



CONSIDERATION OF EXPLORATION AND MINING APPLICATIONS – A NEW APPROACH

Aims of Document

- To suggest a new approach to the approval (tender) process for exploration licences which allows for community consultation; and
- To establish acquisition and social equity requirements for mining approvals.

Introduction

Council has been considering the future of the Shire as to the potential for economic development and long term population growth for the past five years in line with its economic development and town planning reviews. This has required a look at the underlying long term impacts both positive and negative, that structure this region including mining, petroleum (gas) extraction, commercial expansion, tourism and service provisions for an aging population.

The Gloucester community has been progressively developing from that of a traditional farming area to a more mobile and educationally alert population base that requires Council, the business community and the new residents to review the way that Gloucester will function into the future.

The Shire has over the past five years also attracted a great deal of interest from the mining and petroleum industries due to the renewed value of coal and the potential to extract coal bed methane gas from the Gloucester Basin. Similarly, a revival of mining of minerals, such as gold and precious stones has developed on a small scale.

Council and the community have formulated a policy in relation to the extension of mining activities in the Gloucester Valley. This policy states:

*Council recognises the economic benefits and responsible environmental management of past and current mining operations within the Shire, however, despite economic benefits, any extension and new mining proposals will **not** be supported;*

- *unless stringent environmental and social expectations are met*
- *unless extensive community consultation has taken place*

- *if the aesthetics of the Shire are comprised in any way*
- *if the proposal is located in a State Conservation Area*

(Resolution 21st May 2008)

This resolution represents the concerns of its residents and a desire to develop a future that will enhance lifestyle and visual amenity of the region.

The continual review by Council and the valuable contributions made by the community in reviewing exploration and mining activities in this region has identified that there are more modern ways to view mining and exploration projects and to ensure that from the outset, that community and individual consultation is paramount to long term mining decisions. The major catalyst for community concerns in the Gloucester district has been the granting of Exploration Licences which about the township and the subsequent renewal of such licences. Council is of the view that there is no reason why the approval process as set out herein could not be utilised to add conditions to any renewal of an existing Exploration Licence.

The document has been prepared in two stages being exploration licence applications and Mining applications. These two areas have been of concern to communities across New South Wales and especially in the Greater Gloucester area.

Council would like to present this document for your consideration.

Exploration Licence Applications

The Three Stage Approval Process

Council would like the NSW Government to introduce a three stage application process for all new exploration licences. The staged approval of exploration applications provides a pathway that an applicant must progress through. The first stage (currently a tender process) registers a company's interest over an area of land, whilst the second stage provides a high level of community participation in the assessment process as to cumulative and social impacts that may have an effect within the local and regional community. The third stage is a review of the application and social impact study based on issues raised by the community, local government and State agencies.

To undertake this process there will be a cost involved by the exploration proponent and by the State agencies. Under the current system, following the tender process an exploration company may be requested to establish a community consultative committee and pay for the chairman and other people to attend.

Under Councils proposed approval (a tender with conditions setting out obligations under the tender) process a community committee would need to be established for all new applications. The company would then be required to employ appropriate consultants to undertake the social impact study. The proponent would also be required to pay an application fee to the State agency to cover the cost of reviewing the social impact study. The State agency should be able to set fees under the Mining

Act that would allow the employment of qualified staff to review the social impact study and advise the minerals section of the Department of Industry and Investment as to the required conditions or issues in relation to the approval. The agency may also use external consultants to ensure that independence in decision making is upheld. The cost to the State should be on a full cost recovery basis.

Appeals to an approval are costing the community and governments large amounts of money. More communities are rallying against exploration approvals and the process behind gaining an approval. The approval process presently does not encourage public participation. Public participation presently occurs once the approval is issued where consultative committees are established. This process does not include community views but allows a company to detail information they wish to present. There is no process to consider individual impacts, concerns and fears.

The process to include the community upfront in the consideration of an application could reduce legal action, community disassociation and establish a framework to consider community issues.

