

Environmental Impact Assessment Improvement Project – Discussion Paper

Executive Summary

Yancoal supports genuine reform capable of improving the efficiency and predictability of the Environmental Impact Assessment (EIA) process for State significant development in New South Wales (NSW) and the reduction of double-handling practices and delays.

While the EIA improvement project represents an opportunity to drive these outcomes, Yancoal believes many of the Discussion Paper's proposed improvements do little to address current issues affecting the resources sector and may only add greater confusion and acrimony to the process.

As Yancoal has argued in previous submissions, the current system in NSW is beset with unpredictability, duplication and inconsistency. These deficiencies currently undermine public confidence in the planning system and create a more difficult environment for ongoing development and investment within the State.

Government must acknowledge the current shortcomings in the assessment process and resist the temptation to merely tinker at the edges when proposing improved planning reform.

In this submission, Yancoal has identified three specific areas of concern requiring the DP&E and Government to reconsider its approach to the EIA process.

These areas relate to:

- Engagement with the community;
- Greater certainty on EIA timeframes;
- Involvement of the Planning Assessment Commission (PAC) in the EIA process.

Earlier and Better Community Engagement

Community engagement and feedback

Yancoal does not in principle support the idea of the community setting the parameters of what impacts proponents should assess through their Environmental Impact Statement (EIS) for State significant development.

Yancoal has a strong record of engaging openly and transparently with members of the community regarding prospective mining projects, ensuring relevant information is available to the general public and their concerns factored into such communications.

As outlined in the Discussion Paper, sound and early community engagement can help preclude issues further into the assessment process and promote broader public confidence in the planning system.

Yancoal believes best practice already includes early and ongoing engagement with the community and that no substantive changes to the current process are required.

Yancoal is concerned by some of the proposed improvements to the process being considered by DP&E, including the community actively shaping the Secretary's Environmental Assessment Requirements (SEARs) for State significant development.

Experts in DP&E and other government departments and agencies are best placed to understand the scope of a prospective State significant project, and the spectrum of potential impacts detailed assessments should consider. They also already consider community concerns when producing the SEARs.

Yancoal believes there is room to codify the practice of community members providing input into this early stage of the process, including granting members of the community the opportunity to comment on draft SEARs.

For example, following completion, draft versions of the SEARs could be placed on public exhibition for a short time to allow early feedback. DP&E could then consider such comments when finalising the SEARs. It would not be necessary for DP&E, nor the proponent, to provide a formal response.

Such changes would help promote the objective of earlier community engagement, while safeguarding the primacy of experts in scoping the potential impacts associated with proposed developments.

Defining the "community"

In order to promote genuine and improved engagement outcomes, DP&E needs to provide greater clarity and definition of the terms "community" and "community concerns".

While Yancoal has regularly worked with individuals and groups directly affected by projects, to address their concerns and factor them into a project's planning, Yancoal has also encountered staunch opposition from professional activist groups masquerading as concerned members of the local community.

Although sincere efforts are made to engage such groups, in Yancoal's experience community engagement has a limited ability to allay what are ideologically opposed views towards any and all green and brownfield coal mining developments.

Provide greater certainty on EIA timeframes

Ensuring the EIA process is conducted in a predictable and timely manner is important to streamlining the planning system and assisting proponents of State significant projects to make long-term investment decisions.

Clear and predictable timeframes will also deliver increased certainty for directly impacted stakeholders and strengthen confidence in the EIA process.

The current EIA process is beset with delays and inadequate adherence to timeframes which results in uncertainty for stakeholders and undermines investor confidence.

Yancoal is of the view Government should introduce statutory timeframes for each step of the process, including provision of SEARs, EIS exhibition, Ministerial direction for a Planning Assessment Commission (PAC) review and provision of terms of reference for the PAC review, receipt of submissions from the public and from government departments and agencies, and the completion of the EIA process. To drive this

outcome, DP&E should be given a stronger coordinating role, similar to that devolved to the Coordinator General in Queensland.

Involvement of PAC

Yancoal has strong views on how the PAC and its involvement in the EIA process can be improved. In its current review role the PAC often duplicates much of the assessment undertaken by government agencies and in some cases it introduces new scope not identified by the SEARs.

Where a PAC review is required it could be undertaken shortly after exhibition closes where it would review the EIS and submissions and provide a report. Proponents would then be able to respond to issues identified by regulators, the community and the PAC as part of the formal response to submissions phase of the EIA process.

DP&E would then proceed to assess the project, the proponent's response to submissions and the PAC's review report. An assessment report and draft conditions of consent would then be provided to the determining authority.

Integrating the PAC review early in the EIA process would prevent the PAC from both duplicating and directly contradicting the assessments of DP&E and other regulators.