Implementation of improved management of exploration regulation

Overview
NSW exploration regulation reform provides an opportunity to positively shift industry outcomes

<table>
<thead>
<tr>
<th>Principles of regulatory reform</th>
<th>Intended benefits of revised regulatory framework</th>
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<tbody>
<tr>
<td>Grow exploration and drive a competitive resources sector</td>
<td>Upfront rules; reduced duplication and streamlined reporting</td>
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<tr>
<td>Provide for risk and outcomes-based regulation</td>
<td>Accountability of all system participants and active risk based Compliance &amp; Enforcement</td>
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<tr>
<td>Ensure competent and effective exploration</td>
<td>Increased clarity, transparency and confidence in regulation across all commodities</td>
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<tr>
<td>Provide transparency and certainty of performance expectations to industry, regulators and community</td>
<td>Industry determines best use of technology and practice to deliver outcomes</td>
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<tr>
<td>Ensure environmental sustainability; social responsibility &amp; increased accountability</td>
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<td>Reduce regulatory burden</td>
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</table>
Objectives of NSW exploration regulation reform

Alignment with government commitments and…

- NSW Gas Plan
- Response to Chief Scientist and Engineer
- NSW 2021 targets

...facilitate changes in exploration administration...

- Improve community confidence in the administration of resources exploration
- Reduce red tape and administrative burden on industry
- Drive stronger accountability & active compliance & enforcement
- Integrate obligations to provide more clarity & consolidate reporting

...to deliver risk based regulation; improved performance and service delivery; increased accountability and a competitive resource sector.

- Grow exploration & drive competition
- Risk and outcomes based regulation
- Targeted compliance & enforcement in areas of higher risk
- Ensure competent and effective exploration
- Ensure environmental sustainability and social responsibility
What do the reforms include?

- Performance/risk-based exploration codes of practice:
  - Rehabilitation
  - Environmental management
  - Produced water
  - Community consultation (*update existing guideline to code – to be issued this year*)
  - Drilling (*intent is being reviewed following extensive feedback – release date to be confirmed*)

- Integrated title instrument
- Reform standard licence conditions
- Streamline activity approval process
- Standardise activity approval conditions
What do the reforms include?

- **Updated guidelines**
  - Work programs
  - Annual activity reporting
  - Petroleum land access
  - Assessment requirements for exploration activities
  - Preparing a review of environmental factors
  - Petroleum drilling and well servicing - competencies

- **Industry guide for mineral (non-coal) explorers**
  - To guide industry through the application and assessment process
  - Coal and petroleum versions to follow later in 2015
Transition and implementation
Strategic priorities during the transition

- Engage with industry and the community
- Provide a framework to drive economic growth and productivity
- Create positive business and effective and clear regulatory environments
- Structure an innovative, commercially focused and collaborative culture
- Build industry, community and internal capability and awareness
### Phased Implementation

<table>
<thead>
<tr>
<th>Pre-July 1</th>
<th>NOW</th>
<th>2016+</th>
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<tbody>
<tr>
<td><strong>Prepare for Transition</strong></td>
<td><strong>Transition</strong></td>
<td><strong>Business as usual</strong></td>
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<tr>
<td>- Planning</td>
<td>- Operational readiness and new business process implementation</td>
<td>- Reform implemented and embedded</td>
</tr>
<tr>
<td>- Co-design frameworks and process</td>
<td>- Build awareness and capability</td>
<td>- Benefits realisation</td>
</tr>
<tr>
<td>- Identify gaps in capability and process</td>
<td>- No change to existing titleholder rights and obligations</td>
<td>- Risk and outcomes regulation ensures industry is accountable to manage high risk</td>
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<tr>
<td>- Stakeholder consultation</td>
<td>- New applications and renewals will be under the new system</td>
<td>- Implementation finalised:</td>
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<tr>
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<td>- titles</td>
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<td>- licence conditions</td>
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<td>- codes</td>
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<td>- work programs</td>
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<td>- annual reporting</td>
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<td>- activity approvals</td>
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<td>- other guidance material</td>
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Key dates of the transition

Now

Jul '15
Codes; guidelines; conditions & minerals industry user guide released

Qtr 3 '15
Regional workshops for industry; consultation on remaining codes

Qtr 4 '15
Community consultation code and coal and petroleum industry user guides released

