

Explanation of the intended effect of the proposed *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Resource Significance) 2013*

The following information is provided as an explanation of the intended effect under section 38 of the *Environmental Planning and Assessment Act 1979* (the Act) of the draft *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Resource Significance) 2013* (the proposed SEPP).

The proposed SEPP will amend the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* (the Mining SEPP) to introduce provisions related to the determination of development applications (DAs) under Part 4 of the Act for mining proposals.

The primary purpose of the proposed SEPP is to ensure that where mineral resources are demonstrated to be significant to the State, they are given greater consideration in the assessment of DAs. This is to be achieved through the proposed SEPP by:

- acknowledging the relative significance of each mineral resource to the State and to regions, based on economic benefits, as well as strategic considerations such as alignment with infrastructure provision and inter-dependencies with other industries and developments;
- ensuring that the balancing of other considerations under the SEPP is done in a manner which is proportionate to the relative significance of the resource; and
- establishing clear environmental and amenity criteria for resource proposals which are deemed to be acceptable standards.

CONTENT OF PROPOSED SEPP

The proposed SEPP will introduce the following provisions in relation to mining development proposals:

- a new aim (in clause 2 of the Mining SEPP) to promote the development of significant mineral resources, and give the aims of the SEPP effect when a consent authority determines a mining DA;
- making the 'significance of the resource' the consent authority's *principal* consideration under Part 3 of the Mining SEPP when determining a resource DA, and setting out the matters which will assist the consent authority in establishing the resource's relative significance in comparison with other resources across the State;
- identifying non-discretionary development standards under the provisions of section 79C of the Act addressing the following matters - noise, air quality, airblast overpressure, ground vibration and aquifer interference;
- clarifying in the SEPP that these standards will, when satisfied, prevent a consent authority from refusing consent to the development on the specific grounds to which the standard relates, but will not prevent a consent authority from regulating the development on other grounds;
- ensuring that a consent authority considers any certification by the Chief Executive of the Office of Environment and Heritage that measures to mitigate or offset biodiversity impacts of the proposed development will be adequate; and
- minor administrative amendments to improve the structure of the instrument.

Planning Changes for the Resources Industry



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Frequently Asked Questions

July 2013

WHY ARE CHANGES NECESSARY TO THE PLANNING POLICY ON MINING?

- There is increasing uncertainty in the community, local councils and the mining industry about how decisions are made on major mining proposals.
- The assessment of major projects in NSW has **always been** about balancing the economic and employment significance of the projects, against any potential environmental, amenity or social impacts and the ability to mitigate these potential impacts. The department has always made the significance of the mineral resource a clear, upfront consideration during the assessment.
- However, there is currently no clear statutory policy that sets out the need to also balance the economic significance of the proposal against these other issues at the decision-making stage.
- The mining industry is a major employer in NSW and this continued uncertainty has the potential to adversely affect job security throughout the industry. The resources sector delivered \$23 billion to the NSW economy in 2011–12 and supported 35,000 jobs directly and 86,000 jobs indirectly – many in rural and regional areas.

WHAT CHANGES ARE BEING PROPOSED?

- The NSW Government is seeking public feedback on changes designed to increase certainty about how decisions are made on mining proposals.
- These changes will make it clear that the economic significance of the resource to the state – whether it is of major significance or minor significance – must be considered as an important, but **not the only factor**, in the decision-making process.
- The approach will equally apply to projects where there is low economic significance which is outweighed by severe local impacts.
- The changes also stipulate the key environmental, ecological and amenity criteria to protect water resources, habitat and amenity, potentially affected by these proposals.
- The changes also elevate the importance of advice received from the Office of Environment and Heritage, by making it necessary for the consent authority to consider any advice which has been received from OEHL on biodiversity mitigation and offset measures relating to the project.

WHAT PROJECTS ARE COVERED BY THESE PROPOSED CHANGES?

- The changes only affect mining projects, such as coal mining or mining of other minerals and precious metals such as gold or silver mines.

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HOW WILL THESE CHANGES BE INTRODUCED?

- They will be implemented via amendments to the State Environmental Planning Policy (*Mining, Petroleum Production and Extractive Industries*) 2007 – known as the Mining SEPP.

WHO ARE THE DECISION MAKERS FOR THESE PROPOSALS?

- Most mining proposals are assessed as state significant development (SSD) and are determined by the independent experts at the Planning Assessment Commission, under delegation from the Minister for Planning and Infrastructure.
- All proposals go through a comprehensive merit assessment process which involves extensive community consultation. The PAC also holds public meetings and public hearings.

HOW WILL THE SIGNIFICANCE OF THE RESOURCE PROJECT TO THE STATE BE MEASURED?

