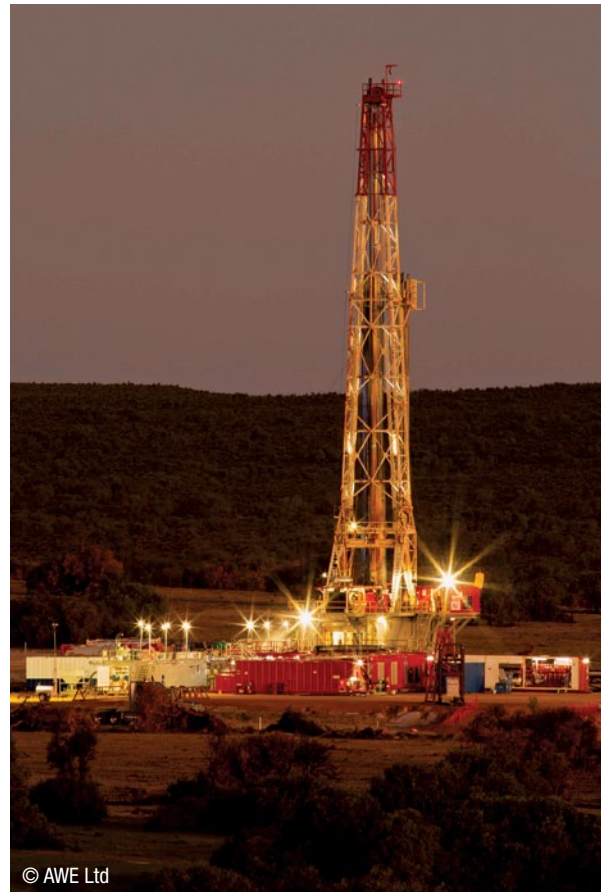




Government of Western Australia
Department of Mines and Petroleum

Petroleum Division

WA PETROLEUM AND GEOTHERMAL GUIDELINE FOR EXPLORATION PERMIT MANAGEMENT



A guideline in relation to the *Petroleum and Geothermal Energy Resources Act 1967* and the *Petroleum (Submerged Lands) Act 1982*.

This Guideline aims to inform industry of the processes and expectations in relation to amendments to, and relinquishments of, petroleum and geothermal exploration permits.

The Guideline deals primarily with the management of conditions relating to work program commitments of exploration permits. It should be noted that other conditions may be varied, suspended and exempted and that this Guideline can be used as a reference for such applications.

Notes:

- Unless otherwise defined, terms used in this Guideline are consistent with those defined in the *Petroleum and Geothermal Energy Resources Act 1967* (PGERA67) and *Petroleum (Submerged Lands) Act 1982* (PSLA82).
- All reference to geothermal are only in respect to the PGERA67. Permittees should note that petroleum and geothermal titles may subsist in respect of the same blocks.
- This Guideline does not provide for the application for and grant of an exploration permit.
- A reference to the “**Minister**” means the Minister for Mines and Petroleum or the Executive Director, Petroleum Division as his duly appointed delegate.
- Applications required to be submitted to the Minister should be directed to the Executive Director, Petroleum Division at the Department of Mines and Petroleum.
- This Guideline will be update as required from time to time.

It is at all times the responsibility of the permittee to ensure that it complies with and is familiar with the requirements and obligations of the PGERA67 or PSLA82 (as the case requires) and any subsidiary legislation made under these Acts, in force from time to time.

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1. GENERAL

Refer to Part III, Division 2 – Permits and drilling reservations of the PGERA67 and Part III, Division 2 – Exploration permits for petroleum of the PSLA82.

