

19 February 2014

Department of State Development, Infrastructure and Planning
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Re: EIANZ's Comments on the Standardised Outcome-focused Conditions for Resource Projects - Second Consultation Draft, February 2014

The Environment Institute of Australia and New Zealand (EIANZ) is pleased to submit its comments on the the Standardised Outcome-focused Conditions for Resource Projects - Second Consultation Draft, February 2014. The Institute acknowledges the efforts being made by the Queensland Department of State Development, Infrastructure and Planning to address these out-come focused conditions. The Institute considers that there is more that needs to be done to ensure that these conditions meet the needs of industry and the people of Queensland.

The EIANZ is the leading professional body in Australia and New Zealand for environmental practitioners, and promotes independent and interdisciplinary discourse on environmental issues. On all issues and all projects the Institute advocates good practice environmental management delivered by competent and ethical environmental practitioners. The EIANZ's detailed comments (attached) focus on the appropriateness of standardized outcome-focused conditions in achieving sustainable and best practice management of resource projects.

The EIANZ urges caution in the use of standardised conditions for large resource projects as each project takes place in a different environment, with differing activities and impacts. Further, EIANZ is concerned that where standard, outcome based conditions have been set for particular matters, this may lead to these issues being ignored or glossed over in the impact assessment process. EIANZ has previously submitted to DSDIP on the importance of rigorous scoping at the start of each EIS process to make sure that the potentially significant issues are identified early and given due attention in the impact assessment. Outcome focused standard conditions must only be applied where it has been clearly demonstrated that the required outcome is achievable. We emphasise therefore that standard conditions must be used with caution, and suggest that the introduction be modified to reflect these concerns regarding use of such conditions.

However, it is recognised that there are particular aspects of large resource projects where standardised conditions may give proponents and community stakeholders more confidence in the outcome. Also, the list of conditions provided in the second draft is very limited and is obviously intended only to cover a small number of the matters which are traditionally conditioned for large resource projects.

EIANZ is also concerned that the terminology used in many of the standard conditions is vague, subjective and highly qualitative. This will make enforcement very difficult. We have noted some examples of this in our attached comments.

The EIANZ would be pleased to assist in and contribute to the further development of the SAs. I can be contacted directly on 07 5429 8480 or at seq@eianz.org.

Yours faithfully,



Vicki Low
President, South East Queensland Division

**EIANZ's Detailed Comments Pertaining to:
Standardised Outcome-focused Conditions for Resource Projects
Second consultation draft, February 2014**

p. 1 - Introduction - 3rd paragraph, 1st sentence - "The purpose of this document is to provide a baseline set of complementary outcome-focused conditions for all remaining matters that are not regulated by an EA." - *EIANZ is of the opinion that the proposed standard conditions do not cover all of the matters that are not covered by an EA, particularly in relation to off-lease infrastructure. The 4th paragraph also seems to imply that coverage is not complete and additional conditions may be required for some projects.*

p.2 - Social Impact Assessment Reporting

- (a) "The construction and operation of the project minimises adverse impacts on local and regional communities." - *It is not clear to EIANZ why this is included in a condition about social impact assessment reporting. While reporting is important, reporting in itself will not minimise impacts. If this condition is broader in scope than just reporting, query the usefulness of such a broad condition. How can compliance with this condition ever be measured?*

- (b) "For five years . . ." - *EIANZ notes that for many projects, five years may not be adequate. The number of years for which reporting is required should be project specific. As employment generally peaks during the construction phase, it may be more appropriate to set this condition for the construction and operation phases independently.*

- (c) "The reports shall be made publicly available on the internet **as soon as practicable** after completion." - *EIANZ is of the opinion that a time frame should be provided.*

p.2 - Proponent Local Content Actions

- (a) "For five years after receiving the Coordinator-General's report . . ." - *See comments above regarding timeframes.*

