

Public Comment Process

For the exploration of coal and petroleum,
including coal seam gas



Title: Public Comment Process for the exploration of coal and petroleum, including coal seam gas

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Disclaimer

The information contained in this publication is based on knowledge and understanding at the time of writing (October 2011). However, because of advances in knowledge, users are reminded of the need to ensure that information on which they rely is up to date and to check the currency of the information with the appropriate officer of NSW Trade & Investment, or the user's independent advisor.

Foreword

Mineral resources in New South Wales are mostly owned by the State. This means that the royalties and economic benefits from the mining of these resources contribute to the provision of services to the people of New South Wales.

The New South Wales Government recognises the potential impacts that mineral exploration and mining can have on communities directly affected by such activities. As a result, the Government is committed to giving these communities an opportunity to comment on applications for exploration licences.

Providing communities with this opportunity will improve the transparency, efficiency and effectiveness of the decision making process when determining applications for exploration licences. It will also assist in gathering relevant local information and assist in the development of more robust processes to protect the environment. The aim is to ensure that potential impacts on the community are minimised or, where possible, avoided.

This process only applies to the exploration of coal and petroleum, including coal seam gas.

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Role of the Public Comment Process

The role of the public comment process in relation to exploration licences is:

1. to inform the community that an application for an exploration licence has been lodged and provide a description of the activities that may be carried out as part of the proposed exploration program; and
2. enable members of the community to advise Regional NSW - Mining, Exploration and Geoscience (the Department) and the Minister of issues that should be taken into consideration when determining whether or not certain exploration activities can be carried out, or the conditions that should apply to any approved activities.

Given that exploration is focused on the location and economic assessment of a mineral deposit and that further approvals (including preparation of a detailed Environmental Impact Statement) will be required before any mining or petroleum production can be carried out, **public comment will only be sought on matters relating to the effects of the exploration process.**

The purpose of this process is to ensure that the Minister (or delegate) has all the relevant information when making a decision to grant or not grant an exploration licence. It ensures that the interests of the State are balanced by the interests of the community directly affected by the activities. Often this balance will be achieved by conditioning exploration licences appropriately so that approved exploration activities do not unnecessarily impact on matters of environmental, social and economic importance to the community.

What to consider when making a submission

All submissions will be considered when determining an exploration licence application; however, greater weight will be given to matters that meet the intent of the consultation process – which is to inform the conditioning of licences.

The weight given to submissions generally opposed to exploration, mining or petroleum development will be less than those raising matters that inform the assessment of potential impacts from the exploration process regarding the specific exploration licence application. Examples of matters given greater weight include:

- Essential community services or infrastructure that may be impacted by exploration;
- Knowledge of threatened species or ecological communities within the proposed exploration licence area;
- Knowledge of significant landscape, environmental, cultural or heritage features in the area that should be protected;
- Community or tourist events that may be potentially affected if exploration activities are carried out in close proximity while the event is happening (such as outdoor music or film festivals). This may include impacts to accommodation requirements that may conflict with exploration activities also requiring high numbers of employees;
- Recognised view corridors or scenic landscapes and sites of importance to the local or broader community, including recreation areas outside of urban areas (such as swimming holes in rivers or sporting areas); and
- Other potential economic and social impacts on the community or individuals.

The standard exploration licence conditions and regulatory framework provide a high degree of environmental protection. These conditions, the environmental performance of exploration companies and the methods that they are using are constantly monitored and modified as the need arises.

However, communities have knowledge regarding the presence of threatened species and ecological communities in their local area and this information will assist exploration companies in planning their activities to minimise potential environmental impacts. Accordingly, information in submissions regarding sensitive environmental features in the application area will be passed on to the applicant should the exploration licence be granted. It will also be used by the Department when assessing future applications for approval of exploration activities and when undertaking compliance monitoring and auditing.

Comments not to be considered

Issues associated with the establishment of a coal mine or petroleum production development, including air quality, noise, land use conflicts, aquifer interference, social and health issues and the cumulative effects of mining are matters that will be considered during the development application decision making process carried out by Regional NSW - Mining, Exploration and Geoscience and the Minister for administering the *Mining Act 1992*.

In general, comments on mining or petroleum production related impacts are not within the scope of assessment. Comments should focus on the impacts associated with any exploration activity.

Making a Submission

After lodging an exploration licence application the applicant is required to publish a notification in a major metropolitan newspaper, circulating state-wide and at least one regional newspaper, circulating in the locality of the proposed exploration area.

