

Policy

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Introduction

The NSW Government's *Future of Gas Statement* improves certainty about future gas production and exploration, including significantly reducing the land available for gas exploration.

The Department of Regional NSW, Mining, Exploration and Geoscience (MEG) expects petroleum explorers to demonstrate a genuine commitment to the responsible discovery and development of the state's petroleum resources in accordance with the *Petroleum (Onshore) Act 1991* and Petroleum (Onshore) Regulation 2016.

This document details the mandatory criteria required to be satisfied to meet the minimum standards for petroleum titles and how MEG will apply them. Meeting these criteria demonstrates an applicant's commitment to responsible discovery and development of the state's petroleum resources. The document sets the:

- requirements for applicants or transferees to submit geoscientific and technically appropriate work programs that clearly describe the objectives, rationale and intended outcomes of the exploration activities (see Table 1 Exploration work program stages)
- benchmark applicant technical credentials, experience and financial capability to explore
- in the case of renewal applications, require authority holders to demonstrate:
 - authentic, tangible and reasonable progress in advancing the geoscientific knowledge of the resource potential of the title or project area
 - reasonable progress in advancing a project towards production
 - effective environmental management, rehabilitation and effective community consultation has been carried out.

The minimum standards enable informed, consistent and transparent decision-making. They provide clarity and certainty to applicants and the community on how MEG assesses petroleum exploration licence applications (PEL) and petroleum assessment lease (PAL) applications.

The geoscientific aspects of the work program must be expressed using the 4 stages of exploration, detailed in Appendix 1 of this document. The stages assist applicants and MEG in categorising, organising and evaluating proposed activities, objectives and outcomes. The stages also clarify MEG's expectations around ongoing progress on exploration authorities. MEG will assess work programs against four stages of exploration. Explorers need to nominate the exploration work program stage to work through over the term of the PEL or PAL.

This document also sets out the evidence explorers need to demonstrate to meet the minimum standards.

Any person who knowingly or recklessly provides false or misleading information concerning any requirements of the Act may be guilty of an offence under section 125D of the Act.

Under clause 4(1) of Schedule 1B of the Act, a decision-maker may require applicants to provide further information in connection with an application. The decision-maker may refuse an application if such information is not provided in the timeframe specified.

Regulatory context

The *Future of Gas Statement* commits the NSW Government to improving certainty about future gas production and exploration by updating the minimum standards to reflect a modern, outcomes-focused approach recently established for the mineral prospecting minimum standards. All petroleum exploration licences are subject to strict codes of practice, policies and other

requirements to ensure responsible development of petroleum. Minimum standards form part of a wider regulatory framework set out in the Act.

Section 14(1) of the Act requires all petroleum titles to be accompanied by a proposed work program. A work program must:

- indicate the nature and extent of operations to be carried out
- set out commitments relating to the conduct of those operations (such as timing of the operations)
- provide for the carrying out of activities (such as community consultation, environmental management and rehabilitation) in connection with, or ancillary to, those operations.

Clause 3 (a), (b) and (g) of Schedule 1B of the Act permits the decision-maker to consider petroleum minimum standards when determining certain title applications for grant, renewal and transfer.

Schedule 1B of the Act also sets out other considerations the decision-maker may take into account when determining an application, such as the applicant's compliance history.

The decision-maker's assessment of the merits of a petroleum title application and any conditions imposed is informed by Schedule 1B of the Act.

Clause 5 (b) of Schedule 1B of the Act permits the decision-maker to refuse an application if it does not meet the minimum standards for work programs and the technical and financial capability to carry out the proposed work program.

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Scope and application

The minimum standards apply to PELs and PALs only (collectively referred to in this document as 'petroleum titles'). They apply to the grant, renewal and transfer of these petroleum titles.

The minimum standards do not apply to petroleum production lease (PPL) applications.

The decision-maker will consider the minimum standards when assessing the merits of applications and applicants, including transferees.

However, the minimum standards do not apply to the following decisions:

- the variation of conditions of a petroleum title
- the suspension of a petroleum title
- the cancellation of a petroleum title.

Terms used in this document generally have the same meaning as defined in the Act. The glossary clarifies the meaning of all applicable terms used.

