes mentioned in paragraph (a); and
- (c) the information and data proposed to be collected as an indication of mineralisation during the term; and
- (d) the estimated human, technical and financial resources proposed to be committed to exploration during the term.

An outcomes-based **work program** which complies with section 137(3) will have a statement of the outcomes to be pursued and a sufficiently detailed rationale document providing information such as:

- a description, location and timing of the activities or exploration techniques proposed to be carried out for the first two years and the likely direction of the work program for the remainder of the term
- information on the data to be collected, geochemical analysis to be undertaken; for example, outcrop samples, assays of drill hole intersections, geochemical results and geophysical results.

An application for an EP for coal in a coal mining project must be accompanied by a work program and a statement about how the work proposed to be carried out under the EP is necessary for the operation of the coal mining project, pursuant to section 136R(d) of the MRA. The department requires this to include government or privately sourced or developed research analysis (if applicable).

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 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.

With an outcomes-based application a much more detailed rationale statement is required and needs to demonstrate how this underpins the exploration approach and any proposed exploration work. 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.

For further information on an outcomes-based work program refer to the [Work Program Guideline \(MRA\)](#).

The decision-maker must not grant an EP unless the work program is approved, therefore if the decision-maker is unable to approve the work program the application **will be refused** under section 136(1)(b).

### **2.2.1 Work program for a “moratorium day” EP application**

Section 133(f)(i) of the MRA 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.

### **2.2.2 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.

An application for an EP may be accompanied by a proposed work program that is either activities-based or outcomes based for the term. However, if one or more same day EP applications are accompanied by an outcomes-based work program, the Minister may by notice require the applicants to give the Minister an activities-based work program for the term of the permit. Accordingly, any EP application that is likely to be a same day application should be lodged as an activities-based work program for the application.

### **2.2.3 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.

### **2.2.4 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.

### **2.2.5 Work program for an MDL**

The work program for an MDL cannot be outcomes-based. 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, amounts to be spent and studies to be performed.

## **2.3 Relinquishment requirements for an EP**

### **2.3.1 Transitional provisions - relinquishment**

Relinquishment requirements changed for EPs with the commencement of the *Natural Resources and Other Legislation Amendment Act 2019*. The following arrangements apply from 25 May 2020:

- All existing relinquishment requirements, including relinquishment conditions imposed under section 141 of the MRA 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 a Mining Lease (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.

### **2.3.2 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, relinquishment of 50% of the area is required to be relinquished at the end of each 5 year period.

Where a renewal is granted for a period of less than five years, 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 MIN/2015/1313 Operational policy - 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 within 20 business days.

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 after relinquishment for project EP	0	75	65	60	200

### 2.3.3 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

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### 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.

### Keywords

MIN/2015/1313; Resources; MRA; P&G Act; exceptional circumstances; exceptional events; exploration resource authorities