

# Coal Exploration Steering Group (CESG) Charter (Operating Procedures and Rules)

## Purpose of the Charter

1. This Charter seeks to establish a common understanding of the role of the Coal Exploration Steering Group (“CESG”). In particular, it sets out the membership, terms of reference and operating procedures for the CESG.
2. These Operating Procedures and Rules build on the Terms of Reference for the CESG and are designed to support the efficient operation of the Committee.
3. The CESG’s scope, functions and accountabilities are determined by the Terms of Reference rather than the rules and procedures.

## Objective

4. The key objective of the CESG is to help improve the quality and transparency of the processes used to allocate coal exploration licences in NSW.

## Procedures and rules

5. The Manager, National Coordination, Governance Branch, Division of Resources and Energy is the Secretary to the CESG and is supported by the Governance Branch of the Division of Resources and Energy.
6. The Governance Branch of the Division of Resources and Energy will provide additional support, including scheduling meetings, and receiving, formatting and registering papers, and distributing papers.
7. The Chair can request the Governance Branch to prepare additional advice for the CESG as required. This can include requesting the Governance Branch to engage specialists.

## Membership

8. The CESG consists of the following positions:
  - An independent Chair appointed by the Premier;
  - Executive representatives from the:
    - Resources and Energy Division, NSW Department of Trade and Investment, Regional Infrastructure and Services (“Resources and Energy”);
    - NSW Department of Planning and Environment;
    - NSW Treasury; and
    - NSW Department of Premier and Cabinet.

Current membership of the CESG is:

Name	Title
Mr Percy Allan AM	Independent Chair
Ms Kylie Hargreaves	Deputy Secretary Resources and Energy NSW Trade & Investment
Ms Alison Frame	A/Deputy Secretary Policy, Strategy and Reform NSW Department of Planning and Environment
Mr Peter Goth	Executive Director, Natural Resources and Governance Services NSW Treasury
Ms Liz Moore/Dr Jane Mallen-Cooper (currently jointly acting in the role of Executive Director)	A/Executive Director Resources and Land Use NSW Department of Premier and Cabinet

## **Member Obligations**

9. Members of the CESG must at all times:
  - a. act with the utmost honesty and integrity, promote principles of good governance;
  - b. carry out their duties with due care, skills and diligence; and
  - c. devote sufficient time and attention to the work of the CESG to enable it to complete the activities set out in the Terms of Reference.

## **Terms of Reference**

10. The CESG will operate within the attached terms of reference (see end of document).

## **CESG Responsibilities and Authority**

11. The CESG operates within its terms of reference and reports to the Cabinet Standing Committee on Resources and Land Use and ultimately to the Minister for Resources and Energy.
12. The CESG is to provide advice and recommendations to the Minister for Resources and Energy and/or to the Resources and Land Use CEOs Group ("RLU CEOs" Group) but does not carry delegated decision making authority in relation to the matters it considers.

## **Attendees**

13. Two attendees may accompany each member agency to the meetings of the CESG, where required and subject to the approval of the Chair, to provide information or explanation in relation to items being considered by the CESG. Attendees who are not members, have no role in decision making.
14. Members are required to advise the Secretariat of the name of any agency staff who will be attending a CESG meeting prior to the meeting.
15. A CESG member, if they cannot attend a meeting, must appoint a temporary, alternative member to ensure all agencies are represented at meetings.

## **Meeting Schedule and Process**

16. Meetings will be every four weeks for 2014 or as required and a schedule of meetings will be circulated at the first meeting.

## **Agenda setting**

17. The Chair will approve the agenda for the CESG, after consultation with the Division of Resources and Energy.
18. Potential agenda items will be discussed at each meeting and a forward schedule will be a standing agenda item.
19. Minutes and papers should be distributed at least five business days before a scheduled meeting. To ensure timely distribution of papers, papers must be lodged with the Secretariat at least seven days prior to the meeting.
20. The final agenda for each meeting will be confirmed and circulated to members of the CESG once all papers have been lodged.
21. If urgent matters arise within five business days of a scheduled meeting, the Chair, in consultation with the Division of Resources and Energy, may determine whether the matter is listed.

