



Executive Director  
Resources and Industry Policy  
NSW Department of Planning & Environment  
GPO Box 39  
SYDNEY NSW 2001

31 August 2015

Dear Sir

**Re: Gunnedah Shire Council Submission on Draft Integrated Mining Policy (IMP) – Stage 2**

Thank you for your recent invitation to comment on the abovementioned Policy initiative. Council wishes to commend the Department of Planning and Environment on this particular initiative. It is considered that the draft Policy framework will not only assist in the improvement of the current regulatory framework for mining projects, but it will also enhance the information available to affected stakeholders. This has been a key deficiency in the past which has no doubt contributed to current levels of angst within our communities in respect of major mining projects.

The following feedback is provided for the Department's further consideration:

***Improving Mining Regulation in NSW Stage Two FAQs***

Planning staff have no specific comments to make in terms of this particular document. The availability of 'plain English' explanatory documentation is, however, supported.

***Annual Review Guideline***

It is noted that the *Post- Approval Guideline – Annual Review* has been developed to assist operators of State significant mining developments in the preparation of their Annual Review. It is agreed that such an Annual Review (Report) is not fundamentally intended to be an exhaustive description or discussion in terms of the mine's operation, approvals or associated activities.

The separation of detailed monitoring data from the body of the Annual Report is supported. It is considered that the inclusion of such datasets in the documentation 'clogs' the report with technical detail and thus makes it convoluted and inaccessible by the layperson (generally a community member). This approach also dilutes the document's ultimate meaning and purpose. The incorporation of detailed background data on a separate website is also supported.

The limitation on the size of the Annual Report is concurred with, as is the proposed template structure. It is anticipated that this standardised arrangement will help the community, and organisations such as local councils, in obtaining a 'snapshot' in terms of how the mining operation has performed. It will also potentially assist in integrating results into Council's own community reporting frameworks and comparing performance across multiple mining operations that may be operating within a specific local government area (LGA).

It is considered that the proposed approach detailed in this draft Policy document will also facilitate greater transparency in the post-approvals process and potentially improve the community's access to information. The focus on achieving a plain English report that encapsulates the key data and overarching compliance trends in an easily digestible fashion is strongly concurred with.

It is somewhat disappointing, however, that the important role of local government in the post approvals phase is not acknowledged anywhere in the document. As well as being a conduit to a range of Government Agencies, local government is also often at the forefront of directing community complaints and enquiries. For this reason, it is considered that Council's role in the process should be formally acknowledged in the guidelines. It is further recommended that a requirement to furnish Council with copies of the Annual Report in both electronic and hard copy format be detailed in the guidelines. Many community members residing within regional and rural areas still do not have access to appropriately functioning electronic communication mediums (including the internet). For this reason, Councils are often a 'point of call' for hard copies of the documentation. Local libraries, for instance, are often a common repository for this information.

The transport rates detailed in the Annual Report are often the catalyst for the payment of road haulage contributions to councils. Consequently, there is a need to ensure that local government is appropriately informed of the availability of this data and is able to program expenditure effectively.

#### ***Web-Based Reporting Framework***

It is noted that the draft Guidelines aim to promote transparency and assist operators in applying a consistent approach to the publication of information regarding mining operations in NSW. The scope of this draft Policy is also strongly supported as it will facilitate access of information by the community.

It may be beneficial for the Department to consider the inclusion of links from the NSW Department of Planning and Environment's Major Projects website (or similar) to the relevant Mine web page to further facilitate public access to information.

#### ***Independent Audit Guidelines***

It is understood that the role of the draft Independent Audit Guidelines is to ensure that impartial audits of State significant developments in NSW are undertaken in a consistent manner and meet minimum standards expected by the Government. Furthermore, the draft Guideline intends to provide a framework for the commissioning and completion of independent audits in order to:

- Ensure the achievement of a consistent approach to, and quality of, audits such that compliance can be adequately assessed and performance robustly evaluated;
- Improve transparency and ease of assessment of audit findings for agencies;  
and
- Improve transparency for the community.

The proposed audit methodology and associated risk based approach contained within the draft Audit Guidelines is generally supported. Council's intended role in this process is also acknowledged and concurred with. The provision of a sufficiently detailed Action Plan to address non-conformances, and in order to ensure the holistic management of developments across the various regulatory agencies, will be undoubtedly beneficial to both operators and the community. This approach will also potentially assist in guiding/managing rectification processes.

Given the somewhat limited technical pool of independent auditors, and given the specialist nature of this enterprise, it is recommended that consideration should be given to their periodic review by the Department. It is considered that this will approach will ensure that audits are indeed fully independent and appropriately withstand public scrutiny.