For exploration licences proposed for tender or released as a result of a part transfer of an existing licence held by the Secretary of Regional NSW, the Department will publish notification of the proposed tender or transfer in a newspaper circulating state-wide and in at least one newspaper circulating in the locality of the proposed exploration area. These notices will be published in conjunction with the release of the tender area.

The notification will include the exploration licence application number (where appropriate), location of the proposed exploration area (including proximity to nearby towns and villages), contact details for the applicant and reference to the Department's website.

Submissions regarding the application must be made and received within 28 days of the proposal being published. Submissions must include the following information:

- Name, address and contact details of the correspondent
- Exploration Licence Application Number

A submission form is available from the community information section on the Department's website <https://www.regional.nsw.gov.au/meg/community/landholder-rights/public-comment-on-coal-and-petroleum-titles>. It is noted the submission form is limited with characters.

Submissions can also be made by post or email and should be addressed to:

Manager Coal Grants and Titles
Title Assessments
PO Box 344
Hunter Region Mail Centre
NSW 2310
Email: resource.operations@planning.nsw.gov.au

The Department reserves the right to make all or part of any submission publicly available, however personal information identifying an individual will be withheld from publication.

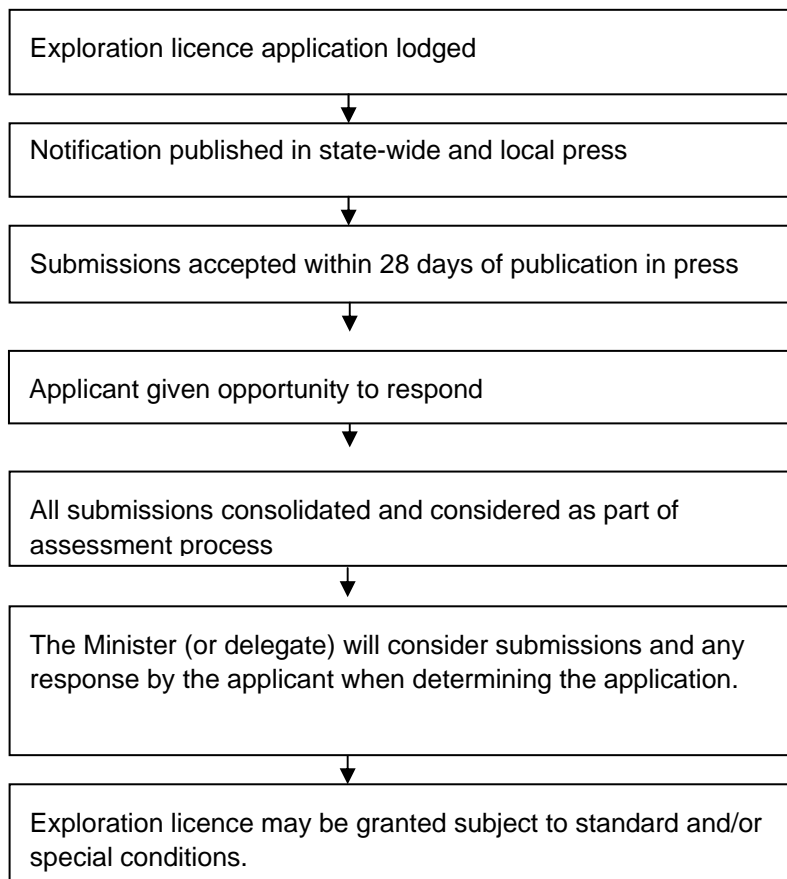
The Department's Role

The Department is committed to the proper and competent management of the State's mineral resources, by promoting effective exploration, environmental compliance and ecologically sustainable development. The Department will ensure that matters raised during the public consultation process are considered in the development of stronger conditions to protect the environment and minimise the impact of exploration activities on communities.

All submissions will be provided to the applicant who will be given an opportunity to respond. Submissions received during the consultation period will be consolidated and considered in the assessment of the exploration licence application. The matters raised will be considered and appropriate action will be taken. This may include specific conditions being imposed on the licence. If necessary, further information may be requested from the person or organisation making a submission. Where actions have the potential to impact on the proposed exploration program, the applicant will be given an opportunity to respond prior to the application being determined. The Minister (or delegate) will consider the submissions and any response by the applicant when determining the application.

A summary of the issues raised and the Department's response to the submissions may be made available on the Department's website following determination of the application. This summary will identify what issues were raised by particular stakeholders and any associated Departmental actions or observations. The applicant's response to submissions may also be published on the Department's website.

Summary of the Process



Exploration Explained

The purpose of exploration is to identify the quantity and quality of resources and to determine the viability of proceeding to mine the resource.