## **Papers and presentations**

22. All matters requiring decision by the CESC must be accompanied by a formal paper, which should comply with standard format requirements.
23. Papers will be prepared by the relevant agency or agencies, and informed by consultation as required.

## **Public Engagement and Communication**

24. The Chair may invite a person who is not a member of the CESC to present information to the CESC to inform its consideration of coal resource allocation matters. The person will be present at the meeting only for the duration of the presentation.
25. The CESC shall have its own dedicated webpage for draft reports that need stakeholder input and final reports provided to the Cabinet Standing Committee on Resources and Land Use which are not subject to Cabinet-in-Confidence provisions.
26. The Chair shall be the sole public spokesperson for the CESC.
27. The Chair shall faithfully represent the agreed views of the CESC.
28. The Chair's personal views shall be distinguished as such and not conflict with the CESC's agreed policies and procedures.
29. The CESC shall publish its program of consultation activities and invite any party to register an interest in any item.
30. The Chair shall meet with key stakeholders to brief them on the terms of reference, charter and planned work program of the CESC.
31. The CESC shall consult interested parties before making a recommendation on an item in its work program.
32. Consultation may take various forms, including:
  - Requesting written submissions;
  - Meeting with key stakeholder group representatives; and/or
  - Canvassing issues and options in a high-level discussion paper.
33. A brief record shall be kept of the outcomes of consultation with stakeholders.
34. The CESC shall publish a recommendation to the Cabinet Standing Committee only after the Standing Committee and Minister have made a decision.
35. Any party wishing to make representations to the CESC shall do so through the Secretariat.

## **Decisions and Meeting Minutes**

36. The CESC will submit its reports to the Cabinet Standing Committee on Resources and Land Use, with a copy furnished to the RLU CEO's group by the Secretariat.
37. Draft meeting minutes of the CESC will record all decisions with a summary statement of supporting reasons for each decision. The draft minutes will be circulated by email for consideration and approval as soon as possible after the meeting.

## **Establishment of working groups**

38. Decisions about the need for working groups and the structure of such working groups will be determined by the CESG.
39. The CESG must approve a statement of work for working groups.
40. Where any working groups are established, the CESG will be responsible for monitoring and overseeing their activities and ensuring that they achieve their objectives.
41. The Assessment Panel will be one such working group. The Panel will operate within the CESG's terms of reference.
42. The Cabinet Standing Committee on Resources and Land Use will review the effectiveness of the Steering Group process after 12 months of operation.

## **Conflicts of interest**

43. All members will provide written declarations annually to the Executive Director, Governance, Division of Resources and Energy.
44. The format of the written declarations will be standardised and provided to CESG members by the Executive Director, Governance, Division of Resources and Energy.
45. CESG members must declare any conflicts of interest at the start of each meeting or before discussion of the relevant agenda item or topic. Details of any conflicts of interest should be appropriately minuted.
46. Where members or observers at CESG meetings are deemed to have a real, or perceived, conflict of interest by the Chair, it may be appropriate that they are excused from the CESG deliberations on the issue where a conflict of interest exists.

## **Dispute resolution**

47. Members of the CESG should maintain an effective and professional working relationship and seek to resolve any differences by way of open negotiation. However, where disagreement cannot be overcome, the committee's decision will note both the majority and minority views.

