

STATEMENT OF EXPECTATIONS

COAL MINING INDUSTRY (LONG SERVICE LEAVE FUNDING) CORPORATION

This Statement sets out the Australian Government's expectations for the Coal Mining Industry (Long Service Leave Funding) Corporation (Coal LSL) and its Board of Directors. It is to be read alongside the laws that apply to Coal LSL and that Coal LSL administers, including:

- *Coal Mining Industry (Long Service Leave) Administration Act 1992* (the Administration Act)
- *Coal Mining Industry (Long Service Leave) Legislation Amendment Act 2011*
- *Coal Mining Industry (Long Service Leave) Payroll Levy Act 1992* (the Levy Act) and
- *Coal Mining Industry (Long Service Leave) Payroll Levy Collection Act 1992* (the Collection Act).

In particular, I request that that Coal LSL continues to work towards rectifying known problems with collection of levy in light of the requirements of section 83 of the Constitution.

I request that this statement of expectations be incorporated into relevant Public Governance, Performance and Accountability Act 2013 (PGPA Act) processes that apply to Coal LSL, such as the Annual Report and Corporate Plan, where possible.

Coal LSL's role

Coal LSL is a corporate Commonwealth entity established to manage a portable long service leave scheme for employees working in the black coal mining industry. Coal LSL collects levies from eligible employers, invests those levies into the Coal Mining Industry (Long Service Leave) Fund (the Fund), and makes payments from the Fund in relation to portable long service leave entitlements for eligible employees.

Under the Administration Act, the functions of Coal LSL are:

- to establish and maintain the Fund
- to make payments into and out of the Fund, and invest the Fund, in accordance with the Administration Act and the Levy Act
- to advise the Minister as to the rates of payroll levy that should be imposed on employers
- to monitor payments of the payroll levy and keep the Minister informed of any failure by an employer to pay the payroll levy
- to maintain records relating to:
 - a. the employment of eligible employees
 - b. the qualifying service completed by, and the long service leave entitlements of, eligible employees
 - c. employers of eligible employees, and
 - d. amounts that are, or may become, payable to employers under Part 7 of the Administration Act
- to advise the Minister on the operation of the Administration Act, Levy Act, and the Collection Act, and
- such other functions as are conferred on Coal LSL by the Collection Act.

The government recognises the independence of Coal LSL and its responsibility for regulation of the Fund. I expect Coal LSL to exercise its functions and powers in good faith and to the

best of its ability, with the appropriate checks and balances in place, and with regard to its obligations and responsibilities under applicable legislation including the PGPA Act.

In applying the following expectations, Coal LSL and the Board of Directors should consider:

- the recommendations of the 2021 KPMG report: Enhancing Certainty and Fairness: Independent Review of the Coal Mining Industry (Long Service Leave Funding) Scheme, specifically, those recommendations directed at Coal LSL, and
- its responsibility to work with the Department of Employment and Workplace Relations to ensure the efficiency and effectiveness of Scheme administration.

The government's policy priorities

The government is focussed on delivering a financially sustainable, industry-funded portable long-service-leave scheme that protects black coal mining workers' entitlements and ensures sector-wide compliance. The government expects Coal LSL to identify and pursue opportunities to contribute to this objective. In doing so, the government also expects Coal LSL to:

- support and enhance trust and tripartism in Australian workplace relations by tailoring Coal LSL's regulatory approach to the diverse needs of eligible employers and employees
- utilise the investigation and enforcement powers of the relevant legislation available to Coal LSL to address non-compliance
- use intelligence and data to inform a risk-based approach to regulatory engagement, including proportional targeting of industries or activities of concern
- draw on evidence and stakeholder experience to identify and address systemic non-compliance
- work cooperatively with stakeholders including employers to encourage voluntary compliance
- monitor their operating environment to ensure regulatory approaches keep pace with changes in technology, industry practices and community expectations
- embed within Coal LSL, act in accordance with, and strive for continuous improvement against, the principles of regulator best practice as set out in Resource Management Guide 128 *Regulator Performance*, and
- be transparent in their operations, policies and decision-making processes including by publishing changes in regulatory approaches, performance results and updates on emerging issues.

Relationship with stakeholders

Open, transparent, and consistent engagement with stakeholders including industry, government, workers and unions is crucial to maintaining competent and innovative regulatory practices. Coal LSL will also have an integral role in supporting the implementation of new requirements and arrangements arising from any future reforms to the legislation underpinning the black coal mining industry portable long service leave scheme.

Consequently, the government expects Coal LSL to:

- ensure that its actions are not inconsistent with the policies of the government, in accordance with section 21 of the PGPA Act

- consult with and provide appropriate guidance so that employers and industry representative groups have clarity about how Coal LSL will exercise their powers, and
- work collaboratively with the Department of Employment and Workplace Relations on significant issues relating to strengthening compliance with relevant legislations.

The government further expects that Coal LSL adheres to best practice third party risk management. Recognising that the Scheme's design is reliant on employers' self-reporting, Coal LSL should ensure appropriate assurance and compliance processes are in place by:

- considering the risks, cost effectiveness and impact of regulatory action both before and after the regulatory action has commenced
- remaining flexible and responsive to changes by adopting reasonable, supportive and transparent processes to build and maintain trust, accountability and integrity within the regulatory system to encourage compliance
- maintaining a full suite of appropriate regulatory policies, including a compliance and enforcement strategy that articulates Coal LSL's approach to risk and how this informs decision making, including measures to encourage voluntary compliance and focus on compliance activity where risks and impact of harm are greatest
- building staff and organisational data capability and digital literacy, drawing on expertise to support effective use, including the development of regulatory technology solutions, and
- reporting to the Department of Employment and Workplace Relations of any incidences or issues which may expose the department to upstream risks.

The government will provide an enabling environment for Coal LSL to consistently implement best practice by ensuring they are well informed of the government's policy direction, as specific initiatives and strategies are being considered.

Organisational Matters

Regarding organisational matters, the government expects:

- Coal LSL to implement appropriate controls to manage the risk of unauthorised disclosure of protected or sensitive information
- Coal LSL to uphold and promote the principles of Australian Public Service Values and Code of Conduct, acknowledging that Coal LSL, does not directly employ staff under the Public Service Act given it is a corporate Commonwealth entity
- Coal LSL to comply with the requirements under the PGPA Act and associated instruments and policies
- the Chair of the Board to hold themselves to account through internal accountability processes that foster a culture of continuous improvement and reflection
- Coal LSL to actively build staff capability, including ensuring staff have relevant knowledge of Coal LSL's legislated responsibilities, and are empowered to identify and implement improved practices, and
- Coal LSL implement transparent external accountability processes encouraging procedural fairness, accessibility and responsiveness that builds stakeholder trust and confidence in the performance of Coal LSL's functions.