



PLANNING SYSTEM

State environmental planning policies

Circular	PS 07-005
Issued	22 February 2007
Related	

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

This circular is to advise mining, petroleum production and extractive industries, councils, developers and the community of the gazettal of a policy to regulate mining, petroleum production and extractive industries in NSW.

Introduction

On Friday 16 February 2007, the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 was gazetted. The SEPP consolidates and updates many existing planning provisions related to mining, petroleum production and extractive industries as well as introducing new provisions to ensure that potential environmental and social impacts are adequately addressed during the assessment and determination of development proposals.

The SEPP complements reforms made in August 2005 to improve the relationship between the *Mining Act 1992* and the *Environmental Planning and Assessment Act 1979* (EP&A Act) in the assessment and approval of mines. These amendments revoked the provisions that allowed mines to expand without the need for a transparent assessment of their impacts or consent under the EP&A Act once a mining lease had been granted.

The Department of Planning has been developing initiatives for improved practices and performance of the mining, petroleum production and extractive industries to avoid, minimise or manage impacts on communities and the environment. Along with the SEPP, it is intended that these and other initiatives will lead to improved environmental performance and increased community participation throughout the development assessment and approval process.

The SEPP has been developed in consultation with relevant NSW agencies, the Local Government and Shires Associations, Association of Mine Related Councils, environmental groups and industry representatives.

Application and aims of the SEPP

The SEPP applies State-wide. The SEPP aims to provide for the proper management and development of mining, petroleum production and extractive material resources; to facilitate the orderly use and development of areas where the resources are located; and, to establish appropriate planning controls to encourage sustainable management of these resources.

Land-use compatibility

An assessment of land-use compatibility is now required as part of an application for a new mine, quarry or petroleum production facility. In addition, a land-use compatibility assessment will also be required for any proposed development adjacent to an existing mine, quarry or petroleum production facility or development on land identified as containing minerals, extractive materials or petroleum resources.

The assessment will be used to determine the potential for land-use conflict and land-use constraint in respect to adjacent land uses.

Natural resource and environmental management

The SEPP highlights some key natural resource and environmental management issues that must be addressed when assessing new mining, petroleum production and extractive industries proposals, including:

- impacts on significant water resources, including surface and groundwater resources
- impacts on biodiversity including threatened species
- greenhouse gas emissions (including downstream emissions) having regard to any applicable State or national policies, programs or guidelines concerning greenhouse gas emissions.

Efficient resource recovery

The SEPP requires that the efficiency of resource recovery must be considered when assessing a development application for a mine, quarry or petroleum production facility, to ensure that:

- important primary resources are not wasted through poor operational practices
- reuse and recycling of materials are promoted
- the creation of waste from the extraction and processing of materials is minimised.

Managing transport impacts

Existing State Environmental Planning Policy No. 11 – Traffic Generating Developments provisions have been integrated into the new SEPP. In addition, the new SEPP aims to:

- promote the use of rail or conveyor transport as an alternative to transporting material by road
- limit or prevent truck movements along roads in residential areas or near schools
- require the preparation and implementation of a code of conduct for truck drivers transporting materials on public roads to improve road safety outcomes.

Site rehabilitation

Rehabilitation strategies will be required upfront for all mines, quarries and petroleum production sites as part of the development approval process.

Consolidating, updating and clarifying permissibility provisions

The SEPP provides a clear direction for the assessment of mining, petroleum production and extractive industry proposals. It cuts red tape by combining a number of existing policies (SEPP No. 37 – Continued Mining and Extractive Industries, SEPP No. 45 – Mining Permissibility) into one consistent set of rules.

The new policy includes provisions for:

- prohibited development
- permissible development
- complying development
- exempt development.

The SEPP provides for the prohibiting of specified mining, petroleum and extractive industry development. The SEPP allows the Government to override existing or proposed mining leases and any other environmental planning instruments to prohibit new mines in specified areas. Schedule 1 lists as prohibited open cut mining within the Lake Macquarie local government area. Despite the provisions of any other environmental planning instrument, development listed in Schedule 1 of the SEPP cannot be carried out with or without development consent.

Transitional arrangements

The SEPP does not apply to or with respect to an application for development consent under Part 4 or an approval under Part 3A of the EP&A Act that has been made but not finally determined before 16 February 2007.

Further information

A copy of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 is available from the Parliamentary Counsel Office's website at www.legislation.nsw.gov.au.

Note: This and other Department of Planning circulars are published on the web at www.planning.nsw.gov.au/planningsystem/practicenotes.

Authorised by:

Sam Haddad
Director General

Important note

This circular does not constitute legal advice. The information is provided as a basic summary only. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

© State of New South Wales through the Department of Planning
www.planning.nsw.gov.au

Disclaimer: While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agencies and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.