Transitional arrangements

To ensure a smooth transition and enable applicants to meet the requirements of the standards (if applicable) the following transitional arrangements apply:

- All applications for the grant, renewal and transfer of petroleum titles received after publishing this document will be assessed against the minimum standards
- Petroleum title applicants awaiting determination on grant, renewal or transfer applications lodged prior to the publishing date of the new standards are not obliged to resubmit their application under them

Mandatory requirements and evidence

Work program

Standard 1 – grant and transfer

A proposed work program supporting an application for the grant or transfer of a petroleum title must:

- a. satisfy the requirements of Section 14 of the Act and work program clauses in the Regulation
- b. be prepared and submitted in a format that satisfies the requirements of clause 5 of the Regulation
- c. describe exploration objectives, rationale, proposed activities and intended outcomes that are geoscientifically appropriate to the exploration rationale and nominated exploration stage/s (see Table 1 and Appendix 1)
- d. if applicable, clearly identify any other authorities (including PPLs) operating in conjunction with the petroleum title as part of a 'project', including:
 - the geoscientific, spatial and commercial/proprietary justification for the project grouping; and
 - how the proposed work for the subject petroleum title relates to the schedule of work across the broader project area.

Standard 2 – renewal

A proposed work program supporting an application for the renewal of a petroleum title must:

- a. satisfy all of the above requirements that apply at grant or transfer
- b. demonstrate that the applicant made tangible and authentic progress during the preceding term of the petroleum title.

Supporting evidence required for work program Standards 1 and 2

For the grant or transfer standard (Standard 1), the applicant must:

- indicate the nature and extent of operations to be carried out
- set commitments relating to operations (i.e. such as timing of operations and estimated expenditure)
- be prepared in a fixed or 2-part progressive agenda work program (see regulatory note below)
- provide for the carrying out of environmental management, rehabilitation and community consultation activities in connection or ancillary to those operations for the proposed term.

For the renewal standard (Standard 2), the applicant must:

- provide the same evidence as for Standard 1
- provide evidence to demonstrate tangible and authentic progress that advances the geoscientific knowledge of the resource potential of the petroleum title or project area over the previous term.
- provide evidence to demonstrate compliance with the Exploration Code of Practice: Environmental Management and Exploration Code of Practice: Rehabilitation and other applicable exploration codes during the previous term.
- The decision-maker will consider an applicant’s overall performance, breaches of relevant codes of practice and any remedial action when assessing the environmental management, rehabilitation and community consultation component of the work program for renewal.

Table 1: Four-part exploration work program stages (exploration stage and description)

Play/prospect generation	Prospect testing	Resource definition	Resource planning
A petroleum title holder identifies potential prospects, but which require new and more data acquisition, interpretation and analysis to define specific leads or prospects.	A petroleum title holder builds on existing data and interpretation and acquires new data to evaluate a potential petroleum accumulation. This will culminate in drill testing a prospect.	A petroleum title holder conducts appraisal activities to progress the definition of any discovered petroleum accumulation to a ‘Contingent Resources’ as per PRMS. ¹	A petroleum title holder is progressing activities that demonstrate they are attempting to commercialise the petroleum resource and/or progressing towards the development of a project plan for production

See Appendix 1 for further information on the four-part exploration work program stages.

¹ Petroleum Resources Management System (2018)

Regulatory notes

The work program must comply with the Act and Regulation (standard 1b)

To meet the Minimum Standards the applicant's work program must comply with the requirements of the Act and the Regulation.

Under the Act and Regulation an applicant may submit a work program in one of two formats: a fixed work program, or a two-part progressive agenda work program.

A fixed work agenda work program must describe the nature and extent of operations to be carried out over the full petroleum title term (clause 5(3) of the Regulation).

A two-part progressive agenda work program must describe the nature and extent of the operations to be carried out for the petroleum title's initial two years and provide a summary of the intended operations for the remaining years (clause 4(a) and (b) of the Regulation). Each work program re-submission must cover no less than two years (clause 6 of the Regulation). All work program submissions and re-submission are subject to the work program minimum standards.

Environmental management and rehabilitation activities must comply with obligations and obtain the required regulatory approvals (standard 1 and 2)

Current and prospective titleholders are expected to comply with all relevant environmental management and rehabilitation regulatory requirements.