Qtr 1 '16
Online forms platform established

Qtr 2 '16
Other service delivery improvements finalised

Jul '16 +
Embedded practice; Transition complete

Operational readiness & Transition

Business as usual
Ensuring certainty during the transition

For codes not released on 1 July:

**Drilling code** – release date to be confirmed

- Extensive feedback from industry received
- Longer term plan is to move mandatory requirements into regulations
- A WHS-approved code is proposed, in addition to guidance for other non-WHS matters
- Environmental controls will also be picked up in minor amendments to the environmental management and rehabilitation codes
- Will apply to petroleum, coal and minerals
- Existing controls for drilling to remain in the short term.
Ensuring certainty during the transition

For codes not released on 1 July:

Community consultation code – due for release December 2015

- Existing community consultation guideline coal and petroleum will still apply until code is released
- The guideline will be updated to a code that will apply to all commodities
- Applicability dependent on level of activity and risk
- Industry consultation for this code will commence shortly
- Department of Planning and Environment is also in the process of reviewing its guidelines and we are investigating opportunities for joint consultation
- Local councils and community groups will also be consulted at a later stage

Guidance material will continue to be updated during transition to reflect the needs of industry
Changes to titles and conditions
Title and renewal applications

- **Remove** the current policy that limits grants and renewals to three years, extending them to five years - consistent with statutory period

- **Provide flexibility** for work program information and expenditure estimates where there is less advanced geological knowledge for a resource (e.g. mineral exploration) – but provide for annual reporting

- **Allow** title holders to refer to associated titles to provide strategic project context to exploration investment in the State

- **Expand** work programs to include environmental, rehabilitation and community consultation expenditure estimates and outcomes - to support financial and technical capability assessments
Title instrument

- **Integrate** all title obligations into a single document

- **Include** all title changes and references associated with activity approvals over the term of a title
Licence conditions

- **Reflect** the government’s objective of good management and governance of the state’s resources.
- **Remove** prescriptive conditions and provide for objective conditions
- **Remove** overlap and duplication
- **Ensure** conditions will be appropriate to the activity and performance will be managed through the codes of practice
Publishing decisions

- Common Ground will be the initial platform to provide information to industry and community on title decisions and transfers.
- A phased project plan is being developed to establish a robust framework to publish all decisions on applications that will be delivered in 2016.
- Existing confidentiality provisions will be upheld.
Industry guides

- New industry user guidelines – assist industry through the application and assessment processes
- Industry guideline for mineral (non-coal) explorers - already released
- Coal and petroleum versions will be released later this year
Exploration activity approval reform
Activity approval reform

**Current Conditions of EL**
- Cat 1 = exempt development (different for each EL)
- Cat 2 = SDN, maybe REF
- Cat 3 = REF

**New Conditions of EL**
- exempt development (Cl. 10 Mining SEPP)
- Assessable activity = all other exploration activities
New EL conditions enables activity approval reform

- New EL conditions removes category 1, 2, 3
- New codes of Practice for exploration = minimum standards /conditions for exploration across NSW
- Provides opportunity for activity approval reform
Activity approval reform

- For all cat 2/cat 3 (old) + assessable activities (new)

Two approval pathways proposed:

Pathway 1 = Common exploration activities (CEAs) = expanded category 2
- Streamlined 10-day assessment by Division of Resources & Energy using application form
- Reliance on codes of practice as mitigation measures

Pathway 2 = Non CEA
- Submit targeted REF where minor variation from CEA; or
- Submit guideline REF (compulsory for petroleum)
Concept of common exploration activity (CEA)

- Covers all exploration activities anywhere in NSW that meet certain location restrictions and impact criteria
- Codes of practice will be the “conditions” of approval
- Exploration activities which Division of Resources & Energy has assessed as unlikely to significantly affect the environment (DRE REF)
- No REF/assessment required by explorer
Determining a CEA

- Location restriction
- Impact criteria
- Codes of practice = mitigation

CEA
What about non-CEAs?