The suggested process for gaining an exploration approval should be as follows;

Stage 1: That the State Government issues tender documents establishing conditions of the tender (including Stage 2) to be completed before the exploration approval is issued. Once the tenderer is selected, an Agreement is Issued between the NSW Government and the exploration proponent to guarantee an area for exploration and to ensure that other interested parties are restricted from making application for the agreed period. The agreed period could be for two years to allow the proponent to employ a suitably qualified consultant to undertake the required social impact study under stage 2 of the approval assessment. Time periods in excess of two years would be used to restrict the opportunities of other companies in exploration as occurred in the past.

This social impact study will require completion within the specified time frame and be advertised publically for comment. The proponent will then be required to submit to the Department, the study and any written advice from the public, local government and State agencies, for review.

The process of ensuring community participation in this application process would require the proponent to set up local community consultative committees. Consultative committees are presently established for exploration companies after the exploration approval is issued, however the need for consultation is more relevant prior to exploration activities and in assessing the social impacts at an early stage. Due to the level of confidentiality of results once exploration commences, it may be determined by both the company and the committee to reduce or abandon future consultative committee meetings.

Stage 2: Stage two of the application process requires the proponent to undertake a social impact study in an approved form. The proponent must establish a local and or regional consultative committee to assist in the process of consultation, information gathering and to allow the dissemination of information to the community. Membership of these committees should include local government, state agencies as

applicable, a member of the mineral resources agency, local farmers groups, environmental groups, medical or psychological professionals and representatives of the general public. A committee should be limited to no more than 20 persons to ensure that it functions to provide advice to the proponents.

On the completion of a satisfactory social impact study the proponents should be required to publically advertise the study for a period of 60 days and seek comment from the community, local government and State agencies. The proponent shall submit the study and their consideration of community concerns to the Department for review. The Department may wish to utilise independent consultants to review the study for the Department to ensure that it is independent in the assessment process. An independent assessment would be at the proponents cost as contained in the original tender conditions.

Stage 3: The Department may issue an approval to explore containing conditions as relevant from the study or the Department may refuse the application. The Department may also delay approval until further information or community review is undertaken of relevant areas.

Social and Community Consideration in the Preparation of Exploration and Mining Applications

Exploration and mining has historically been viewed by Governments and communities as a very valuable employment and income generation industry. This is still the case, however, the collective knowledge and awareness of the public has been increasing over the last decade and governments need to take a greater proactive role in the assessment of impacts and outcomes of exploration and mining activities.

The world wide recognition that climate change is occurring and that mining and the use of mine products is playing a role in the future temperature increases has drawn a greater recognition from the community that a greater detail of social and community interaction is required at the development and planning stages of both exploration and mining assessments.

Social Responsibility in Mining

Mining has always had a social and community responsibility and in many regional towns provides direct support to social and sporting groups and provides capital assistance for the development or offset of impacts identified by the community.

In recent years the focus of social responsibilities has changed from a need to look at capital infrastructure, to the need to identify and review the cumulative impacts on individuals and society generally. The lines of responsibility to comment and negotiate on exploration and mining applications are shifting from the public agencies to the general community. Companies proposing to undertake exploration or mining need to ensure that a complete assessment is undertaken to identify not only the impacts on towns but also the impacts on individuals, their lifestyles and their futures.

Cumulative Impact Assessment

Applications for exploration and mining have generally addressed cumulative impacts from a base that assumes that the exploration and mining activity is a first in project and is being undertaken from a greenfield site perspective.

As many communities in NSW have more than one exploration or mining project occurring at the same time, the cumulative impacts need to be determined reviewing the reality of activities in a community. Communities establish a base line where services, accommodation and needs are available to meet an acceptable social balance. Major development activities including exploration and mining change the balance of a town or region and generate new impacts on individuals and society.