- The Department of Trade and Investment, Regional Infrastructure and Services (DTIRIS) will advise the decision maker on the relative significance of the resource in comparison with other resources across the state, by looking at:
 - the size, quality and availability of the resource
 - proximity to existing infrastructure
 - the relationship of the resource to any existing mine, petroleum production facility or extractive industry
 - the dependency of other industries on the resource project.
- Determining the significance of the resource includes consideration of the broad public benefits, including social as well as economic benefits to NSW. Many rural and regional towns rely on the employment, population numbers, economic activity and contribution towards local infrastructure that mining provides.
- The changes will ensure the decision maker has to consider these broad benefits to the state and the region in which it is located as an important factor.

DOES THIS MEAN ALL MINING PROJECTS WILL BE APPROVED?

- All mining proposals will continue to be subjected to a rigorous assessment process and will be decided on their merits, including consideration of environmental, social and economic impacts, submissions received on the DA and the public interest.
- Projects can still be refused where the merit assessment process indicates that the potential impacts of the project are not sufficiently mitigated or balanced by the benefits.

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HOW WILL THE IMPACTS ON RESIDENTS AND THE ENVIRONMENT BE MEASURED?

- The amendments establish clear development standards on what the appropriate standards are for projects to satisfy.
- The standards establish criteria for noise, air quality, air blast overpressure, ground vibration and aquifer interference. These standards are consistent with longstanding policies and guidelines developed by the NSW Government for these purposes.
- The policy changes make clear that if the strict standards are met, a proposal can not be refused on those grounds.
- The amendments also include a new requirement for decision makers to consider any advice from the Office of Environment and Heritage about the adequacy of the proposal to mitigate or offset impacts on biodiversity.
- This requirement is in addition to the need for the decision maker to consider whether conditions should be applied to avoid or minimise impacts on water resources, threatened species, biodiversity, and greenhouse gas emissions.

WHAT HAPPENS IF THESE PROPOSALS DO NOT MEET THE DEVELOPMENT STANDARDS?

- Where a project is unable to meet the standards, the proposal will undergo the rigorous merit assessment which has always applied to mining projects.
- The assessment would need to be able to demonstrate how the potential impacts could be mitigated.
- Additional conditions can be imposed by the consent authority to ensure that amenity impacts – such as air quality, noise, vibration or water impacts – are sufficiently monitored, managed and mitigated.

WHEN WILL THE AMENDMENTS APPLY TO MINING PROJECTS?

- Any submissions will be considered before a recommendation is made to the Minister for Planning and Infrastructure. The amendments will require the Minister's approval before they are introduced.
- Once the amendments are introduced, **all proposals not yet determined** will be subject to the amendments. This includes applications which have not yet been lodged, and those where the assessment process is already underway.

EXHIBITION DETAILS

- The amendments to the Mining SEPP can be viewed on the department's website at: www.planning.nsw.gov.au/proposals

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Frequently Asked Questions

- Comments can be made until **Monday 12 August 2013**:
 - online at www.planning.nsw.gov.au/proposals
 - by email to plan_comment@planning.nsw.gov.au
 - by mail to Director, Policy Systems and Procedures, Development Assessment Systems and Approvals, Department of Planning and Infrastructure, GPO Box 39, SYDNEY NSW 2001.
- Comments will be published online at www.planning.nsw.gov.au/proposals
- Names and addresses will be withheld if requested. Please ensure your personal details are not included on the documents you lodge if you do not want to be identified.

FURTHER INFORMATION

- To find out more, including our policy on publishing submissions:
 - visit the website at www.planning.nsw.gov.au/proposals
 - call 1300 305 695 or
 - email information@planning.nsw.gov.au



8 August 2013

Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Sir

Re: State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Resource Significance) 2013

The mining industry is the lifeblood of the Lithgow community and economy, for this reason I would like to support the proposed amendments to the SEPP.

In recent years the Lithgow community has had to endure the uncertainty surrounding several mining applications that appear to have stalled at government levels due to the uncertainty of the expectations of various government departments. This area, and the state of NSW, needs to have a good strong future and mining can be a part of that future.

I feel that it is essential that all parties know what the standards and expectations are including:

- ensuring that the significance of the resource is considered in the decision making process
- stipulating what the key environmental, ecological and amenity criteria are to protect the environment
- ensuring that economic and environmental issues are properly balanced

The process to date has been disappointing in that mining companies have had uncertainty around these issues thus making it very difficult to predict the outcome.

In my opinion if the companies meet the predetermined standards then they should be approved. If they do not meet these standards then the approvals should be refused.

Yours sincerely

Clr Maree Statham
MAYOR

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