

Purpose

The Advisory Body for Strategic Release's (ABSR) purpose is to oversee and advise on the implementation of the:

- strategic release framework for coal and petroleum resources
- competitive allocation framework for coal resources
- operational allocation framework for coal resources.

Responsibilities

The ABSR's responsibilities are to:

- manage the strategic release process for areas with potential coal or petroleum resources
- manage the competitive allocation and operational allocation process for areas with potential coal resources, including relevant matters referred to it by the NSW agency responsible for administering the *Mining Act 1992* or the *Petroleum (Onshore) Act 1991*
- under the strategic release framework, identify and prioritise areas to be considered for potential release for coal or petroleum exploration based on:
 - requests from the Minister responsible for the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991*
 - relevant government strategies and policies that identify potential release areas
 - advice from ABSR member agencies
 - unsolicited proposals from the public or industry.
- commission reports, analysis and advice on each area being considered for release for exploration for coal and petroleum under the strategic release and competitive allocation frameworks including:
 - resource assessments
 - Preliminary Regional Issues Assessments
 - initial suitability assessments
 - any other such report, advice or analysis as may be required to inform the recommendations of the ABSR
- determine the reserve price under the competitive allocation framework
- make recommendations to the Minister on:
 - areas to be released for coal or petroleum exploration, including how any potential land use conflicts should be managed
 - areas that should be ruled out for release for exploration for coal or petroleum under the strategic release framework
 - the reserve price for the competitive tender of a coal or petroleum release area under the strategic release framework
 - if the tender or prequalification of bidders is unsuccessful, a course of action
 - the grant of an exploration licence after a competitive process for coal or petroleum and refusal of any exploration licence applications as required

TERMS OF REFERENCE

- oversee the working of the three frameworks and make recommendations for improvements to the design or operation of these frameworks
- review or approve the terms of reference for ABSR's working groups.

In discharging the above responsibilities, the ABSR's actions will be guided by the NSW Government's published objectives, priorities and desired outcomes in relation to the allocation and development of NSW's coal and petroleum resources.

Membership

The ABSR will comprise six members, including the independent Chair.

The ordinary members will include:

- one representative from the NSW agency that is responsible for administering the *Environmental Planning and Assessment Act 1979*
- one representative from NSW Department of Premier and Cabinet
- one representative from NSW Treasury
- one representative from the NSW agency that is responsible for administering the *Mining Act 1992*, and the *Petroleum (Onshore) Act 1991*
- one representative from the NSW agency that is responsible for regional economic development.

The ordinary members of the ABSR will be normally be an Executive Director or a higher representative but may be a Director, with the Minister's consent.

Members will be appointed for a period of three years. There is no restriction on the amount of times an ordinary member can be reappointed to the ABSR.

The appointment of the Chair to the ABSR will be in accordance with the Public Service Commission's *Appointment Standards – NSW Boards and Committees in the NSW Public Sector*.

The Minister's endorsement and Cabinet's approval is required for the appointment of all ABSR members.

Governance and Secretariat

CHAIR

The Chair will conduct meetings and approve the meeting agendas.

The Chair is to have relevant governance expertise and not be currently employed by the NSW government.

The Chair is to support the Secretariat and Probity Advisor to manage conflict of interests and confidentiality declarations.

On behalf of the ABSR, the Chair will commission inputs required for decisions under the strategic and competitive allocation frameworks by writing to the Deputy Secretary (or equivalent) of the relevant NSW agency.

The Chair is not to be the Chair of the ABSR's working group.

SECRETARIAT

Secretariat support will be provided by the NSW agency responsible for administering the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991*.

TERMS OF REFERENCE

The Secretariat will:

- circulate the agenda and agenda papers five working days prior to a meeting
- circulate the draft minutes of meeting to the Chair within 10 working days of the meeting
- manage conflict of interests and confidentiality declarations.

MEETING SCHEDULE

The frequency of ABSR meetings will be as required to undertake its functions, at the discretion of the Chair.

All meetings will include videoconference and/or teleconference options for ABSR members.

DECISION-MAKING

The ABSR is both a decision-making and an advisory body. Its decision-making and advisory functions are set out in the frameworks.

WORKING GROUPS

The ABSR may approve the creation of a working group as required to assist it in making decisions. A working group is to have a terms of reference.

QUORUM

ABSR meetings may only be held if a quorum is achieved. A quorum will consist of the Chair and two other members representing a total of at least two agencies.

ATTENDANCE

ABSR members are expected to attend ABSR meetings unless there is an unavoidable scheduling conflict. The ABSR may convene and make decisions out-of-session.

Ordinary ABSR members are to provide reasonable notice to the Secretariat if they cannot attend ABSR meetings.

OBSERVERS

At the discretion of the Chair, relevant representatives from NSW government agencies may be invited to attend all or part of ABSR meetings as observers, for example to present on or contribute to a particular agenda item.

PROBITY

Decision-making under the frameworks must meet high probity and accountability standards to ensure fairness and openness of the process. ABSR's recommendations on whether to release a resource for competitive tender are subject to Ministerial and Cabinet oversight.

The ABSR members are required to:

- keep ABSR matters confidential
- declare actual, potential or perceived conflict of interests.

Where required, ABSR will appoint a Probity Advisor at Grade 9/10 level or higher to provide advice to the ABSR on potential or actual probity risks. The Probity Advisor does not participate in making recommendations.

The Probity Advisor will submit a statement to the Minister which accompanies any recommendations from the ABSR and is endorsed by their supervisor, at Deputy Secretary level. The statement will advise on whether the process has complied with probity principles and how any probity risks have been addressed.

TERMS OF REFERENCE

SUBSTITUTION OF ABSR MEMBERS

If the Chair is expected to be unavailable for an ABSR meeting, the ABSR meeting is to be cancelled. There is to be no substitution for the Chair.

If an ordinary ABSR member is unavailable for an ABSR meeting, the ordinary ABSR member may nominate a representative to attend in their stead. Consent of the Chair is required for a substitute to attend an ABSR meeting. The representative will have no voting power at the ABSR meeting and not be counted for a quorum.

If an ordinary ABSR member is expected to be unavailable for a more than one ABSR meeting (for example, if the person temporarily moves to another role), the ordinary ABSR member or an appropriate official from the ordinary ABSR member's organisation should nominate a representative to attend in their stead. Consent of the Chair is required for a substitute to attend an ABSR meeting. The representative will have voting power at the ABSR meeting and be counted for a quorum.

REPORTING

The ABSR is to report, in writing, annually to the Minister on the ABSR's work.

MEMBERSHIP COSTS

The NSW agency responsible for administering the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991* will pay for the Chair's remuneration and other costs relevant to carrying out the Chair's responsibilities.

For ordinary ABSR members, their respective employers will meet their costs for participation on the ABSR.

REVIEWING AND UPDATING THE TERMS OF REFERENCE

The NSW agency that is responsible for administering the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991* shall be responsible for reviewing these Terms of Reference as required.

The ABSR may request a review of these Terms of Reference.

Minor general updates to the Terms of Reference may be approved by the Minister responsible for the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991*, after consulting with member agencies.

Any significant changes to the Terms of Reference must be approved by Cabinet.

Approved by Cabinet and the Deputy Premier: 1 November 2021

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