Many existing exploration or mining proponents would be aware of changes they have generated in a community due to the arrival of the company and commencement of activities. It should be noted that both positive and negative impacts are generated, however these impacts can manifest themselves differently depending on who you are in the community. An example of this is the increased expenditure in the accommodation and retail sectors that generally provides the town with an economic benefit; however a landowner being pressured by the exploration company to allow access to a property and interrupt a traditional lifestyle may see no benefits and may lead down a path to stress related illness.

Communities and individuals that are impacted by exploration or mining activity voice their concerns with the local council, the state member or to the government agencies.

The response capacity of companies, Local Governments and State agencies is limited. The detail of information available at exploration stage is generally confidential and this also generates increased uncertainty at a public level. Unfortunately there still exist some companies and individuals that antagonise communities and this again increases community stress and concern.

Exploration and mining companies should review the whole of community and regional activities in the preparation of a community impact statement to identify cumulative impacts. This is important as unrelated projects may increase the need for accommodation or resources in an area eg. a new dam project and an exploration drilling project in a small rural area, or a petroleum (gas) project, mine extension and exploration activities occurring at the same time. In these examples social and community disruption may result because of a lack of accommodation, increased road transport, social impacts because of large migration of outside work forces and enhanced community uncertainty of activities.

Social Impact Study Pre Exploration and Mining

Council would like to propose that a Social Impact Study is undertaken pre exploration, and as part of an Environmental Assessment for all new mining projects to determine the community and individual impacts based on a cumulative review of all major development occurring in a local government area and regionally.

As explained above, many people feel disassociated from the exploration and mining process and are threatened by the changes in their communities as new people arrive

to work in the locality, run seismic lines or commence drilling programmes. This response is real and can have health implications on individuals and cause a general unsettling of residents.

The social impact study needs to review the areas identified in Appendix A attached to this document as a minimum assessment. There may be local issues identified that require a more detailed review to determine the level of the cumulative impacts or other social impacts.

The development of the requirements for a social impact study would require the exploration and mining proponents to use the services of a consultant, who is principally undertaking social impact studies. The consultant would be required to prepare the study for lodgement with the Department prior to the issue of an exploration licence or as part of the EA for an approval under Part 3A of the EP&A Act. The consultant would need to demonstrate that they have engaged with local and regional community groups, environmental groups, affected land owners, local government authorities, local medical service providers and business organisations.

Agricultural Land

The NSW State Plan does not identify the areas of the state that should be protected from mining activity or identifies the value of agricultural land and the production capacity of the land for food production, stocking or industrial cropping. Agricultural land value is not solely determined by agricultural soil classification as many rural areas have a productive capacity and a local benefit at a higher level than that identified by soil type. Many areas of NSW have local agricultural enterprises that may not be considered viable from a business return perspective but operate as a family business that generates adequate income to allow for families to survive.

In the identification of social impacts, the proponent should be required to undertake an agricultural land use exercise to identify the current land use activities and the benefit to the local and regional community. This exercise would need to identify the potential impacts on land use during the exploration phase and to identify the long term impacts at a local level from the removal or disturbance of land if mining occurred in an area.

The disturbance factors should look at the relocation of farm operators due to acquisition and the reduction in carrying or production capacity due to the reduction of agricultural land areas. This should be assessed against local economic value statistics rather than State wide to ensure that the local impacts are reflected and to allow the local community to identify the true cost and benefits associations.

Water Security

The issue of water security at the exploration and mining phases of the application process has become a dominant issue across NSW, with many rural communities

identifying that drilling programmes and access through properties may generate impacts on surface and subsurface water bodies.

The impact assessment should be required to identify through site inspections and desk top studies, the location of water bodies, aquifers and farm water requirements. The up front acknowledgement of water and the security requirements of land holders would assist to alleviate the concerns of the community and to allow the State agencies an ability to make an assessment of water security, potential impacts and environmental protection requirements.

