



RIS Ref: DNRME745-1217

File Ref: DOC18/66

22 March 2019

Mr Kahil Lloyd
Manager
Department of Natural Resources, Mines and Energy
Level 5, 1 William Street
BRISBANE QLD 4000

Dear Mr Lloyd

Consultation Regulatory Impact Statement – Development of a levy structure to fund the expanded role of the Office of Groundwater Impact Assessment.

Thank you for your enquiry of 5 January 2018, and further information provided on 11 and 18 January 2018 and 15 and 20 March 2019, regarding whether the Consultation Regulatory Impact Statement (RIS)—*Development of a levy structure to fund the expanded role of the Office of Groundwater Impact Assessment in the mining sector*, is adequate for the purposes of public consultation.

Background

In its submission, the Department of Natural Resources, Mines and Energy (the department) notes the Office of Groundwater Impact Assessment (OGIA) is responsible for undertaking assessments of the cumulative impact on groundwater from the operation of resource tenure holders in Cumulative Management Areas (CMA). The department advises that at present, there is one CMA (Surat). The OGIA has undertaken groundwater impact assessments for petroleum and natural gas tenure holders operating in the Surat CMA for the past eight years.

The department notes that if coal mining is included in the Surat CMA then OGIA is likely to incur additional annual costs of \$0.25 million to \$0.4 million and if a CMA is declared for another region then OGIA is likely to incur additional annual costs of \$1.2 million to \$1.7 million. These cost estimates are preliminary and are based on OGIA's experience in undertaking similar work for petroleum natural gas tenure holders in the Surat CMA.

The OGIA also has functions outside CMAs including an advisory function to the Department of Environment and Science on issues relating to groundwater impacts from resource development across the state and maintenance of relevant data and information. The department advises that the costs associated with OGIA's functions outside CMAs are expected to range from \$150,000 to \$250,000 annually.

The *Water Act 2000* (the Water Act) specifies that the OGIA is to be funded on a cost-recovery basis by way of annual levies, payable by resource tenure holders. The levies are to be:

- based on the amount required to meet the estimated cost of the OGIA performing its functions
- apportioned—where practicable—between resource tenure holders according to the cost of OGIA performing functions that are specific to the tenure holders.

The Water Act requires that OGIA consult with the Expenditure Advisory Committee (EAC) on details of its budget for each financial year. The EAC includes representatives from community groups and industry. Following the EAC's endorsement of OGIA's budget, the responsible minister approves OGIA's budget and annual charges are set under the industry levy.

The Consultation Regulatory Impact Statement (RIS)

The Consultation RIS evaluates three levy options to fund the possible expanded mining related functions of the OGIA within CMAs and two options to fund the OGIA's functions outside CMAs.

The options to fund the OGIA's expanded work in CMAs include:

- Option 1—no mining levy
- Option 2 (suboptions 2a and 2b)—levy is based on the land tenure area for relevant classes of tenures
- Option 3 (suboptions 3a and 3b)—levy is based on the volume of associated water extracted, or projected to be extracted.

Option 2b introduces a levy rate for Mining Lease (ML) holders and a separate levy rate for Mining Development Licence (MDL) holders with an active environmental approval process. The department notes that option 2b better aligns levy costs with the cost of OGIA performing functions specific to the tenure holders. The Consultation RIS concludes that option 2b should be adopted.

The options to fund the OGIA's work outside CMAs include:

- Option 4 — levy based on tenure area outside CMAs
- Option 5 — a flat amount applied to all mining projects that are reporting associated water take above a threshold of 500 megalitres per year.

The Consultation RIS concludes that option 5 should be adopted because it efficiently captures the tenures that drive OGIA's costs, promotes transparency and administrative efficiency and is consistent with the structure of the petroleum and natural gas levy.

The Commission notes the department plans to undertake a post implementation review of the mining functions levy structure in 2021. For administrative efficiency, the review will occur at the same time as the review of the petroleum and gas levy structure. OGIA will also monitor and report on the efficacy of the levy to the EAC on an annual basis.

Assessment

The Queensland Productivity Commission (the Commission) has assessed the department's Consultation RIS, and considers it adequate for the purposes of public consultation. The Commission considers:

- the purpose of the RIS and the objectives of government action are clearly presented
- the different levy options are evaluated and there is discussion of why option 2b and option 5 are the preferred levies.

Typically, Consultation fees RISs include a transparent breakdown of costs to be recovered, as well as an estimate of the value of a proposed charge. While the Consultation RIS does not provide a detailed cost estimate, the Commission notes the requirement for EAC to endorse OGIA's budget each year. Given this level of annual scrutiny and transparency over the running costs of the OGIA, the Commission is satisfied with the high-level cost

estimates provided. The Commission is also aware of the degree of uncertainty regarding the OGIA's future work load, and considers the Consultation RIS's focus on different methods of cost-recovery is appropriate.

The Commission considers that consultation with stakeholders will assist in further development of the proposal. Consistent with the Queensland Government Guide to Better Regulation (the guidelines), the Consultation RIS and this letter of adequacy will be published on the Commission's website once the RIS is approved, by Cabinet, for release. After consultation has concluded, a Decision RIS incorporating the consideration of public comments should be provided to the Commission for assessment before the matter is referred to Cabinet for decision.

Please contact Dominic O'Neill, Senior Analyst, on 3015 5164 should you require any additional information or guidance in relation to the above comments or the guidelines in general.

Yours sincerely

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

Christine Tozer
Team Leader