- Proponents complete the standard application form.
- Where the criteria for CEAs are not met, the form will elicit further targeted assessment information about the proposed activity from the proponent.
- Proponent will need to identify which CEA criteria cannot be satisfied.
- Proponent will only need to provide targeted information about the specific CEA departures.
- Option of preparing a guideline (complex projects and retained for current cat 3 petroleum).
In 2013/14 there were a total of 175 activity applications:
- 141 SDNs (10-day assessment)
- 34 REFs (30-day assessment)

Estimated by Division of Resources & Energy that 90% of exploration applications could be a CEA 10-day streamlined assessment (157 applications)

Greater up-front certainty for industry (CEAs + codes of practice)

Option of “targeted REF” for industry = reduced cost
Guidance

- Application form – Exploration Activities (new)
- ESG5: Assessment requirements for exploration activities (new)
- ESG2: Guideline for preparing a review of environmental factors (updated)
Exploration codes of practice
Pre-July 2015 environmental management and rehabilitation obligations

- No code of practice in NSW (other States have Codes)
- “Environmental harm” condition on title – but no upfront certainty regarding performance standards
- Additional conditions on activity approvals (two separate instruments and multiple conditions)
- Full range of environmental obligations are disparately located
- No certainty in regards to rehabilitation goal posts
Exploration codes of practice

- Environmental management
- Rehabilitation
- Produced water

Drive performance and administration of all exploration through:

- Upfront single set of rules
- Transparent and consistent regulation across all commodities
- Risk-based approach to the management of the environment and rehabilitation (scale, risk and nature of exploration)
- Allow explorers to adopt innovative solutions and best practice techniques to meet performance requirements
- Guidance notes to assist with achieving compliance and understanding best practice
Pre-July 2015 case – produced water

- Produced water management plan requirement as a condition of petroleum titles since 2012
- Trigger of 3 ML
- No standards that apply specifically to produced water storage, raised as an issue by the NSW Chief Scientist
- Does not apply to other mineral/coal activities that may have a produced water management risk

Reform case – produced water

- Applies to activities that require groundwater extraction in addition to CSG pilot wells – hydrogeological pump tests, dewatering excavations
- Provides standard for design of storage, both tanks and storage ponds
- Sets out beneficial reuse considerations – similar to Queensland CSG water management policy
Drilling code – release date to be confirmed

- Extensive feedback from industry received
- Longer term plan is to move mandatory requirements into legislation
- A risk-based WHS approved code will be developed, in addition to guidance for environmental matters
- Will apply to petroleum, coal and minerals

In the interim

- Environmental controls will be picked up in minor amendments to the environmental management and rehabilitation codes
- Existing controls (including special conditions) for drilling to remain on title
Alignment with jurisdictions

- Queensland and Victoria have codes
- South Australia has regulatory guidelines which are triggered by a condition of title
- Comparison shows they all regulate the same environmental issues as proposed in NSW
- Victorian code and South Australian guideline set out best practice guidance to meet each of the title conditions
- Queensland has multiple codes for petroleum and mineral exploration
- Objectives of codes is similar in terms of risk-based approach (apart from Queensland)
Work programs and annual reporting for prospecting titles

Els, AIs, PELs, PALs and PSPAs
Work programs and actual reporting

Work programs:
- Proposed activities for the term of the title

Annual reporting:
- Reporting on work conducted for each year of a title term. Comprised of four components
Overview

New life of term work program form

- Single summary document maintained for term of title covering:
  - exploration (prospecting) activities,
  - environmental management and rehabilitation activities and,
  - community consultation activities
- Submitted at application stage with proposed activities (specified and intended)
- Approved work program sent back to title holder/applicant
- Conducting approved activities becomes condition of title
- Resubmitted annually with annual activity reporting
- Provides for work program variations and updates
- Variations required – only if significant reduction in work program without legitimate reasons (justified in annual reporting)
- Used to inform annual assessment of work program performance
Benefits

- Flexibility to update work program over the life of the term
- Removal of detail breakdown of proposed expenditure – focus on increasing knowledge of mineral/petroleum bearing capacity of the title through acquisition of new data
- Allows for multi-title project concept
- Simplifies work program management for both title holders and department
Work programs

On application (new title or renewal)
### Work Program - Year 1

#### Mandatory at application (new title or renewal)

<table>
<thead>
<tr>
<th>Year</th>
<th>Start</th>
<th>End</th>
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#### Proposed specified activities

**Activities to achieve objectives**

- **Estimated expenditure**

Describe the proposed specified activities to achieve objectives. The description of these activities should be in a dot point format.

