

Report on the online submission process:

Inquiry into the provisions of the Environmental Planning and Assessment Amendment (Territorial Limits) Bill 2019

As part of its inquiry into the Environmental Planning and Assessment Amendment (Territorial Limits) Bill 2019, Portfolio Committee No. 7 – Planning and Environment launched an online submission process to encourage individuals to participate in the inquiry.

The committee received 2,602 online submissions. These responses will inform the committee's views throughout the inquiry and be used in the inquiry report.

This report summarises the views expressed by participants and provides samples of these views. Sample comments have been chosen to best represent the variety of views expressed by the participants.

Questions asked

Participants were asked three main questions, including a question regarding the individual respondent's position on the bill and open ended questions regarding:

- the reasons for their position on the bill
- any other comments to explain their views on the bill.

The questions are reproduced at Appendix 1.

Responses to questions

Question Two: What is your position on the bill?

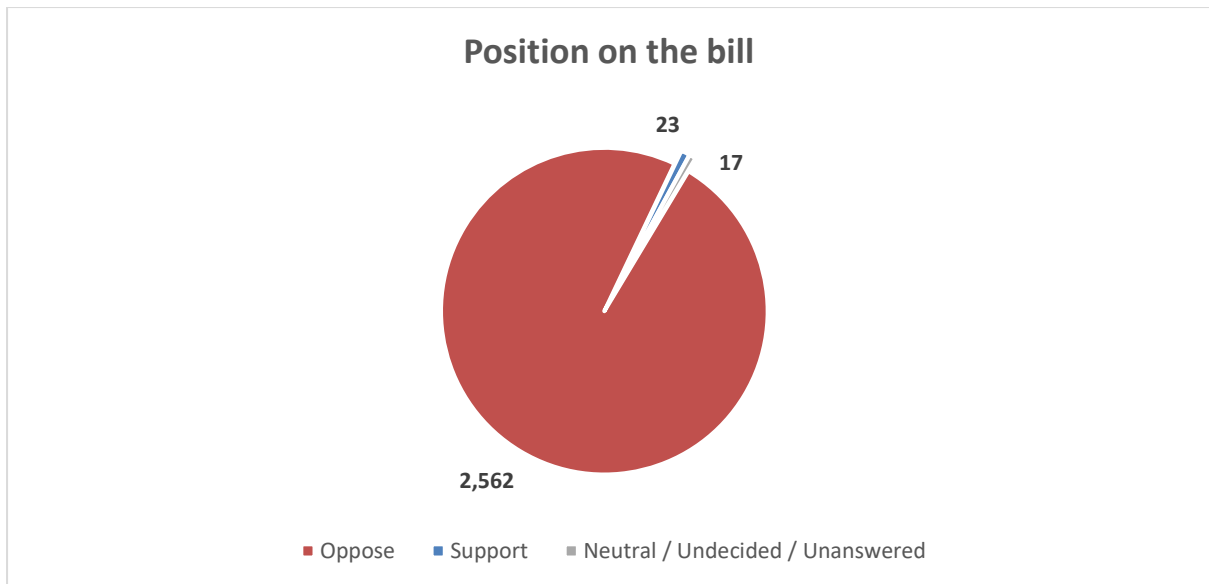
Question Two was presented in a multiple choice format and participants were able to choose from the options of 'Support', 'Neutral / Undecided' or 'Oppose'.

The vast majority of participants (98.5 per cent, or 2,562 responses) opposed the bill. As shown by the responses reproduced below, in general these participants understood the bill as a means of lessening the level of scrutiny for proposed mining activity in New South Wales. It was also commonly contended that the bill is inappropriate given the impacts of anthropogenic climate change, drought and bushfires in New South Wales and beyond.

A small number of participants (0.9 per cent, or 23 responses) supported the bill. These participants generally noted the need to consider the mining sector's positive contributions to the Australian economy.

0.7 per cent, or 17 participants indicated their neutrality or chose not to answer the question.

Samples of the comments made to support these views, in response to Questions Three and Four, are provided over the following pages.



Question Three: In relation to the previous question, please explain your position on the bill.

Opposition to the bill

Many participants argued that the effects of mining activity cannot be properly understood when the assessments are territorially limited, or downstream emissions are not considered.

