



Proposed Jerrys Plains open cut mining prohibition

*Explanation of Intended
Effect*

December 2017

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Introduction

Section 38 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) requires the Minister for Planning to take such steps as the Minister considers appropriate or necessary to:

- publicise an explanation of the intended effect of a proposed State environmental planning policy (SEPP)
- seek and consider submissions from the public before recommending that the proposed SEPP be made by the Governor.

This explanation of intended effect has been prepared to explain the following proposed amendments:

- amendments to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (Mining SEPP) to prohibit open cut mining in a mapped area of the Upper Hunter region near Jerrys Plains
- amendments to the State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP) to prevent lodgement of a State significant development application for development that is prohibited under the Mining SEPP.

Have your say

The Department of Planning and Environment encourages the community and other stakeholders to read the explanation of intended effect and make a submission:

- through the Department's website www.planning.nsw.gov.au/Have-Your-Say
- by mail to:
Director, Resources Policy
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Submissions close on 14 December 2017.

For further information, please email information@planning.nsw.gov.au or phone 1300 305 695.

Proposed SEPP amendments

Mining SEPP

What amendments are proposed?

The Mining SEPP identifies where mining, petroleum extraction and extractive industry activities can occur, and what issues should be considered in the assessment of development applications. It is proposed that Schedule 1 of the Mining SEPP be amended to include a prohibition on open cut mining in a mapped area of the Upper Hunter near Jerrys Plains (**Attachment A**). The prohibited areas will be described as 'land where open-cut mining is prohibited'. Schedule 1 of the Mining SEPP already has the function of prohibiting mining and extractive industry activities at prescribed locations.

The proposed prohibition will prevent recovery of shallower coal resources that are only accessible through open cut mining. Recovery of deeper resources through underground methods would still be permissible.

It is also proposed that the Mining SEPP be amended to include a savings provision that extends the prohibition to development applications that have been submitted but not determined at the time the amendment commences.

Why are the amendments proposed?

The proposed amendments to the Mining SEPP will give greater certainty to local communities and industries – including the Upper Hunter equine Critical Industry Cluster – about where open cut mining can and cannot occur in the Jerrys Plains area in the future.

The proposed mapped area aligns with Exploration Licence 5460, covering the area of the Drayton South open cut mine application which was refused by the independent Planning Assessment Commission in February 2017. The proposed prohibition on open cut mining responds to the unique circumstances (including environmental, economic and social sensitivities) in the Jerrys Plains area identified by the Commission following a robust and independent merit assessment process.

SRD SEPP

What amendments are proposed?

The SRD SEPP identifies what types of development are State significant development. It is proposed that the SRD SEPP be amended to prevent State significant development applications being made for mining and extractive industry activities prohibited under Schedule 1 of the Mining SEPP. A savings provision is also proposed to extend the change to development applications that have been submitted but not determined at the time the amendment commences.

Why are the amendments proposed?

Currently, an applicant could make a State significant development application where part of the land is in a prohibited area, and the Minister would still be required to exhibit, assess and determine it. The proposed amendment will prevent this from occurring and allow the proposed Jerrys Plains prohibition to operate as intended.