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Submission: Integrated Mining Policy

Thank you for the opportunity to comment on these documents. Lock the Gate alliance is a network of hundreds of community groups and thousands of individuals around the country working to prevent inappropriate mining and protect land, water and communities from the impacts of coal and unconventional gas mining.

We are disappointed that the Department of Planning has released these three items without the rest of the policies in development and without reference to a number of other processes underway that will be crucial to reform of the planning process as it applies to mining, if that is what the Government intends to achieve. We have some scepticism that this was the appropriate moment to release two specific pieces of policy, ahead of, for example, the resolution of the Upper Hunter Strategic Assessment, the review of the Mining SEPP, and the assessment of water scarcity being undertaken by the Office of Water.

Policies and regulations already in place that need radical improvement:

- The Major Projects Offset Policy
- The Mining SEPP
- The Acquisition Policy
- The gateway process

Policies underway or pending that are hand in glove with any “integrated mining policy”

- Coal Exploration guidelines
- Water Sharing Plan for hard rock aquifers on the North Coast
- Upper Hunter Strategic Assessment
- Promised economic assessment guideline
- Industrial noise policy review
- Commonwealth air quality NEPM review
- Load based licencing review.
- Cumulative impact assessment and policy on mine voids
- The other items in the IMP bucket: New social impact guidelines, standardised development consents, a Guideline for the Economic Assessment of Mining and Coal Seam Gas Proposals, Water Regulation and Policy Framework, Post-approval guidelines and a Planning Agreement Guideline.

The situation now is critical: air quality thresholds are regularly breached, water is leaking from rivers into mining pits, Sydney's drinking water dams are threatened, major rural industries are threatening to leave the Hunter Valley, mining has been approved on floodplains next to the richest farmland in the state, woodland communities and wildlife are being pushed to regional extinction and the planning system is unfair, unbalanced and worsening.

Mining affected communities around the state are demanding reform and protection. The government is fiddling around the edges while project after project is approved with worsening impacts on farmland, bushland, rivers, aquifers, air quality and the rural landscape. It's got to stop.

We acknowledge the important first step that the Government has made in proposing to repeal clause 12AA of the Mining SEPP and welcome that action unreservedly. However, the release of that proposal for public exhibition during the public exhibition of these policies is indicative of a failure of coherence and coordination in the Government's response to community demands for protection from the impacts of coal mining.

Though outside the scope of the current exhibition process, we ask that the Government consider the very basic reforms that our communities and members are demanding.

1. Mining State Environmental Planning Policy: remove the non-discretionary standards clause (s12AB) that prevents the Planning and Assessment Commission rejecting proposals that meet minimalist noise and dust thresholds.
2. Mining State Environmental Planning Policy: Create statutory set-backs that protect critical industry clusters, productive farmland, villages, rivers, productive groundwater and the Special Areas of Sydney's drinking water catchment from further coal mining.
3. Restore third party merits appeal rights for the public to appeal bad mining approvals.
4. Ditch the unfair Acquisition Policy that prevents the Planning and Assessment Commission from delivering justice for people suffering the impacts of mining and unable to move or sell.
5. Ditch the awful Major Projects Offset Policy which has abandoned important principles and safeguards for our vanishing bushland and wildlife.
6. Deliver the triple bottom line assessment for new coal exploration releases recommended by the ICAC and stop issuing new exploration areas until the adoption of new guidelines is complete.
7. Deliver a Water Sharing Plan for the hard rock aquifer groundwater removed in huge volumes by the mining industry in the Hunter, and cap extraction at a sustainable level.
8. Firmly protect and prevent any further clearing of critically endangered woodlands and habitat for vanishing wildlife through the Upper Hunter Strategic Assessment.
9. Conduct a cumulative impact assessment of the impact of open cut mining on water resources in the Hunter Valley, including the promised review and new policy on final voids, and stop approving mine expansions till this is complete.
10. Deliver promised new rigorous assessment guidelines for economic assessments and social impact assessments, and long-standing community calls for health impacts to be a mandatory consideration in coal mine assessments.
11. Independently accredit specialist experts who contribute to all mining environmental assessments and ensure that each expert report is reviewed for accuracy and objectivity.
12. Impose load-based licencing limits on the air and water pollution of coal mines and introduce stronger limits on noise pollution and air pollution through a finalised Industrial noise policy review and the Commonwealth air quality NEPM variation.

Standard EARs

The standard assessment requirements and application guidelines narrow the scope of Environmental Impact Statements and continue the Department of Planning's push to prevent improved conditions for mining affected communities. There are a number of matters missing from the standard assessment requirements, notably cumulative impacts, matters of national environmental significance, any detail on social impact guidelines and any mention of greenhouse gases. The standard assessment requirements do not match the statutory benchmarks in s79C of the EP and A Act and Part 3 of the Mining SEPP.

The draft Standard EARs document is uneven and has many gaps. For some matters, it seems to expressly limit the matters that will be investigated and assessed to understand the environmental impacts of mining projects. For others, it blatantly fails to require assessment of matters that are statutory considerations for consent authorities.

From the outset, it is stated that, "the Secretary may decide to issue Environmental Assessment Requirements for a specific project that deviates from the SEARs (this may include adding additional requirements or removing irrelevant requirements)." In a meeting with the Dept, we were told there would still be project specific EARs including MNES will still be issued for each project, but the documents on exhibition state that this is a possibility, not a certainty, and that needs to be clarified.

Water

The list of matters to be considered in addressing water impacts does not include cultural or social values of water. Nor does it specify that the cumulative impacts need to be considered – how does the project compound or exacerbate the water impacts of other nearby mines?

