# MEETING SUMMARY



## RESOURCES ADVISORY FORUM

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| **MEETING** | Out-of-session |
| **DATE** | Wednesday 5 October 2016 |
| **TIME** | 10:00am – 12:00pm |
| **VENUE** | Secretary's Boardroom Level 31, 320 Pitt Street, Sydney |

## MEETING ATTENDANCE LIST

| **Chair:** | **David Kitto ED Resource Assessments & Business Systems** | |
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| **Present:** | Mayor Owen Hasler | Association of Mining Related Councils |
| | Chris Berry | Canberra Region Joint Organisation |
| | Todd Hacking | Cement Concrete and Aggregates Australia |
| | Monique Andrew | Cement Concrete and Aggregates Australia |
| | Megan Kessler | Environmental Defender's Office |
| | Roger Stephen | The Hunter Joint Organisation |
| | Cathy Redding | Namoi Region Organisation of Councils |
| | Cerin Loane | Nature Conservation Council of NSW |
| | Kate Aubrey | NSW Aboriginal Land Council |
| | Clare Doherty | NSW Minerals Council |
| **Apologies:** | Dr Malcolm Roberts | Australian Petroleum Production & Exploration Association |
| | Andy Honeysett | Construction Forestry Mining and Energy Union |
| | Jeff Angel | Total Environment Centre |
| | Alicia Webb | Clean Energy Council |
| | Adair Moar | NSW Farmers |
| | Dr Wendy Timms | UNSW School of Mining Engineering |
| **Department of Planning and Environment** | David Kitto | ED Resource Assessments & Business Systems |
| | Erica van den Honert | Director, Resources Policy |
| | Brian Cullinane | Technical Consultant |
| | Margaret Harvie | Engagement Consultant |
| | Emma Kirkman | Senior Planning Officer |
| | Caitlin Brookes | Stakeholder Relationships Manager |

| ITEM | ACTIONS |
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| 1.      **Welcome** | |
| The Chair welcomed members, alternate delegates and those phoning in. | |

| ITEM | | ACTIONS |
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| 2. | **Introduction and objectives** | |
| | The Chair introduced the EIA Improvement Project, the project context and the consultation that had been undertaken to date. | |

Brian Cullinane presented the project objectives.

**Claire Doherty**

- Agree with the objectives but how will they be addressed?
- Complexity and length of EIS speaks to the tendency of proponents to address all issues regardless of risk.
- The challenge will be convincing proponents to leave out information when DPE often asks for more.
- Given the amount of information required it can take proponents a long time to prepare documentation.
- Difficulty reading documents might be addressed by a summary document prepared by DPE.
- Agree duplication of information is a problem.
- A further challenge exists in addressing the needs of differing audiences reading the documentation.

**Cerin Loane**

- Agree to reducing complexity but not rigour.
- 'Transparency' should be added to the objective 'Create greater certainty and efficiency around decision making processes', particularly in relation to site visits, meetings etc. that take place between DPE and proponents, and which the community is not privy to.

**Todd Hacking**

- Agree with Claire's comments.
- Government is risk adverse and not supportive of proponents.
- Bigger isn't always better and can lead to community mistrust, particularly if it's believed something's being hidden.
- Support any decreases in costs (time and money) to proponents.
- If money can be saved on preparing the EIS and instead used to improve the project from day one of construction, then that's a better outcome.
- Most proponents undertake early engagement, however it's of no benefit if it's not acknowledged by DPE i.e. if the SEARs don't reflect what's been done to date.

| ITEM | | ACTIONS |
|---|---|---|
| | **Megan Kessler**<br><br>• Agree with Cerin's comments.<br>• Agree to reducing complexity but need to acknowledge that detail is important for meaningful engagement.<br>• Repetition in documents needs to be balanced.<br>• Suggest a guideline for the community which explains when and why DPE will say 'no' to a project i.e. what are the 'red flags' e.g. water quality, biodiversity etc.<br><br>*Todd responded that 'no' is subjective.*<br><br>*Clare responded that DPE needs to explain the process i.e. the discussions and meetings had to explore the project, and that this process and any changes made to the project should be documented.*<br><br>**Monique Andrew**<br><br>• Agree with Clare's and Todd's comments.<br>• Challenge in resolving the tension in some objectives i.e. how do you strengthen the process while reducing complexity?<br>• Agree the scope and structure of the EIS and duplication within it are areas that need to be addressed.<br>• Early engagement can be good and helpful, but can also result in opposite outcomes i.e. community mistrust because the proponent is not yet in a position to provide all the answers.<br>• Suggest expectation management at all stages of the EIA process.<br><br>**Cathy Redding**<br><br>• Agree with early community engagement. | |
| 3. | **Issues identification** | |
| | **Cerin Loane**<br><br>• A good list of issues that can be addressed without legislative change.<br><br>**Todd Hacking**<br><br>• Suggest issue around feedback i.e. after the process is complete DPE and the proponent should advise what worked well and what didn't.<br><br>**Claire Doherty** | |

