

Guidelines for coal exploration licence applications for operational allocation purposes

Mining Act 1992 | November 2017 | v1.1

1. These are the [guidelines](#) referred to in [section 13C\(4\)](#) of the [Mining Act 1992](#) (Act) and the Minister for Resources will consider them in any decision regarding applications for exploration licences for operational allocation purposes.
2. These guidelines apply to authority holders applying to the Minister for Resources for a coal exploration licence which is an "operational allocation purpose" under the [Mining Regulation 2016](#) (Regulation).
3. The guidelines will be used by the Coal Resource Operational Allocation Committee who will make recommendations to the Minister for grant or refusal of the application.
4. The Regulation defines operational allocation purposes as follows:
 - 4.1. In relation to applications by holders of exploration licences or assessment leases – the purpose of both:
 - a) developing a better mine design proposal; and
 - b) recovering coal resources that would otherwise be likely to be sterilised.
 - 4.2. In relation to applications by holders of mining leases, each of the following:
 - a) the purpose of extending the life of a mine; or
 - b) the purpose of developing a better mine design; or
 - c) the purpose of recovering coal resources that would otherwise be likely to be sterilised; or
 - d) the purpose of obtaining an exploration licence for coal over the subsoil above or below the stratum to which the mining lease concerned relates or over the surface above the land to which that mining lease relates.
5. Requests are subject to land size area thresholds set out in the Regulation and summarised as follows:
 - 5.1. For requests under Clauses 4.1. and 4.2 a, b, c, the area applied for is to be no greater than 33% of the size of the authorities associated with application;
 - 5.2. For requests under Clause 4.2.d, the threshold is as follows: the boundary of subsoil or the surface area of the land to which the application relates must not exceed the boundary of the area of the land to which the mining lease concerned relates.
6. In order to allow the decision-maker to assess the matters in section 13C(3)(b) of the Act, all requests to apply for an exploration licence for an operational allocation purpose will be subject to a market interest test. This will test for valid interest through an expression of interest process that will include a notice in the Gazette. If no market interest is identified, then an allocation may be awarded to the applicant, subject to meeting other essential requirements of this guideline and the governing legislation. Where valid market interest is identified, details of the application will be referred to the Advisory Body for Strategic Release to consider the most appropriate process.
7. The Coal Resource Operational Allocation Committee will have regard to the following:
 - 7.1. General qualitative criteria:
 - a) the coal resources of the proposed allocation area; and
 - b) the applicant's reasons for requiring the release of the proposed allocation area must be for an operational allocation purpose as outlined in Clause 4.

- 7.2. Qualitative criteria specific to applications made against mining leases:
- a) where the proposed allocation area could be part of a larger unallocated coal resource that could support a standalone mine, the Coal Resource Operational Allocation Committee will consider the needs of the applicant, any market interest and the impact on the unallocated area, including if any unallocated resource could support at least one standalone mine. In this case, the market interest test may also be conducted against the larger, unallocated resource.
- 7.3. Qualitative criteria specific to applications made against exploration licences or assessment leases will consider whether:
- a) the exploration or assessment activity is standalone and not associated with a colliery holding; and
 - b) regarding exploration licences, the existing standalone exploration activity under exploration licence(s) does not have any assessment leases associated with it and vice versa; and
 - c) an exploration licence has not previously been granted for operational allocation purposes for the same exploration or assessment activity; and
 - d) exploration is shown to be at an advanced stage with a Scoping Study complete as defined by the [*Australian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves 2012*](#) (JORC Code) or successor documents; and
 - e) the allocation will improve a mine design proposal the applicant has justified why an allocation will improve a mine design proposal; and
 - f) the applicant has clearly demonstrated the area of application is likely to contain a resource that would otherwise be likely to be sterilised; and
 - g) the proposed allocation area is unlikely to support a standalone operation or is unlikely to cut into a resource that would support a standalone operation.
- 7.4. If the criteria of 7.1 and 7.2 or 7.3 as relevant are satisfied, the Coal Resource Operational Allocation Committee will consider the following additional factors:
- a) the quantity of coal reserves associated with adjoining and/or proximate authorities (jointly) held by the applicant(s);
 - b) for applications under 4.2, remaining production period of the existing mine;
 - c) likely time frames for exploration, assessment and mine planning, including proposed time frame for a planning development application to develop the operational exploration licence area;
 - d) if the applicant is taking reasonable steps to move to production or maximise production from their existing authorities;
 - e) if the application rationalises existing authority boundaries.
8. Where an exploration or assessment activity in respect of which an application for an exploration licence for an operational allocation purpose is made, relates to more than one authority, the threshold will be calculated against the authorities that meet the criteria in clause 7.3 of this guideline.
9. For applications made under 4.2, the threshold will be calculated against all the mining leases for coal within the colliery holding associated with that application.
10. A financial contribution will apply as detailed at the end of these guidelines.
11. Where the requirements of the guidelines are not met, or there is reason to suggest that an additional detailed assessment needs to be conducted to support allocation, the Coal Resource Operational Allocation Committee will provide details of the application to the Advisory Body for Strategic Release to inform the Advisory Body's work.
12. Any referral to the Advisory Body for Strategic Release does not guarantee that the area will be allocated or released for a competitive process.
13. All applicants must comply with all other requirements of the Act as they related to an application for an exploration licence.
14. Recommendations for operational allocations by the Coal Resource Operational Allocation Committee will be brought to the Cabinet Standing Committee on Resources and Land Use by the Minister for Resources for endorsement prior to a final decision.

Financial Contributions for Coal Operational Allocations

Operational allocations will be subject to agreed financial contributions. The contribution will be:

- 10 cents per tonne of saleable export coal (with a minimum contribution of at least \$500,000); and
- 5 cents per tonne of saleable domestic coal (with a minimum contribution of at least \$250,000).

The actual contribution will be based on the estimated saleable reserves of coal contained within the subsequent mining lease area, on the grant of development approval.

Financial contributions will be payable in instalments with 20% on the grant of development consent and the balance payable in five equal payments on the anniversary of the grant of a subsequent mining lease.

In addition, the Government will require the refund of the cost of government exploration. This may include exploration outside the allocation area, and tender assessment costs if applicable, on grant of the exploration licence.

These contributions may be updated by the Advisory Body for Strategic Release.

Document control

Authorised by: Department of Planning and Environment, Division of Resources and Geoscience

These guidelines can be found at: <http://www.resourcesandenergy.nsw.gov.au/miners-and-explorers/programs-and-initiatives/operational-allocation-guidelines>

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Amendment schedule		
<i>Date</i>	<i>Version #</i>	<i>Amendment</i>
18 December 2015	1.0	First published
15 November 2017	1.1	Updates to legislation references and Minister

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