Submission – Draft Guidelines for the Economic Assessment of Mining and Coal Seam Gas Proposals

Dear Sir/Madam,

The Nature Conservation Council of New South Wales (NCC) is the state’s peak environment organisation. We represent more than 150 environment groups across NSW. Our members have a strong interest in planning and development issues, and are strongly committed to securing positive environmental outcomes in their local area and across the State.

We welcome the opportunity to comment on the draft Guidelines for the Economic Assessment of Mining and Coal Seam Gas Proposals (draft Guidelines).

NCC generally supports the Department’s efforts to develop draft Guidelines for the Economic Assessment of Mining and Coal Seam Gas Proposals. This is an important opportunity to provide greater consistency and reliability of economic assessments, and also provide greater transparency in the assessment and determination process.

We note that a number of significant mining projects have been criticised for poor and inaccurate economic assessments in support of their proposals. For example, the Department of Planning was criticised for uncritically accepting the proponent’s claims about the benefits of the proposed Wallarah 2 mine north of Wyong. Similarly, the Land and Environment Court found Rio Tinto’s economic modelling in support of its Warkworth mine extension proposal deficient in many ways, including its methodology that over-estimated the benefits of the mine.

We are disappointed that the Department has not effectively engaged key stakeholders, including environment groups, in the preparation of these draft guidelines. The draft Guidelines are complex and underpinned by a range of appraisal guidelines for environmental, heritage, social and transport impacts. We are particularly concerned by reports that the coal industry has been engaged in the development of new mining guidelines significantly earlier, prior to the documents being placed on public exhibition.

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1 See www.smh.com.au/nsw/mining-assessments-to-be-beefed-up-after-scathing-review-20140616-zs9sd.html#ixzz3sGmPDNUK
2 Bulga Milbrodale Progress Association Inc v Minister for Planning and Infrastructure and Warkworth Mining Limited [2013] NSWLEC 48
We have had limited capacity to understand and interrogate the draft Guidelines prior to the submission closing date, but provide our key comments on the draft Guidelines below.

Environmental assessment

A Cost Benefit Analysis requires environmental and social benefits and impacts of a project to be measured and valued. This can be difficult as environmental and social benefits and impacts are hard to measure and compare, and the outcomes of the cost benefit analysis can only be as reliable as the information that is put in.

The draft Guidelines include appraisal guidelines for measuring environmental, heritage, social and transport impacts across a range of areas including air quality, biodiversity, greenhouse gas emissions, ground water and surface water.

These guidelines rely heavily on information and assessment carried out as part of the broader environmental impact assessment. We note a number of concerns with this approach:

- The environmental assessment undertaken in support of a project is financed and prepared by the proponent, or consultants engaged by the proponent. There is therefore a risk that the information will be biased. In order to ensure that the environmental impacts of a project are adequately assessed and unbiased, we strongly recommend that the Government establish a system for the accreditation and independent appointment of environmental consultants.

- The appraisal guidelines for biodiversity rely on the NSW Biodiversity Offset Policy for Major Projects. We have significant concerns with that policy and do not consider it to be in line with best practice. Our concerns are outlined in more detail in our submission to the draft Policy.

We note that we have not had the capacity to interrogate each of the appraisal guidelines in Part 5 of the draft Guidelines in further detail.

Cost Benefit Analysis - Approach 1 v Approach 2

We understand that a general Cost Benefit Analysis approach for undertaking an economic assessment of mining and coal seam gas proposals is generally the accepted method for current projects.

We generally support using a cost benefit analysis for undertaking an economic assessment of mining and coal seam gas proposals, but note that concerns have been raised regarding the differences between Approach 1 and Approach 2 in the draft Guidelines, specifically that Approach 2 does not require an estimation of net producer surplus. This means that decision makers will not have key

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4 See further our various submission to the NSW Planning System Review, available at www.nature.org.au/resources/submissions/


6 We recognise that in reviewing the draft Guidelines The Australia Institute has noted that ‘Approach 2’ is a major reduction in transparency and reliability.
information, such as operating and capital costs, before them when determining whether a project is financially viable.

The draft Guidelines do not provide a clear explanation of why Approach 2 has been included. We note that neither of the two independent Peer Reviews of the draft Guidelines advocate for the inclusion of Approach 2. For example, Vivid Economics states that “Approach 2, a partial CBA, is unconventional and may lead to confusion”\(^7\). The Department does not respond directly to this statement, but says that relative benefits or disadvantages can be explored further during public exhibition\(^8\).

Given the concerns raised regarding Approach 2, and the lack of justification for including this in the draft Guidelines, we suggest that it be removed, and all projects be required to follow Approach 1 and provide an estimation of net producer surplus.

**Local Effects Analysis**

Part 4 of the draft Guidelines provides guidance for undertaking a local effects analysis (LEA). It is suggested that an assessment of the consequences of the proposal in its “locality” is required by s79C of the *Environmental Planning and Assessment Act* 1979, however it is unclear why the LEA has been included in the draft Guidelines, particularly given that the Cost Benefit Analysis will already contain much of the information needed for the LEA and does not require significant additional analysis over and above the Cost Benefit Analysis. The LEA also appears to be focused on labour and employment with little guidance on how the analysis of environmental and social impacts should fit into the LEA.

As noted above, we generally support the Department’s efforts to develop draft Guidelines for the Economic Assessment of Mining and Coal Seam Gas Proposals; however we note a number of concerns with the draft Guidelines on public exhibition. We strongly urge the Department to consider in detail the submissions received and revise the draft Guidelines accordingly before they are finalised.

Yours sincerely,

Kate Smolski
Chief Executive Officer

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\(^8\) Department of Planning and Environment, Response to Vivid Economics Peer Review Comments