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Submission on Revised Community Consultative Committee Guidelines for State Significant Projects

Introduction

Thank you for the opportunity to provide feedback on the draft updated *Community Consultative Committee Guidelines for State Significant Development Projects* (the *Draft Guidelines*).

The Hunter Central Rivers Alliance is a forum of 43 community groups across the Hunter, Gloucester, and Central Coast, working to reduce the impact of coal- and gas-mining projects on the communities and environment of our region. The Alliance holds regular meetings attended by a range of residents from around the region, many who are active on Community Consultative Committees (CCC's).

To prepare this submission, the Alliance hosted a dedicated half-day workshop in Singleton on Saturday 19th March, to discuss the success of the existing CCC Guidelines, and to respond to the changes proposed in the draft on exhibition. We did our best to invite as many CCC representatives as possible to our workshop, but due to the short time-frame and the difficulty of finding names and contact details for many CCC members, not everyone was invited and not everyone could attend. Many of the CCC members who could not attend the workshop were able to discuss the matters over the phone, and some provided us written notes to help inform this submission.

The workshop which informed this submission was attended by members of the CCC's for Wambo coal mine, Gloucester Gas project, Rocky Hill coal project, Abel coal mine, Dartbrook coal mine, Mount Thorley Warkworth coal mine, Bulga coal mine, Ulan coal mine, Moolarben coal mine, Wilpinjong coal mine, and Calga sand quarry.

This submission is based on the actual experiences of community representatives on CCC's for State Significant Developments, people dedicated to upholding the objectives of the CCC system and holding mining companies to account for their social and environmental responsibilities.

As such, we urge the Government to give this submission the weight it deserves, and give active consideration to our suggestions. This will help ensure the Guidelines succeed in delivering an effective CCC system that benefits communities affected by mining projects.

Recommendations

1. Genuinely Independent Chairperson.

The appointment of a genuinely independent Chairperson to oversee a CCC is key to its success. The chairperson will shape the culture and procedures of a committee and have the final word on the resolution of disagreements.

The Chairperson cannot carry out their role effectively if they are biased, or seen to be biased in favour of the mining company. Sadly it is the experience of many CCC representatives that the Chairperson is often compromised in this way. Chairpersons do not always attempt to resolve disputes, and where they do, they resolve them in favour of the mining company. Community representatives feel they are left with few options when faced with a subjective or unfair committee chair, as it is difficult or impossible to have the role refilled without the support of the mining company.

Presently, selection of a CCC Chairperson seems to favour those with a perceived “expertise” in mining issues and/or those with relationships or experience in the government sector. Usually, the chair of a CCC receives sitting fees, paid by the mining company. None of these factors encourage an independent or fair-minded approach when resolving disagreements on a CCC.

The changes proposed in the *Draft Guidelines* will fail to rectify these key failures of the current system. In fact, allowing the mining company to nominate the Chair – as proposed – will exacerbate the problems. We strongly oppose the proposal to allow mining companies to nominate the CCC Chair.

We propose that instead, the Government creates a pool of independent professional facilitators to draw on when selecting a Chairperson for a CCC. This process should be overseen by the Planning Department without involvement from mining companies, but funded by the companies through a compulsory contribution on development application, approval, and renewal. Funding should be high enough to ensure CCC Chairpersons can be paid professional rates for their services.

The selection criteria for acceptance into this pool of facilitators should be:

- professional qualifications and experience in facilitating meetings of different stakeholders and interests.
- independence from the mining industry.
- independence from government and the bureaucracy.

The role of the Independent Chair is defined in the *Draft Guidelines* as '*a convenor, facilitator, mediator and advisor*' who '*must undertake their role in an independent manner and at all times act impartially with respect for the Company and any individual or representative on the Committee*'. We submit that the suggested selection process and criteria above would be far more effective at finding the right people for this role than either the existing process, or the process proposed in the *Draft Guidelines*.

2. On the selection of community representatives

The updated selection criteria for community and environment representatives outlined in the *Draft Guidelines* are sound, and the proposed advertisement and selection process for members is an improvement on the present situation.

If the Chairperson is genuinely independent, then the outlined selection process – with nominations accepted by the Chair, who then recommends appointments to the Department Secretary – would be satisfactory. However if the Department sticks with the current proposal to allow companies to effectively choose the CCC Chair, this would present a problem. There would be the potential for companies and partial Chairpersons to engineer the make-up of a CCC to make it more friendly to the company's interests.

Decisions about which community representatives to appoint to a CCC should be informed by the stated *Purpose of the Committee* on page 2 of the *Draft Guidelines*, which is essentially to establish a forum to monitor the performance of the mining project against its approval conditions and community expectations. It follows that community representatives should only be selected where they have a clear interest in the environmental performance of the mining project.

We submit that local business interests, including local Business Chambers, do not meet this standard, and should not be permitted to fill community representatives places on a CCC, as sometimes occurs now.

We submit, also, that nominees for community representative should be required to submit a full declaration of pecuniary and other interests at the application stage, rather than after they are selected (as proposed). This should be taken into account when selecting successful applicants, and where interests in the project do exist, that should weigh against the candidate.

At present there is no guidance or consistency regarding publication of CCC membership information and contact details. It's important that the general community can easily find out who is representing them on a CCC, and make contact with them if required. Names and contact details and a brief description of each CCC member should be made easily available.

