

I wish to make a submission in relation to the Draft SEPP (Mining Petroleum Production and Extraction Industries) (Coal Seam Gas Exclusion Zones) 2013 on behalf of the Hunter Valley Wine Industry Association. Specifically I refer to Schedule 1 Clause 3 1 (d) "Critical Industry Cluster Land map".

Just to clarify the position of the wine and wine tourism industries of the Lower Hunter Valley (Referred to as the Upper Hunter in your Strategic Rural land Use Plan) I would like to reiterate the following points :

- The Viticulture CIC criteria as detailed in your consultancy brief referring to the process of site verification (January 2013) is inappropriate and flawed
- The wine and wine tourism industries have an internationally recognised boundary that requires the entire landscape within to be maintained specifically for the wine industry and associated industries only that are sympathetic to that industry (please see attachment)
- The Strategic Rural Land Use strategy needs to provide certainty to the wine and wine tourism industries that it can continue to exist without the constant need to fight conflicting land use and developments within the bounded viticulture area
- The second largest tourist destination in the State cannot co-exist with industrialised land uses such as CSG mining.
- The landscape that is the declared areas of viticulture of the Lower Hunter Valley needs to be completely free of all other forms of non-compatible land use.

Your sincerely,

Andrew Margan

President

HVWIA



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22 February 2013

Mr Andrew Margan
President
Hunter Valley Wine Industry Association

By Email

Dear Andrew

I refer to our recent discussions and your request for formal advice regarding the status of the Hunter Valley geographical indication under the *Wine Australia Corporation Act 1980* (the Act).

There are currently 114 registered Australian geographical indications (GIs) included on the Register of Protected Geographical Indications and Other Terms established under section 40ZC of the Act. A geographical indication is defined in the Act as an indication that identifies the goods as originating in a country, or in a region or locality in that country, where a given quality, reputation or other characteristic of the goods is essentially attributable to their geographical indication.

The process for determining Australian GIs is set out in the Act and the *Wine Australia Corporation Regulations 1981* (the Regulations) and involves up to 11 stages. The Geographical Indications Committee (GIC), a committee established by virtue of section 40N of the Act is empowered to determine the name and boundary of a GI, either on its own initiative or on application from a person or body specified in section 40R of the Act. The GIC must have regard to a range of criteria when considering an application for a proposed GI including the geology of the area, the history and wine production traditions in the region, whether the area is within a natural drainage basin, the availability of water and a variety of climatological features.

Hunter Valley is once such registered GI and was entered in the Register of Protected GIs and Other Terms on 1 May 1996. Other registered GIs wholly located within the Hunter Valley are:

- Hunter (18 March 1997)

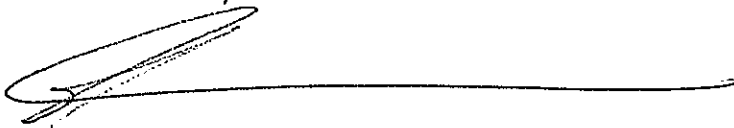
- Broke Fordwich (2 September 1997)
- Polkobin (29 July 2010); and
- Upper Hunter Valley (29 July 2010)

All of the above GIs are discrete and, to various degrees, homogenous in their grape growing attributes and recognition has been conferred upon these areas as sources of wine displaying characteristics that are essentially attributable to its geographical origin. The boundaries of the area have been determined based on the natural topographical, geological and climatological features described above.

It is well-known that the Hunter Valley has an international reputation as a wine producing area that predates the registration of the Hunter Valley GI. Entry on the Register, however, formalised its recognition and protection in Australia under the Act.

Australia's wine GIs such as Hunter Valley are also protected internationally by virtue of a range of international trade agreements, including the World Trade Organization Agreement on Trade Related Aspects of Intellectual Property. In addition, Hunter Valley and other registered Australian wine GIs are protected in the European Union under the Agreement on Trade in Wine between Australian and the European Community on Trade in Wine.

Yours sincerely

A handwritten signature in dark ink, consisting of a large, stylized 'A' followed by a long horizontal stroke.

