NSWIC
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Submission to Department of Planning

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment 2012

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Introduction

NSW Irrigators' Council (NSWIC) represents more than 12,000 irrigation farmers across NSW. These irrigators access regulated, unregulated and groundwater systems. Our members include valley water user associations, food and fibre groups, irrigation corporations and commodity groups from the rice, cotton, dairy and horticultural industries.

This submission represents the view of the Members of NSWIC with respect to the proposed *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment 2012*. However each Member reserves the right to independent policy on issues that directly relate to their areas of operation, or expertise, or any other issues that they may deem relevant.

Consultation

While NSWIC is pleased to have a further opportunity to comment on the proposed *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment 2012*, we are considerably disappointed that none of our previous recommendations have yet been considered.

As such, this submission will again outline NSWIC's key recommendations to the proposed *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment 2012*.

Draft Section 17B(2)

The section states that the Minister "is to have regard to the Aquifer Interference Policy".

Stakeholders have been critical of the non-binding nature of the Policy in the first instance. This section further exacerbates the issue with the Minister not being bound by the policy in providing advice.

We recommend that the section be reworded such that the Minister must provide advice pursuant to the Aquifer Interference Policy.

Draft Section 17F(1)

The section states that "a person who proposes to carry out mining or coal seam gas development on SA Land **may** apply to the Gateway Panel..." (emphasis added).

We are uncertain of the intent of this section and hence believe it confusing. If the intent is that any proposal on SA Land must proceed to the Gateway process, the word "may" should be replaced with "must". Alternately, if the policy envisages bypass of the Gateway process and direct application to PAC this section can remain as such - but the entire process then appears of minimal value.

Draft Section 17H(2) and 17H(3)

We recognise that the policy has been materially altered such that the Gateway Panel has no choice but to issue a Certificate. That said, we believe that 17H(2)(b) places an absurd reverse onus on the Panel.

In the instance that the Panel is able to issue an *unconditional certificate*, no concerns arise. In the instance where criteria are not met, the Panel is required to issue a certificate with recommendations that, if complied with, would *meet the criteria*,

That is, it would be the responsibility of the Panel to determine solutions (conditions) in which a proposal would meet the criteria. In the event that it cannot, the applicant need merely wait 90 days and receive an unconditional certificate pursuant to Section 17I.

We submit that the onus of proof must be on applicant to suggest relevant conditions for the approval (or otherwise) of the Panel. That is, where the Panel identifies and describes reasons of non-compliance with criteria, the onus must be on the applicant to identify conditions under which those criteria can be met.

Draft Section 17H(4)

We are concerned that criteria for SA Land appear significantly lower than for CIC areas in that SA Land criteria apply only to the land over which the application is made and any adjacent biophysical strategic agricultural land. For CIC applications, criteria include more comprehensive considerations of surrounding impacts.

We believe that the criteria relevant to CIC should be extended to SA Land.

Draft Section 17I(1)

We do not believe that 90 days is sufficient for full consideration of matters currently laid out in the Draft.

In particular, 90 days is vastly insufficient for the Panel (or, by our submission, proponent) to develop conditions where non-conformance with criteria are identified.

We suggest that 90 days for an unconditional certificate may be appropriate, but a mechanism for extending this where conditions are required is necessary.

ENDS.