Operational policy

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Security assessment – mineral and coal resource authorities

Purpose

This policy provides information about how the department determines security for an exploration permit for coal and Mineral (EP), mineral development licence (MDL), or mining lease (ML) granted under the *Mineral Resources Act 1989* (MRA).

This policy applies to applicants for new or renewed resource authorities and for current resource authority holders at any time during the term.[1] The principles of this policy also apply to the requirement for security for transfers under section 22 of the *Mineral and Energy Resources (Common Provisions) Act 2014*. This policy does not apply to prospecting permits or mining claims.

The information in this policy reflects current departmental practices and does not limit the exercise of discretion or override legislative requirements. These practices may change from time to time with changes 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

Security is initially determined when assessing a new resource authority application. The security amount will be reviewed at renewal. Additionally, the MRA allows the Minister (or authorised delegate) to decide that the holder must deposit additional security at any time. The MRA requires holders to provide security for the following resource authority obligations:

- compliance with resource authority conditions (including those mandated by the MRA and any additional conditions placed on the resource authority);
- compliance with the provisions of the MRA;
- rectification of any actual damage that may be caused to pre-existing improvements, by any person whilst they are purporting to act under the resource authority; and
- any amounts payable to the State (other than penalties) under the MRA. [2]

Machinery, equipment and removable improvements (plant) that remain in the area of a resource authority after its termination become vested in the State. An MDL holder can apply to remove plant from the land,[3] while an ML holder can apply to remove mineral and property from the land.[4]

[1] Section 141(1)(g) for exploration permits, section 190(6) for mineral development licences, and section 276(1)(k) for mining leases in the *Mineral Resources Act 1989*.
[2] Section 144(1) for exploration permits, section 190(1) for mineral development licences, and section 276(1) for mining leases in the *Mineral Resources Act 1989.*
[3] Section 313 of the *Mineral Resources Act 1989*.
[4] Section 313(2) of the *Mineral Resources Act 1989*.

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In addition to security under the MRA, resource authority holders are required to meet financial provisioning requirements under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*. Financial provisioning is held as security for compliance with the environmental authority associated with the resource authority, and for costs or expenses incurred by the administering authority to prevent or minimise environmental harm or rehabilitate or restore the environment (i.e. the financial provisioning is held in case the holder cannot fulfil their environmental obligations and meet their rehabilitation outcomes contained in an environmental authority).

Policy

Security assessment and calculation

1. The decision-maker must assess and determine an amount of security to be deposited for an exploration permit, mineral development licence or mining lease. The decision-maker will consider the appropriate amount of security that is required on a case-by-case basis.

2. Where the decision-maker is considering fixing an amount of security for compliance with conditions in relation to any pre-existing improvements, equipment, and infrastructure on the resource authority, the following amounts may be considered as a starting point, having regard to the usual types of plant and equipment that are likely to be present for each type of tenure:

- $500 for an EP;
- $2500 for a MDL for mineral or coal;
- $1000 for a ML for eluvial, colluvial and alluvial gold and eluvial, colluvial and alluvial tin;
- $1000 for a ML for corundum, gemstones and other precious stones; and
- $2500 for a ML for coal or any other mineral.

However, these amounts are for guidance only, and the decision-maker will consider the specific circumstances for each resource authority in determining the amount of security to be fixed.

3. When assessing security the decision-maker may also take into consideration any surface area that is proposed to be used for access.

4. When assessing security the decision-maker may also take into consideration the applicant's compliance history.

Plant and equipment

5. In determining the amount of security, the decision-maker will consider whether security is required for the removal of plant and equipment on the resource authority. This is to ensure the statutory condition to remove equipment and plant (where applicable) is met, in circumstances where the removal is not associated with rehabilitating, restoring or protecting the environment.

6. Security may be needed for the following activities on a proposed or existing resource authority (among others):

- demolition and removal of structures including buildings, sheds and camps;
- removal of site services e.g. water, power, communications, sewage;
- removal of processing plant and equipment;
- collection and removal of resource samples and stockpiles;

- removal and disposal of fencing, gates and grids.

7. While each matter will be considered on a case-by-case basis, this component of security may be calculated using a unit of cost that is based on the following:
- estimates for the removal of structures, water and vehicles;
- the estimated cost of rectifying damage or remedying non-compliance proportionate to the size, risk and term of the resource authority; and
- the consumer price index.

Pre-existing improvements

8. Security is also required for any pre-existing improvements in the area of the resource authority that could get damaged and require the holder to carry out improvement restoration.[5] Pre-existing improvements means all improvements on, or attached to, the land the subject of the resource authority immediately before the application for the resource authority was lodged. This includes, but is not limited to:
- roads (restoring unsealed roads, haul roads and access roads if damaged);
- bridges;
- fences;
- stockyard;
- buildings, sheds; and
- equipment, machinery or plant.

9. Compensation agreements entered into in respect of damages to improvements on private land will be taken into consideration when determining security.

Form of security deposit

10. Security is to be deposited in a form acceptable to the decision-maker. This may include cash, bond, guarantee or indemnity by financial institution.[6] Other forms of security deposit must not be encumbered and must be readily available when required.

New applications and transfers

11. If the holder of a former resource authority applies for a new resource authority, instead of refunding the original security amount deposited, the department may retain that amount towards the security for the new resource authority. The decision-maker may also request additional security for the new resource authority.

12. If a resource authority is transferred, any liabilities become the responsibility of the new holder. Prior to the transfer approval, the incoming holder will be required to replace the existing security or provide evidence that the existing holder has agreed to transfer the security with the transfer of the resource authority.

Release of security

13. Security may be refunded to the holder upon surrender, expiry or termination of the resource authority. Any refund will be determined by the decision-maker in accordance with the statutory criteria.[7]

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[5] Section 6C of the *Mineral Resources Act 1989*.
[6] Section 277(9) of the *Mineral Resources Act 1989*.
[7] See sections 144, 190 and 277 of the *Mineral Resources Act 1989*.

14. Any unused security held as a bond, guarantee, or indemnity by a financial institution, insurance company or other credit provider (security provider) will be refunded to the security provider and not to the resource authority holder.[8]

Document Information

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Contacts: For help and information about this policy, please contact the Coal Assessment Hub on (07) 4936 0169 or email coalhub@dnrme.qld.gov.au or Mineral Assessment Hub on (07) 4447 9230 or email MineralHub@dnrme.qld.gov.au.

Disclaimer
The purpose of this policy 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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[8] See for example section 277 of the *Mineral Resources Act 1989*.