- 1.1 Western Australian petroleum and geothermal exploration permits are granted in accordance with the provisions of the PGERA67 in respect of land and water extending to the baseline from which Australia's territorial sea is measured, and the PSLA82 in respect of Western Australia's coastal waters (three nautical miles seaward of the baseline).
- 1.2 The registered holder of a petroleum or geothermal exploration permit (the "**permittee**") is required to comply with the provisions of the PGERA67 and PSLA82, subsidiary legislation made under these Acts (for example, regulations for environment, safety and resource management), any directions issued by the Minister under the Acts, and the conditions imposed on the exploration permit.
- 1.3 Petroleum exploration permits authorise the permittee to explore for petroleum, and to carry on such operations and execute such works as are necessary for that purpose, in a permit area.
- 1.4 Geothermal exploration permits authorise the permittee to explore for geothermal energy resources, to recover geothermal energy for the purpose of establishing the nature and probable extent of a discovery, and to carry on such operations and execute such works as are necessary for those purposes, in a permit area.
- 1.5 In undertaking petroleum or geothermal energy operations, a permittee must comply with the provisions of any other applicable legislation and all other relevant laws. Work must be carried out with due regard to public and worker safety, protection of the environment and the interests of others who also have an interest in the lands.
- 1.6 Permittees should note that in accordance with section 139 of the PGERA67 and section 142 of the PSLA82, an annual fee is payable within one month after the date of grant of the exploration permit and within one month of each anniversary thereafter, for the term of the permit.
- 1.7 The Minister may consent to a surrender of a petroleum or geothermal exploration permit, drilling reservation, retention lease or production licence to be made effective by a notice published in the Government Gazette. The Executive Director, Petroleum may consider a pro-rata refund of the annual fee paid for the remainder of a title year following the gazettal of a surrender on a case-by-case basis on application in writing.
- 1.8 An annual report must be submitted not later than one month after each anniversary of the date of grant of the exploration permit for the term of the permit.

2. WORK PROGRAM COMMITMENTS

- 2.1 Exploration permits are granted for an initial period of six years and are subject to a condition requiring work to be carried out by the permittee in accordance with a work program.
- 2.2 A year of a work program is referred to as a "**permit year**" and may not always represent a calendar year.
 - 2.2.1. With reference to clauses 1.6 and 1.7 above, permittees should note that annual fee and reporting requirements are independent of permit years.
- 2.3 A permittee must undertake each commitment in the work program within the permit area, and commencing in the designated permit year. Failure to do so constitutes non-compliance with the conditions of an exploration permit and may result in cancellation of the permit.
- 2.4 The first two permit years are collectively referred to as the "**firm period**" and represent a guaranteed commitment by the permittee. The permittee must commence each work commitment comprising the firm period no later than the end date of the designated permit year.
- 2.5 Work commitments in the firm period cannot be reduced (in respect to exploration value) once the exploration permit has been granted.
- 2.6 Permit years 3, 4, 5 and 6 are collectively referred to as the "**secondary period**". Work program commitments in each permit year of the secondary period become guaranteed upon entry into that year, on a year-by-year basis. Once a permittee has entered a permit year, the permittee must commence each work commitment in that year. In respect of permit year 6, the permittee must commence and complete each work commitment in that year.
- 2.7 Work in excess of a work program commitment ("**above-commitment work**") is permitted, subject to relevant approvals and may be undertaken at any time.
- 2.8 It is accepted that elements of a work program or its timing may need to change as geological knowledge is gained or if the timing of the work is impacted by Force Majeure events or circumstances (refer to clause 7 of this Guideline for a definition and explanation of Force Majeure).

- 2.9 In accordance with the provisions of the PGERA67 and PSLA82, a permittee may apply to the Minister for a variation to, suspension of, or exemption from a work program commitment. Where the Minister suspends or exempts a permittee from compliance with a work program commitment, the Minister may also extend the term of the permit by a period not exceeding the period of the suspension.
- 2.10 Surrender of an exploration permit may occur following fulfilment of at least all work program commitments comprising the firm period providing there has also been compliance with the provisions of the PGERA67 and PSLA82, subsidiary legislation made under those Acts (for example, regulations for environment, safety and resource management), any directions issued under the Acts, and any other conditions to which the exploration permit is subject. Reference clause 9 of this Guideline.

3. FULFILMENT OF A WORK PROGRAM COMMITMENT

Refer to the conditions to which your exploration permit is subject.

- 3.1 A permittee may seek confirmation from the Executive Director, Petroleum Division of the fulfilment of a work program commitment.
- 3.2 In accordance with the conditions of an exploration permit, a work program commitment may be fulfilled by work undertaken prior to the permit year in which it is committed ("**fulfilment in advance**").
- 3.3 In accordance with the conditions of an exploration permit, a work program commitment may be fulfilled by an alternative work if the alternative work meets or exceeds the objective of the original work program commitment ("**fulfilment by equivalent work**").
- 3.4 It is the responsibility of the permittee to ensure that it has obtained the relevant approval of the Executive Director, Petroleum Division to fulfil the work commitment in advance or on the basis of equivalent work, prior to the commencement of the work.