Andrew Cheesman
Chief Executive

HUNTER VALLEY

WINE INDUSTRY ASSOCIATION

3 April 2013

The Hon Brad Hazzard MP
Minister for Planning
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Email: office@hazzard.minister.nsw.gov.au

Dear Minister

Response by Hunter Valley Wine Industry Association Inc, to State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013 – Public consultation draft

The following submissions are made to the Public consultation draft of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013 (Draft 2013 SEPP Amendment).

We note that the State Environment Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment 2012 is yet to be finally reviewed by the Department, the exhibition having expired in October, 2012.

We refer you to the submissions made by us in response to the Draft 2012 amendment, and in addition to the matters raised below, re-iterate those submissions so far as they relate to the Draft 2013 amendment. We attach a further copy of those submissions.

We commend the Draft 2013 SEPP amendment so far as the exclusions zones are concerned, and note that the area of particular concern to the Hunter Valley Wine Industry Association Inc., to the Hunter Valley Protection Alliance Inc., and to the residents and businesses of Hunter Valley Wine Country, is the Critical Industry Cluster Land (Viticulture) (CICV).

We also commend that the Draft, importantly, gives certainty by defining that, in relation to coal seam gas development, the exclusion applies both to the surface of the land and also under the surface of the exclusion zone.

In the main we have restricted our current submission to addressing those draft amendments which affect the CICV.

Clause 3 Interpretation

“Critical Industry Cluster Land Map”

The **Note** following the definition of **Critical Industry Cluster Land Map** is a matter of concern for us where it is stated that *“It is intended that the Critical Industry Cluster Land Map be revised after the exhibition period concludes.”*

The mapping of the CICV was carried out over many months and for the purposes of a Critical Industry Cluster it was agreed that the map accurately depicted the Cluster and it is submitted that the Map should be adopted in its current form as a final map.



To ensure that the CICV has security and protection into the future it is submitted that the Map must be in its final form now, and not be further revised. We refer you to our earlier submission in relation to the 2012 Draft Amendment in relation to Site Verification Certificates.

The Critical Industry Cluster exists as a whole. It not only envelops the physical vineyards and the wineries, but also the significant wine tourism sector. The wine tourism sector relies upon not only the natural beauty of the wine country sought to be protected by the Draft 2013 SEPP amendment, but also the significant infrastructure of accommodation houses, cellar doors, events, tours, golf courses and much more.

The current map outlines those areas which must be protected to ensure that the tourism industry will continue to *"grow significantly"*. Significant planned growth was announced by The Hon George Souris in his capacity as Minister for tourism.

To now revise the mapping, in particular revising it to selectively excise sites within this critical industry cluster must have a profound effect on the wine tourism industry. The critical industry cluster must be left as a complete cluster. To excise parts for the purpose of eg establishing a gas mining industry, would not just detrimentally affect that excised piece of land, but neighbouring land and the cluster as a whole.

We further recommend a minimum 1 klm "buffer zone" be constructed around the approved mapped zones.

It is submitted that this note cannot stay, as the prospect of site verification cannot stay in the 2012 draft amendment.

Critical Industry Clusters remain in their respective totality.

To refrain from retaining the CICV map as it is it would put at risk the Critical Industry Viticulture which, according to the Tourism & Transport Forum Australia in its letter to Minister Hazzard of 10th April, 2012, provides around 2,811 direct and indirect jobs, and attracts over 7.7 million visitors each year who spend a total of \$285.71 million. (Hunter Valley Research Foundation).

By way of note, it appears quite clear that the SEPP does not envisage that any Gateway process would apply to CIC exclusions zones, however our comments in relation to the Gateway proposal remain relevant. They are set out in our earlier submissions, attached, and we ask that you read them as part of this submission.

"residential zone"

It is assumed that "rural residential" zoning is encompassed by this definition. If it is not able to be included in this definition, then it should be added.

Clause 9A

Clause 9A(2) and (3) enable local councils to identify areas of land to be exempted from the coal seam gas development prohibition in identified exclusion zones.

The effect of these Clauses is to again put those businesses within Critical Industry Clusters in a position where they are inhibited in any proposal to further invest.

The Critical Industries need certainty and these Clauses only give uncertainty.



We have the Federal Government and the State Government currently legislating to regulate the coal seam methane gas industry.