- 'The emission of greenhouse gases in a particular state or territory does not lead to an increase of these gases in the atmosphere for that country only. The atmosphere does not respect territorial limits... Greenhouse gases emitted from coal and fossil fuels extracted from Australia ... should continue to be considered under the Environmental Planning and Assessment Act and State Environmental Planning Policy, Clause 14(2)'.
- 'The downstream emissions of the coal plants, regardless of where, absolutely has to be discussed at the point of planning. While it's not always burnt in this country, its effects will be felt here regardless... To not consider the downstream effects of coal and gas projects ... is wilful negligence at this point in time...!'.
- '... Australia is part of a global community and has international obligations and commitments to act in accordance with certain international treaties. If the impact can be felt offshore but originates from Australian products, this should be made subject to any conditionality to ensure that we are at all times using our best endeavours ...!'.
- 'Downstream emissions outside Australia will have as much impact on climate change as they would in Australia, there are no borders on global warming'.
- 'There are no territorial limits on the greenhouse gas emissions from burning fossil fuels such as coal and gas. The emissions from exported fossil fuels are just as dangerous to Australians whether they are burned here or on the other side of the world...!'.

- 'The impacts of climate change are not limited by territorial borders. Regardless of where coal is burned, it will have impacts on Australia and the health of the Australian people. It is therefore inappropriate to prevent development consent for coal mines from making conditions related to the emissions from exported coal...!.
- 'I oppose Schedule 2 being removed from SEPP 2007. All carbon emissions should be considered during the life of mining, petroleum exploration and production and extractive industries. I wholeheartedly oppose this amendment because the NSW Government should take emission reduction seriously during approval processes for these industries'.
- 'Mining in NSW does have an impact globally. We are already seeing this with the terrifying bushfires that are still burning through NSW - a large factor is the heating and drying change in the climate. The only people to benefit from this bill are mine owners - many of which reside outside the territory of NSW anyway'.

Some participants referred to the positive impacts of the current legislative arrangement in opposing the bill.

- '... Clause 14 (2) of the Mining SEPP has never been the sole reason a coal mine has been refused. The Rocky Hill and Bylong coal projects were both refused primarily because of their local environmental impacts. Nevertheless, since the Rocky Hill judgement in February, mining companies have been for the first time providing in-depth information about the climate change context of new coal mines. This is information planning authorities need, and the public needs... '.
- 'Emissions from burning coal (Scope 3 emissions) are by far the largest source of greenhouse gas from coal mined in NSW. An important legal decision in the NSW Land and Environment Court found that the full impact of coal mines on climate change, including emissions from burning the coal must be considered in assessing new coal mines. It also rejected many long standing arguments by the coal industry for avoiding considering these emissions ... '.

Some participants saw the bill as an interference on the independence and capacity of the relevant decision makers, such as the Independent Planning Commission and the NSW Land and Environment Court.

- 'This is clearly aimed at preventing bodies such as the land and environment court from properly carrying out their duty. It is immoral and corrupt. A court should be free to consider all relevant issues in making a determination and not be artificially constrained...!.
- 'The Independent Planning Commission should not be constrained from making its determinations 'without fear or favour' ... To seek to so restrict the Independent Planning Commission is not just the height of insanity. It reeks of nothing but corruption at the highest level of the NSW government...!.

- 'If this Bill proceeds, then the Independent Planning Commission will not be able to consider the climate impacts of the 850 CSG wells proposed by Santos near Narrabri. Nor will the Commission be able to consider the full climate consequences of the enormous new Vickery coal mine proposed by Whitehaven Coal in the drought-parched Namoi Valley. Please do not proceed with this Bill'.
- '...The Bill is a deplorable response to the campaign waged by the Minerals Council...This campaign will sabotage any likelihood that the NSW Government will reach its own target of net-zero emissions by 2050. Rather than attacking the powers of the Independent Planning Commission and the Land and Environment Court, the Government should defend and enhance the powers of the two independent decision-makers charged with the assessment and regulation of the climate impacts of coal mines'.
- 'I am deeply concerned about the environmental consequences of the Bill. I am troubled by any Bill which would prevent planning authorities from considering the contribution of coal mines and gas fields make to greenhouse gas emissions...!'
- '... It is irresponsible to propose blinkering a planning authority from considering one of the environmental impacts of a development, and contrary to the spirit of the Environmental Planning and Assessment Act and established case law...'

Many participants contended that by supporting further mining activity, the bill would effectively contribute to further environmental degradation and anthropogenic climate change.

- 'The coal mines are using vast amounts of water we cannot spare ... coal is a major driver for climate change which will drive global temperatures above the acceptable 1.5 degrees...!'
- 'Climate change is being felt more across the nation as a result of natural disasters including severe weather events, critical water shortages, bushfires and heat waves becoming more regular and more severe!'
- 'Extractive industries in Australia not only supply the fossil fuels that are driving climate change, they are also using vast amounts of our fresh water, contaminating our land and destroying our aquifers and catchment areas.'
- 'Coal and gas are the two worst contributors to climate change. In a time where Australians are directly suffering the effects with drought, bushfires and extreme winds the Government should be discussing these effects from coal and gas and how they will move to renewable sources of energy.'
- 'No new gas, oil or coal projects should be explored in the midst of the climate crisis. It's that simple!'

