



**Submission to the  
NSW Government Department of Planning and Environment  
Integrated Mining Policy phase 1**

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## Introduction

NSW Farmers welcomes the initiatives of improving the transparency, consistency and accountability of the application and approval process for state significant mining projects in NSW. NSW Farmers advocates for strategic, up-front and open assessment processes for the extractive industries that can give communities and landholders more confidence in the system and in the protection of our precious natural resources.

## Comments on the Integrated Mining Policy (“IMP”) overall

NSW Farmers considers the contextual framework in which this reform is occurring to be seriously lacking. On this round of consultation we are being asked to comment on specific aspects of the following documents:

- Mine Application Guideline
- Policy Framework for Biodiversity Offsets for Upland Swamps and Associated Threatened Species
- Standard Secretary’s Environment Assessment Requirements (SEARs)

These documents are being presented to us and to the general public without any information as to how they sit in the much broader reform work that is going on across planning policy on extractive industries. They are also being referred to as the Stage 1 tranche of documents as part of a new Integrated Mining Policy. We welcome the time and effort that representatives from the Department of Planning on Environment have provided in order to brief us on the contents of these documents however we are still of the view that as the name suggests, an *Integrated* Mining Policy should be exactly that, integrated.

NSW Government has suggested that the planning framework needs a complete ‘overhaul’<sup>1</sup>. There have been steps taken and preliminary work done to start this process. For instance, the government has convened a Coal Exploration Steering Group to look at how upfront assessment of areas appropriate for this industry should be classified released. Government has also supported the concept of a Strategic Release Framework in its Gas Plan, which NSW Farmers welcomed. These areas of reform are only representing a small amount of the work that is happening in this realm.

Against this backdrop then, it is frustrating to be asked to comment on detailed and specific documents such as the ones currently on exhibition without any clear statements, direction or timeline from government on how it intends to progress what NSW Farmers see as critical in this space. That is, a truly upfront and evidence based and transparent approach to approvals that incorporates a properly regulated industry with appropriate separations of power in approvals and compliance,

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<sup>1</sup> <http://www.smh.com.au/environment/new-planning-minister-rob-stokes-signals-overhaul-of-csg-coal-mining-projects-20150501-1mxhvk.html>

independent benchmarking of air and water quality and other health and environmental data prior to exploration and/or mining licences being granted, balanced land access and compensation laws setting a fair playing field where landholders cannot be forced to grant access to their land.

A new planning system must also importantly recognise the importance of agricultural land use and put in place frameworks to promote and not restrict food and fibre production in all parts of NSW.

NSW Farmers notes that neither environmental standards nor community consultation requirements are proposed to be altered in the current documents on consultation. We seek clarification and assurance that the changes being proposed will not diminish any appeal rights that may be currently in existence. What we understand is occurring is a streamlining of assessment requirements and the creation of documents which clarify what is required of companies and what communities can expect when it comes to the process of development assessment. For that reason as well as the reasons outlined above on the lack of contextual information there is little substance that NSW Farmers are able to comment on in terms of the descriptions of the processes themselves. As outlined, NSW Farmers current policy campaign is focused on an overhaul of the planning and assessment/approvals process overall.

## **1. Mine application guideline**

The Mine Application Guideline (specific development application requirements for State Significant mining and extractive industry developments under the Environmental Planning and Assessment Act 1979) is designed to assist proponents of mining projects in the preparation of development applications.

There is a benefit in the development of this guideline in that landholders and communities potentially affected by these future developments are able to see the process expected of companies and of the relevant authorities.

The guideline includes requirements for mining projects which can include the requirement for the gateway panel assessment as per the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 ("Mining SEPP). However, the document itself does not indicate the necessities for mining-specific EIS requirements located on agricultural land (including bio-physical strategic agricultural land) as per Government's Strategic Regional Land Use Policy. We believe this is an important inclusion and it should be specifically laid out.

The use of the Mine Application Guideline to NSW Farmers members is reduced as we are not able to view the requirements for agricultural land use in the context of the Preliminary Environmental Assessment (PEA) and Environmental Impact Statements (EIS). If the specific detail on the assessment process as it relates to agricultural land were included, the need to give the Gateway process more ability to control affects may become more obvious. We also take this opportunity to highlight the problems with the abovementioned Gateway process. The process is designed as such that the panel appointed to the Gateway cannot recommend that a project

not go ahead despite it being located on high value agricultural land assessed against stringent biophysical criteria.

## **2. Standard Secretary's Environmental Assessment Requirements (SEARs)**

The SEARs for state significant mining development document is a welcome identification of the standard Secretary's Environmental Assessment Requirements which are expected to apply to the majority of new mining applications in NSW. However where the Secretary is able to deviate from the standard set is where the confusion has historically been found and we argue that it would be important to include within the requirements a numbered list of items that may be irrelevant and not included in any given EIS. This allows community members to see where one EIS significantly differs from another, why that is the case.

A major concern for the NSW Farmers Association in terms of the lifespan of a state significant project such as a mine is the ongoing compliance and monitoring aspect of these projects. It is not overly clear who and what agency is responsible for what aspect of the monitoring during production and rehabilitation. For example, monitoring the effects on groundwater both qualitatively and quantitatively, does this responsibility fall with the Environment Protection Agency, the Office of Water or the Department of Planning and Environment? Many of the requirements as outlined in the SEARs are discussed on the 'proposed' monitoring or analysis. Landholders require more certain means on both the frequency and level of oversight on any monitoring and compliance activity. It cannot be overstated how much of a concern this is to NSW Farmers members and how much we urge government to address it immediately.

## **3. Biodiversity Offsets for Upland Swamps**

We note that the swamp offsets policy is designed to be an addendum to the Biodiversity Offsets Policy. NSW Farmers previously provided comment on this policy as a whole although we recognise that this swamp policy has been developed as a niche policy to deal with a particular issue being the issue of underground coal mining and impacts on upland swamps.

NSW Farmers has limited interest in the specific detail of this policy; however we do have a strong interest in the rationale for the development of this document. We are also concerned at how uncertainty in relation to ground and surface water impacts as it relates to upland swamps extrapolates to agricultural water impacts. Clarity is also needed on why the swamp impacts policy is being prioritised in terms of a specific policy and agricultural water is not. This is especially concerning when considered against the application of an Aquifer Interference Policy that we believe is fundamentally flawed in terms of compliance.

At a briefing provided by representatives of the Department of Planning and Environment, we were informed that there were relatively small areas of upland

swamp in NSW that this policy would apply to. From a NSW Farmers point of view we simply submit if that is the case then they should be protected, absolutely.

There is also a live and as yet still unanswered question about a promised ledger of biodiversity offsets across the state ledger of biodiversity offsets. In September 2012 The Department of Planning and Infrastructure stated that they were in the process of developing a state-wide offsets database to identify terrestrial biodiversity offsets associated with major project approvals. It was intended that this mapping process would be used to inform future assessments so that these areas are not compromised by further development. To our knowledge, this database has not been completed or released.

## **Conclusion**

NSW Farmers are confident that the documents currently on public consultation would streamline and clarify the environmental assessment requirements for development applications for state significant mining projects. The documents may assist proponents towards their own efficiency in developing these applications. It may also provide landholders and interested community members more clarity on what to expect and what to look for in drawing their own conclusion from the information at hand. For NSW Farmers Association it has certainly highlighted the failures of the current framework in adequately addressing the protection of agricultural land and water, and natural resources.