To allow Local Councils to opt out of State Government legislation is highly unusual.

To place yet another layer of regulation, that of Local Councils being able to opt out of the SEPP, leaves Critical Industries not knowing whether or not, with any change of Council, their Cluster will be diminished.

The exclusion zones need to be clear and definitive and not at the whim of Local Government.

It is submitted that these Clauses be deleted from the final SEPP.

If it is not seen fit to delete these Clauses, then there must be a properly defined protocol for Councils to follow, including accepting submissions from all landholders in any Critical Industry Cluster, and a protocol for Ministerial discretion to deal with situations where Local Councils may make decisions not in the best interests of their ratepayers or the State as a whole, and a protocol for appeal to the Land and Environment Court at the cost of the CSG proponent.

These Clauses also put Local Councils in the parlous position of being exposed to corruption risks and pressure from powerful mining interests, perhaps seeking to invest in small town infrastructure in return for council's opting out of exclusion zones.

This SEPP should be a state-wide Policy, not one where individual Local Government Areas opt to have a different Policy. All should be treated in the same manner.

Clause 20


Clause 20(1) would permit a Development Application, or an application for modification, etc, to be made and determined now if an application was lodged and determined prior to the commence of Clause 9A.

This basically leaves it open for CSG proponents to lodge the Development Applications, or applications for modification, and have them determined.

It is clear that SEPP amendments take many months before they are reviewed after the public consultation period, the 2012 SEPP still not having been finalised.

This Clause should be amended to state that Clause 9A extends to applications made but not determined as at the date the public consultation draft was put on exhibition.

Yours faithfully



STEWART EWEN OAM



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Response by Hunter Valley Wine Industry Association Inc., to State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment 2012

Whilst it has not been possible to fully canvass the Hunter community in relation to the SEPP, which was provided as a confidential draft, we make the following comments in relation to the draft.

We start by saying that the watering down of the Draft Policies has given no certainty to the winegrowing community, the wine tourism community, or the general community. It has failed to recognize properly the necessary protection of the community and the environment prior to exploration. It has failed to recognize that exploration is invasive in that it risks cross contamination of upper fresh water aquifers with salty coal seam aquifers, and that exploration includes the hydraulic fracturing of coal seams with its attendant risks of contamination with introduced chemicals.

Nevertheless, these are our initial responses to the draft SEPP. Once the SEPP is released for public comment, it may well be that we will make further representations:

Draft Clause 2(d):

1. Alter "certain" to "all".
Add after "development" the words "on or under Strategic Agricultural Land".

This will ensure that no SAL slips through the cracks.

2. Add after Clause 2(d)(iii) words similar to:
 (iv) to ensure protection and sustainability of the socio-economic fabric of communities, towns and villages within SAL.
 (v) to ensure that the proposed development would be in the public interest through a cost benefit analysis undertaken in accordance with an industry standard cost benefit methodology.
 (vi) to provide for the continuation of sustainable agriculture in SAL."

This gives the Gateway Panel greater guidance in considering any Gateway application and accords with the Draft SRLUP Upper Hunter.

3. Clause 3 Interpretation.
The definition of SAL Map refers to a 2007 Strategic Agricultural Land Map. This should refer to the maps which formed part of the Draft SRLUP Upper Hunter, or should more accurately identify which maps.
Site verification is further addressed below.

This will ensure that there is no confusion as to which SRLUP maps are being referred to.

4. Clause 17A.
Clause 17A(b) should be amended to add that a Gateway Certificate be required upon application for all Petroleum Exploration Licences on SAL.

As exploration for Coal Seam Gas involves drilling to depths through upper fresh water aquifers, and involves the hydraulic fracturing of coal seams and the disposal of contaminated coal seam water, this will ensure that all risks have been taken into account by the Gateway Panel.



5. Clause 17B.
Wherever the word “any” appears it should be replaced by “all”.

The clause should also provide for input from the NSW Office of Water.
30 days is a grossly short period for the proper, scientifically considered advice on water resources, and should be extended to a period sufficient for all proper enquiries and examination of a site to be made.

This gives better direction to the consent authority and allow proper time period.