3. Community representatives given adequate training and reimbursement.

Training and induction for new CCC members is far from adequate, presently. While both the existing regime and the *Draft Guidelines* allow for community reps to request training, the company is under no obligation to provide it.

In fact, many of the CCC members we spoke to in preparing this submission were unaware that they could request training, or even unaware of the existence of the Guidelines for CCC's, or the proposed changes. This speaks to our point – people on CCC's are not being provided with the induction or training they require in order to do their job properly.

There needs to be a defined process for inducting new CCC members. There should also be a requirement for a company to pay for training for committee members, where the Chairperson agrees that training is required.

We submit that a company should be required to reimburse CCC members' travel costs and any other reasonable and unavoidable expenses they incur while fulfilling their obligations to the CCC. There is no reason this should be optional for the company.

4. Members nominate their own alternative member.

The *Draft Guidelines* propose changing the process for selecting an “alternative member” to sit in

for community representatives when they are unable to attend a CCC meeting – they would be selected by the Department, rather than by the person they are sitting in for.

We don't support this. The present arrangement is fairer and in no need of change.

5. Effective distribution of CCC information.

There needs to be a defined mechanism for distributing the information discussed at CCC meetings to the rest of the community. It's not fair to expect unpaid community representatives to fully carry this responsibility. Often, people do not have the time or resources to do this effectively.

Options could include a simple CCC Newsletter prepared and distributed at the mining company's expense, or a public email list (easy to discover and join) for distributing the minutes.

6. On meeting procedure and company responsibilities

There is a general lack of openness, transparency, and good faith from mining companies in their approach to CCC's, and far more direction is needed in the Guidelines to ensure companies carry out their obligations effectively.

It's paramount that information provided by the company to a CCC is presented in an understandable and timely manner, and that CCC members are given every chance to process and interrogate the information.

Here are our suggestions to improve the situation:

- Minute-taking and distribution should not be the responsibility of the company. It is often in the company's interest to misrepresent or downplay the concerns of CCC members, and the discussions and outcomes of the committee. Many companies do not ensure minutes are comprehensive, or even clearly formatted.
- The Guidelines need to be much more prescriptive about the requirements for CCC minutes. They need to record discussion points, and note *why* decisions or agreements have been reached (rather than simply *what* the decision/agreement was, which is usually what happens).
- Minutes should be distributed to CCC members for correction and comment within ten days of meeting.
- Company reports, reviews, monitoring data, audits etc should be written up and distributed to CCC members at least a week in advance of the meeting (or in the case of monitoring data, within 30 days of collection) . This will allow people time to read the reports, digest the information, and formulate any questions or comments they have for the meeting. It is not fair to expect community reps to properly process verbal information and respond adequately in real-time.
- Where CCC members feel it would be helpful, they should be able to request the attendance of an independent expert at a CCC meeting, to aid in the interpretation and interrogation of company reports and data.

- The proposal in the *Draft Guidelines* requiring that a company '*shall consult with the Committee prior to seeking approval for a modification to its conditions of consent, to change operational requirements or to expand its operations*' is a good, but this suggestion is already contained in the existing guidelines, and is routinely ignored by companies. Presently, this consultation doesn't happen at all, or does not happen properly. More guidance is required, and it needs to be adhered to. We suggest that such matters must be discussed at a minimum of two CCC meetings before a company submits a modification application, and that the company must demonstrate how it has incorporated feedback from the CCC into its application.

7. Timing of CCC formation and meeting frequency

The current guidelines and the *Draft Guidelines* suggest a meeting frequency of four times per year for the first two years of construction, and twice a year after that. There is little guidance about when meetings will cease to take place.

We submit that four meetings a year is a good minimum, and that should be the standard – not just for the first two years but for the entire life of the mine. It does not make sense to reduce meeting frequency or cancel them entirely once a project is fully operational. Indeed – that is when many of a project's impacts on the local community and environment are fully realised.

We are pleased to see the allowance for CCC's to be formed earlier in the development process – at application stage rather than approval stage. We submit that it should be standard for a CCC to be formed at the application stage.

8. On Regional Committees

As the Department is aware, there's a lot of community angst about the cumulative impact of mining projects, especially in areas where lots of big mines occur in close proximity. There's much work to be done to fix this problem.

So it's encouraging to note the brief mention in the *Draft Guidelines* of the potential for establishing regional committees, or community information sessions etc, to consider cumulative impacts. It's important that any such process is additional to the individual CCC's and not intended to replace them. This process would be much more effective, also, if it allowed for such impacts to be redressed, not merely discussed.

9. Review of the Guidelines

The CCC system serves an important function, but has much room for improvement. We are glad that the Department is reviewing the Guidelines, but disappointed that the opportunity has been missed to undertake a more comprehensive and consultative approach to the review (as mentioned previously, many CCC members are not even aware that this review is under way).

We submit that regular reviews, say every five years, should be undertaken, to ensure the system is fulfilling its function and meeting community expectations. These reviews must include deliberate and comprehensive consultation with active CCC members, and should be open to root and branch reform of the process if necessary. The current review has been very conservative in its approach to reform.

Thanks, again, for the opportunity to provide comments on the *Draft Guidelines*.