- (b) "The reports shall be made publicly available on the internet **as soon as practicable** after completion." - *See comments above.*

p.3 - Landholder Engagement

"All landholder engagement associated with land access negotiations must be conducted in a manner consistent with the best practice guidelines contained in Part 2 of the Land Access Code." - *EIANZ is of the view that this condition would seem to be obsolete here, as this code is enforced through tenure conditions. It would be better to leave all land access, land compensation and other matters to be dealt with through the relevant tenure processes, to avoid double up.*

p.3 - Threatened Species

- (a) "Prior to the commencement of construction activities, a suitably qualified person must develop impact mitigation and management measures that maximise the ongoing protection and long-term conservation of threatened species known or likely to occur within the project area." - *EIANZ is of the opinion that it is inappropriate to include this as a condition. Adequate impact mitigation and management measures must be identified in the EIS so that the potential residual impacts on threatened species are clear and can be accounted for in the assessment and decision making processes. Otherwise, there remains a significant risk that, post approval, the proponent will be unable to identify adequate mitigation and management measures to protect threatened species from unacceptable impacts.*

p.4 - Environmental Offsets - *EIANZ notes that current government policy has this triggered under the EP Act and therefore included in the EA for on-lease requirements.*

- (a) “The proponent must prepare a proposed offset plan to address significant residual impacts to environmental values identified in the environmental impact statement.” - *EIANZ is of the view that this should be covered in the EIS, at least in sufficient detail to demonstrate that unacceptable impacts can be adequately offset. Otherwise, projects may be approved on the basis that offsets can be identified, and then it may be subsequently discovered that in fact, suitable offsets are not available. Project specific conditions on offsets should be crafted based on the proposals presented in the EIS.*
- (c) “The offset plan must be approved by the Coordinator-General . . .” - *EIANZ notes that an offset plan, whether included in the EIS or post-EIS, must include an assessment of the risks associated with providing the offset. This must examine how likely it is that the offset plan can be delivered effectively and biodiversity maintained. The offset plan must also address any time lags between clearing of vegetation/habitat and the chosen offset reaching maturity.*

p.4 - Water Resources

- (d) “The project must not impact on the outcomes of the <insert **Water Resource Plan name**> for the duration of the project.” - *EIANZ notes that the outcomes of water resource plans (WRPs) are very general and broad. The WRPs have a very limited number of nodes by which to set objectives for environmental flows and other requirements. These generally apply to major rivers only, and smaller tributaries, which may support significant environmental values, are not accounted for in the WRP. There may be a need for more site specific objectives and outcomes to be determined if particular environmental values are to be retained.*
- (e) “Watercourse diversions must be undertaken in accordance with the relevant Department of Natural Resources and Mines watercourse guideline, for example the *Central West Water Management and Use Regional Guideline: Watercourse Diversions - Central Queensland Mining Industry version 5*, Department of Natural Resources and Mines, 2011.” - *EIANZ is of the view that it is not appropriate to include such a condition until the guidelines are complete for each region. Note also that the quoted guidelines are not in the public domain and it is not clear whether these were ever finalised.*
- (f) “When authorised, excavating or placing fill in a watercourse, lake or spring necessary for and associated with project operations must be undertaken in accordance with the Department of Natural Resources and Mines *Riverine Protection Permit Exemption Document*. **Note:** A riverine protection permit under the *Water Act 2000* is required for any activity that cannot be undertaken in accordance with the *Riverine Protection Permit Exemption Document*.” - *EIANZ is of the opinion that this is an unnecessary duplication of requirements already imposed under the Water Act.*

p.5 - Water security - *This is a very critical issue. EIANZ considers that a resource project should not be approved until it can be demonstrated that adequate water is available for make good supplies, otherwise there is a risk that a project may be allowed to proceed and then later find that the make good conditions cannot be complied with as sufficient water allocations are not available. The EIS must also assess the impacts of fulfilling the make-good conditions. For example, if make good water is to be drawn from surface water systems, what impacts on environmental flows might arise?*

- (g) “. . . the plan required by condition (x) must identify the water supply impacts to affected water entitlement holders during and following the project activity.” - *As above, EIANZ is of the opinion that it is critical that this be included in the EIS so that decision makers do not approve projects for which it is not actually possible to provide compensatory water supply.*

“The plan required by condition (x) must identify the proposed compensatory measures to affected water entitlement holders.” - *EIANZ reiterates that, as above, the environmental impact of compensatory measures must also be identified and evaluated in the EIS.*

p.7 - Modelling Impact on Water Resources - Contingency Plan - As per comments above, EIANZ considers that this should be addressed in the EIS. The assessment of impacts on water resources (and all values) should include an estimate of the reliability of the impact prediction, and demonstrate that the worst case scenario can be dealt with.

