

MINISTERIAL GUIDELINE

Allocation of Future Coal Exploration Areas

1.0 Introduction

The NSW *Mining Act 1992* (section 368) allows for the constitution of Mineral Allocation Areas (MAA). In order to apply for an authority for an allocated mineral within a MAA, prior Ministerial consent is required. The whole of the State of NSW has been constituted as a MAA for coal. This allows for the controlled and rational allocation of potential coal development areas and the setting of special conditions for each allocation.

These guidelines apply to the allocation of authorities for the exploration of coal resource bearing areas in NSW. They were first introduced in March 2006 and updated in January 2008. This updated version is in response to recommendations contained in a Probity Review Report by O'Connor Marsden.

2.0 Categories of Coal Allocation Areas

For the purpose of these guidelines, potential coal allocation areas are categorised into the following four groups:

- **Major Stand-Alone Areas**

These areas contain sufficient coal resources to develop a medium to large scale new coal mine.

- **Substantial Additions to Existing Mines**

These areas are located adjacent to existing mines and contain coal resources that could be readily mined by a continuation of the existing operations.

- **Minor Additions to Existing Mines**

These are small areas adjacent to existing mines, that based on a logical assessment, would be best mined from an existing mine.

- **Small Areas Unrelated to Existing Mines**

These areas are small but may have the potential to be developed as stand-alone “boutique” mines due to particular coal characteristics or location adjacent to a market.

3.0 Process for Allocation

3.1 Major Stand-Alone Areas

A major stand-alone area is defined as an area containing sufficient coal resources to justify the establishment of a new medium to large scale coal mine and associated infrastructure. These areas generally contain, based on a best estimate¹, insitu coal of >100 million tonnes (Mt).

These areas will be allocated by either of the following:

1. Tender/Expression of Interest with open-ended financial contribution; or
2. Tender/Expression of Interest with minimum financial contribution but open-ended maximum contribution; or
3. Tender/Expression of Interest with a fixed financial contribution and a requirement to develop specific infrastructure or utilisation technologies or value adding processes; or
4. Tender/Expression of Interest to supply a specific end use such as a domestic power station with a financial contribution negotiated in advance of the tender or expression of interest; or
5. A direct allocation under circumstances such as those listed in Appendix 2, after the application of the Public Exposure Test outlined in Section 4 of these Guidelines.

3.2 Substantial Additions to Existing Mines

A substantial addition to an existing mine is defined as an area adjoining an existing mine or project, which based on a best estimate¹, is likely to contain coal reserves of >20 Mt open cut or >50 Mt underground, but <100 Mt of insitu coal.

Allocations of substantial additions to existing mines will be considered under one or more of the following circumstances:

- Current mine reserves are becoming depleted and the allocation of an adjoining area would ensure the continuation of mining;
- The economic viability of the mine could be substantially improved;
- The allocation would result in a significant capital investment;
- The allocation would lead to increased production levels and, or employment levels;
- Sterilisation of the resource would be avoided or resource recovery from the area would be substantially enhanced;
- The area would not be amenable to the development of a separate small stand-alone mine;
- Allocation of the area would avoid duplication of infrastructure in environmentally sensitive areas or assist to ameliorate potential conflicts with other surface development.

¹ A best estimate is made by taking into account all relevant factors including size of area, existing exploration and mining information, geology and other likely constraints, along with the requirements of the JORC Code and Australian Guidelines for Estimating and Reporting Inventory Coal, Coal Resources and Coal Reserves.

In situations where a number of companies have registered² an interest in an allocation for the same area, a competitive allocation process similar to those required for major stand alone areas will be required. Where there are no registered competing interests, a direct allocation can be made after applying the Public Exposure Test, outlined in Section 4 of this guideline.

Substantial allocations to existing mines will be subject to negotiated financial contributions. Minimum financial contributions are specified in Appendix 1.

Factors to be considered

When assessing requests for substantial allocations to existing mines, the following factors need to be taken into consideration:

- Where the area is adjacent to a number of existing coal mines or advanced exploration projects, consideration will be given to the current and possible future needs of those adjoining operations in terms of coal resource requirements and access to additional coal reserves;
- Geological structures and surface features that may form natural mining barriers;
- The possibility of relinquishing areas in exchange for the new allocations, particularly in situations where natural barriers are an obstacle to mining within existing leases;
- The amount of exploration that has been carried out by the applicant. Substantial additions will not be granted to applicants who have not completed extensive exploration in their existing titles.

3.3 Minor Additions to Existing Mines

A minor addition to an existing mine is defined as a small area adjoining an existing mine or project, which based on a best estimate¹, is likely to contain coal reserves of < 20 Mt open cut or < 50 Mt underground.

Allocations of minor additions to existing mines will be considered under the following circumstances:

- Life of the existing mine will be extended (but there won't necessarily be any significant increase in employment, capital expenditure or production);
- Grant of the area will rationalise existing mine boundaries in relation to surface features or geological constraints;
- The coal resources in the area are threatened with sterilisation from competing land uses and need to be mined in the short term;
- The area would not be amenable to the development of a separate small stand-alone mine;
- Resource recovery will be maximised;
- The area can only be mined from the existing mine seeking the allocation.

In situations where a number of companies have registered² an interest in an allocation for the same area, a competitive allocation process similar to those required for major stand alone areas will be required. Where there are no registered competing interests, a direct allocation can be made after applying the Public Exposure

² Register of requests for Ministerial consent to apply Maintained by Industry Coordination Unit.

