

Submission to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Resource Significance) 2013

12th August 2013

NTN is deeply concerned about the proposed amendments to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (the Mining SEPP) relating to the determination of development applications under Part 4 of the Act for mining proposals.

By making the 'significance of the resource' the consent authority's principal consideration when determining a resource DA, the State government clearly places the interests of already powerful mining companies ahead of local communities, public health, biodiversity, environmental protection and food security.

The use of "non-discretionary development standards" outlining requirements for cumulative air quality, noise and vibration and aquifer interference, in effect, ties the hands of the consent authority and prevents them from refusing a consent if these minimal standards are met.

The standards proposed can only be considered to embrace a lowest common denominator approach. For example, the standard for particle pollution is based on an 'annual' average, and ignores dangerous daily exceedances of the limit. The proposed changes to the SEPP state that the development must "not result in a cumulative annual average level greater than 30 $\mu\text{g}/\text{m}^3$ of PM_{10} for private dwellings", yet the national standard for PM_{10} of 50 $\mu\text{g}/\text{m}^3$ can only be exceeded five days of the year.

It has long been known that urban air pollution levels are associated with increased mortality and cardiorespiratory morbidity and that these health effects occur even at exposure levels below those stipulated in current air quality guidelines. It is unclear whether a safe threshold even exists.¹ There are many children living in communities in close proximity to mining activities and are already at risk from air pollutants. The unique vulnerability of children to

¹ Tord E Kjellstrom, Anne Neller and Rod W Simpson, Air pollution and its health impacts: the changing panorama *Med J Aust* 2002; 177 (11): 604-608.

hazardous pollutants is well recognized by WHO, UNICEF and UNEP.

*“Children are not little adults: they have special vulnerabilities to the toxic effects of chemicals. Children’s exposure to chemicals at critical stages in their physical and cognitive development may have severe long-term consequences for health. **Priority concerns include exposure to air pollutants, pesticides and persistent organic pollutants (POPs), lead, mercury, arsenic, mycotoxins and hazardous chemicals in the workplace.**”²*

The proposed amendments to the SEPP are silent on small particle pollution (PM_{2.5}) despite its well-recognised health impacts and its association with mining. Nor does it refer to all other criteria pollutants as defined in Australia’s National Environment Protection Measure (Air NEPM). The Air NEPM sets national standards for the six key air pollutants; carbon monoxide, ozone, sulfur dioxide, nitrogen dioxide, lead and particles. Under the Air NEPM, all Australians are to have the same level of air quality protection. Clearly, this will not be the case if the proposed amendments to the SEPP are accepted. The proposed amendments make no reference to the air pollutants covered by the NEPM on air toxics. These include the carcinogens benzene, formaldehyde and benzo(a)pyrene, as well as toluene and xylene.

These serious air pollutants are all associated with mining activities. According to the National Pollutant Inventory, coal mining is responsible for emitting 6,500 kilograms (kg) of benzene, 89,000 kg of formaldehyde, 13,000 kg of lead, 330 million kg of PM₁₀, 7.7 million kg of PM_{2.5}, 5.4 million kg of VOCs and 51 million kg of carbon monoxide to air in 2011-2012.

The USEPA 2012 presentation on new emissions standards noted that extractive industries like the oil and gas industry are the largest industrial source of emissions of volatile organic compounds (VOCs) in the U.S. They concluded that air toxics from these industries could cause cancer and other serious, irreversible health effects, such as neurological problems and birth defects.³ VOCs are also key ingredients in forming ozone (smog), which is linked to asthma attacks, and other serious health effects. VOCs help form fine particle pollution (PM_{2.5}).

The role of environmental protection standards would substantially be reduced when the changes both guarantee that “If proposed development for the purposes of mining satisfies a development standard set out in this clause, the consent authority must not refuse consent to the development on the specific grounds to which the standard relates” and when Section 79C (3) of the Act

² World Health Organisation (WHO), International Labor Office (ILO), United Nations Environment Program (UNEP) 2006. Helping to Protect Children from the Harmful Effects of Chemicals. International Program on Chemical Safety. <http://www.who.int/ipcs/en/>

³ Reducing Air Pollution from the Oil and Natural Gas Industry EPA’s Final New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants April 17, 2012 <http://www.epa.gov/airquality/oilandgas/pdfs/20120417presentation.pdf>

provides that if any such development standard is not complied with, the consent authority still has discretion to grant development consent.

If enacted, the amendments to the SEPP would fundamentally shift the balance when assessing mining and extraction proposals to favour an already powerful industry by mandating that they be assessed primarily on economic benefits, effectively discounting the threats to public health, biodiversity, agriculture and community cohesion.

National Toxics network calls on the state government to immediately withdraw these amendments and ensure the proper protection of public health, biodiversity, agriculture and the environment into the future.

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