

Namoi Water

Submission on State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 and State Environmental Planning Policy (State and Regional Development) 2011



Namoi Water: Supporting sustainable water use in the Namoi Catchment and representing water users in the Peel, Upper and Lower Namoi Catchment Area.

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Namoi Water commends the NSW Government's efforts to review State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (SEPP Mining) and State Environmental Planning Policy (State and Regional Development) 2011 (SEPP SRD). It is essential that a balanced outcome prevails with consideration of the interests of agriculture and those of the expanding extractive industries.

Namoi Water represents regulated, unregulated and groundwater users in the Peel, Upper and Lower Namoi valley. Our members are major contributors to the sustainability of local towns and the region's economic development. As employers of a significant workforce, collectively our members' contribution is well documented in the multiplier effect in terms of economic value.

The explanation of the intended effect of these changes to the SEPPs that related to mining and gas exploration suggest that the impacts will be minor but will give certainty to the mining and gas industries. According to the information on the NSW Planning website the proposed amendments are designed to:

- clarify the application of the 'five wells rule', which determines when the drilling of coal seam gas exploration wells requires development consent;
- clarify the types of modifications that are subject to CSG exclusion zones;
- update the date to which the Mining and Petroleum Gateway process applies to proposals in areas of the State other than the Upper Hunter and New England North West Strategic Regional Land Use Plan regions; and
- rectify minor mapping anomalies

The amendments relate changes to the SEPP (Mining, Petroleum Production and Extractive Industries), SEPP (State and Regional Development) and to amend the Environmental Planning and Assessment Act 1979 (EP&A Act).

As the main changes relate to the Mining SEPP much of this submission will relate to this SEPP.

In relation to *Clause 20 (1B) (b) (the Minister or consent authority who gives the approval or consent to the modification is satisfied that the coal seam gas development authorised by the modification is of minimal environmental impact)* clarification on what is meant by minimal environmental impact is needed. As much of the development is not visible from the surface the environmental impact may not be really apparent, in particular the impact on groundwater sources. Without a comprehensive study of the proposed changes on the hydrology of the area the potential impacts cannot be considered minimal.

Another implication of this change is the changes to the consent conditions in relation to vegetation management and rehabilitation plans. The FAQ fact sheet affirms that the allowable changes will be minor. What sort of minor changes will be permissible? In regard to a rehabilitation plan, will this mean changes in the species used or will it mean that a different process or reporting regime will be used. If the present process for rehabilitation is not working, for example, then the proponent of the development should be required to allow public comment on the new rehabilitation plan so that new ideas can be explored and the community can be reassured that when the extraction has been completed the landscape is fully rehabilitated.

Clause 20 (1B) (c) any development so authorised that involves the drilling or operation of a petroleum well relates to a well that was approved as at 3 October 2013 as part of development of a kind referred to in subclause (1A) (a) or (b) and does not result in any

increase in the depth or lateral extent of the well. This Clause has the potential to allow new laterals to be drilled in any direction, or at shallower depths, without a new Environmental Impact Statement (EIS) as long as the new laterals are not deeper or extent longer than approved well. How can the approving authority be sure that the impacts on increasing the number of laterals, or height, will not have adverse impacts? Will this additional extraction increase the rate of draw down on the surrounding aquifers? Studies to date have shown that some draw down will occur over a geological time; impact on drawdown if more laterals are drilled? A better understanding of what is defined as a well also needs to be explored. Is a well just one vertical shaft with one lateral? Is a well a vertical shaft with a specified or unspecified number of laterals at either the same depth or different depths? What happens when the vertical shafts are linked with laterals? The amendments need to clarify the definition of a well to give certainty to what is being constructed.

In relation to the changes to the SRD SEPP; development is State Significant development if the development is for production or exploration wells that are made up of a set of more than 5 wells and the distance from the geometric centre is less than 3km from any other petroleum well (other than an abandoned petroleum well) in the same petroleum title. The amendments need to clarify what is meant by 5 wells, what distance between wells is allowed for a set? It could be possible for arrange sets of 5 wells to overlap with the geometric centres outside the 3 km zone. Can sets of wells overlap as long as the geometric centres of each group of 5 wells are more than 3km apart?

The transitional arrangements of changes to the Mining SEPP, SRD SEPP and the EP&A Act relates to the dates at which they come in to force. The aim of the changes should be to insure that all applications for exploration and production have to comply with the same rules and they are applied fairly. Originally applications submitted before 10 September 2012 were exempt from the strategic agricultural land restrictions, this has now been modified to land not shown on Strategic Agricultural Land Maps dated before 28 January 2014. If the application was only for a concept plan then this rule will still apply. This has the effect that concept plans which intrude onto land now considered to be within the exclusion zones can still be explored and production licences issued. Does this give the protected that updating the exclusion zones implied? Concept plans often do not include extensive investigations of the impact of the development as this would be included in the future final application. Although it is acknowledge that these concept plans other approvals have been issued in good faith, the inclusion of additional land in the exclusion zones implies that the community has an expectation that no development will occur in these zones, or if allowed it would be required to comply with the new updated rules.

The aim of the amendments is to bring certainty to the industry. This should not be at the expense of community expectation that the sustainability of the environment will not be compromised. Community concern of the impacts of extractive industries on other industries and the wider environment requires that proponents of this type of development are encouraged to be transparent and the impact clearly stated. Namoi Water cannot support the amendments until the Government provides clarity around the issues raised as they are potential allow loopholes.