



**Submission to the
NSW Department of Planning and Environment**

***State Environmental Planning Policy (Mining, Petroleum Production
and Extractive Industries) Amendment (Significance of Resource)
2015***

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**NSW Farmers' Association
Level 6, 35 Chandos St
St Leonards NSW 2065**

emailus@nswfarmers.org.au

Introduction

NSW Farmers welcomes the proposed State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Significance of Resource) 2015 which would repeal part 12AA of the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (the Mining SEPP). NSW Farmers submits that 12AA should never have been inserted in the first place and we welcome its removal. This submission will also outline NSW Farmers current push for a review of the planning system as it relates to state significant mining and extractive industries overall.

Part 12AA

At the time of the introduction of Part 12AA NSW Farmers expressed serious concern with the proposed Part 12AA, in particular the following aspects:

- The motivation and contextual background for the amendments was not clear
- There was a short consultation period and limited opportunity for scrutiny
- The aim of Part 12AA was not in line with the higher purpose of the Mining SEPP and was at odds with the notion of ecologically sustainable development (ESD) outlined in the Environmental Planning and Assessment Regulation 2000 and other relevant legislation
- The '(economic) significance of the resource' to be the principle consideration for development consent was not in line with the triple-bottom-line approach which is currently supposed to be pervading our planning system.

The NSW Farmers' submission and media during the consultation raised the fact that given the major concerns held by the community surrounding mining and the extractive industries, any change needed to have comprehensive and transparent explanation and justification. The submission also asserted that Governments at every level have a responsibility to consider and protect all of our natural resources, including agricultural natural resources and that Part 12AA did the opposite.

At the time of its introduction NSW Farmers launched a submission builder which attracted over 400 submissions opposing these amendments. Through Government Information (Public Access) applications we received information that around 85% of the submissions received by the Department objected to the changes or had strong concerns and reservations about its implementation. That document is annexed to this submission. Despite the many consistencies in the concerns raised through the submission process, primarily centred around the fact that 'elevating resource significance as the principal consideration is inconsistent with ESD principles and a triple bottom line approach to addressing social, environmental and economic impacts', the final version of the amendment was not altered.

Better Regulation requirements

NSW Farmers also obtained through the Government Information (Public Access) process information relating to why the 'better regulation requirements' were not implicated as set out in the NSW Government's Guide to Better Regulation. We

found that it was recommended that the Minister form a view that a Better Regulation Statement was not required as the part 12AA was 'not a significant regulatory proposal'. The reasoning behind that recommendation was stated to be that the 'policy being given effect by the instrument is an amendment to an existing policy (the Mining SEPP), and the provisions are consistent with general government policy to promote the sustainable development of significant mineral resources, given the important benefits to the State from the mining industry.' NSW Farmers profusely disagreed with this finding. We believe that the introduction of 12AA can and does have a significant impact on both the community and businesses in a planning and land use conflict context.

NSW Farmers members felt let down by our Government the day that Part 12AA was passed. It signified a unilateral decision making process that was simply not justified nor in line with broader planning principles that we are fighting hard to improve. We welcome the initiative of the repeal and believe that the repeal will go towards restoring the balance for the decision making framework in assessing the likely impacts of mining developments.

Review of Mining SEPP

NSW Farmers recognise that this repeal is the first step in reviewing the Mining SEPP. We welcome the review of the Mining SEPP and we have identified a number of key changes that we wish to see in the forthcoming review of the Mining SEPP and/or the planning system as it relates to mining and extractive industries, including:

- Use of a planning policy such as the State Environmental Planning Policy (Rural Lands) 2008 (Rural Lands SEPP) to identify productive and strategic agricultural lands where mining or extractive industries should not occur; and
- Strengthening of the Gateway Process from within the Mining SEPP so that there is an ability for the Gateway Panel to recommend that a project not go ahead if the risks to agricultural and natural resources are simply too great.