Air Quality

The air quality of an area pre mining is an important element both to human and animal health but also to the living conditions of residents generally in a mining area. Air quality impacts on visibility, clothes drying and property maintenance cause concern at a local level and the establishment of the base dust levels help a community to assess long term changes.

It is proposed that as part of the impact study, that air quality monitors collecting in the PM2.5 and PM1.0 range are installed in the proposed exploration areas for all potential open cut type mines or quarries. This early measurement of air quality shall provide an indication of the air quality pre mining and during mining should a project proceed to the mining phase.

The present established level for dust collection is PM10 and below. The human health effects of dust commence at PM 2.5 and this should be used to establish present and future dust impacts on a local area.

Noise

Similar to dust monitoring, noise is an area that can cause disturbance at the exploration and mining phases. Concern is raised by residents once exploration commences due to drill rigs operating 24 hours and proximity to residential developments.

Noise readings should be collected prior to any exploration commencing to establish pre exploration and pre mining noise levels.

Health Effects Generally

A number of local concerns are raised in the process of exploration and mining approvals and some of these relate to the impacts that occur on human health. These impacts include stress related illness, air quality impacts, noise induced impacts to list the common areas. The Social impact study would need to consult directly with the community and through the consultative committee process to identify where concerns may be raised and to identify the methods of result collection what may be done to limit or eliminate the impact.

Appendix A: Social Impact Study Pre Exploration and Mining

The following information would be a minimum requirement for the development of a Social Impact Study for both Exploration and Mining proposals.

It should be noted that the requirement to prepare a Social Impact Study would not over ride or negate any other legal requirements by any other Authority, Act, Regulation or Bylaw or any requirements of the Director General of NSW Planning.

- **Social Impact Introduction** (General introduction of results and outcomes)
 - ✚ Provide information on social impacts,
 - ✚ Forms a basic assessment of social impacts
 - ✚ The consultation undertaken e.g. neighbours, key stakeholders, local government, state agencies, etc
 - ✚ Describes both the positive and negative social impacts and how these may be maximised or minimised in the interests of both the individuals, users of the development and wider community.
- **Develop a Social Impact Matrix** (there are many different social impacts that may occur as a result of mining developments and some of these are listed below) The social matrix is used to give guidance to proponents as to the types of impacts and benefits of the proposed development. It will also highlight areas that require greater attention. These areas will require an in depth consideration of issues raised and questions needed to target foundation, substance and balance.
 - ✚ Accommodation and housing
 - ✚ Agricultural land use and impacts (food production, stocking or industrial cropping)
 - ✚ Air quality monitoring at PM2.5 and PM1.0 levels and general dust identification in the locality
 - ✚ Community services and facilities
 - ✚ Community structure (severance, cohesion and identity)
 - ✚ Crime and public safety
 - ✚ Culture and community values
 - ✚ Cumulative impacts of other major projects or exploration activity type
 - ✚ Employment
 - ✚ Health services
 - ✚ Human and animal health issues
 - ✚ Impacts on current and future land use
 - ✚ Industry resources (local and regional)
 - ✚ Interaction between development types and cumulative effects
 - ✚ Local economic issues
 - ✚ Local government resources (roads, water, sewer)
 - ✚ Population change
 - ✚ Recreational and social facilities
 - ✚ Risk perception in the community
 - ✚ Road infrastructure, potential damage and use levels
 - ✚ Social equity

- ✚ Social groups (environmental, women, indigenous, youth, ethnic, aged, etc)
- ✚ Water security and protection

- **Discussion of Social Impact Issues**

The discussion of social impact issues would be developed from the areas identified in the social impact matrix and would review the nature and extent of impacts based on :