6. Clause 17D.
The question of a Site verification certificate for critical industry cluster land should be restricted to only land which is outside those which are within the SAL land map for critical industry clusters.

This will ensure that land is not picked from critical industry clusters. To pick land within the SAL maps would affect the continuum of the cluster including not only its agricultural pursuits but also tourism.

7. Clause 17E.
Again this should ensure that site verification certificates are not given for any land within an SAL Critical Industry Cluster for the same reasons given in 6 above.

8. Clause 17G.
The application, prior to determination by the Gateway Panel, should also be referred to the NSW Office of Water, and should be published for community comment which community comment should also be considered by the Gateway Panel.

To take the community out of the equation at the Gateway stage would be a burden on the applicant, when the community would have input at the DA stage. The applicant would not then be caught by surprise at the DA stage.

9. Clause 17H.
This is where there is a huge difference between the Draft SRLUPs and the proposed SEPP. The draft Gateway process provided that “An independent panel of experts will be established to determine whether or not the proposal should pass the gateway. Proposals that pass the gateway can proceed to lodgment of a development application and the full merit assessment process. Proposals that do not pass the gateway cannot proceed to DA lodgment.” This is the outcome of the Stakeholder Reference Group and should be reflected in this Clause.

Clause 17H(3)(b) should have an additional clause providing that the proposed development:

- will not have any significant cumulative impact on the existing industries within an area, including open cut coal mining, other industry, agriculture or the like;
- will not have any impact, or cumulative impact, on land values, business values, or existing land use including tourism.
- will not have any impact, or cumulative impact, on groundwater, or fresh water aquifers;
- has an environmentally efficient plan for the safe disposal of coal seam water;
- will not have any impact, or cumulative impact, on roads, dust, noise or light;

Again, this will save the applicant any surprises, and perhaps significant cost, at the DA stage, should the application get that far.



10. Clause 17I(2).2
The Gateway Panel should be able to make as many requests as it likes of the applicant for further information. If it is restricted to one only request it may well not have all the information before it that it needs to enable an application to be properly considered and determined.

11. Clause 17I(5).
This clause is open to abuse, and is not fair to the applicant or the affected landholders.

If the Gateway Panel does not deal with the application, according to this clause, within the 90 days, then the Panel must issue an unconditional certificate. This means that the applicant goes to the DA stage without the benefit of having its application considered by the Gateway.

If the Draft SRLUP Upper Hunter was adhered to, then if the Panel does not issue the Certificate within the 90 days, then the application should be refused.

12. Clause 17K.
Any application for the amendment of a certificate should go on public exhibition and public comment sought.

13. Clause 17L.
A copy of the Certificate, or the refusal thereof, should also be sent to all affected landholders rather than just being published on the Department's website, which is difficult for many to access, and which is not a website which is regularly accessed by the community.

14. Clause 17O
(1) A 3 person is considered insufficient when the necessary expertise required in (2) is taken into account.
(2) In addition to the disciplines listed there should be added "economics" to enable cost benefit analyses to be considered.

It should be ensured that the members of the Gateway Panel, when considering an application, should have expertise in each of the disciplines during its deliberations.

15. Clause 17R.
In the interests of ensuring that there is no perception of bias it should be added here that all member of the Gateway Panel should not have, in the present or the past, any fiduciary relationship with any mining company, or have been employed by any mining company either as an employee or a consultant.

This will ensure that the problems foreseen by Professor Garry Willgoose, of having difficulty in finding experts who are not influenced by mining companies, will be obviated.

16. Clause 17T.
Two Gateway Panel members is insufficient for a quorum. It does not provide for a majority vote it does not provide for a sufficient range of expertise.



srlup - Mining SEPP amendments - CSG exclusion zones

From: David Frith <DFrith@nswmin.com.au>
To: "srlup@planning.nsw.gov.au" <srlup@planning.nsw.gov.au>
Date: 4/11/2013 5:56 PM
Subject: Mining SEPP amendments - CSG exclusion zones

Director Strategic Regional Policy
 Department of Planning and Infrastructure

The NSW Minerals Council fully supports the exclusion of mining-related gas extraction activities from the definition of "coal seam gas development" in the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013*.

