

# Operational policy

## Assessment of exploration permits

MIN/2015/1247

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Version 1.05

### 1. Purpose

This policy provides guidance to industry on the assessment process and the department'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:

- 127 Land subject to exploration
- 130 Exploration permit to specify minerals sought
- 130AA Types of work program for term of exploration permit
- 131 Who may apply
- 132 Exclusion of land from area of exploration permit if subject to other authority under Act
- 133 Application for exploration permit
- 134A Priority of applications for grant of exploration permit
- 136 Grant of exploration permit on application
- 137 Prescribed criteria for grant of exploration permit
- 386J Request to applicant about application
- 393 Prescribed person excused for neglect or default of other entities or circumstances beyond person's control

and Mineral Resources Regulation 2013 (MRR):

- section 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* (MERCP), 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.

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

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. Policy Determination**

### **2.1 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 the prescribed criteria for the grant of an exploration permit under s.137 and consideration of other relevant provisions under the MRA, namely that:

- the requirements of the MRA have been complied with
- the applicant is an eligible person;
- the applicant has paid rental for the first year of the term of the EP under section 138;
- the proposed work program under section 133(f) which accompanied the application has been approved in accordance with sections 137(2)(d) and 137(3);
- under section 137(2)(e), the applicant is not disqualified from being granted an exploration permit;
- 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, pursuant to section 136(3); and
- the amount of security will be determined by the department and deposited by the holder prior to grant, pursuant to section 144 of the MRA.

Applications will be assessed against the criteria by the delegated decision-maker. The assessment will be conducted stages as the assessors take into consideration each of the criteria and the relevant provisions of the MRA.

### **2.2 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.

### **2.3 Statutory assessment**

The assessing officer will assess the application to ensure that the applicant can be accepted as an application having met the requirements of section 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 for an EP; and the prescribed fee for the application has been paid.

The assessing officer will assess the application to determine whether or not the application satisfies the requirements of section 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 sections of the MRA:

- 130 Exploration permit to specify minerals sought;
- 130AA Types of work program for term of exploration permit
- 131 Who may apply;
- 132 Exclusion of land from area of exploration permit if subject to other authority under Act;
- 133 Application for exploration permit.

In accordance with section 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 section 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.

## 2.4 Work program assessment

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 work program that lists the activities proposed to be carried out and the financial resources to be committed to exploration activities for the term;
- a sufficiently detailed rationale document for the work program which includes statements about:
  - how the exploration model and work program will advance the geological knowledge of the resource potential of the permit area under application 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 a proposed MDL application.

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 outcome-based work program which complies with section 137(3) will have a statement on 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 initially (e.g. for the first two years) and the likely direction of the work program for the remainder of the term, subject to the exploration results
- 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).

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

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 work program for the term of the EP, having regard to the following considerations set out in section 137(3) of the MRA:

- a. for a work program (activities-based) –
  - i. the extent of the proposed activities in the proposed area of the permit;
  - ii. when and where the applicant proposes to carry out the exploration activities in the proposed area of the permit;
  - iii. whether the applicant has the financial and technical capability of carrying out the proposed activities; or
- b. for a work program (outcomes-based) –
  - i. whether the applicant has an adequate knowledge of the geology of the proposed area of the permit;
  - ii. whether the proposed outcomes ensure appropriate exploration of the proposed area of the permit;
  - iii. whether the applicant has the financial and technical capability of pursuing the proposed outcomes.

A work program which contains sufficient information should contain:

- a suitable work program that complies with the type of work program under section 130AA and the requirements set out under section 137(3) ensuring that you show:
  - how the activities you plan to carry out or the outcomes you propose to pursue support your work program;
  - the estimated financial (i.e. expenditure) and technical capability for the term of the EP; and
- a detailed rationale for the work program which includes statements 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; and
- detail on resource or infrastructure studies proposed to be carried out.
- for an outcomes-based work program - a description, location and timing of the activities or exploration techniques proposed to be carried out initially (e.g. for the first two years) and the likely direction of the work program for the remainder of the term, subject to exploration results - including 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).

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).

During the steps of the assessment process the decision-maker may request further information to support the application pursuant to section 386J. However, there is no obligation on the decision maker to exercise this power. Where necessary, the department will work with applicants to address issues with work program applications.

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.

## **2.5 Assessment of competitive applications**

Under section 134A of the MRA, applications for the grant of an EP that are made in respect of the same mineral and on the same day (between 08.30 and 16.30) 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 section 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 sections 136(1)(b) and 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 section 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' work program, and the adequacy of financial resources and technical expertise available to the applicant – that is whether the applicant has the financial and technical capability of carrying out the proposed activities for the term of the EP, pursuant to sections 130AA(2)(b) (for an activities-based work program) and 130AA(3)(d).

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 work program for the term of the EP.

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 financial and technical capability for carrying out the proposed activities for the term 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.

## Document information

**Availability:** External

**Location:** Business Industry Portal

**Owner and approver:** Deputy Director-General, Georesources Division

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**Related documents:** This policy should be read in conjunction with the Work Program Guideline (MRA), the Mineral and Coal Exploration Guideline, and MIN/2015/1254 Operational Policy – Work Program and Relinquishment Requirements for an Exploration Permit.

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

### Keywords

MIN/2015/1247; Resources; MRA; exploration permit; assessment; Mineral Resources Act 1989