

Our Reference: ID330055:TM:MR
Your Reference:
Contact Name: Tony Meppem
Telephone: (02) 6799 6855

7 September 2015

Department of Planning and Environment
23-33 Bridge Street
SYDNEY NSW 2000

Dear Sir/Madam,

Re: Integrated Mining Policy Stage 2 - Submission

I refer to the exhibition of the Integrated Mining Policy – Stage 2 closing on Monday 7 September 2015 and advise Council has significant recent experience using the current planning approval process for large mining projects which have resulted in frustrations within Council and the community. Given this frustration with the current system Council has recently meet and resolved to make the following submission.

General Comments

The documents on public exhibition appear to be a descriptive outline of the current processes with little improvement in actual content of that system for either applicant or the communities affected by large mining projects. It is Council's opinion that this process provides the Department with an opportunity to achieve the following broad improvement objectives to policies and processes:

- In relation to the Independent Audit Guidelines Council considers that the process still requires the added rigour of the lead regulator conducting their own site inspections to verify veracity of compliance and the provision of capacity for third party audit should not be used to replace regulator compliance audits.
- The Act and Planning Agreement Guidelines need to be revised to achieve the following objectives:
 - All state significant applications should require the applicant via enforceable conditions of consent, to meet upgrading and maintenance costs of existing and proposed public infrastructure directly impacted by the project.
 - The planning agreement guidelines need to provide for a simple cents per tonne rate (standard across NSW and determined by IPART) to meet the indirect costs to the community of mining projects such as regional environmental monitoring programs, embellishment of existing human services, Council costs in assessing projects, making submissions and being the conduit for the community consultation mechanisms both pre and post approval.
 - Planning agreements need to require the compulsory reimbursement of the rating revenue required to be redistributed to other ratepayers when a mine is required to purchase biodiversity offset lands that become crown lands.

- Broaden the document to better encompass energy extraction developments such as the impending Narrabri Gas Field Project.

The current process is inequitable and ad hoc and presents an uneven playing field that works to the detriment of local government. The system has few guiding rules and allows some proponents to adopt a 'take it or leave it' approach to their planning agreement offers, leaving little room to negotiate mutually acceptable outcomes. The removal of the word 'voluntary' from the title without legislation change does not prevent the 'take it or leave it' approach.

Council believes the review of the mining policy by the NSW Government needs to be considered in a holistic manner taking into account the following points which may fall outside the sphere of control of one department:

- a) The new Local Government Act should allow for a simple cost effective means of extracting the mining rate yield from a Council's notional rate yield limits to allow for difficult to quantify infrastructure demands caused by mining to be funded without burden on existing ratepayers.
- b) Impacts on existing state services such as, Health and Police identified during the process need to be referred to the relevant Government Department for advice on how those impacts are being planned to be mitigated to ensure service levels to existing residents do not suffer.

Local councils want to protect the interests of their residents and ratepayers and avoid the transfer of project related costs to the local community. The absence of specific guidelines as to the formulation of appropriate quantum for various projects leaves councils searching for answers. Thus councils defer to the next best option, namely studying the content of other comparable planning agreements that have been successfully negotiated.

Best practice would comprise having a Guideline indicating how funding to address the full suite of impacts (environmental, social and economic) should be calculated. Matters that should be included in the Guidelines are:

- a) Compensation to councils for the loss of rateable land purchased by the proponent for biodiversity offsets which is then transferred to the NPWS estate.
- b) A clause in the planning agreement that protects the value of the funding arrangements in the event that the project is delayed for some years;

Small rural councils do not have the capacity in-house to critically assess EISs and to negotiate planning agreements. This means councils either under-perform on this civic duty, resulting in their residents and ratepayers carrying project related costs, or councils engage external resources to assist. This is an onerous, long running and expensive task and proponents should be required to pay the invoices for such services of host Councils either as part of the application costs or as a valid component of a planning agreement over the life of the mine.