Mine safety gas drainage and ventilation is a safety measure and a proven process that has been undertaken successfully and safely around residential and agricultural areas for decades. Any ban on mine safety gas drainage would result in significant economic costs if existing and planned mining operations were affected.

Our only recommended amendment is that, for drafting consistency, the definition of coal seam gas development be amended to include the underlined words below:

coal seam gas development means the following:

- (a) *development for the purposes of petroleum exploration, but only in relation to prospecting for coal seam gas,*
- (b) *development for the purposes of petroleum production, but only in relation to the recovery, obtaining or removal of coal seam gas,*

but does not include the following:

- (c) development for the recovery, obtaining or removal of coal seam gas in the course of mining,
- (d) development to which clause 10 or 10A applies.

Please contact me if you would like any further information.

Regards
 David

David Frith

Director Industry and Environment

NSW Minerals Council

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The Director
Strategic Regional Policy
NSW Department of Planning and Infrastructure
GPO Box 39
Sydney NSW 2001



12 April 2013

STATE ENVIRONMENTAL PLANNING POLICY (MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES) AMENDMENT (COAL SEAM GAS EXCLUSION ZONES) 2013

The Hunter Thoroughbred Breeders Association ("HTBA") represents over 150 industry participants including thoroughbred breeders and suppliers of equine support services.

The Hunter Valley's Thoroughbred Breeding Industry is Australia's premier multi-billion dollar breeding industry, representing over half of all thoroughbreds produced in Australia. It is Australia's largest supplier and exporter of premium thoroughbreds and acknowledged as one of only three international centres of thoroughbred breeding excellence in the world. It is an important employer of hundreds of thousands Australians (directly and indirectly) throughout our value chain regionally, in NSW and across the nation.

We welcome the opportunity to comment on the proposed State Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013 ("draft SEPP").

CSG No Go Zones

The HTBA strongly supports the NSW Government's decision to establish no go zones prohibiting CSG activities in NSW near residential areas and critical industry clusters.

The HTBA welcomes the prohibition of coal seam gas activities near suburbs, country towns, other urban areas and critical industry clusters in NSW.

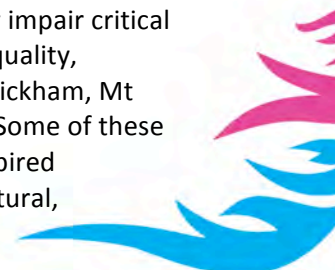
Coal No Go Zones

Coal mining in the Hunter Valley is at a tipping point. Coal mining in the Upper Hunter is very intrusive, highly visible and has damaging effects on air, community health and threatens our environment and water quality and quantity.

The HTBA is strongly of the view that the NSW Government should extend its csg no go zones policy to prohibit new coal mining activities that threaten critical industry clusters or are on strategic agricultural or biophysical lands.

Communities in the Upper Hunter are very concerned about the impacts of coal mining on the region, community health, air quality, water quality and quantity. The impact coal mining is having on landholders and residents is stressful. They are constantly worried about the quality of their life being affected by mining intrusions, legal battles, noise, air pollution, loss of visual amenity and their ability to stay on the land they own and bequeath it to future generations.

There are some ten proposals in the Upper Hunter that have the potential to significantly impair critical industry clusters and impose irreparable threats to our environment, visual amenity, air quality, community health and water. These include the Drayton South, Doyles Creek, Spur Hill, Bickham, Mt Pleasant, West Muswellbrook, Rideglades, Yarrowa and Dartbrook coal mine proposals. Some of these are the subject of ICAC investigations. Others, such as the Bickham Coal project, have expired exploration licences that have not been renewed. All of them impact on strategic agricultural,



biophysical and/or critical industry cluster land. All pose similar if not higher impacts on local communities' quality of life and the environment compared to csg.

The HTBA is strongly of the view that the NSW Government should take the most immediate and appropriate action to remove or reject these proposals, particularly if it is found that they have been issued corruptly or the proponents have breached their consent conditions, and provide certainty for the community and our industry by implementing SEPPs to permanently prohibit open cut and underground mining in these areas.

CSG Exclusion Zone Buffer

The HTBA agrees with the sentiments expressed in the Premier's press release of 19 February 2013 with respect to families "should not have to worry about their quality of life being affected by noise, visual impacts and other effects of coal seam gas mining."