4. VARIATION OF A WORK PROGRAM COMMITMENT

Refer to section 97 of the PGERA67 and section 103 of the PSLA82.

- 4.1 The Minister may vary the work program commitments of a permit year or years upon application by the permittee.
- 4.2 An application for a variation of a work program commitment should be justified on technical grounds (refer to clause 7 of this Guideline).
- 4.3 It is the responsibility of the permittee to ensure that where an application does not meet the requirements of this Guideline, sufficient compelling evidence is provided to justify the application. Failure to do so will result in refusal of an application.
- 4.4 All applications will be considered on a case-by-case basis.

Firm period

- 4.5 Work program commitments in the firm period may not be reduced and may only be varied via a work equivalent variation.
- 4.6 An application for a variation of a work program commitment in the firm period should be submitted in writing to the Minister within three months of the grant of the exploration permit in respect of a work program commitment for permit year 1, or no earlier than three months, and no later than one month, prior to the commencement of permit year 2 in respect of a work program commitment in that year.

Secondary period

- 4.7 Work program commitments in the secondary period may be varied in respect of the whole of the secondary period or on a permit year-by-year basis.
- 4.8 An application for a variation of a work program commitment in the secondary period should be submitted in writing to the Minister no earlier than three months, and no later than one month, prior to the commencement of permit years 3, 4, 5 and 6 in respect of the remaining commitments of the secondary period or the work program commitments of the following permit year.
- 4.9 If agreement cannot be reached on a mutually acceptable work program for the secondary period, the permit may be surrendered subject to additional legislative requirements (refer to clause 9 of this Guideline) or continue in force subject to the original work program.

Variation for equivalent work

- 4.10 A work program commitment may be varied to an alternative work if the alternative work meets or exceeds the objective of the original work program commitment ("**equivalent work**").

- 4.11 It is the responsibility of the permittee to ensure it has obtained the approval of the Minister prior to the commencement of the equivalent work.
- 4.12 An application for a variation of a work program commitment for equivalent work should be submitted in writing to the Minister in accordance with clause 4.6 for the firm period and clause 4.8 for the secondary period.

5. **SUSPENSION OF A WORK PROGRAM COMMITMENT**

Refer to section 97 of the PGERA67 and section 103 of the PSLA82.

- 5.1 The Minister may suspend the requirement to fulfil the work program commitments of a permit year or years for a period of time upon application by a permittee.
- 5.2 If the Minister considers that the circumstances make it reasonable to do so, the Minister may extend the permit term at the same time as the Minister suspends the permittee from a work program commitment, or at a later time.
 - 5.2.1 An extension of the permit term will not be given in respect of an application for a suspension of the work program commitments comprising the firm period.
- 5.3 An application for a suspension of a work program commitment (either with or without an extension of the permit term) must be justified on Force Majeure grounds (refer to clause 7 of this Guideline).
- 5.4 An application for a suspension of a work program commitment (either with or without an extension of the permit term) for additional time in which to undertake above-commitment work made in accordance with a variation of the work program, should be justified on technical grounds (refer to clause 7 of this Guideline).
- 5.5 An application for a suspension of a work program commitment (either with or without an extension of the permit term) should be submitted in writing to the Minister no earlier than 3 months prior, and no later than the end date, of the permit year comprising that work program commitment.
- 5.6 It is the responsibility of the permittee to ensure that where an application does not meet the requirements of this Guideline, sufficient compelling evidence is provided to justify the application. Failure to do so will result in refusal of an application.
- 5.7 All applications will be considered on a case-by-case basis.

Suspension of a work program commitment

- 5.8 Where the Minister approves a suspension of the work program commitments of the current permit year for a period of time, the end date of the permit year will be suspended by that period but the start and end dates of subsequent permit years will not be affected.
- 5.9 This has the effect of two permit years (current and immediately following) running concurrently for the period of the suspension.
- 5.10 A suspension does not affect the ability of the permittee to undertake work during the period of suspension.