The workforce modelling studies found in Environmental Impact Statements are typically deficient, thus it is difficult for councils to accurately predict local and regional impacts. Councils require the workforce modelling in EISs to be more robust, with a higher level of confidence to accurately predict:

- a) The population inflow of direct construction and operations staff and contractors, their families and also the indirect workforce; and
- b) The geographic spread of where workers and their families are likely to reside.

This data is required to enable councils to predict the consequential impacts of the development on roads, sewerage and water supplies, housing stock, and other hard and soft infrastructure.

Specific Comment on Documents Exhibited - Planning Agreement Guidelines

Should the Department not wish to make major changes to processes and retain the proposed document Council has identified the following suggested changes:

- On page 3 in paragraph 2 Council suggests replacing 'mitigating community concerns' with something more explicit like 'involving the community in sharing benefits arising from the development, as well as compensating for costs'. Much of the content of this document contains very subjective terms that are not defined. Councils need to see quite prescriptive directions in this Guideline to give them some support, because the proponent is in the box seat as the planning agreement is voluntary.
- On page 4 again the statements are broad brush in nature and Council suggests elaborating on them and providing definitions for 'bear a relationship to', 'meet the general values and aspirations' of the public.
- On page 5 Box 1 'recoupment of costs' – should state that Council can include the costs incurred by a Council in managing the approval process. In Box 1 'monitoring of impacts' - it is suggested that the document stipulate that a Council can include funding for an environmental officer. Applicants basically decide on the scope and quantum of the planning agreement to be offered and there is often little a Council can do about it.
- On page 6 at Box 3 – add in 'recreational and sporting facilities, community facilities, drainage structures, environmental protection, streetscape and other public domain improvements'.
- On page 7 paragraph -1- describe a 'Local Effects Analysis methodology'. This term requires further description to provide guidance. Also in paragraphs 4-7 smaller councils often struggle to have current information on some of these topics. If it is to be required as part of the assessment of a project and relevant to the planning agreement deliberations then the guidelines should be explicit and say the proponent will have to pay to have that data generated.
- On page 8 Reference Boxes 5 & 6 need to add the following content:
 - Box 5 – add in as relevant 'recreational and sporting facilities, community facilities, environmental protection, streetscape and other public domain improvements.
 - Box 6 , 4th bullet, reimbursement of costs - add in EIS submission preparation, RTS reply submission preparation, PAC submissions & attendance at hearings, travel costs to meet with Department of Planning and Environment Officials.
 - On page 9 in relation to the mediation process – outline who pays & who appoints the mediator and what happens when mediation fails. There needs to be an arbitrator with power to make a determination and resolve impasses. Council suggests that IPART may be an appropriate independent body with expertise to arbitrate.

- On page 10

Principle 1:

- Provide examples of 'methodologies for calculating impacts' e.g. cents/product tonne, percentage of capital expenditure.
- Suggest Attachment 'A' is more a flow chart rather than a time line.

Principle 2:

- First bullet – the community needs the impact assessment of especially social and economic costs and benefits to be significantly improved in EIS/EA documents. If proponents do their job properly then Councils should need to look no further for information to help make learned decisions.
- The flow chart on page 13 needs to be amended to take into account the following:
 - Councils can't do much work regarding the substance of a planning agreement until after they have read & considered the EIS/EA. Councils need to understand the scope & magnitude of the costs and benefits of the project. In this regard the first two bullets need to move down to when 'EIS is exhibited'
 - Similarly regarding SEARS phase, which is too early for Councils to discuss 'likely impacts so this should also be moved down to when 'EIS is exhibited'
 - Planning Agreements can't really be settled by Council until all the examination processes are complete, including Department of Planning and Environment Assessment Report & any PAC deliberations. Because various impacts & mitigation measures might not have been thrashed out until then. It is suggested that 'PA settled' be fitted to between the last 2 steps on the flow chart.
 - Councils want Planning Agreements signed off before Development Approval conditions are issued. Trying to negotiate a deal after approval is granted places the proponent in an even more powerful position & Councils have no bargaining power.

Should you require further information please contact Council's Acting Director Planning and Development, Mr Tony Meppem on (02) 6799 6855 or by email at tonym@narrabri.nsw.gov.au.

Yours sincerely,



Conrad Bolton
MAYOR