(a) **P.7 - Transport Infrastructure** - EIANZ notes that community stakeholders frequently express significant concern regarding road safety and it would be appropriate to address road safety aspects here as well.

p.8 - Off Lease Conditions - Compliance and Auditing of Coordinator-General Imposed Conditions - EIANZ is of the view that the on-site coordinator-general's conditions should also be subject to compliance auditing and reporting.

(ii) "obtain further such reports at regular intervals, not exceeding **three-yearly** intervals, from the completion of the report referred to above." - EIANZ is of the opinion that annual reporting may be appropriate during the construction phase and early years of operation.

(iii) "provide each report to the administering authority within 90 days of its completion." - EIANZ suggests that this should be reduced significantly -- two weeks should be adequate.

(iv) "comply with the amended or changed standard, policy or guideline within 2 years of the amendment or change being made, unless a different period is specified in the amended standard or relevant legislation." - EIANZ is of the view that this condition and the next, needs significant clarification. Presumably, this is in relation to the proponent adopting any new policy requirements or other standards and guidelines that may arise or be amended once the approval is given. This may present considerable difficulties for proponents where significant changes in government policy arise, particularly where requirements become more onerous, or works to date must be re-designed. This condition may also mean that where an approval was given on the basis that a particular impact would be addressed by adherence to a particular and that policy, standard or guideline changes, the assessment that the project would not result in unacceptable impacts due to the effectiveness of mitigation measures may be invalidated. It may not be appropriate to include this and the next condition under the subheading of "Compliance and auditing of Coordinator-General imposed conditions".

p.8 - Land use - EIANZ suggests that this title is inconsistent with the content of the condition.

- "The design and location of infrastructure must, to the greatest extent practicable . . ." - EIANZ is of the opinion that the design and location of infrastructure, and the extent to which this minimises impacts on ecosystem functioning, soils and remnant vegetation should generally be addressed in the EIS. If the EIS does not contain sufficient details of infrastructure design and location, any conditions should be much more specific and quantifiable in relation to the extent of impacts on the identified values that is acceptable. Otherwise, proponents will inevitably choose the cheapest design/location, citing unreasonable cost as a reason for not further minimising impacts.

p.9 - Air Quality

(a) "**Other indicators** that are measured at any sensitive or occupied commercial place . . ." - EIANZ notes that none of the references in the points that follow appear to relate to PM2.5, which may in fact be the most important indicator.

p.9 - Noise and Vibration

- (a) “Noise from project activities do not exceed <XX> dB(A) (LAeq, adj 15 mins) when measured at a sensitive place or an occupied commercial place.” - EIANZ suggests that it would be appropriate to reference schedule 1 of the EPP (Noise). Note also that in some situations, LAeq, adj 15 mins may not be the most appropriate noise indicator to consider. For example, when ability to sleep is a value to be protected, it may be necessary to consider background noise as well as intermittent noise. Also, in some cases, tonal noises will be more annoying than is indicated by the descriptor. This may not be an appropriate matter to cover by a standard condition as the relevant conditions can vary significantly depending on the acoustic quality objectives to be protected at a specific location.

p.9 - Erosion and Sediment Control

- (a) “An **Erosion and Sediment Control Plan** must be developed by an **appropriately qualified person** and implemented for all stages of the project to **minimise erosion** and the release of sediment to receiving waters and contamination of stormwater.” - EIANZ suggests that the *Erosion and Sediment Control Plan* should meet the latest version of the IECA guidelines. The qualifications of the person developing the Plan could be specified. For example, is an appropriate qualification IECA accreditation? As release of sediment from disturbed areas is a critical issue for a number of valuable ecosystems, including the GBR, this condition needs to be more outcome-focused. Simply “minimising” erosion and release of sediment does not provide sufficient basis for enforcement where erosion and sediment control is inadequate.

