



Planning for growing NSW

Changes to planning rules to introduce land acquisition and mitigation policy for mining

WHY IS THE NSW GOVERNMENT INTRODUCING A LAND ACQUISITION AND MITIGATION POLICY FOR MINING PROPOSALS?

- The NSW Government has developed a Land Acquisition and Mitigation Policy to formalise protection for landowners from the impacts of noise and dust from State significant mining, petroleum and extractive industry developments in NSW.
- The Policy sets out how the need for voluntary mitigation and acquisition is to be assessed and determined.
- It specifies the criteria used to assess the need for voluntary mitigation or acquisition due to noise and dust impacts on adjoining landowners.
- The Policy outlines the steps that should be followed where the criteria cannot be met.
- The process for voluntary negotiations between a proponent and landowner/s for mitigation works or the purchase of affected land are specified.
- The NSW Government is seeking feedback on the Policy which will be introduced via an amendment to the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.

WHY DO WE NEED A LAND ACQUISITION AND MITIGATION POLICY?

- The Government has maintained long-standing processes for dealing with the impacts of mining activities on adjoining landowners and these processes have now been formalised in a Policy.
- The Policy aims to ensure that landholders are properly protected from adverse noise and dust impacts, and that industry is clear about the planning and assessment rules that apply to mining developments.
- The Policy will provide guidance to the community, industry and decision-making bodies such as the Planning Assessment Commission about these issues.

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Frequently Asked Questions

November 2014

WHAT DOES THE LAND ACQUISITION AND MITIGATION POLICY DO?

- The Policy sets out:
 - that industry needs to apply all reasonable and feasible measures to minimise noise and dust impacts;
 - the measures that need to be offered to affected landholders when impacts are marginal or moderate (but within approval limits);
 - the circumstances in which the proponent will need to offer to acquire land from affected landholders to protect those landholders and establish a buffer zone; and
 - when noise and dust impacts are considered to be significant enough to warrant mitigation or acquisition.
- The Policy does not require landowners to sell their property against their wishes.

WHY IS THE POLICY BEING INTRODUCED NOW?

- The Government has had long-standing processes in place for land acquisition and mitigation associated with mining developments.
- The Government has now formalised its Policy.

WHEN WOULD VOLUNTARY NEGOTIATIONS ABOUT LAND ACQUISITION TAKE PLACE BETWEEN THE PROPONENT AND THE LANDOWNER/S?

- The Policy puts the onus on the proponent to identify the dust and noise impacts on adjoining landowners of their mining proposal - upfront, as part of their Environmental Impact Statement.
- If it is clear that impacts cannot be managed adequately then the proponent can consider negotiating with affected landowners prior to submitting a development application.
- If the opportunity is not taken at this point then the determining authority can apply this requirement through conditions when it is determining the proposal.



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HOW CAN ADJOINING LANDOWNERS BE CONFIDENT THEY WILL RECEIVE A REASONABLE OFFER?

- The proponent is obliged to provide a reasonable offer for the land, which is at least equal to that calculated under the *Land Acquisition (Just Terms Compensation) Act 1991*.
- The offer will have to be made on the basis that the land is not affected by the mine development.
- A landowner may choose not to sell their property and may instead enter into other arrangements with the proponent.

WHAT HAPPENS IF AGREEMENT CANNOT BE REACHED?

- The policy sets out processes for dispute resolution where landholders and mining companies cannot reach agreement.

WHAT STANDARDS ARE BEING APPLIED TO NOISE AND DUST?

- The Policy refers to noise and dust policy and guidelines that are used by the Environment Protection Authority (EPA) to assess the potential impact of a proposal.
- The Policy specifies the mitigation or acquisition criteria and defines a framework for dealing with circumstances where the assessment criteria cannot be met, despite the implementation of all reasonable and feasible avoidance and mitigation measures.
- Where a proposal has residual impacts above the assessment criteria, then the consent authority will consider the social, economic and environmental costs and benefits of the project as a whole, including the extent of any residual impacts on land holders and the mitigation measures that have been put in place (including negotiated agreements).
- The consent authority may then consider whether to approve the proposal with voluntary land acquisition and/or mitigation rights in accordance with the policy.

WHAT DOES THE POLICY APPLY TO?

- The Policy applies to all State significant mining, petroleum and extractive industry developments that have not yet been approved.
- The policy will not directly apply to existing operations, other than where a development modification is lodged.

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WHO WILL ADMINISTER THE POLICY?

- The policy is a whole-of-Government policy, but will be administered by the Department of Planning and Environment.

WILL THE POLICY BE REVIEWED?

- The Policy sets out existing NSW Government practice.
- It will be revised following the finalisation of reviews of Commonwealth and NSW noise and dust standards, which are likely to occur in 2015.

WHEN WILL THE POLICY BE INTRODUCED?

- This is subject to consideration of submissions from the public exhibition, a report to the Minister for Planning, and the Minister's final determination.

HOW CAN I FIND OUT MORE INFORMATION?

- The proposed planning changes can be viewed:
 - online at: www.planning.nsw.gov.au/proposals
 - at the Department's Information Centre at 23-33 Bridge Street, Sydney

HOW CAN I HAVE A SAY ABOUT THE CHANGES BEING PROPOSED?

- Submissions can be made up to **2 December 2014**:
 - online at: www.planning.nsw.gov.au/proposals
 - by mail to: Manager, Resource Policy, Department of Planning and Environment, GPO Box 39 Sydney NSW 2001.
- Submissions will be made public in line with the Department of Planning and Environment's objective to promote an open and transparent planning system. If you do not want your name published, please state this clearly at the top of your submission.
- Before making a submission, please read our privacy policy at: www.planning.nsw.gov.au/privacy
- Inquiries: 1300 305 695