Department of Planning, Housing and Infrastructure

Practice Note

Mining, Petroleum Production and Extractive Industries

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Related	Replaces Planning Circular PS 21-017

Introduction

This Practice Note is to provide advice on the policy to regulate mining, petroleum production and extractive industries in NSW.

Chapter 2: Mining, petroleum production and extractive industries of the *State Environmental Planning Policy (Resources and Energy) 2021* (the SEPP) includes provisions related to mining, petroleum production and extractive industries which aim 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 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 determination of mines. These reforms revoked 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 SEPP provides a clear direction for the assessment of mining (both open cut and underground operations), petroleum production and extractive industry proposals and includes provisions for:

- prohibited development;
- permissible development;
- complying development; and
- exempt development

Application and aims of chapter 2 of the SEPP

The SEPP applies across the State, and aims to:

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

Prohibition of certain development

The SEPP prohibits specified mining, petroleum production and extractive industry development.

These development types are listed in Schedule 1 to the SEPP and cannot be carried out with or without development consent, despite the provisions of any other environmental planning instrument.

Land-use compatibility

An assessment of land-use compatibility is required as part of an application for a new mine, quarry or petroleum production facility. In addition, a land-use compatibility assessment is also 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.

These assessments are used to determine the potential for land-use conflict and land-use constraint in respect of 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; and
- 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; and
- the creation of waste from the extraction and processing of materials is minimised.

Voluntary Land Acquisition and Mitigation Policy

Section 2.18 of the SEPP requires the consent authority to consider the Voluntary Land Acquisition and Mitigation Policy (VLAMP) (revised September 2018) before determining an application. The VLAMP outlines the Government's policy for voluntary mitigation and land acquisition actions undertaken to address noise and dust impacts from State significant mining, petroleum and extractive industry developments.

Strategic agricultural land

New provisions and maps were added to the SEPP in 2013 that identify certain areas as "strategic agricultural land".

In these areas, a development application for mining or petroleum development must be supported by either a gateway certificate or site verification certificate that certifies that the land on which the proposed development is to be carried out is not biophysical strategic agricultural land in accordance with section 30 of the *Environmental Planning and Assessment Regulation 2021*.

The assessment and certification requirements for mining and petroleum development on strategic agricultural land are contained within Part 4AA of the SEPP.

Coal seam gas

The 2013 amendments to the SEPP also added specific references to coal seam gas development and identified exclusion and buffer zones where this type of development is prohibited.

Site rehabilitation

Rehabilitation strategies are required upfront for all mines, quarries and petroleum production sites as part of the development approval process. The SEPP also requires the consent authority to consider whether an approval should be subject to certain conditions aimed at ensuring rehabilitation of the land affected by the development.

Further information

For further information please contact Service NSW on 13 77 88.

Authorised by:

Madeleine Thomas

A/Deputy Secretary Development Assessment & Sustainability

Department of Planning, Housing and Infrastructure

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