Suspension of a work program commitment with extension of the permit term

- 5.11 Where the Minister approves a suspension of the work program commitments of the current permit year for a period of time with a corresponding extension of the permit term, the end date of the permit year will be suspended by that period, and the start and end dates of all subsequent permit years will be extended by that period.
- 5.12 This has the effect of the permit years continuing to run consecutively.
- 5.13 A suspension and a corresponding extension of term does not affect the ability of the permittee to undertake work during the period of suspension and extension.

Suspension for above-commitment work

- 5.14 If a permittee proposes significant above-commitment work that is assessed to have significant implications for its forward plans for a permit, the permittee may apply for up to a 12 month suspension of the work program commitment of the current permit year and a corresponding extension of the permit term to allow it time to undertake the above-commitment work.
- 5.15 Where a permittee has entered a permit year in which there is a commitment to drill an exploration well, and the permittee has been unable to mature a drillable prospect for that well, the permittee may apply for up to a 12 month suspension of the work program commitment of that permit year and a corresponding extension of the permit term to allow it time to undertake above-commitment work to mature a drillable prospect.
- 5.16 The Minister will only agree to suspend and extend the permit term on this basis if the permittee has demonstrated a significant attempt to meet its work program commitments and the work program commitment is varied to include the above-commitment work.

6. EXEMPTION FROM COMPLIANCE WITH A WORK PROGRAM COMMITMENT

Refer to section 97 of the PGERA67 and section 103 of the PSLA82.

- 6.1 The Minister may exempt a permittee from compliance with a work program commitment or commitments of a permit year upon application by a permittee.
- 6.2 If the Minister considers that the circumstances make it reasonable to do so, the Minister may extend the permit term at the same time as the Minister exempts the permittee from compliance with a work program commitment, or at a later time.
- 6.3 An exemption will not be given in respect of the work program commitments comprising the firm period.
- 6.4 An application for an exemption from compliance with a work program commitment must be justified on technical grounds (refer to clause 7 of this Guideline).
- 6.5 Consideration may be also given to an application for exemption from compliance with a work program commitment where the permittee is prepared to relinquish some of the blocks comprising the exploration permit (refer to clause 9 of this Guideline).
- 6.6 An application for an exemption from compliance with a work program commitment may be submitted in writing to the Minister either during or after the permit year comprising that work program commitment.
- 6.7 It is the responsibility of the permittee to ensure that where an application does not meet the requirements of this Guideline, sufficient compelling evidence is provided to justify the application. Failure to do so will result in refusal of an application.
- 6.8 All applications will be considered on a case-by-case basis.

7. GROUNDS TO JUSTIFY AN APPLICATION AFFECTING A WORK PROGRAM COMMITMENT

Technical

- 7.1 The Minister may approve an application on technical grounds where, upon the submission of sufficient compelling evidence, it may be demonstrated that:
 - 7.1.1 Exploration work performed in a prior permit year has revealed new geological knowledge such that the original exploration rationale is no longer supported.
 - 7.1.2 Exploration work performed in nearby titles has revealed new geological knowledge that causes the permittee to change their exploration philosophy or rationale.
 - 7.1.3 New methodology has been developed or is applicable for exploration in the region which was not available at the time of the work program proposal. This new methodology must generate geological knowledge which will be equivalent or better than the originally proposed methodology.
 - 7.1.4 Problems with survey data recording and processing require the processing be repeated and/or undertaking new recording and processing.
- 7.2 An application for a fulfilment by equivalent work of a work program commitment will be assessed having regard to:

Appraisal work

- 7.2.1 Work intended to appraise a known petroleum or geothermal energy resource within a permit area will generally be considered as not meeting an exploration work program commitment unless the work can be demonstrated to the satisfaction of the Executive Director, Petroleum Division as including a significant exploration component.

Geophysical data and reprocessing

- 7.2.2 A geophysical surveying work commitment may be fulfilled by the purchase or licencing of an equivalent amount of non-exclusive geophysical data if the data has been acquired in the permit area after the date of grant of the exploration permit.
- 7.2.3 A geophysical reprocessing work commitment may be fulfilled by the purchase or licencing of an equivalent amount of reprocessed geophysical data if the reprocessing is in respect of data acquired in the permit area after the date of grant of the exploration permit.
- 7.2.4 It is expected that the purchased or licenced reprocessed data would have been reprocessed from raw data.