Section 31A of the Act requires an activity approval from the decision-maker prior to commencing any assessable prospecting operations in an approved work program.

For assessable prospecting activities, an environmental impact assessment under the *Environmental Planning and Assessment Act 1979* must be conducted prior to commencing activities in the approved work program.

All environmental management activities are expected to comply with the *Exploration code of practice: Environmental management*.

All surface disturbing activities requiring rehabilitation are expected to comply with the *Exploration code of practice: Rehabilitation*.

Community consultation activities in work programs should be proportionate to the activities undertaken (standard 1 and 2.)

Current and prospective titleholders are expected to comply with the *Exploration code of practice: Community consultation*. An applicant's work program should identify community consultation activities that should be proportionate with likely type, scale, phase and length of exploration or other activities and their impacts on the community. NSW has a strong regulatory framework in place to manage potential environmental and community impacts.

Flexibility for explorers testing prospects (standard 2)

Petroleum titleholders at renewal must demonstrate authentic, tangible and reasonable progress over the preceding term of the title or relinquish tenure that has not demonstrated potential for progression.

As titleholders progress through the exploration stages, they may periodically revert an exploration program to a lower stage in response to exploration results obtained and other external circumstances. The decision-maker will consider these factors when assessing whether a proposed work program supporting a renewal application supports the notion of authentic, tangible and reasonable exploration progress.

Project status for petroleum titles (including PPLs)

Applicants may elect to nominate the tenure being sought to be grouped with other petroleum titles (including PPLs) as a wider contiguous exploration or production project for the purposes of justifying variance in exploration objectives and rates of progression on related titles. There must be a common holder, with a majority interest in all titles (including PELs, PALs and PPLs) of any project. Some titles forming a contiguous exploration project may be worked more actively than others. In these circumstances at least one title within a project must meet the minimum standards. For the remaining titles within a project, there must continue to be active work undertaken.

Financial capability

Standard 3

Applicants or transferees must:

- a. not be bankrupt or a body corporate that is subject to a scheme of arrangement, receivership, winding up or other external administration, AND
- b. either have:
 - the capital or ability to raise capital to meet expenditure and committed objectives for the entire work program, OR
 - the finance to meet all existing financial and regulatory commitments for the duration of the proposed work program.

Supporting evidence required for financial capability

Applicants or transferees must confirm that:

- they are not bankrupt or a body corporate that is subject to a scheme of arrangement, receivership, winding up or other external administration, AND
- at least one applicant has:
 - the capital or ability to raise capital to meet expenditure and committed objectives for the entire work program, including:
 - has sufficient capital available over the term of the petroleum title to meet the forecast expenditure and committed objectives of the entire work program;
 - is subject to an agreement with a third party for the provision of finance to meet the forecast expenditure and committed objectives of the entire proposed work program (e.g. a deed); or
 - has board members or corporate officers that have successfully raised capital in the past for similar exploration programs in NSW or other jurisdictions, OR
 - they have the finance to meet all existing financial and regulatory commitments for the duration of the work program, including:
 - all titles or other permits the applicant or parent company or related subsidiary is a registered holder
 - the annual expenditure and fees of the approved petroleum titles
 - the annual expenditure and fees for all activities committed by the applicants in New South Wales and other Australian jurisdictions
 - reporting commitments, environmental management, rehabilitation and community consultation requirements.

Regulatory notes

The work program must comply with the Act and Regulation (standard 1b)

Regulatory notes

To meet the Minimum Standards the applicant's work program must comply with the requirements of the Act and the Regulation.

Under the Act and Regulation an applicant may submit a work program in one of two formats: a fixed work program, or a two-part progressive agenda work program.

Despite mandatory criterion (a) above, the decision-maker may exercise their discretion to grant the renewal of an authority where it can be shown that renewal is required to wind up a company that has entered administration. The decision-maker will determine whether renewal in such circumstances would best serve the objects of the Act.

Technical capability

Standard 4

An applicant's or transferee's nominated technical manager must have:

- a. membership with a recognised relevant professional organisation (e.g. Petroleum Exploration Society of Australia) at the minimum level of a member, and
- b. a tertiary degree related to the geosciences, and
- c. five or more years' exploration experience in the geological setting nominated in the proposed work program. This must include three years' experience of responsibility and exercising professional judgement.