p.10 - Water quality

- “Project activities must avoid release of contaminants to receiving waters.” - EIANZ notes that this is a duplication of the requirements of Section 440Z of the EP Act. Note also that this should only apply to discharges that are not authorised by an environmental authority.

p.10 - Water Quality Monitoring

- (a) “Where project activities may affect waters with **high environmental values**, the proponent must prepare and implement a **water quality monitoring program (WQMP)**.” - EIANZ notes that the terminology used in the EPP Water and QWQGs is “high ecological value” - it would be preferable to use consistent terminology. A WQMP should be prepared for all projects that potentially impact on waters, regardless of environmental value. In particular, water quality monitoring should also be required for slightly to moderately disturbed waters. Additionally, will this condition be applied where the waters adjacent to the site are highly disturbed by flow into high ecological value waters?
- (b) “The **WQMP** must be prepared by a **suitably qualified person** . . .” - EIANZ recommends that the WQMP must also identify the relevant environmental values, and that who might be considered suitably qualified be defined.
 - (i) “spatially assess the condition of receiving waters within the WQMP area, considering background water quality characteristics based on accurate and reliable monitoring data that takes into consideration temporal variation (e.g. seasonality).”
 - (ii) “establish parameters to be monitored including but not limited to turbidity and total suspended solids, nutrients, metals and metalloids.”
 - (iii) “be designed to facilitate assessment against water quality objectives for the relevant environmental values that need to be protected.”
 - (iv) “detail monitoring locations and water quality indicators.”

EIANZ recommends that the information identified above in points (b) (i) through (iv) should be included in the EIS.

(c) “The WQMP must be implemented for a minimum of 18 months prior to commencement of construction activity for the purpose of collecting baseline data, and must not cease until **water quality-related impacts** derived from the **construction activity** are **no longer observable**.” - EIANZ is of the opinion that additional conditions will be required to specify what level of impact on water quality is actually acceptable. Simply requiring proponents to monitor water quality impacts will not lead to minimisation of impacts. For resource sector projects, impacts will not necessarily be restricted to the construction stage. This needs to be clarified and quantified. The use of the term “observable” to quantify water quality impacts is inappropriate and unsuitably vague for this application. DEHP uses observable to refer to water quality impacts such as grease or scum. There are a number of other aspects of water quality that are not observable. The condition should be expressed in terms of change from pre-construction conditions, and require that monitoring continue until pre-construction values are restored.

(d) “An annual WQMP report outlining the findings of the WQMP, including all monitoring results and interpretations, must be prepared and made publicly available on the proponent’s website **annually**, with the first report that includes **an assessment of background reference water quality** in the WQMP area compared against water quality objectives, to be published prior to commencement of construction works.” - EIANZ suggests that the second reference to “annual” be deleted. Presumably, an assessment of background reference water quality is to be included in the WQMP as a requirement.

p.11 - Project construction and operation - EIANZ notes that while the heading refers to construction and operation, the conditions only refer to construction.

(a) “Prior to commencement of any construction work, efficient procedures . . .” - EIANZ suggests that procedures should be effective as well as efficient.

(b) “The procedures must detail appropriate performance criteria and standards.” - EIANZ suggests that performance criteria be set out in the EIS and then made part of the approval conditions.

(c) “The construction and operation control and management documents shall be made publicly available on the internet as soon as practicable.” - EIANZ recommends that a specific timeframe should be required.

p.12 - Note to proponent:

“Matters to consider in developing efficient procedures may include but are not necessarily limited to:

(b) “soils, erosion and sediment control (suggested guideline: International Erosion Control Australasia 2008, *Best Practice Erosion and Sediment Control*).” - EIANZ does not understand why this is “suggested” as opposed to “recommended”.