Force Majeure

- 7.3 The Minister may agree to suspend the work program commitments of a permit year (either with or without an extension of the permit term) if the ability of the permittee to meet a work program commitment is adversely impacted by an event that cannot be reasonably anticipated or controlled (a "**Force Majeure circumstance or event**").

- 7.4 For the purpose of this Guideline, Force Majeure means any event or circumstance not within the reasonable control of the affected party and which, by the exercise of due diligence and level of skill, prudence and foresight generally applicable to a reasonable and prudent operator, that party is not reasonably able to prevent or overcome, including but not limited to:
- 7.4.1 Riot, civil insurrection, rebellion, revolution or civil commotion.
 - 7.4.2 Cyclones, tidal waves, tidal surges, earthquakes, floods, fires or any other physical natural disasters or actions of the elements.
 - 7.4.3 Strikes or industrial disputes.
 - 7.4.4 War (whether declared or not), invasion, act of terrorism or act of foreign enemies against Australia.
- 7.5 Notwithstanding 7.4 above, the following events and circumstances are **excluded**:
- 7.5.1 lack of funds or an inability to use funds.
 - 7.5.2 Other commercial circumstances and common risks in the industry including but not limited to:
 - 7.5.2.1 changes in oil prices;
 - 7.5.2.2 difficulty attracting a farm-in partner(s);
 - 7.5.2.3 difficulty in raising capital;
 - 7.5.2.4 avoidable delays in contracting a drilling rig/seismic vessel or crew;
 - 7.5.2.5 disappointing exploration results;
 - 7.5.2.6 the need to wait for the results of exploration work undertaken outside the permit area;
 - 7.5.2.7 poor quality geophysical data; and
 - 7.5.2.8 failure to mature a drillable prospect.
 - 7.5.3 Failure to adequately plan for the region being explored (i.e. weather, land access, other lands uses).

Notification of a Force Majeure event or circumstance

- 7.6 In making an application on the basis of Force Majeure grounds, a permittee should submit supporting documentation that provides evidence of the Force Majeure event. This supporting documentation should include references to communications and documentation per clause 7.6 of this Guideline.
- 7.7 A permittee that is, by reason of Force Majeure circumstances, prevented wholly or in part from fulfilling a work program commitment must:
- 7.7.1 Notify the Executive Director, Petroleum Division as soon as practicable of reasonably full particulars of the event or circumstance of Force Majeure.
 - 7.7.2 Notify the Executive Director, Petroleum Division as soon as practicable, of:
 - 7.7.2.1 The date of commencement of the event or circumstance of Force Majeure and an estimate of the period of time required to enable the permittee to resume full performance of its obligations.
 - 7.7.2.2 Where possible, the means proposed to be adopted to remedy or abate the Force Majeure event or circumstance.
 - 7.7.2.3 The nature and extent of the work program commitment affected by, or other consequences of the Force Majeure event or circumstance.
 - 7.7.3 Use all reasonable diligence and employ all reasonable means to remedy, mitigate or abate the Force Majeure event or circumstance as expeditiously as possible.
 - 7.7.4 Resume the work program commitment as expeditiously as possible after termination of the Force Majeure event or circumstance or after the Force Majeure event or circumstance has abated to an extent which permits resumption of work.
 - 7.7.5 Notify the Executive Director, Petroleum Division when the Force Majeure event or circumstance has terminated or abated to an extent which permits resumption of work to occur.
 - 7.7.6 Notify the Executive Director, Petroleum Division when resumption of performance has occurred.

8. RENEWAL OF AN EXPLORATION PERMIT

Refer to sections 40 to 42 of the PGERA67 and sections 30 to 32 of the PSLA82.