## **Review of the Charter (operating procedures and rules)**

48. These rules are subject to amendment and will be reviewed and updated as required by the CESG.

*September 2014*

# COAL EXPLORATION STEERING GROUP

## TERMS OF REFERENCE

### Scope and objectives

1. The Steering Group is established to help improve the quality and transparency of the processes used to allocate coal exploration licences.
2. The Steering Group's recommendations will be:
  - a) guided by the Government's published objectives, priorities and desired outcomes in relation to the allocation and development of New South Wales' coal resources;
  - b) informed by a preliminary strategic assessment of prospective areas carried out by the Department of Planning and Infrastructure, in consultation with key agencies;
  - c) provided to the Minister for Resources and Energy through the Cabinet Standing Committee on Resources and Land Use; and
  - d) made publicly available.
3. The key roles of the Steering Group are to conduct a whole of Government assessment and make recommendations on where, when and how coal resources are to be released for exploration to suitably qualified companies.
4. Recommendations are to be provided covering:
  - a) strategic plans for the sequencing and timing of release of areas of coal resources for exploration and mine planning, based on a 'triple bottom line' strategic assessment of anticipated net benefits for the State;
  - b) the appropriate configurations and conditions to apply to exploration areas to be allocated, aiming to maximise certainty for industry and the community and potential returns to the State;
  - c) detailed methodologies to be used for allocation of exploration areas. These methods are to seek to optimise competitive tension, transparency and economic returns for the State, and facilitate the undertaking of timely exploration and development of mining proposals, while preserving the scope for the merit assessment processes to determine subsequent applications for development consent and mining licences;
  - d) specific categories or circumstances where a non-competitive allocation process may be used. In the application of such cases, the Steering Group would review and provide advice on each recommended allocation; and
  - e) methodologies to be used to assess applications for the renewal of Exploration Licences with a view to better aligning incentive structures with timely progression towards mining, and maximising returns to the State.
5. The Cabinet Standing Committee on Resources and Land Use may decide to add additional matters to the Steering Group's scope if these matters further the Steering Group's objectives stated above.
6. The Steering Group may establish working groups as required to assist it in making its recommendations. The Steering Group is to determine the appropriate organisations to be represented in each Group, having regard to the skills that are needed, and the principles of risk management through diversity and transparency, and the avoidance of conflict of interest.

7. One such group to be established is an Assessment Panel, which will conduct the allocation methodology. This would include soliciting and assessing individual applications for Exploration Licences to determine which applicants are suitably qualified to be considered for allocation, and also the methodology to determine which of the suitable applicants are preferred (this may be an auction, an alternative competitive process or some other approved process).

## **Governance**

8. The Steering Group will be chaired by an independent person to be appointed by the Premier.
9. The Department of Trade and Investment, Regional Infrastructure and Services will act as secretariat to the Steering Group and its sub-groups.
10. Agencies will meet their own costs for participation in the Steering Group.
11. The Steering Group will submit its recommendations to the Cabinet Standing Committee on Resources and Land Use for consideration and approval, prior to the Minister for Resources and Energy making a final determination in accordance with the *Mining Act 1992*.
12. The Assessment Panel will submit its recommendations for allocations to individual companies directly to the Cabinet Standing Committee on Resources and Land Use for consideration and approval, prior to the Minister for Resources and Energy making a final determination in accordance with the *Mining Act 1992*. However, in the case of non-competitive allocations, it will submit its recommendations for endorsement by the Steering Group before they are provided to the Cabinet Committee and the Minister in the usual way.
13. The Cabinet Standing Committee on Resources and Land Use will review the effectiveness of the Steering Group process after 12 months of operation.

## **Membership**

14. In addition to the independent Chair of the Steering Group appointed by the Premier, the members will include executive representatives from:
  - a) Resources and Energy Division, Department of Trade and Investment, Regional Infrastructure and Services (“Resources and Energy”);
  - b) Department of Planning and Infrastructure;
  - c) NSW Treasury; and
  - d) Department of Premier and Cabinet.
15. The steering group will draw on advice from other agencies as needed.
16. The Assessment Panel will have cross agency representatives with officers nominated by Resources and Energy, Department of Planning and Infrastructure, NSW Treasury and Department of Finance and Services as required.

*February 2014*