| ITEM | | ACTIONS |
|---|---|---|
| | • Suggest issue around the relationship between agencies i.e. ideally proponents would deal with just one agency.<br><br>*David responded that the issue around early engagement speaks to multiple audiences i.e. proponent / DPE, proponent / agencies, proponent / community.*<br><br>**Megan Kessler**<br><br>• Suggest issue around agency's reviews / comments not being taken into consideration i.e. community gets frustrated at the lack of clarity.<br>• Suggest issue around 'generally consistent with', what does it mean? There are examples where proponents submit an 'easy' project knowing it will be approved but are able to make substantial / complex changes via a modification that is 'generally consistent with'. | |
| 4. | **Proposal # 1: Focus EIA on most important issues** | |
| | **Todd Hacking**<br><br>• Fully support proposal.<br>• Agree leaving engagement until preparation of EIS is too late.<br>• Where proponents do not engage early it is less about them not wanting to and more that there is no benefit to them if they do i.e. the SEARs don't reflect what's been done to date.<br><br>**Claire Doherty**<br><br>• How is the PAC involved in early identification of issues i.e. it is usually during assessment that new issues are found?<br><br>**Cerin Loane**<br><br>• More detail is needed to know how this proposal will work e.g. how can a risk assessment of the issue be done, when the technical assessment isn't complete? How can issues be eliminated?<br>• Where do Gateway and Federal Government processes fit in?<br>• How is community input sought? | |
| 5. | **Proposal # 2: Earlier and better engagement** | |
| | **Owen Hasler**<br><br>• Takes issue with proponents talking to some, but not all, community members i.e. who proponents should engage with needs to be defined.<br>• Professional standards around engagement need to be included in any guideline, in recognition that it's not always undertaken well. | |

| ITEM | ACTIONS |
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| **Megan Kessler** <br><br> • Often proponent says they've engaged with the community but we know this isn't the case. <br> • Need guidance around what is engagement. <br> • Proponents should report back on what was heard, and if it wasn't taken on board, why not? <br><br> **Cerin Loane** <br><br> • Feedback from the community is that they like DPE's face-to-face engagement with them. <br> • Suggest DPE also undertake consultation during scoping. <br> • All parties need to 'close the loop' when undertaking engagement. <br> • Expect there to be scepticism around proponent- led engagement, unlikely to be popular with the community. <br><br> *Todd responded that proponents need to get their neighbours on board with the project and therefore most try hard to engage.* <br><br> *Monique responded that even if engagement is DPE-led proponents will need to be there as only they can answer project-specific questions.* <br><br> **Claire Doherty** <br><br> • There are varying levels of engagement undertaken by proponents - good, bad, ok. <br> • Suggest engagement not be outsourced as it is the proponent who should convey their detailed understanding of the project. Instead, proponents should be encouraged to replicate good methods. <br><br> *Megan responded that the assumption that a proponent will do a good job of engaging is not always a given.* <br><br> *Claire responded with an example of Glencore's mining under vineyards in the Hunter. The detailed trials undertaken in collaboration with local vingnerons could not have been undertaken by a third party. Suggest guidelines should include case studies / best practice examples.* <br><br> *Owen responded that the taxpayer should not fund the government to engage on projects, instead it should be up to proponents to do a good job.* <br><br> **Roger Stephan** <br><br> • What is good engagement? <br> • What is a good outcome i.e. if a project goes ahead when they community objects, will that be perceived as a good outcome? <br> • Guidelines will need to include definitions and measurements. | |

| ITEM | | ACTIONS |
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| 6. | **Proposal # 3; Improve quality of EIA documentation** | |
| | **Cerin Loane** | |
| | • Agree need to remove repetition. | |
| | • Any summary document would need to be provided in addition to the more detailed documents. | |
| | • Suggest DPE assist with community understanding i.e. support via money or personnel. | |
| | **Megan Kessler** | |
| | • Any summary document would need to be signed-off by DPE to ensure information is accurate. | |
| | • Suggest technical reports do not describe the project, and instead refer to the project as described in chapter X of the EIS. | |
| | **Todd Hacking** | |
| | • This proposal must be discussed with consultants as they are the authors of EISs. | |
| | *Margaret responded that a workshop with consultants was scheduled for Wednesday 12 October.* | |
| 7. | **Proposal # 4: Performance based conditioning** | |
| | **Megan Kessler** | |
| | • EDO has written much on this topic, refer to their website. | |
| | • Outcome based conditions still need to take into account what happens along the way i.e. for those projects with a lifespan of decades. | |
| 8. | **Proposal # 5: Contribute to integrity and confidence in EIA processes** | |
| | **Todd Hacking** | |
| | • Fully support proposal. | |
| | • Question why it hasn't been addressed already i.e. we should learn from and implement those practices that are good. | |
| | **Cerin Loane** | |
| | • Financial nexus between proponent and consultant needs to be broken. | |
| | • EISs need to be interrogated and should be rejected if not exhibiting best practice. | |
| | **Claire Doherty** | |

| ITEM | | ACTIONS |
|---|---|---|
| | • Need to increase trust in government, agencies etc. who make planning decisions.<br><br>• <br>• PAC, DPE and agencies etc. need to advocate for good practices.<br><br>**Megan Kessler**<br><br>• If peer reviews are to be used then the terms of reference must be made transparent.<br><br>**Monique Andrew**<br><br>• How does use of peer reviews impact on timeliness? | |
| 9. | **Proposal # 6: EIA policy statement** | |
| | **Cerin Loane**<br><br>• Cumulative impacts need to result in an outcome, not just a principle. | |
| 10. | **Any other business** | |
| | **Roger Stephan**<br><br>• Proposals for post approval need to be included in the discussion. | |
| 11. | **Next steps** | |
| | The feedback received during this session will be taken into consideration in the finalisation of the issues and objectives and in the development of the proposals. | Department will prepare a consultation report which will be distributed to RAF members. |