Exploration licences are generally granted over an area where geological features have potential to contain a mineral resource. In the case of coal and petroleum (including coal seam gas), these geological features are located in sedimentary basins. They are often buried or hidden beneath several hundreds of meters of sediments and require special surveys and/or drilling to determine their existence. The presence of these features, however, does not guarantee that an economically viable mineral resource will be present and further exploration work is required to determine whether or not a viable resource does exist.

Exploration licences for both coal and petroleum may be granted and renewed for periods of up to six years.

As part of the exploration licence application, a work program must be submitted. This may include:

- Desktop (evaluation, research and studies) work, followed by airborne or ground based remote sensing work and sampling.
- A drilling program may be developed which targets prospective sites within the exploration area for the purposes of geological mapping, structural identification, formation sampling, testing and resource assessment.
- Other exploration activities such as geochemical evaluation, seismic or other geophysical surveys, costeaning (small excavation pits for shallow resources) and bulk samples (larger excavations or underground workings) may be carried out if approved under the terms of the exploration licence. The duration of physical works associated with exploration programs depends on the results obtained as the program progresses.

As the program develops and further information about the geology is obtained, the exploration activity becomes more targeted within the licence area.

A typical exploration program, particularly in coal seam gas, usually takes at least three years to complete and may take considerably longer. Issues such as availability of drilling rigs and other exploration equipment, weather, commodity prices and regulatory changes all have potential to result in delays to an exploration program.

Only a very small percentage of land under an exploration licence is subjected to drilling or more intensive exploration activities, and an even smaller percentage actually proceeds to a mining development or gas extraction. In instances where exploration does occur and the results are not encouraging, further proposed work is often ceased and licences are relinquished.

As the exploration program takes place, access arrangements with potential compensation are required to be negotiated by the holder with any landholder affected by exploration activities. You can find details including answers to common questions regarding Landholder's rights on the Department's website: <https://www.regional.nsw.gov.au/meg/community/landholder-rights>

Considerations When Determining Exploration Licence Applications

Matters taken into consideration when determining an exploration licence application include:

- The appropriateness of the proposed work program to the identification of a potential resource in the application area;
- The potential environmental and social impacts of the proposed exploration program.
- The past environmental performance of the applicant (and in the case of corporate applicants, its Directors) in carrying out mining and exploration activities; and
- The financial resources of the applicant to carry out the exploration program;

Regulation of Approved Exploration Activities

Exploration licences may be granted subject to standard and/or special conditions, including contemporary environmental management conditions which reflect the State's fundamental obligation to protect native vegetation, biodiversity, land, rivers and coastal waterways. The current version of the standard conditions can be found under 'exploration' within the community section of the Department's website: <https://www.regional.nsw.gov.au/meg/exploring-and-mining/application-forms-and-fees/standard-conditions-for-mining-and-exploration>

The conditions regulate the type of exploration that can be carried out in the exploration licence area and where and when these activities may occur. Exploration activities identified as having a minimal environmental impact can be carried out without further approval.

Higher intensity activities or activities that have the potential to adversely affect threatened species or ecological communities require further approval from the Department. An environmental assessment of the proposed activities is undertaken prior to granting any approvals, this assessment is informed by a Review of Environmental Factors (REF) prepared by the licence holder and includes consideration of the potential impacts on the community.

Licence holders are also subject to a statutory prohibition on carrying out activities within 200 metres of a residence without the consent of the landholder and resident.

Licence holders are also required to rehabilitate areas disturbed by exploration activities and must provide the Department with security sufficient to cover the expected rehabilitation costs in the event that they default on this obligation.

Exploration vs Mining or Petroleum Production

An exploration licence gives the licence holder exclusive rights to explore for specific minerals within a designated area but it does not permit mining or production, nor does it guarantee a mining or production lease being granted. Only a very small percentage of land that is subject to exploration licences ever proceeds to a mine or production lease.

Coal and petroleum development are classified as State Significant Development projects and are therefore subject to Part 4 of the *Environmental Planning and Assessment Act 1979* and require planning approval. An application to mine for coal or produce petroleum needs to be lodged with the NSW Department of Planning and Environment and requires an Environmental Impact Statement to be prepared in accordance with the Secretary of the Department of Planning and Environment's Environmental Assessment Requirements. Extensive public consultation requirements are associated with this assessment process.

A lease for coal mining or petroleum production cannot be granted by the Minister administering the *Mining Act 1992* without this planning approval.

Further Information

For further information regarding the public comment process and exploration licence applications contact:

Manager Coal Grants and Titles
Title Assessments
PO Box 344
Hunter Region Mail Centre
NSW 2310

or email: resource.operations@planning.nsw.gov.au