

18 April 2016

David Kitto  
Executive Director  
Resource Assessments & Business Systems  
Department of Planning and Environment

Dear David,

### **Community Consultative Committee Guidelines – State significant projects**

EDO NSW welcomes the opportunity to provide feedback on the proposed Community Consultative Committee Guidelines for State significant projects (**CCC guidelines**). We appreciated the opportunity to meet with you on the 8<sup>th</sup> March meeting to discuss the proposal.

We support the intent to update and strengthen guidelines for CCCs. Many EDO NSW clients have been, and continue to be, involved in committees in their local communities, and our comments draw upon their feedback and experiences.

We recommend that the CCC guidelines could be strengthened and/or clarified in relation to the following seven areas: the independent chair; community membership; early engagement; data and research; meeting protocol; training and interaction with other committees.' These areas are addressed in turn below.

#### **1. Independent chair**

A critical factor for a successful and constructive CCC is an independent chair. The CCC guidelines propose that the chair will be appointed by the company. EDO NSW does not support this, as it would not be a truly independent appointment. Instead, we recommend that the Department maintain a pool of experienced and accredited facilitators, who can be appointed by the Secretary. We further recommend that the Department explore options for the development of an accreditation scheme for chairs.

#### **2. Community membership**

We support a clear role for the independent chair in receiving and considering member applications, rather than members being chosen by the company.

The community should constitute the majority of members on the committee. It should be acknowledged that while not all community representatives will support the project, their input is nonetheless valuable.

The CCC guidelines should also clarify that community representatives should not have immediate family members working for the company so as to avoid any possible conflicts of interest.

We would support a clear requirement in the CCC guidelines that the company pay community members reasonable disbursements for attending meetings (i.e. expenses, but not sitting fees).

We submit that the guidelines should also clarify that community members can seek review of a company or council membership appointment using dispute resolution processes involving the Chair and, if needed, the Department (p6).

### **3. Early engagement**

EDO NSW supports early engagement between proponents of resource projects and local communities. This can help identify critical issues and reduce potential conflicts.

We understand from our meeting with the Department of Planning & Environment (8<sup>th</sup> March) that there are not many committees established at the exploration phase, and that these are overseen by Department of Resources and Energy and not the Department of Planning & Environment. In contrast, we understand that there are over 100 committees established for commenced projects.

Despite the potential benefits of early engagement, community experience in Gloucester and Narrabri indicates that exploration stage committees have been extremely frustrating and limited in effect as critical issues were consistently deferred to possible future committees. These limitations and frustrations need to be addressed if early engagement is to be meaningful and effective. The role of committees in the transition from exploration to development and extraction also needs to be clarified, and involve cooperation from both departments.

The guidelines suggest that a CCC will not be established where there may be “better ways” to ensure effective community engagement (p3). It is unclear what the alternatives are, and whether any justification will be given for not establishing a committee where there is significant local concern about a project. EDO NSW therefore submits that the Department and/or company should be required to clearly outline why a CCC has not been established where such concern exists, and why the proposed alternative is preferable. The community should have the opportunity to comment on the alternative, and their views should be taken into account when making a final decision regarding community engagement processes.

Regardless of the method used, the guidelines should encourage the company to achieve community engagement as early as possible in the process.

### **4. Data and research**

We support committees being able to commission independent research. The work of the Dendrobium mine committee is a good example of where this has served a useful function.

The CCC guidelines should make it clear that data justifying information in annual reports, audit reports and monitoring reports should be made available to the committee on request. Furthermore, the Chair should be required to seek specific agency advice where required by the committee.<sup>1</sup>

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<sup>1</sup> Such conditions were agreed by the Land & Environment Court in relation to the Ashton South East Open Cut Coal mine consent (Schedule 5, Condition 5), specifically that the condition establishing a CCC include the following provisions in its terms of reference:

- a. *The CCC must be provided with all strategies, plan, reviews and incident reports generated during the life of the project.*
- b. *The CCC may not be bound by confidentiality provisions in relation to these documents.*

In relation to incidents, we submit that the company should be required to notify the committee within 48 hours if there are any significant incidents or changes to the project.

Information provided in response to questions of the committee must be comprehensive and comprehensible. If the committee feels that responses to questions are inadequate, there should be a process for appealing to the Department.

## **5. Meeting protocol**

In relation to meeting protocol, we make the following recommendations for inclusion and clarification in the guidelines:

- Meeting times should be chosen by consensus. No meeting is to be held if the majority of community members cannot be in attendance.
- Additional company representatives should only attend for the meeting sessions where their expertise is required, and the guidelines should clarify that they are not able to participate in any voting.
- Any member, including the chair, who exhibits verbal or physical threatening behaviour should be immediately dismissed.
- All motions suggested by a member of the committee must be put to the whole committee for consideration.
- Minutes should be taken by independent administrative support and finalised by the Chair.
- As noted above in section 2, the Department should pay committee members' reasonable disbursements.

## **6. Training**

The CCC guidelines should include a positive obligation to provide training for community members. Basic training on committee processes should be mandatory, especially for new members. In addition, specific training may be required to improve understanding of certain technical issues related to a project.

## **7. Interaction with other committees**

We support the idea that regional CCCs may be able to look at cumulative impacts of several projects in a region, however further detail is needed as to how this may work in practice. For example, the concept of a regional CCC or joint meeting of CCCs would be appropriate for mines that are owned by the same company. However, the amount of technical detail (and commercial in confidence limitations) for individual company operations may prevent a broader CCC providing meaningful input.

Furthermore, the CCC guidelines should provide detail as to how a CCC will relate to other relevant stakeholders – for example, where there is a separate Aboriginal community consultative process in place for a mine through explicit provisions in a heritage plan. It is not clear if a CCC Chair can/will invite a registered Aboriginal party to attend CCC meetings or

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- c. *The CCC can, from time to time, make recommendations to the relevant Secretary, Minister and all relative agencies.*
  - d. *The CCC can, from time to time, request representatives from government agencies to attend meetings as required.*

whether the two consultative processes will remain separate. This needs to be clarified in the CCC guidelines after consultation with Aboriginal communities.

If you require any further information, please contact [rachel.walmsley@edonsw.org.au](mailto:rachel.walmsley@edonsw.org.au) or on 02 9262 6989.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'R Walmsley', with a stylized flourish at the end.

Rachel Walmsley  
Director of Policy & Law Reform  
EDO NSW