- ✚ Identify the impact categories using the matrix
- ✚ How significant are the impacts (major or minor)
- ✚ What is the extent of the impacts (geography, time)
- ✚ Review the local and regional area of the proposal to ensure that impacts in the matrix cover all areas both within the exploration or mining area and adjoining areas where workforce or other social impacts may arise
- ✚ Review the areas where people live in relation to the proposed activity and identify the community social values and characteristics
- ✚ Who may be affected by it (individuals, groups, communities)
- ✚ Ensure that relevant questions, surveys or interviews have been undertaken to gain a whole of community view.
- ✚ Highlight what data is important to collect and how this is determined in the matrix
- ✚ Provide detailed written comment for each relevant impact category as determined in the matrix
- ✚ Make a summary of the positive and negative effects. Identify the most significant impacts. Use tables, graphs or diagrams to assist in the interpretation of data or information
- ✚ What may be done to limit or eliminate the impact or maximise a benefit

Advertising and Consultation Period

The Social Impact Study as suggested should be required to be placed on community display for a period of 60 days and a copy provided to all Local Government authorities in and adjoining the exploration or mining area and relevant State Government agencies. The proponent would advertise the study and the exploration or mining areas locality plan in local newspapers circulated in the area where the exploration or mining application is to occur and any adjoining areas identified in the development of the social impact study.

Mining Approvals

Acquisition and Social Equity

The Community takes a realistic position as to mining generally and recognises the benefits that mining can bring to a local and state economy. Communities have also taken a realistic stance as to the impacts that mining can have on the environment, the social fabric and at a global level.

Communities develop where mining has proved beneficial for employment generation but concerns are raised as to tailings and waste dam spills, long term habitat protection, or concerns about mining near rivers and water courses or water discharges to breeding grounds.

Many local communities have found a strong political voice and are collectively gathering, to force change. Council does recognise that the government and the mining industry is positively working to develop changes, improve consultation with communities and ensure that sustainable mining can occur.

There needs to be a balance between mining at a local level so that it does not impact on the lives of people or the environment overall. It is also recognised that exploration and mining companies have a State endorsed mandate to undertake mining activities as the royalties provide community benefit. The balance between these competing interests needs to be addressed.

It is considered that positive change at a State level to identify mine development and export requirements is needed to assist the residents of NSW to gain a greater understanding of mining and the long term outcomes of mining at a local, State and global level.

How to Keep People and Mines Apart

Council has been reviewing the local community concerns and has identified that individual and community stress develops across areas where mining activities are being proposed. It is important at a local level to understand that exploration licences and mining approvals raise fear and concern in all residents both within the licence area and also within the towns and villages near these areas. The fear from an approval perspective may be unfounded, however the uncertainty and rumours spread about what will happen, or that an exploration will mean a mine being approved, does have social and in some instances mental health impacts.

Council is therefore proposing an up front notification system for all mining applications in NSW to inform the companies and the residents of set backs and development to residential areas.

It must be noted that this notification system would not relate to underground mining or to gas extraction or delivery pipe lines and well heads with the exception of the processing and loading facilities.

It is therefore proposed that this 1.0 km zone be a compulsory acquisition zone and that it comply with the legislation for fair acquisition (market value) of land. Council further addresses social equity in a later section of this statement.



The land located within the 1 kilometre to 5 kilometre zone generally is not impacted by noise, dust or light to the same extent, however it does have social and health related impacts associated with a major development. In Councils desk top evaluation of this methodology it was recognised that people within this zone have minor impacts from mining activities, however, they may be disadvantaged because they are not in a compulsory acquisition area, they did not write a submission where a condition of consent required acquisition or they perceive they are disadvantaged due to locality to a mining activity. This zone would therefore require the company to acquire the property where an owner has requested such acquisition within a period of three years from mining commencement. This acquisition would only apply to the original owner of the land at the time of commencement of mining and not to any subsequent land owner who has bought into the area with an assumed knowledge of the mining development.

The Land and Environment Court has included similar clauses within its approvals of mines and quarries to establish a commencement date for an acquisition process.

How Will This Help in Exploration

It is believed that a lot of the community anxiety developing in the State is the result of mining uncertainty and what will happen in the future to the residential, agricultural and business communities.

