

13 April 2016

Executive Director  
Resources Assessment & Business Systems  
Department of Planning and Environment

## **SUBMISSION ON THE DRAFT COMMUNITY CONSULTATIVE COMMITTEE GUIDELINES – STATE SIGNIFICANT PROJECTS**

Yancoal Australia Ltd (Yancoal) is an Australian based coal producer and developer that operates open cut and underground coal mines in New South Wales, Queensland and Western Australia. Yancoal operations produce metallurgical and thermal coal products for export, primarily for steel and power industries in Asia. Yancoal also has shareholdings in major infrastructure, including the Newcastle Coal Infrastructure Group (NCIG). Yancoal plays a critical role in contributing to the export earnings and employment rates of New South Wales and Australia.

In New South Wales, Yancoal operates five mines –Ashton, Austar, Donaldson, Moolarben and Stratford/Duralie coal mines. Yancoal has a long term vision for New South Wales and is well placed to commit the financial investment needed to realize the potential of its local assets.

Yancoal is an active member of the NSW Minerals Council (NSWMC) and supports the submission on the final draft of the Community Consultative Committee Guidelines – State Significant Projects put forward by the NSWMC on behalf of its members.

In addition to the issues raised in the NSWMC submission, Yancoal provides the following comments on the Draft Community Consultative Committee Guidelines – State Significant Projects (Draft Guidelines):

### **1. The Role of the CCC – information flow vs quasi-regulator vs decision making body**

Yancoal considers that the primary role of the CCC is to provide a two-way conduit for information between the Company and the community. To that end, Yancoal supports open community engagement through the CCC and agrees that this mechanism is a key plank in maintaining effective dialogue and information sharing between the Company, local councils, communities and other key stakeholders.

However, it is our firm view that the CCC should have **no role** in regulating mining activity or compliance with consent conditions. That is the exclusive responsibility of the relevant government agencies and regulators. Further, the CCC should not be a decision-making body.

Yancoal believes the Draft Guideline infers that the CCC has a quasi-regulator role. This is demonstrated by use of language such as ‘*provide advice*’, ‘*involved in resolving*’ and ‘*regular inspections*’, and in the stated purpose of the CCC’s role to (inter alia): *Comment on the project’s performance against any conditions of approval; Provide advice to the Company on the development of new projects and measures that could be implemented to minimise any impacts; Identify key issues for the assessment of projects and comment on any assessment documentation; Review the performance of the project; Review draft management plans; Review the Company’s complaints handling procedures.*

These matters are beyond the remit and expertise of the CCC and **should only be addressed by relevant regulators** and/or statutory authorities.

In addition, given commercial sensitivities and the absence of technical skills on the CCC, it is inappropriate for the CCC to have any role in advising Companies on new project development matters.

## **2. CCC should have a defined life**

CCC's should have a defined life and this should be express in the Draft Guideline

Yancoal suggests CCC community or stakeholder representation should have a fixed 3 year term, at which point these positions should be re-advertised under the guidance of the Independent Chairperson.

This would ensure the committee remains relevant to the community as the project progresses and that other interested community members or stakeholders (who may have a changing stake in the project) have an opportunity to participate in the process.

## **3. When CCC members are concerned about the Chairpersons capacity to fulfil the role**

Yancoal is supportive of the concept of CCC members seeking the Secretary's review of the Independent Chairperson's capacity to fulfil the role.

The Draft Guideline states that three or more members must have concerns about the Chairperson's ability in fulfilling the role before a request for review by the Secretary can be made. This proposal creates the potential for collusion between CCC members and risks disruption of the function of the CCC to promote a partisan agenda.

To ensure balance and objectivity, Yancoal proposes that the trigger for the Secretary's review should also require an expression of concern by either the Company or the local council representative. In addition, the Company should be consulted before any action is taken.

## **4. Review of draft management plans and distribution of annual review, audit and monitoring reports to the CCC**

These proposals all elevate the CCC to a position of quasi-regulator and are inconsistent with the role of the CCC as a two-way conduit for information flow between the Company and the community.

Yancoal does not support the CCC having a role in reviewing draft environmental management plans. Environmental management is a matter for the Company, to the satisfaction of the relevant regulator. In addition, in most cases CCC members will be ill-equipped, unqualified and inexperienced in dealing with the technical matters addressed in these plans and such reviews should be left to experts within relevant regulatory agencies.

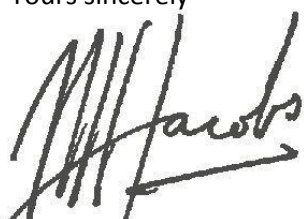
Yancoal does not support the distribution of annual review reports, audit reports and monitoring reports to Committee members at the same time as these reports are provided to relevant regulators or government authorities.

These reports are made available on the Company's website once reviewed and approved by the relevant agencies and are available to the public (including the CCC) at that time. To provide access to these reports prior to review and approval by key regulators undermines the integrity of the process and would add no value.

The Draft Guidelines further states these reports be written in an easy to understand, plain English format. These documents are written to serve a technical purpose, dealing with technical matters, and their simplification for the benefit of a wider audience risks eroding the accuracy and comprehensiveness of the subject documents.

We trust that government will be persuaded by the matters raised in this submission, and we remain available to discuss any of these matters in more detail should that be helpful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mark Jacobs', with a large, sweeping loop at the bottom left.

Mark Jacobs  
**General Manager, Environment and Community**  
Yancoal Australia Limited