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Erica van den Honert
Director, Planning Services, Business Systems
Level 22, 320 Pitt Street
Sydney NSW 2001

By email: eiaproject@planning.nsw.gov.au
Online: planning.nsw.gov.au/improvingeia

Dear Ms van den Honert,

**Clean Energy Council submission to NSW Department of Planning and Environment's
Environmental Impact Assessment Improvement Project**

The Clean Energy Council (CEC) welcomes the opportunity to make a submission to the New South Wales Department of Planning and Environment (NSW DPE)'s Environmental impact assessment improvement project discussion paper (the discussion paper). The CEC supports the improvement project and the several other positive reforms being undertaken by the NSW DPE.

The renewable energy industry can attract significant new investment to NSW, creating jobs and making a material contribution to reducing the state's carbon footprint in the process. A clear, transparent and fair planning framework is an effective way to boost investor confidence about the longer term intent of the Baird Government.

Initiative 1: Develop a consistent framework for scoping within the EIA process

The CEC supports tailoring the level of examination of an issue to the relative importance of the issue based on its potential impact. The Secretary's Environmental Assessment Requirements (SEARs) is a key document in ensuring Environmental Impact Assessment (EIA) is focused towards the key issues appropriate for individual projects. It is important that the SEARs remains a project specific response, focused on the key issues of the development and site and does not become a generic document

However it is still important to develop some level of standardisation for SEARs. Predictability in SEARs will allow proponents to commence some impact assessments earlier in the development process and therefore undertake earlier community engagement. This is discussed further under Initiative 2.

Initiative 2: Earlier and better engagement

The CEC supports good quality community engagement that takes place as early in the development process as possible. However, it is important that the community is engaged at the right time, with the right information to ensure the consultation process is meaningful and productive.

A staged consultation is more likely to result in meaningful conversations, and will allow developers to present informed proposals to the community at an early enough stage to integrate community responses into proposed developments. Early consultation can involve preliminary project layouts and could be used to gather input from the community. More detailed engagement can take place after assessments and fieldwork are complete and the layout revised to take into account the results of studies, as well as community input. In order to commence these studies as early as possible in the process, industry will require some level of certainty on standard and project specific SEARs.

A potentially useful topic for Department led engagement would be for NSW DPE and the proponent to explain the planning system to members of the community so that they understand how it works and how and when they can engage in the process. Communities should clearly understand that there is a public interest aspect to approvals and that the system requires a consideration of the balance of social, economic and environmental factors in assessing projects and developments.

Initiative 3: Improve the consistency and quality of EIA documents

The CEC supports the requirement for a consolidated project description, setting out the proposal for which approval or consent is sought, as well as a clear description of allowable flexibility for post-approval layout variations. Where necessary the details of subsequent modifications to the proposal and assessment should be clearly set out in an updated introductory chapter. The EIS should also include a consolidated register of proposed mitigation commitments made through the EIS to provide a single point of reference for communities, consenting authorities and the developer themselves during the construction and operation of the development.

Initiative 4: Set a standard framework for conditioning projects

Where a standard set of conditions are formulated, they should still be relevant to individual projects and should not be broadly applied to every project. Conditions should only be applied where they are necessary and reasonable and should be precisely drafted to avoid any ambiguity in their intention or implementation. While standardising the approach to setting consent conditions may aim to ensure that conditions keep up with various benchmarks as amended over time, doing so may also create investment uncertainty. Conditions need to be known and non-variable to allow proponents to assess any risk.

Conditions concerning offsets should incentivise the developer to reduce impacts where possible when finalising the construction layout. Rather than locking in offset requirements based on indicative layouts, the developer should be able to reduce offsets by finding ways to design the project with a smaller footprint. This could be achieved by using conditions to approve upper limits and by designing a clear methodology to allow actual impacts to be verified based on final layouts.

Initiative 5: Improve the accountability of EIA professionals

If there is a lack of confidence in the integrity of the EIA process and the environmental/planning profession it is unlikely to be resolved simply through the production and signing of a generic code of practice. The EIA/EIS should only be undertaken by suitably qualified professionals who will be bound by their professional code of conduct and standards of competence. If there is no trust in those undertaking the assessment to act in accordance with the standards of their profession then a code of practice will be another document that does not resolve any concerns.

Greater transparency in the whole EIA process could be achieved through agreements between a proponent, the consenting authority and possibly local communities in some contexts. The content of such an agreement and its place within the consent process would have to be considered more fully. Such a document could allow the proponent and the consenting authority to agree the extent of surveys and indicative timescales for the submission and assessment of development proposals; and for those parties and the community to agree the format and timing of community consultation processes.

Initiative 6: Provide greater certainty on EIA timeframes

The CEC supports greater certainty on EIA timeframes and better coordination and communication between Government agencies, proponents and the community. In particular it is important that time frames in the NSW DPE are aligned with any investment initiatives such as the renewable energy procurement project for the Sydney Metro project, or the ACT reverse auction process.

Initiative 7: Strengthen the monitoring, auditing and reporting of compliance

The CEC supports this initiative, and urges the NSW DPE to find a straight forward and centralised way to communicate project compliance with communities in NSW and beyond. Experience in Victoria has shown that compliance documentation that is difficult to access can lead to incorrect assertions of non-compliance being reported in the media and slow Government response can appear to support the claims. A lot of community angst could be avoided by demonstrating that a robust process has taken place and that the project has complied. This should be easy to find online by anyone undertaking basic research.

Initiative 8: Project change processes following approval

The CEC supports this initiative. Modifications are an important issue for wind farms in particular, where technology changes and long development timeframes have in some cases resulted in tip height restrictions which make approvals unsuitable for modern turbines. The NSW DPE should introduce a clear process for deciding on an approval pathway proportional to the scale of the modification. Simple changes in approval parameters could be delegated for approval, whereas more complex changes may still require re-exhibition or panel processes.

This will be an important step in ensuring the timely delivery of projects in meeting the federal Renewable Energy Target, as well as other procurement processes.

If you have any further questions or wish to arrange a meeting to discuss this submission please contact Alicia Webb via telephone on 03 9929 4100 or by email at AWebb@cleanenergycouncil.org.au. For media inquiries, please contact Mark Bretherton on 0413 556 981.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A Webb', written in a cursive style.

Alicia Webb
Policy Manager
Clean Energy Council

About the Clean Energy Council

The Clean Energy Council (CEC) is the peak body for the clean energy industry in Australia. We represent and work with hundreds of leading businesses operating in solar, wind, energy efficiency, hydro, bioenergy, energy storage, geothermal and marine along with more than 4,000 solar installers. We are committed to accelerating the transformation of Australia's energy system to one that is smarter and cleaner.