Test, outlined in Section 4 of this guideline.

Minor allocations to existing mines will be subject to negotiated financial contributions. Minimum financial contributions are specified in Appendix 1.

Factors to be considered

When assessing requests for minor allocations to existing mines, the following factors need to be taken into consideration:

- Where a proposed minor addition forms part of a larger unallocated area, consideration will need to be given to the possible deleterious effect on the future development potential of the larger area;
- In the situation where a minor addition is adjacent to more than one existing mine or project and no submissions are received as a result of the Public Exposure Test outlined in Section 4 of these Guidelines, the Minister may commission a study to confirm that the proposed allocation represents the most rational and equitable approach;

Minor additions may be granted as mining leases rather than exploration licences where the geological data from adjoining areas can be reasonably extrapolated into the proposed addition area.

3.4 Small Areas Unrelated to Existing Mines

Small areas unrelated to existing mines would include:

- Remnant coal resources left from previous mining operations.
- Small isolated deposits with some development potential.

In situations where a number of companies have registered² an interest in an allocation for the same area, a competitive allocation process similar to those required for major stand alone areas will be required. Where there are no registered competing interests, a direct allocation can be made after applying the Public Exposure Test, outlined in Section 4 of this guideline.

Small areas unrelated to existing mines will be subject to negotiated financial contributions. Minimum financial contributions are specified in Appendix 1.

4.0 Public Exposure Test

All direct allocations must be subject to the Public Exposure Test outlined below.

The Minister must Gazette and publish in national and relevant regional newspapers notice of his intention to make a direct allocation of a coal resource area. This notice must outline the reason for considering a direct allocation and invite submissions from parties who may be interested in exploring the subject area. The Minister must consider all submissions and substantiate his reasoning in deciding whether to proceed with the direct allocation or establish a competitive process for the allocation of the area.

Where the Minister proposes to make a direct allocation of an area with the potential to be developed as a stand alone mine, the Minister must appoint an independently chaired Assessment Committee, which would use professional probity and governance skills in providing advice regarding the most appropriate means of allocating the area.

5.0 Change in Effective Control of Corporate Entities that are Allocated Areas

All authorities granted as a consequence of allocations made by virtue of these Guidelines will be subject to a condition that prior Ministerial consent will be required for any changes in effective control of the corporate entity/s holding the licence. Failure to obtain the required approval will be considered as grounds for the cancellation of the licence.

6.0 Refund of Exploration Expenditure

Allocations under all categories require the refund of government exploration expenditure. Exploration adjacent to, but outside the allocation area, may be included as part of the expenditure. Repayment schedules are negotiable.

7.0 Requirement to Develop Resources

All allocations of coal resources are made to either allow the development of a new mine or to enhance an existing mine. Where the conditions of the allocation in relation to mine development are not met by the title holder or the allocated resources are not developed within any specified time frame, the coal title may be cancelled by the Minister without compensation.

Under Review

APPENDIX 1

Indicative Financial Contribution for Coal Allocation Areas

The Tables below set out indicative minimum financial contributions to be paid to the NSW Government at the stage when a mining lease is granted over all or part of an area allocated under these Guidelines. The contributions vary depending on the type of deposit (open cut or underground), quality (export or domestic) and size. The actual contribution is based on estimated saleable reserves of coal contained within the mining lease.

I. OPEN Cut

Saleable Tonnes (Mt)	Export Coal		Domestic Coal	
	Cents/Tonne	Minimum Contribution \$ million	Cents/Tonne	Minimum Contribution \$ million
> 100	Tender, or Negotiation, or 20 + negotiated amount	>20	Tender, or Negotiation, or 10 + negotiated amount	>10
50-100	15+ negotiated amount	>7.5	7.5 + negotiated amount	>3.75
5-50	10	>0.5	5	>0.25
<5	5	<0.25	2.5	<0.125

II. UNDERGROUND

Saleable Tonnes (Mt)	Export Coal		Domestic Coal	
	Cents/Tonne	Minimum Contribution \$ million	Cents/Tonne	Minimum Contribution \$ million
>100	Tender, or Negotiation, or 15+ negotiated amount	>15	Tender, or Negotiation, or 7.5 + negotiated amount	>7.5
50-100	10	>5	5	>2.5
<50	5	<2.5	2.5	<1.25

Payment of Financial Contributions

Unless allocated by open tender or negotiation, financial contributions will be payable in instalments:

- 20% at grant of Development Approval.
- balance payable in five equal payments at yearly intervals.

The financial contributions do not include the refund of government exploration and tender assessment costs if applicable.

APPENDIX 2

Direct allocations will only be made in exceptional circumstances and where it can be demonstrated that the allocation is in the interests of the State and that the proposed development will provide significantly greater economic benefit than a conventional mine development. Situations under which direct allocations could be considered include the following:

- For the development of an economically significant, value adding coal processing facility e.g. clean coal or liquefaction;
- For the development of a project to commission newly developed coal utilisation technology;
- For the development of a project in a remote area where significant coal mining has not previously been undertaken;
- For the strategic development of a fuel source for the NSW power industry.
- For coal utilisation research purposes that would be considered in the State's interest.

Note: Should the project for which the allocation was made not proceed within a specified timeframe, titles granted over the allocated area will be cancelled.