- 8.1 The Minister may renew an exploration permit in respect of a reduced number of blocks calculated in accordance with the provisions of the relevant Act upon application by the permittee.
- 8.2 The application for renewal must be accompanied by a five year work program and an exploration rationale commensurate with the number of blocks the subject of the application.
- 8.3 If the conditions to which an exploration permit is subject and the provisions of the relevant Act and subsidiary legislation have been complied with, the Minister shall inform the permittee that the Minister is prepared to grant the renewal of the permit.
- 8.4 Where a permittee has not complied with these provisions, the Minister may inform the permittee that the Minister is prepared to grant the renewal of the permit if the Minister is satisfied that special circumstances exist to justify the granting of the renewal.
 - 8.4.1 It is the responsibility of the permittee to ensure that sufficient compelling evidence as to how the circumstances leading to the non-compliance have been mitigated or resolved to justify the application. Failure to do so will result in refusal of an application.
- 8.5 All applications will be considered on a case-by-case basis.
- 8.6 An exploration permit granted by way of renewal remains in force for a period of five years and is subject to a condition requiring work to be carried out by the permittee in accordance with a work program.
- 8.7 Management of an exploration permit granted by way of renewal is in accordance with this Guideline.

9. SURRENDER OF AN EXPLORATION PERMIT

Refer to section 98 of the PGERA67 and section 104 of the PSLA82.

- 9.1 The Minister may consent to the surrender of an exploration permit as to all or some of the blocks in respect of which it is in force upon application by the permittee.
- 9.2 If the provisions of section 98 of the PGERA67 and section 104 of the PSLA82 have been met; i.e. the conditions to which an exploration permit is subject and the provisions of the relevant Act and subsidiary legislation have been complied with, and the permittee has removed or closed where relevant, any property or wells, and has made provision for conservation and remediated any damages; the Minister shall consent to the surrender of the exploration permit.
- 9.3 The Minister will not unreasonably delay or refuse giving consent to surrender of an exploration permit where satisfactory evidence has been provided to demonstrate rehabilitation has been completed and does not present a liability to the State.
- 9.4 Where a permittee has not complied with these provisions, the Minister may consent to the surrender of the exploration permit if Minister is satisfied that special circumstances exist to justify the giving of consent to the surrender.
 - 9.4.1 It is the responsibility of the permittee to ensure that sufficient justification as to why consent to the surrender should be given is provided. Failure to do so will result in refusal of an application.
- 9.5 An application for consent to surrender an exploration permit may be made in writing to the Minister following fulfilment of all work program commitments comprising the firm period and no earlier than 3 months prior, and no later than the end date of a permit year in which the work program commitments have been met.
- 9.6 Where an application for consent to surrender is lodged in a given permit year, this has the effect of pausing the requirement to fulfil the work program commitments of future permit years.
 - 9.6.1 The permittee must continue to comply with any other conditions to which the exploration permit is subject, the requirements and obligations of the relevant Act and subsidiary legislation, and any directions issued under the Acts (including in respect of annual fees and annual reports).
 - 9.6.2 Annual fees will continue to be due and payable until the surrender is effective (as on and from the day on which the notice of the surrender is published in the Government Gazette).
- 9.7 All applications will be considered on a case-by-case basis.
- 9.8 Where the Minister refuses to consent to the surrender of an exploration permit, the Minister will initiate cancellation proceedings (refer to clause 10 of this Guideline).

10. CANCELLATION OF AN EXPLORATION PERMIT

Refer to section 99 and section 101 of the PGERA67 and section 105 of the PSLA82.

- 10.1 A permittee is expected to ensure that the provisions of the PGERA67 and PSLA82, subsidiary legislation made under those Acts, any directions issued under the Acts, and the conditions imposed on the exploration permit, are complied with.
- 10.2 Failure to comply may result in cancellation of the exploration permit.
- 10.3 Where the Minister considers that an exploration permit should be cancelled, the permittee will be given not less than one month's notice of the Minister's intention to cancel the permit, specifying the grounds upon which the cancellation is justified.
 - 10.3.1 The permittee will be invited to submit any matters he wishes the Minister to consider.
 - 10.3.2 It is the responsibility of the permittee to provide to the Minister sufficient compelling evidence as to how the circumstances leading to the non-compliance have been mitigated or resolved such that the grounds for cancellation are removed or will be prevented from reoccurring.
 - 10.3.3 All submissions will be considered on a case-by-case basis.
- 10.4 Where an exploration permit has been cancelled the Minister will direct the permit holder as to any outstanding matters such as: the removal of property, the plugging of wells, environmental rehabilitation / remediation and submission of reports, data, core, cuttings or samples.