The upfront system proposed for compulsory and requested acquisition of land shall allow an exploration company to research their project to a higher level, remove areas of known impact to towns and villages from the exploration licence area and reduce long term community anxiety that develops around the assumed loss in land values, agricultural land use or other social impacts.

The attached plan indicates a town area that has been marked up to highlight the 1 kilometre compulsory acquisition zone and the 5 kilometre voluntary acquisition zone.



Council believes that if the State Government provided this advice to all applicants regardless of the mineral type, an explorer may wish to explore only outside the impact areas of a town or village. Should the exploration identify a valuable resource that is closer to a town, then they may undertake a greater detailed survey up to the point where the value of the resource could be higher than the cost to relocate the town or village area.

This has been shown to occur with existing mining leases especially in coal mining areas, where a coal mining company determines that it would purchase the houses in a small Village as their long term plans are to move through the village zone due to the

resource value. Local Councils have also assisted by removing villages from the Councils zoning maps and returned to rural land use to facilitate the long term mine development.

An exploration company may explore close to a village or town, however it may not be able to develop or on sell its knowledge to a mining company for the area that requires some form of acquisition in the future. In reality, the explorer shall limit their activities to where a profitable return can be generated, unless a high value resource is discovered. It will also require the explorer to develop a greater knowledge of the resource, the land form characteristics and underlying structure at an earlier stage.

It is not proposed that an exploration company would be required to acquire any land within the licence area.

Acquisition and Social Equity

As part of the review into social equity issues surrounding mining, it has been recognised that not all land owners wish to move or alternatively can afford to move.

There are many examples where mining and agriculture and/or rural residential living can co-exist. In these instances Council would like to propose a system of agreed co operation between the mining companies and the land owners, where a land owner can stay within their residence or on their farm and the mining company agrees to undertake works or compensation.

Although this concept is not new, the general public are in principle unaware of the various methods of compensation available.

As example; a land owner may request the company to provide sound and dust insulation, air conditioning and double glazed windows as an alternative to acquisition. This may be based on location, life of mine or a personal wish to remain on that land.

A land owner may request that for the life of mine, that a monthly or yearly compensation amount be paid to offset issues such as noise, dust, vibration or general disturbance factors. Council would suggest that this is registered with the land owner and not paid to a tenant or as a lump sum. The agreed monthly or yearly value could then transfer to future owners as ongoing compensation or help an owner offset losses in rental due to disturbance factors.

The area of social equity and acquisition is real in country NSW, because the house and land prices are lower in smaller centres than larger centres or cities. The acquisition of a house for a person and the price paid under the Just Terms Compensation Act may not be sufficient to allow a person or family to relocate to another town or even within the town. Mining occurs on rural land generally and single houses with no land or a just economically viable property can not receive sufficient compensation to relocate and recommence farming or allow a person to own a dwelling. The acquisition process may be fair but it is not always valid.

Under these conditions, it would be appropriate for the mining companies to purchase a similar property or dwelling for the resident as a straight swap or purchase a similar dwelling in a town, regardless of over compensation values, to allow the resident to relocate and not be worse off or substantially disadvantaged.

The purchase or acceptance of relocation would need to be in agreement between the two parties and may require the mining company to have an independent mediator available to assist in the resolution of issues that arise.

Where To From Here

Communities across NSW are seeking changes to how the mining industry progresses. The community concerns have been considered at the approval stage only and then only the largest community outcry was being heard. This outcry is growing and the State Government and to a greater extent its staff, will need to be looking forward as to how community attitudes and options are developed to enhance exploration and mining projects.

The changes being proposed by the information contained in this document are simple and although the Council acknowledges that variations will result due to social changes, wind directions, topography or other influential factors; the advice provided will fit most exploration and future mining proposals. It is also considered that this document will not prevent community objections and it will not guarantee a mining or exploration approval, however it is a starting point for a company, the state and a local community to come together to discuss future exploration and mining plan.
