

# Consultation: Feedback and response summary

## Draft Mining Amendment (Royalties for Rejuvenation Fund) Regulation



Source	Topic	Issue / Feedback	Adopted	Reason/Comment
Local Councils and various stakeholders	Regulations generally	Funding - Submissions welcomed additional program funding and further guidance on how the funds will be distributed between the affected four coal mining regions.	NA	<p>The establishment of the Royalties for Rejuvenation Fund is detailed in sections 292W, 292X and 389A of the <i>Mining Act 1992</i>.</p> <p>Section 292W(4) specifies the money that is payable into the Fund, which includes money advanced by the Treasurer for the Fund and money appropriated by Parliament. Section 292W(5) specifies the money that is payable from the Fund.</p> <p>As required by section 292W(6) of the <i>Mining Act 1992</i>, eligibility criteria for payments from the Fund will be issued and made publicly available.</p>

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Community stakeholders	Representation on Expert Panels	The current draft does not ensure that any Expert Panel will have strong representation from local communities or Traditional Owners.	Addressed through the recruitment process	<p>The current Regulation (Schedule 7A clause 2(2)) is quite broad and focuses on the required attributes of the person, rather than their role or position. Appointments to the Regional Expert Panels must adhere to the <i>Appointment Standards - NSW Boards and Committees in the NSW Public Sector</i> published by the NSW Public Service Commission. The Appointments Standards require that opportunities to appoint Aboriginal persons, persons with a disability, young people, and persons from culturally and linguistically diverse backgrounds should be actively explored.</p> <p>To increase the focus on Indigenous representation on the Panel, the Department advertised the recruitment for the four Expert Panels in the Koori Mail and distributed information about the recruitment to the NSW Aboriginal Land Council, locals LALCs in the 14 LGAs, the NSW Indigenous Chamber of Commerce and the Coalition of Aboriginal Peak Organisations for distribution to Aboriginal networks in the four regions.</p> <p>The recent recruitment process also highlighted the need for multidisciplinary Expert Panels in the recruitment advertisements and sought members with a diverse range of skills, gender, expertise, backgrounds and experiences, and successful applicants will have the ability to provide innovative, logical and informative advice as part of their role.</p> <p>The recruitment process will focus on how applicants meet the attributes of:</p> <ul style="list-style-type: none"> <li>(a) knowledge of the economic or commercial activity of the affected coal mining region to which the Expert Panel relates,</li> <li>(b) representing the interests of a group likely to be affected by a move away from coal mining.</li> </ul> <p>It is important that the Expert Panels remain apolitical and that is why Councillors and mayors of local councils are unable to be appointed.</p>

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Various stakeholders	Functions of the Expert Panels	It is unclear how the functions of the Expert Panels relate to the object of the Fund which is to “alleviate economic impacts in affected coal mining regions caused by a move away from coal mining by supporting other economic diversification in those regions, including by the funding of infrastructure, services, programs and other activities”.	Yes	<p>Based on the feedback received from stakeholders during the consultation process, the Department has amended clause 89B of the Regulation to clarify the functions of the Expert Panels to more closely align with the object of the Fund.</p> <p>The new drafting provides the Expert Panels with the functions of advising the Minister about the following:</p> <ul style="list-style-type: none"> <li>a) the consequences and opportunities associated with moving away from coal mining, particularly in relation to the impact on employment and economic activity in the affected coal mining region,</li> <li>b) alternative land uses of coal mining sites,</li> <li>c) options to support the economic diversification of the affected coal mining region in alternative industries.</li> </ul> <p>This advice is in addition to the Expert Panels’ advice and recommendations about payments from the Fund.</p>
Various stakeholders	Functions of the Expert Panels – Community Consultation	Stakeholders requested clear requirements as to whether the Expert Panels are able to conduct public consultation.	Yes	<p>Based on the feedback received from stakeholders during the consultation process, the Department amended clause 89C of the Regulation to confirm that the Expert Panels may undertake public consultation.</p> <p>Information which is commercial in confidence will not be released during public consultation.</p> <p>If an Expert Panel undertakes public consultation, the Expert Panel must consider information received in response to the public consultation before advising the Minister.</p>

