



Government of **Western Australia**
Department of **Mines and Petroleum**

POLICY GUIDELINES

EXTENSIONS OF TERM FOR EXPLORATION LICENCES

This paper summarises policy guidelines used by the Department in determining applications for extensions of term for exploration licences under the *Mining Act 1978* (**the Act**) and *Mining Regulations 1981* (**the Regulations**).

Section 61 of the Act

Under Section 61(2) of the Act the holder of an Exploration Licence may apply to the Minister to extend the term of the licence beyond its initial 5 year term if satisfied that a prescribed ground under Regulation 23AB of the Regulations exist. Section 61(3) keeps the licence in force until an extension application is determined.

Exploration licences applied for or granted prior to 10 February 2006 have an initial period of 5 years and can then be extended for:

- One period of 1 or 2 years;
- One further period of 1 or 2 years; and
- In exceptional circumstances by further periods of 1 year.

Exploration licences applied for and granted after 10 February 2006 have an initial period of 5 years and can then be extended for:

- One period of 5 years; and
- Further periods of 2 years.

The holder has to provide detailed information in support of the application.

Prescribed grounds under Regulation 23AB of the Regulations

Extensions of term can be granted where the Minister is satisfied that a prescribed ground exists and each of the following is a ground for extension under Regulation 23AB for the purposes of section 61(2):

23AB(a) an exploration program, or the marking out and application for mining lease or general purpose lease in respect to the

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land the subject of the licence, could not be completed or undertaken -

i) by reasons of difficulties or delays occasioned by law

Acceptable reasons may include:

- Statutory provisions that may have been introduced and that prevented exploration being undertaken;
- Plaintiff actions that can be demonstrated to have prevented work being done or can be shown to have significantly disrupted planned exploration (not by Corporate Decision);
- Supreme Court matters that can be demonstrated to have directly resulted in a program of exploration being disrupted or abandoned (not by Corporate Decision);
- Any injunction or court order preventing exploration being undertaken.

ii) by reasons of difficulties or delays arising from administrative, political, environmental or other requirements of governmental or other authorities, in the State or elsewhere

This includes:

- Any Government policy that restricts access for exploration.
- Conditions requiring referrals (eg. referrals to EPA/CALM for approvals to commence work programs);
- Strict conditions attached to the grant of the licence (eg dieback);
- Difficulties in obtaining access permits from vested authorities;
- Any Government policy that restricts access for exploration.

(iia) by reasons of difficulties or delays arising from the requirement to conduct Aboriginal heritage surveys on the land.

Reasons being:

- Delays to exploration because of the time taken to carry out a heritage survey or the inability to do so (the licensee however must provide evidence of negotiation and/or refusal to negotiate by the Aboriginal claimants or their nominated representatives):

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- Any Government policy concerning the undertaking of Aboriginal Heritage Surveys that restricts access for exploration.

It is an offence to destroy or interfere with sites of significance. The accepted way of accessing whether an area is clear for exploration is to consult with the Native Title claimants and arrange for an Aboriginal Heritage survey to be carried out.

iii) by reasons of difficulties or delays in obtaining requisite consents or approvals for exploration or for the marking out of a mining lease or general purpose lease in relation to any part of the land.

Reasons include:

- No compensation agreements are yet in place, consent to enter has not been granted, or there is restricted entry to private land;
- Requests from Pastoralists not to enter licence areas where mining activities will damage roads after heavy rain, or while pastoral activities are taking place (eg. mustering or lambing);
- Licensee has sought consent to access reserved land and it can be shown that there was an unreasonable delay in obtaining that consent.

iv) by reasons of difficulties or delays in gaining access to the relevant land because of unfavourable climatic conditions

May include:

- Road closures by Local Government and/or Main Roads as a result of rain and inability to access pastoralists' tracks will be favourably considered only where it can be demonstrated that a work program was planned and then delayed or could not be completed because access to the ground was prevented by to the closure of the roads.
- Off road areas were inaccessible or the ground was unstable due to unfavourable climatic conditions (evidence should be provided to support any claim that unfavourable climatic conditions prevented the carrying out of work, such as drilling, gridlines etc, that had been scheduled prior to the onset of these conditions or that, subsequently, it was not possible to carry out any other work on the ground during the remainder of the relevant period).

Normal climate variations (e.g. wet season in the north of the state) would not generally justify an exemption as it is expected that these conditions are taken into account when planning exploration programs.

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23AB(b) ***“the land the subject of the licence has for any reason the Minister considers sufficient been unworkable for the whole or a considerable part of any year of the term”***

Acceptable reasons being:

- Difficult ground conditions eg. salt lakes;
- Restrictions due to pastoral or farming activities.

Note: All applications for extensions of term that are based on access restrictions or delays obtaining requisite approvals must be accompanied by sufficient documentation to allow assessment of such claims. The assessment will take in account the length of time access was denied/delayed, and the area affected in respect to the tenement area.

23AB(c) ***“work already carried out under the licence justifies further exploration”***

This sub-regulation allows an extension of term for the purpose of continuing exploration where exploration is at an advanced stage and further work is warranted.

Work already carried out refers to work done on the affected licence during its term, and does not take into account:

- Work carried out on the same ground under a previous title; or
- Work carried out on other tenements within a project, irrespective of whether the project has been recognised (combined reporting status granted) or not.

This sub-regulation cannot be considered if no mineral exploration has been carried out on the licence during its term, even if substantial exploration has been carried out within the project as a whole.

Sufficient detailed information should be included in the application to allow it to be assessed without the Department of Mines and Petroleum (DMP) having to also scrutinise relevant mineral exploration reports or other external information. Such information would include details of the type, extent and results of exploration carried out, together with information about the type and location (including a map) of work planned.

Where parts of an exploration licence are covered by lease applications, the work program must be, at least partially, within areas not covered by these lease applications to justify an extension of term.

Where an extension of term has been granted under this sub-section, it would generally be expected that the proposed work program will have

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been carried out before a further application for extension of term would be supported.

23AB(d) *“if the exploration licence has retention status, the grounds for approval of retention status under section 69B continue to exist”*

The Minister may approve retention status for the whole or any part of the land the subject of an exploration licence if satisfied that —

- there is an identified mineral resource located in, on or under that land; and
- the mining of that identified mineral resource is impracticable because —
 - the resource is uneconomic or subject to marketing problems although the resource may reasonably be expected to become economic or marketable in the future;
 - the resource is required to sustain the future operations of an existing or proposed mining operation; or
 - there are existing political, environmental or other difficulties in obtaining requisite approvals.

Important points to note

- When DMP considers that the reasons given or the information supplied do not justify an extension of term, an “intention to refuse” letter will be issued to inform the applicant that, after 30 days from the date of the letter, the application will be submitted for refusal.
- If the holder transfers the licence after applying for an extension of term then the application continues in the name of the transferee.