

# Implementation of revised VLAMP - State significant resource projects

## ○ Frequently Asked Questions

September 2018

### **Voluntary Land Acquisition and Mitigation Policy (VLAMP)**

#### What is the VLAMP?

- The Voluntary Land Acquisition and Mitigation Policy (VLAMP) was first published in December 2014. It explains the Government's policy for how voluntary acquisition and mitigation rights can be granted to properties that are affected by air and noise pollution from State significant mining, coal seam gas and extractive industry projects.
- Clause 12A of the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (Mining SEPP) requires consent authorities to consider the air and noise impact assessment criteria in the VLAMP.

#### Why are voluntary acquisition and mitigation rights granted to affected landholders?

- State significant resource projects can have significant benefits to the State economy, however some air and noise impacts from these developments are unavoidable.
- Granting voluntary acquisition and mitigation rights is one of the tools the government uses to manage the impacts of State significant development projects and provide protections to affected landholders.

#### Does the grant of acquisition rights mean the landholders must sell their land?

- No. If granted, acquisition rights can be used by the landholder at any time by writing to the relevant mining company. The company must then provide an offer to purchase the land – this is required as a condition of the development consent.
- The VLAMP provides more detail on how the voluntary acquisition process works.
- Alternatively, the landholder and company may negotiate an agreement for arrangements that are more suitable to both parties.

#### How is the acquisition price determined?

- The VLAMP has been revised to better define the process for determining an appropriate acquisition price.
- Either party is able to refer the matter to the Secretary of the Department of Planning and Environment for review. The Secretary will engage an independent valuer to assess the land and determine a fair price. Further details are provided in the VLAMP.
- It is still up to the landholder to choose whether to accept any acquisition offer.

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### Why has the VLAMP been revised?

- In 2017, the Environment Protection Authority (EPA) updated the *Approved Methods for Modelling and Assessment of Air Pollutants in NSW* (the Approved Methods) and the *Noise Policy for Industry* (NPfI) to include revised assessment criteria for air quality and noise respectively.
- The updates to these policies triggered a review of the VLAMP.
- The review of the VLAMP included the updated assessment criteria for air and noise pollution standards. The review also clarified aspects of the existing VLAMP in consideration of stakeholder comments and submissions.
- The review of the VLAMP did not consider options that required legislative amendments or retrospective changes to existing consent conditions.

### What changes have been made to the VLAMP?

The key changes to the VLAMP are:

- Inclusion of the EPA's revised assessment criteria for air and noise quality impacts:
  - air quality assessment criteria have been tightened, with the annual assessment criteria for coarse particles (PM<sub>10</sub>) changing from 30 µg/m<sup>3</sup> to 25 µg/m<sup>3</sup>, and the introduction of new criteria for fine particles (PM<sub>2.5</sub>) at 25 µg/m<sup>3</sup> (24-hour average) and 8 µg/m<sup>3</sup> (annual average);
  - noise criteria have been adjusted to align with the NPfI, however no changes to cumulative noise levels were made and strong night-time noise protections were maintained.
- clearer and more thorough explanations of policy related to:
  - acquisition and mitigation operational processes;
  - the valuation of land that is to be acquired; and
  - the regulation of impacts on land subject to acquisition rights.

The Department has prepared a [submissions report](#) that provides more detail on changes that have been made in response to submissions.

### Why weren't there more significant changes to the VLAMP?

- The Department considered stakeholder input and determined that the issues and concerns raised could be addressed through improved explanations and clarifications of the existing policy.
- The changes were limited because the current system was considered to appropriately balance stakeholder interests.

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### What applications does the revised VLAMP apply to?

- The revised VLAMP will apply to:
  - new applications made after the policy has been commenced
  - existing applications that were not yet determined when the policy commenced
  - modification proposals that involve increases to the approved air or noise impacts of a development
- If a modification proposal does not increase the approved air or noise impacts, the revised VLAMP will not be applied. The new acquisition and mitigation rights will only be applied where a modification proposal will increase current impacts, even if the current impacts exceed the assessment criteria.
- The VLAMP is applied through the conditions of a development consent. A development consent cannot be changed unless the project owner applies for a modification. As such, the VLAMP cannot be applied retrospectively, only to new development applications.

### What else is the government doing to support landholders?

- The Department is currently exploring options for better guidance on negotiated agreements and dispute resolution mechanisms to support interactions between landholders and industry.

## Mining SEPP Amendments

### What are the associated Mining SEPP amendments?

- Amendments to the Mining SEPP are required to implement the EPA's updated assessment criteria and the revised VLAMP:
  - (1) Clause 12AB of the Mining SEPP prevents the consent authority from applying more onerous standards than the non-discretionary standards for cumulative noise and air quality levels. The non-discretionary standards within clause 12AB needed to be amended to ensure they are consistent with the EPA's revised assessment criteria for cumulative air quality levels. These changes are:
    - an amendment to update the non-discretionary standard for cumulative air quality for coarse particles (PM<sub>10</sub>) from 30ug/m<sup>3</sup> to 25ug/m<sup>3</sup>
    - an amendment to include the new criteria for fine particles (PM<sub>2.5</sub>) of 8 ug/m<sup>3</sup>.
  - (2) Clause 12A of the Mining SEPP requires consent authorities to consider any applicable provisions of the VLAMP before determining an application for consent. Clause 12A required an amendment to give effect to the revised VLAMP by ensuring the Mining SEPP references the revised version of the VLAMP. The consent authority will now be required to consider the revised version of the VLAMP when making a determination.

### Who do the changes apply to?

- As for the revised VLAMP, the changes to the Mining SEPP will apply to:

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### Where can I find out more?

- Call on 1300 305 695
- If English isn't your first language, please call 131 450. Ask for an interpreter in your language and then request to be connected to our Information Centre on 1300 305 695.
- Email [\*\*information@planning.nsw.gov.au\*\*](mailto:information@planning.nsw.gov.au)