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Various stakeholders	Consideration of Public Interest and Environmental Issues	Provision is needed to ensure that Expert Panel advice to the Minister on disbursements from the Fund includes the public interest and environmental issues.	Not required	<p>The functions of an Expert Panel are to advise and make recommendations about payments from the Fund and to advise about the other matters prescribed in the Regulation, being:</p> <ul style="list-style-type: none"> <li>a) the consequences and opportunities associated with moving away from coal mining, particularly in relation to the impact on employment and economic activity in the affected coal mining region,</li> <li>b) alternative land uses of coal mining sites,</li> <li>c) options to support the economic diversification of the affected coal mining region in alternative industries.</li> </ul> <p>When authorising payments to promote the objects of the Fund under section 292W(5), the Minister is expressly required to consider the public interest and whether the payment would lead to a negative impact on the environment, in addition to any advice received from an Expert Panel.</p> <p>The Minister must also consider written advice from the Secretary about the payment, including advice as to how the payment complies with the eligibility criteria that will be issued and made publicly available.</p> <p>Eligibility criteria for payments from the Fund will be issued and made publicly available in accordance with section 292W(6) of the <i>Mining Act 1992</i>.</p>

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Various stakeholders	Functions of the Panels – Advice	The current wording of s.89B(b) enables an Expert Panel to provide advice to the Minister on ‘alternative land uses of coal mining sites’, yet the Expert Panel isn’t required to have any knowledge or expertise in mine rehabilitation.	Not required	<p>Expert Panel members do not require knowledge or expertise in relation to mine rehabilitation, which is already covered by the requirements in the <i>Mining Act 1992</i>. The Expert Panels will have the ability to provide advice to the Minister on diversification options for the reuse of land within coal mining sites. This is advice only and does not override any requirements relating to rehabilitation or any planning and approval requirements defined in the <i>Mining Act 1992</i> or other planning or environmental legislation.</p> <p>Any proposed changes to a final land use on mined land would still require assessment and approval in accordance with the <i>Environmental Planning and Assessment Act 1979</i> and other relevant legislation.</p>
Various stakeholders	Transparency	The Regulation did not make any additional transparency requirements.	Not required	<p>The Department considers the existing transparency requirements in the new Royalties for Rejuvenation sections in the <i>Mining Act 1992</i> and the Regulation (as outlined below) are sufficient.</p> <p>The new Royalties for Rejuvenation sections in the <i>Mining Act 1992</i> include provisions to ensure a high level of transparency for the Royalties for Rejuvenation Fund and requires that the Department keep updated public registers of the following:</p> <ul style="list-style-type: none"> <li>the projects and programs supported through the Fund</li> <li>the membership of each Expert Panel</li> <li>a summary of each Expert Panel’s advice and recommendations given to the Minister.</li> </ul> <p>The registers must be updated “As soon as practicable after the end of each quarter”. The registers will be made available on the Department’s website.</p> <p>Additionally, the Regulations provide that:</p> <ul style="list-style-type: none"> <li>Members must declare pecuniary interests to the Panel</li> <li>If a member has disclosed a pecuniary interest they must not be</li> </ul>

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				<p>present while the matter is considered or participate in the Panel's decision on the matter</p> <ul style="list-style-type: none"> <li>Information about an Expert Panel member's disclosure must be recorded and made available for inspection on request.</li> </ul> <p>A Code of Conduct confirming obligations of Expert Panel members will be endorsed and signed by all members at their inaugural meeting.</p> <p><u>Rules for Expenditure</u></p> <p>In terms of funds expenditure, the Grants Administration Guide outlines overarching principles that apply to all NSW Government grants and specific mandatory requirements that must be complied with when administering grants such as the Royalties for Rejuvenation Fund.</p> <p>Compliance from Ministers and agencies is required and expected. For government sector employees, failure to comply may result in disciplinary action under the <i>Government Sector Employment Act 2013</i> (NSW).</p> <p>The Guide sits alongside other requirements that apply to the expenditure of public money in NSW, as well as laws and policies that govern expenditure of public funds.</p>
Various stakeholders, ALCs	Consultation	Decisions about the use of funds within a region, particularly where they may impact on Aboriginal people, must include engagement with Aboriginal Land Councils and Aboriginal communities.	Not required	The Expert Panels are able to undertake public consultation and are responsible for providing advice to the Minister about the outcome of any public consultation.

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Councils and Energy stakeholders	General	The Regulation should make specific reference to coal-fired power generation activities in addition to coal mining in the Functions of Expert Panels section and throughout the document.	No	The object of the Fund is to alleviate economic impacts in affected coal mining regions caused by a move away from coal mining by supporting other economic diversification in those regions, including by the funding of infrastructure, services, programs and other activities.

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