The first dot point is ambiguous and perhaps a mistake that intends to read "Base the assessment on adequate baseline data to account for typical temporal and spatial variations." If so, the SEARs need to specify what is meant by "adequate." This is particularly important in considering cumulative impacts. We know from the monitoring data that the piezometric level of some aquifers in the central part of the Valley is dropping annually. Though an individual mine's impact on this may be minimal when considered alone, it may contribute to an acceptable scale of impact when combined with the impact of other nearby mines. The Commonwealth currently requires cumulative impacts to be considered. Most large mines are assessed under the assessment bilateral.

Finally, we do not consider the impacts of expanded mining operations on water availability are adequately covered by the instruction to address "quantity." Water availability is different from quantity – it addresses one of the *consequences* of a change in quantity, which is that water is no longer available for the environment downstream or another user.

Commonwealth guidelines for environmental assessment also include consequential impacts, and these, too, are not reflected in the draft standard EARs.

Biodiversity

As for water impacts, the biodiversity impact considerations in these standard EARs consider neither cumulative nor consequential impacts.

They are, in fact, utterly inadequate. Biodiversity is more than listed threatened species. Even constraining assessment to listed species would be more comprehensive than simply applying the Framework for Biodiversity Assessment, as the draft standard EARs proposes. There is only very limited mention of aquatic biodiversity, which is managed in part under the *Fisheries Management*

Act, and no specification of the range of potential impacts that could be experienced and must be assessed. The biodiversity requirements proposed in this draft is reduced to the last and meanest definition of biodiversity and assessment on these terms will lead to ongoing degradation and loss of biodiversity in the Hunter region and other mining affected areas.

The EARs relies on the Framework for Biodiversity Assessment and the Major Projects Offset Policy. These policies are failing and must be replaced.

Air quality

The air quality EARs are much more detailed than those for biodiversity or water, but still leave inappropriate gaps in the assessment.

The pollutants listed for assessment do not include, for example, methane or volatile organic compounds, which are common air emissions from New South Wales coal mines, according to the National Pollution Inventory.

Extraordinarily, the air quality section, and the entire draft Standard EARs omits to mention or require assessment of greenhouse gas pollution, including Scope 3 emissions which is a statutory consideration for mining project consent authorities.

Social

The standard requirements are not complete. The social impact requirement comprises two dot points and a foot note that says the government “is currently considering guidance options, addressing the social impacts of mining developments” and that “the SEARs will be updated once that work is complete.”

Data, monitoring and reporting

The public should be able to access clear, consistent and comprehensive information about mines and their impacts. Too often, the Environmental Impact Statements submitted by mines for assessment by the Government are impenetrable and present a significant barrier to effective community engagement with the proposal. Some of the problems that our members experience include:

- Huge PDF files that are difficult to download for people with limited internet connections.
- Labyrinthine contents with appendices of appendices. EIS's often comprise 20 or more separate files with substantive information buried in huge unmanageable files. Executive summaries are repetitive and not informative.
- Inconsistency: different consultants and companies produce EIS's that include different information.
- Contradiction: there have been several instances where different documents in the same EIS actually contradict each other, about the scale of clearing or the amount of water licences required, for example.

We would like this Integrated Mining Policy process to deliver improvements in the standards of EISs and assurance that attention will be paid to providing the public with clear, honest and accessible information as a priority.

Relatedly, we believe that the Department should consider adopting standard requirements for reporting that ensures the public can access environmental monitoring data and that there is scrutiny of the Management Plan processes which form such an important part of mitigating the

impacts of mines on surrounding communities, on water resources and on the natural environment. some suggestions:

- The proponent should be required to submit a GIS shapefile of its project outline and any proposed offsets, and this should be made available to the public.
- Proponents should be required to provide the Government agencies with monitoring data for water, noise, air quality, biodiversity surveys and compliance in a standard reporting format, and this data should be made available to the public.
- The development and amendment of Management Plans should be made subject to public notification and input.
- Compliance with all consent conditions should be regularly reported and these reports made available to the public.

Mine Application Guideline

From the public perspective, the mine application guideline will not result in meaningful improvement in the information being provided with mining applications, or the appropriateness of the project proposals being submitted.

The guideline refers to “Appropriate separation distances” from existing land uses to ensure they can be maintained, but fails to outline what appropriate set-back distances would be, or how the government intends to guide the industry through statutory processes that establish these set-backs. The result is that the decision about what is appropriate as a set-back or whether any set-back is needed is left to the company to determine on a case-by-case basis, and the arduous process of assessment and determination by the Planning and Assessment Commission or the Minister.

Indeed, rather than objectively determining set-back distances to protect critical industry clusters, rivers, agricultural land and villages, the Department proposes that the mining company buy up the land surrounding their proposed project – presumably so that there can be no one left living and working there to complain.

This approach is simply not acceptable and the worsening conflict in the Hunter Valley and Gunnedah Basin will continue to intensify while the Government and mining industry fail to accept that there are some places that should be off-limits to mining and that “certainty” is as important to the public, water users and nearby businesses as it is to the mining industry. Upfront set-back distances and impact thresholds which cannot be breached will provide this certainty and must be introduced as part of the Mining SEPP review.

Swamp offset policy

Coastal upland swamps are unique, in situ and irreplaceable environmental value and impacts on them must be avoided at all costs. In short, we do not believe that the concept of offsetting is applicable to these swamps and that they should be one of the upfront constraints applied to mine applications.