#### Environment

**Proposed specified activities**

- **Category of prospecting operations proposed**
- **Estimated expenditure**

- **Exempt activities (Category 1)**
- **Assessable activities (Category 2/3)**
- **Desktop studies**

**Proposed environmental management and rehabilitation activities**

- **Environmental studies**
- **Environmental/habituation management plans**
- **Rehabilitation activities**
- **Environmental management systems training**
- **Other activities**

**Intended activities for the remainder of the term**

**Category of prospecting operations proposed**

- **Exempt activities (Category 1)**
- **Assessable activities (Category 2/3)**
- **Desktop studies**

**Proposed environmental management and rehabilitation activities**

- **Environmental studies**
- **Rehabilitation activities**
- **Other activities**

#### Community

**Proposed specified activities**

- **Community consultation activities**
- **Estimated expenditure**

- **Stakeholder notifications**
- **Provision of information**
- **Landholder liaison/negotiations**
- **Public meetings**
- **Community consultative committee**
- **Other activities**

**Intended activities for the remainder of the term**

- **Community consultation activities**
- **Stakeholder notifications**
- **Landholder liaison/negotiations**
- **Community consultative committee**
- **Provision of information**
- **Public meetings**
- **Other activities**

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**Work programs**

On application (new title or renewal)

- Dot points only for exploration activities
- Reasons why proposed activities are suitable should be described in exploration rational or objectives
### Work Program - Year 2

**Mandatory at application (new title or renewal)**

<table>
<thead>
<tr>
<th>Proposed activities</th>
<th>Year 2</th>
<th>Start</th>
<th>DD/MM/YYYY</th>
<th>End</th>
<th>DD/MM/YYYY</th>
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</table>

**Activities to achieve objectives**

- Intended activities
- Specified activities

**Estimated expenditure**

- Activities to achieve objectives

**Describe the proposed specified activities to achieve objectives. The description of these activities should be in a dot point format.**

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**Required when re-submitted with 1st annual activity reports**

<table>
<thead>
<tr>
<th>Proposed specified activities</th>
<th>Category of prospecting operations proposed</th>
<th>Estimated expenditure</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Expenditure activities (Category 1)*</td>
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<tr>
<td></td>
<td>Assessable activities (Category 2/3)*</td>
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</table>

**Proposed environmental management and rehabilitation activities**

- Environmental studies
- Environmental/rehabilitation management plans
- Rehabilitation activities
- Environmental management systems training
- Other activities

**Indicate activities - dot points**

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**Proposed community consultation activities**

<table>
<thead>
<tr>
<th>Stakeholder notifications</th>
<th>Provision of information</th>
<th>Landholder liaison/negotiations</th>
<th>Public meetings</th>
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<tbody>
<tr>
<td>Indicate activities - dot points</td>
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**Exploration**

- Specified activities OR Variation of approved specified activities

**Activities to achieve objectives**

- The description of these activities should be in a dot point format.

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**Justification for variation to approved activities**

- The description of these activities should be in a dot point format.
Work programs

1st year annual reporting (and subsequent years)
Overview

- Reporting for work completed annual and includes four components required to be submitted:
  - annual summary activity and expenditure table
  - annual exploration report
  - annual environmental management and rehabilitation report
  - annual community consultation report (coal & petroleum only for now)
- Brings annual reporting on prospecting title in line by providing a single due date for reporting based on the grant anniversary date of the title
- All components of annual reporting submitted via one single portal
- Reports assessed as per relevant guidelines
- Work program performance assessed on annual basis
Annual summary activity and expenditure table

- Detailed breakdown of activities completed and expenditure
- Similar to current requirement in annual exploration reporting (Table 1)
- Includes environmental and community activities
- Includes self-assessment of work completion and justification

Annual exploration report

- Exploration report as per current guideline with expenditure table removed
Benefits

- Integration of all annual report requirements for prospecting titles
- One reporting date
- One submission portal
- Removes the need to report all rehabilitation activities at the end of the term, rather they are progressively reported
- Improves ability to monitor activities and performance
Panel Discussion & Questions