



New South Wales

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

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

BRAD HAZZARD, MP
Minister for Planning and Infrastructure

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1 Name of Policy

This Policy is *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Resource Significance) 2013*.

2 Commencement

This Policy commences on the day on which it is published on the NSW legislation website.

3 Repeal of Policy

- (1) This Policy is repealed on the day following the day on which this Policy commences.
- (2) The repeal of this Policy does not, because of the operation of sections 5 (6) and 30 of the *Interpretation Act 1987*, affect any amendment made by this Policy.

Schedule 1 Amendment of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

[1] Clause 2 Aims of Policy

Insert after clause 2 (b):

- (b1) to promote the development of significant mineral resources, and

[2] Clauses 12AA and 12AB

Insert before clause 12 in Part 3:

12AA Significance of resource

- (1) In determining an application for consent for development for the purposes of mining, the consent authority must consider the significance of the resource that is the subject of the application, having regard to:
 - (a) the economic benefits, both to the State and the region in which the development is proposed to be carried out, of developing the resource, and
 - (b) any advice by the Director-General of the Department of Trade and Investment, Regional Infrastructure and Services as to the relative significance of the resource in comparison with other mineral resources across the State.
- (2) The following matters are (without limitation) taken to be relevant for the purposes of subclause (1) (a):
 - (a) employment generation,
 - (b) expenditure, including capital investment,
 - (c) the payment of royalties to the State.
- (3) The Director-General of the Department of Trade and Investment, Regional Infrastructure and Services is, in providing advice under subclause (1) (b), to have regard to such matters as that Director-General considers relevant, including (without limitation):
 - (a) the size, quality and availability of the resource that is the subject of the application, and
 - (b) the proximity and access of the land to which the application relates to existing or proposed infrastructure, and
 - (c) the relationship of the resource to any existing mine, and
 - (d) whether other industries or projects are dependent on the development of the resource.
- (4) In determining whether to grant consent to the proposed development, the significance of the resource is to be the consent authority's principal consideration under this Part.
- (5) Accordingly, the weight to be given by the consent authority to any other matter for consideration under this Part is to be proportionate to the importance of that other matter in comparison with the significance of the resource.
- (6) To avoid doubt, the obligations of a consent authority under this clause extend to any application to modify a development consent.

12AB Non-discretionary development standards for mining

- (1) The object of this clause is to identify development standards on particular matters relating to mining that, if complied with, prevents the consent authority from requiring more onerous standards for those matters (but that does not prevent the consent authority granting consent even though any such standard is not complied with).
- (2) The matters set out in this clause are identified as non-discretionary development standards for the purposes of section 79C (2) and (3) of the Act in relation to the carrying out of development for the purposes of mining.
Note. The development standards do not prevent a consent authority from imposing conditions to regulate project-related noise, air quality, blasting or ground vibration impacts that are not the subject of the development standards.
- (3) **Cumulative noise level**
The development does not result in a cumulative amenity noise level greater than the acceptable noise levels, as determined in accordance with Table 2.1 of the Industrial Noise Policy, for residences that are private dwellings.
- (4) **Cumulative air quality level**
The development does not result in a cumulative annual average level greater than 30 $\mu\text{g}/\text{m}^3$ of PM_{10} for private dwellings.
- (5) **Airblast overpressure**
Airblast overpressure caused by the development does not exceed:
 - (a) 120 dB (Lin Peak) at any time, and
 - (b) 115 dB (Lin Peak) for more than 5% of the total number of blasts over any period of 12 months,measured at any private dwelling or sensitive receiver.
- (6) **Ground vibration**
Ground vibration caused by the development does not exceed:
 - (a) 10 mm/sec (peak particle velocity) at any time, and
 - (b) 5 mm/sec (peak particle velocity) for more than 5% of the total number of blasts over any period of 12 months,measured at any private dwelling or sensitive receiver.
- (7) **Aquifer interference**
Any interference with an aquifer caused by the development does not exceed the respective water table, water pressure and water quality requirements specified for item 1 in columns 2, 3 and 4 of Table 1 of the Aquifer Interference Policy for each relevant water source listed in column 1 of that Table.
Note. The taking of water from all water sources must be authorised by way of licences or exemptions under the relevant water legislation.
- (8) The Minister is to review a non-discretionary development standard under this clause if a government policy on which the standard is based is changed.
- (9) In this clause:
Aquifer Interference Policy means the document entitled *NSW Aquifer Interference Policy* published by the NSW Office of Water, Department of Primary Industries and in force as at the commencement of this clause.

Industrial Noise Policy means the document entitled *NSW Industrial Noise Policy* published by the Environment Protection Authority and in force as at the commencement of this clause.

PM₁₀ means particulate matter less than 10 µm in aerodynamic equivalent diameter.

private dwelling means residential accommodation owned by a person other than a public authority or a company operating a mine.

sensitive receiver means a hospital, school classroom, child care centre or place of public worship.

[3] Clause 14 Natural resource management and environmental management

Insert after clause 14 (2):

- (3) Without limiting subclause (1), in determining a development application for development for the purposes of mining, the consent authority must consider any certification by the Chief Executive of the Office of Environment and Heritage or the Director-General of the Department of Primary Industries that measures to mitigate or offset the biodiversity impact of the proposed development will be adequate.

[4] Clause 20

Insert after clause 19:

20 SEPP to be reviewed by Minister

The Minister is to arrange for this Policy to be reviewed (and a report of the review made public) before the end of September 2015.