Supporting evidence required for technical capability

An applicant or transferee must:

- include the nominated technical manager's professional membership number and list their relevant tertiary qualification in the relevant application form; or
- submit with their application a copy of the nominated technical manager's curriculum vitae, outlining the person's relevant exploration experience and declaring their professional membership has not been refused, revoked or suspended at any one time.

Regulatory notes

An applicant's nominated technical manager must:

- not have been convicted in the past 10 years of a serious offence under the Act or other relevant legislation; and
- must have professional membership with a minimum membership level of 'member' with a recognised professional member organisation. Given the broad eligibility criteria for professional membership the nominated technical manager's professional membership must be held in their capacity as a geoscience professional.

Glossary

Term	Definition
applicants	A person or company that has applied for the grant or renewal or transfer of a petroleum exploration licence or petroleum assessment lease.
application	An application for the grant or renewal or transfer of a petroleum exploration licence or petroleum assessment lease.
petroleum	Petroleum has the same meaning as under the Act.
petroleum title	A petroleum exploration licence or petroleum assessment lease granted under section 16 of the Act.
proposed work program	The work program submitted with an application for grant, renewal or transfer of a petroleum title that describes the nature, extent and estimated expenditure of the exploration and associated activities proposed to be carried out during the proposed term of the petroleum title. A work program is submitted in satisfaction of section 14 of the Act.
project / project status	A group of petroleum titles (including petroleum production leases): <ol style="list-style-type: none"> a. granted for the same petroleum deposit b. located in the same geological province c. operated by a common entity or joint venture partners
recognised professional member organisation	A recognised professional member organisation is a member-based organisation who are associated with a specific profession.
relevant legislation	Means the following legislation – Any of the environment protection legislation Any legislation prescribed in the Act to mean relevant legislation.

Appendix 1 – Four-part exploration work program stages

Stage	Play/Prospect generation	Prospect testing	Resource definition	Resource planning
Initial status	A petroleum title holder identifies potential prospects.	A petroleum title holder builds on existing data and interpretation and acquires new data to evaluate a potential petroleum accumulation.	A petroleum title holder conducts appraisal activities to progress the definition of any discovered petroleum accumulation to a 'Contingent Resources' as per PRMS.2	A petroleum title holder is progressing activities that demonstrate they are attempting to commercialise the petroleum resource and/or progressing towards the development of a project plan for production.
Objective:	<ul style="list-style-type: none"> Available data is prepared, collated, and analysed Prospects and plays are identified. 	<ul style="list-style-type: none"> Test prospects to identify presence of petroleum resources Prioritise prospects for ongoing assessment. 	Estimate 'Contingent Resources'.	Develop a plan and continue activities for commercial production.
Typical activities:	<ul style="list-style-type: none"> Project generation Desktop studies and modelling Land access negotiation Regional scale field mapping, geophysical surveys, geochemical surveys Remote sensing data acquisition. 	<ul style="list-style-type: none"> Community consultation Land access negotiation Collection of baseline data Field mapping, geophysical surveys, geochemical surveys Drilling - logging, core analyses, gas testing, well testing Rehabilitation. 	<ul style="list-style-type: none"> Community consultation Monitoring of baseline data Land access negotiation Data interpretation and modelling Field mapping, geophysical surveys, geochemical studies Drilling - logging, core analyses, gas testing, well testing Pilot testing Environmental studies Engineering studies Rehabilitation. 	<ul style="list-style-type: none"> Community consultation Monitoring of baseline data Land access negotiation Data interpretation and modelling Field mapping, geophysical surveys, geochemical studies Drilling - logging, core analyses, gas testing, well testing Pilot testing Rehabilitation Feasibility studies Environmental studies Engineering studies EIS Studies.
Outcome / criteria for progression	Petroleum title holder will potentially progress a play or lead to a prospect for testing.	Petroleum title holder will drill test prospect(s).	Petroleum title holder has progressed to a 'contingent resources' status as per the PRMS.	Petroleum title holder is attempting to commercialise and progress a plan for production and quantify the volumes of reserves as per the PRMS.

'Typical activities' represent common activities that may be undertaken at variable stages of exploration, they may not be applicable to all projects.

² Petroleum Resources Management System (2018)