

Director, Policy Systems & Procedures, Development Assessment Systems & Approvals

Department of Planning & Infrastructure

GPO Box 39

Sydney NSW 2001

8<sup>th</sup> August 2013

Dear Sir/Madam,

**Re: Submission in response the proposed State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Resource Significance) 2013. (Consultation Draft dated 25<sup>th</sup> July 2013)**

The following submission is made in response to the proposed changes to the Mining SEPP.

I strongly oppose the proposed changes for the general and specific reasons outlined below.

**A. General Comments**

- 1. *Mining development in NSW needs to be in accord with the Principles of Ecologically Sustainable Development (ESD) , not prioritised by the economic significance of a mineral resource.***

For over twenty years the accepted world's best practice with regards to mining has recognised the need to efficiently manage the renewable and non-renewable resources on which it depends, in accordance with the principles of Ecologically Sustainable Development (ESD).

A key element in this ESD approach is recognising the fundamental importance of the health of the natural environment underpinning society's future economic, social and ecological wellbeing.

This approach should remain the basis for all development, including mining. It is not appropriate to place the 'economic value' of mineral resources on a pedestal above the other two key parameters, namely environmental and social aspects, when the consent authority comes to making a determination. Indeed, there are other resources of significant economic value such as water resources (surface and ground) and good agricultural land that warrant just as much consideration.

For instance agriculture is also a major employer, generates impressive economic activity (especially when the value-add component is included) and contributes greatly to the social fabric of the State. It does not have the luxury of a 'head start' over other industries or land uses like what is contemplated for mining in this proposal.

On first principle however, based on a triple bottom line assessment approach, no one industry should be enshrined in law with such a blatant preference over other developments. Thus the proposed SEPP amendments should be scrapped.

Similarly, it is not appropriate that the planning decision-maker be directed by the Mining SEPP to weigh the other matters for consideration in terms of their relative importance in comparison with the economic significance of the resource.

The key objectives of ESD are to:

- enhance individual and community well-being by following a path of economic development that safeguards the welfare of future generations;
- provide for equity within and between generations; and
- protect biological diversity and maintain essential ecological processes and life support systems.

NSW would benefit from an overarching land and resources development policy which acknowledges that human wellbeing and the economy are dependent on healthy ecosystem services. Economic policies moving forward should be cognizant of environmental limits and the contribution environmental resources play in wealth creation.

The Precautionary Principle is a major component of ESD. It means that a lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage (Environmental Protection & Biodiversity Conservation Act 1999). The NSW Government should adopt the Precautionary Principle 'front & centre' in assessing all mining proposals.

Another key component of ESD is intra- and inter- generational equity. Similarly, this needs to be an important consideration by the consent authority.

- a) *Inter-generational equity* is the principle of equity between people alive today and future generations. The implication is that unsustainable production and consumption by today's society will degrade the ecological, social, and economic basis for tomorrow's society.
- b) *Intra-generational equity* is the principle of equity between different groups of people alive today. It implies that consumption and production in one community should not undermine the ecological, social, and economic basis for other communities to maintain or improve their quality of life.

## **2. Mining development in NSW needs to be 'sustainable' as defined by a triple bottom line assessment.**

Best practice in impact assessment is about considering environmental, social and economic factors in an integrated way. This is often called a triple bottom line approach. It is a multidimensional undertaking that recognizes the inter-dependency and mutually reinforcing nature of the three parameters.

The World Bank, the United Nations, the International Energy Agency and other leading authorities all subscribe to this approach.

For 35 years NSW has had planning and impact assessment legislation which, at least according to its stated objectives, took steps to evaluate development within the triple bottom line prism, although that has not always been the ultimate result in many project decisions.

If the proposed Mining SEPP amendments are made law it would be a retrograde step giving NSW an unsustainable approach to impact assessment, at odds with international best practice.

***3. Economic methodologies applied to mining and other developments are deficient and need a major overhaul.***

On the matter of economic analysis, there is an opportunity for the NSW Government modify and improve the traditional modelling approach which focusses on short termism, overstates the indirect jobs generated and tax receipts.

It is recommended the Government require an economic appraisal method that includes pricing the environmental and social externalities (things like carbon, dust and noise pollution and social dislocation).

That would be consistent with the key messages from Judge Brian Preston, Chief Judge of the Land & Environment Court in the recent Bulga – Warkworth Mining decision.

In essence Judge Preston calls for:

- a) More effective consideration of inter-generational and intra-generational equity consistent with the need to address ESD principles;
- b) Internalising into the valuation of the project all environmental costs (eg noise, dust, amenity and ecosystem services, etc);
- c) More effective weighting and balancing given to environmental and social factors, in addition to economic ones;
- d) Changes to the economic modelling so there is no assumption regarding the automatic availability of a pool of highly skilled yet unemployed people in the local community that will be absorbed by the project, as often happens in Input Output analyses; and
- e) Changes to the economic modelling so there is no overstating of the number of jobs created by the project, as often happens in Input Output analyses.

Judge Preston is absolutely correct; the time has come to internalise the environmental and social externalities – to price the environmental and social costs and benefits of a project.

It is interesting to note that at a time when the World Bank has decided not to lend for coal mine projects because of the carbon pollution risks, NSW, as evidenced by these proposed changes to the Mining SEPP, is reverting to a 1950's model where the short term economic expediency is the goal.

## **B. Specific Comments**

**Clause 2b1:** This clause is strongly opposed and considered unnecessary as any best practice impact assessment process will always examine the economic significance of the resource, along with other economic, environmental and social matters. Normally 'promotion' of development of the resource occurs by virtue of a proponent putting forward a development proposal for planning consideration. No further promotion is necessary.

**Clause 12AA (1) (a):** Economic costs should be considered as well as 'economic benefits'. Delete this proposed change.

**Clause 12AA (3):** The (economic) 'significance of the resource' should not be the consent authority's 'principal consideration' when determining whether to grant consent. The consent authority should be charged with making a balanced, informed decision based on an integrated assessment of environmental, social and economic factors. Delete this proposed change.

**Clause 12AA (4):** The consent authority should not be directed to weight other matters secondary to the 'significance of the resource'. The consent authority should be charged with making a balanced, informed decision based on an integrated assessment of environmental, social and economic factors. Delete this proposed change.

**Clause 12AB:** Should be deleted as is unnecessary.

**Clause 12AC:** The consent authority is a specialist agency charged with determining the appropriateness or otherwise of a mining proposal. The consent authority should not be directed such that if an application complies with non-discretionary development standards for noise levels, air quality, airblast overpressure, ground vibration and aquifer interference, then impacts on such matters cannot form the basis for refusing the application. This amendment clause should not be allowed.

In summary, OzEnvironmental Pty Ltd urges the NSW State Government to follow the international best practice model for impact assessment, one that integrates environmental, social and economic considerations (a triple bottom line approach), and does not succumb to economic short-termism that clearly underpins these proposed changes.

Thank you for the opportunity to comment. I look forward to seeing strong and effective Government leadership on this important matter.

Yours sincerely

(signed)

Warwick Giblin, FEIANZ

Managing Director

OzEnvironmental Pty Ltd

[www.ozenvironmental.com.au](http://www.ozenvironmental.com.au)

[wgiblin@bigpond.net.au](mailto:wgiblin@bigpond.net.au)