Prolonged drought and the catastrophic bushfires impacting New South Wales were also commonly noted themes.

- 'We are in the midst of an unprecedented bushfire crisis and drought fuelled by human caused climate change. Emissions of projects must be taken into account regardless of where they will take place.'
- 'Our state is in the grip of a bushfire crisis...fuelled by extraordinarily dry and hot conditions, the like of which we have never seen before. Mining and burning of fossil fuels is the number one cause of climate change, which scientists tell us is fuelling the fires and drought that are devastating our country. No projects should ever be approved without assessing the impacts of climate change.'
- 'The mining and burning of fossil fuels is the primary contributor to climate change which is devastating communities through rampant drought, causing the collapse of the Murray-Darling river system and catastrophic bushfires as we are currently seeing'.
- 'This bill is irresponsible, dangerous and the complete opposite of what needs to be done in this time of extreme temperature rises and mass bushfires'.
- 'In light of Australia's current situation, the impacts and the warnings of the consequences of rising emissions in the face of climate change, the bushfires that in particular have devastated New South Wales, the notion of eliminating downstream emissions as a consideration for development applications is abhorrent. It is blatantly wrong to encourage complicity in rising emissions and to act as though extractive industry should not be in any sense accountable for its output'.

Support for the bill

A minority of participants supported the bill, noting that the mining sector's contributions to the economy and power generation were more important than consideration of downstream greenhouse emissions' contribution to climate change.

- 'Only local direct impacts should be considered. Downstream greenhouse gas impacts are not generally directly related to the resource extraction itself and should be mitigated by other means. Australian economic growth should be the major influence on legislators actions ...'.
- 'I fully support the Government's proposed bill to prevent planning authorities from considering the contribution of new coal mines and gas fields will make to climate change. The economy of Australia and power generation comes first...'.

Question Four: Do you have any other comments on the bill?

In response to this question, participants reiterated their positions on the bill. The majority contended that the bill, if passed, would result in greater mining activity and environmental degradation. Many participants also restated the need for action on climate change.

- 'Instead of trying to approve new coal mines, work together to tackle climate change. For everyone's future'.
- 'All mining and gas projects should be evaluated by their impact on climate change'.
- 'Any new legislation relating to activities which are likely to contribute to further warming should be tightened to increase oversight, not lessened'.
- 'To limit global warming to a sustainable level we must stop opening new coal mines and gas wells. Fossil fuel industries have had their day. We need to encourage renewable energy industries: solar, wind, hydrogen, etc. The Independent Planning Commission needs to remain independent of governments that rely on donations from fossil fuel industries. The Commission's power ... to assess the effects of new coal mines and gas wells on global warming should remain as it is...!'
- 'If enacted, this bill would represent a failure by the NSW Parliament to act meaningfully on climate change. Essentially, the bill is unnecessary and would assist mining interests to continue to profit financially at the expense of the global environment...!'
- '... The words "(including downstream emissions)" were deliberately included in the 2007 Mining SEPP with good and clear intent by a wise Parliament. To drop these words because some corporate developers of fossil fuel projects are unhappy is a betrayal of democracy...!'

Conclusion

The online submission process was a valuable tool to seek the views of interested stakeholders on the significant issues raised in the terms of reference. In addition to seeking online submissions, the committee also sought more detailed, written submissions from organisations and individuals with specialist knowledge in the field.

The material gathered will inform committee members' views as the inquiry progresses and be reflected in the inquiry report. The committee will also quote from participants' responses to support its findings and conclusions.

The committee notes that participants cannot be considered to represent a statistically valid, random sample of views on the bill. The participants were self-selected in choosing to respond (in the same way that submission authors are self-selected) and should not be considered to be a representative sample of the population. Nevertheless, community views provide valuable input for the committee in formulating its findings. The committee also notes that the questionnaire took place within the context of broader challenges concerning the environment and climate change.

Appendix 1: List of questions asked

Questions

1. Please enter your contact details.

Name:

Email address:

Postcode:

2. What is your position on the bill?

- a. Support

- b. Neutral / Undecided

- c. Oppose

3. In relation to the previous question, please explain your position on the bill.

500 words – free text box

4. Do you have any other comments on the bill?

250 words – free text box