### **Planning Agreement Guidelines**

Gunnedah Shire Council has long advocated for the preparation of such a body of work. Accordingly, the availability of VPA Guidelines is greatly welcomed. It is noted that the draft VPA Guidelines have been developed to assist councils and mining companies in negotiating planning agreements that relate to state significant mining developments.

The draft Guidelines go a significant way towards dispelling some of the 'myths' associated with the particular types of local projects that can be funded through VPA processes (as detailed in the text boxes throughout the document). It is considered that an appropriate advisory framework is provided in these draft guidelines that will ultimately assist Council and mining companies in the negotiation of complex VPA processes. Some generic feedback is provided herewith in respect to the draft documentation:

- From an ideological perspective, a collaborative approach in regional VPA negotiation is a noble pursuit. However, in real terms, the practicality of the achievement of Region-wide planning agreements is considered somewhat questionable. Typically, the larger Councils tend to pursue a dominant role (this is often due to greater access to resources and information) and are thus in a better position to leverage a greater 'slice' of the available VPA pie. As a consequence, Joint Organisations (JOs) may be an appropriate platform and forum to ensure that balance and equity is achieved between participating local government organisations in instances where multiple councils are involved in VPA negotiation processes. This approach may also dually assist in the overarching achievement of regional planning and infrastructure priorities.
- The reference to the 'Local Effects Analysis methodology' on page 7 of the draft Guidelines is noted. Council's Technical staff are unfamiliar with the existence of this tool and are furthermore, unaware of its application in recent major mining projects including, but not limited to, the *Shenhua Watermark Coal Project*. Supporting explanatory documentation has also not been able to be located. As a consequence, further information is requested on the application and availability of this particular resource.
- It is recommended that specific reference should be made in the guidelines in terms of the potential linkages between the results of social impact assessments conducted in respect of state significant developments.
- The application and pursuit of identified linkages between Integrated Planning and Reporting (IP&R) frameworks is strongly supported.
- The concept of economic diversification planning and life of mine approaches to VPA funding is also strongly supported.
- The need for appropriate monitoring and reporting of expenditure is acknowledged and concurred with. It is agreed that linkages to the IP&R framework are both appropriate and fundamentally necessary.
- There is ongoing conjecture within the industry and local government in terms of the entering into a VPA by Council, and the commensurate management/levy of road maintenance contributions and infrastructure upgrades which might be directly resultant from the development. Whilst this specific information may be contained within the Contributions Practice Note, it would be useful if these specific considerations could be summarised in the final Guideline document given the commonality of their occurrence.
- The mediation processes detailed in Section 7 of the document are duly noted.

Notwithstanding, it is noted that there is no advisory information pertaining to, nor providing guidance as to what specifically happens in instances when the VPA negotiation processes fail. Is the matter referred back to the Department that a VPA cannot be negotiated in 'good faith', or, are there other processes in place to ensure that community interests are protected?

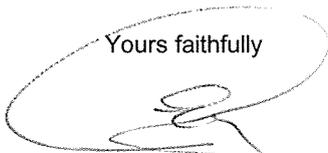
- The Principles 1-7 inclusive are generally supported.
- The Best Practice Planning Agreement Negotiation Timeline contained in Attachment A is noted. Whilst no objections are raised to these key steps, it is worthy of mentioning that there are considerable finances and resources required to be invested in these important initial stages with no guarantee on the return on such an investment. This can run into the order of \$50,000 - \$100,000, which is a considerable impost on any rural/regional local government organisation. For this reason, careful consideration should be given to how this important stage of the process is funded and administered. Council looks forward to further exploring with the Department as to how this financial and resourcing drain might be appropriately managed.

#### ***Water Regulation and Policy – Application to Mine and Petroleum Developments in NSW***

The management, protection and preservation of valuable water resources is a key contemporary issue for the Gunnedah Shire and Liverpool Plains communities. This particular matter has also been the subject of considerable angst, and the broader community concerns are well documented. As such, the delivery of an appropriate guidance framework to consider, balance and manage water resources in the context of state significant development proposals, and in such a manner that is conducted in the interest of all stakeholders, is supported.

I thank you for the opportunity to comment on this particular initiative. In the interim, should you require any additional clarification or assistance, please contact Council's Acting Director of Planning and Environmental Services, Ms Donna Ausling, on (02) 6740 2174 or email [council@infogunnedah.com.au](mailto:council@infogunnedah.com.au)

Yours faithfully



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