The HTBA is strongly of the view that no families, whether they are in Sydney's CBD or in country Australia should have to worry about the intrusive impacts of coal or coal seam gas mining.

The HTBA notes the prohibition of csg activities within 2 km of residential zones but is concerned that no buffers apply to critical industry clusters. A 2km buffer for residential areas in the CBD may be appropriate however it will not ameliorate the highly intrusive and highly visible and damaging impacts of mining on air, community health and water in rural NSW.

Mining up to the boundaries of critical industry clusters does not provide the thoroughbred breeding industry with the protection that is needed. Appropriate buffer zones around our internationally acclaimed critical industry clusters are needed to protect our industry and jobs.

The HTBA is of the view that critical industry clusters should have appropriate buffer zones from csg mining. The HTBA calls for a 10 km buffer zone to protect critical industry clusters from the deleterious impacts of mining.

It should be remembered that some of the Hunter Valley's Thoroughbred studs house 50 or more residents on their properties. They should be afforded at least similar protections afforded to country towns and Sydney residents.

Residential Zones

The HTBA notes that the draft SEPP, the Environmental Planning and Assessment Act 1979 and the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries 2007, do not include a definition of a residential zone.

We assume that the definitions of the land use zones have been derived from the Standard Instrument (Local Environmental Plans) Order 2006. This Order only contains a general description of the land uses under each of these categories.

The HTBA supports the prohibitions of the draft SEPP applying equally to CBD and residents of all country towns, regardless of size. In this respect all residents be they in CBD suburbs or country towns should be equally treated and protected.

The HTBA strongly recommends this outcome in line the intention of the Government's announcement and its implementation through this draft SEPP.



Critical Industry Cluster Mapping

The HTBA has worked constructively with the Departments of Primary Industries and Planning and Infrastructure to map the critical industry cluster in the Hunter Valley in accordance with the parameters stipulated by Departments.

We are committed to continue to assist Departments in the verification process. However we are conscious that the parameters have changed, the scale of the verification exercise is significant, costly, resource and time intensive and the post Policy announcement changes to this verification process have the potential to destroy the integrity of the critical industry cluster.

We are particularly concerned that the verification process does not result in any dilution of the protections afforded critical industry clusters in the Upper Hunter Strategic Regional Land Use Plan. In this respect we would be alarmed and strongly opposed to a process that shifts the goal posts after the Government's public announcement of the Upper Hunter Strategic Regional Land Use Policy resulting in the destruction of a critical industry cluster.

The suggestion in the draft site verification guidelines to allow mining to avoid the gateway process and seek development approval within a mapped critical industry cluster if that development is 2km away from, in our case, a thoroughbred breeding operation is a shift of significant policy and industry implications.

In particular the HTBA is strongly opposed to the draft site verification proposal to in effect enable mining throughout any critical industry cluster as long as they are 2km away from the nearest thoroughbred breeding operation. This "swiss cheese" mining effect will destroy our industry. The consequence of this proposal, intentional or not, would signal the end of our industry as any reasonable investor would not chose the Hunter Valley as a place to breed or invest given the potential for mining to be interspersed in such close proximity to our world scale and world class thoroughbred breeding operations. This would effectively fragment our industry and decimate the concentration of our cluster.

The HTBA is strongly opposed to any measures that diminish the protections the Government announced in its Upper Hunter Strategic Regional Land Use Policy.

Local Council Exemption of CSG Prohibition

The HTBA notes that the NSW Government's policy to prohibit coal seam gas activities near residential areas and critical industry clusters is in response to listening to community concerns. It would be a perverse outcome if the policy that seeks to respond to community concerns and provide confidence to communities and agricultural investors, ultimately undermines community confidence by unnecessarily prolonging csg exploration activities.

The lifting of csg prohibition by councils was not included in Premier's original announcement. Prima facie its inclusion in the draft SEPP sends mixed signals and has the potential to diminish community confidence in the Government's announced csg prohibition.

Communities need certainty for the future. Critical industry clusters need confidence in the future to invest, grow and provide a secure environment for their employees. The draft SEPP diminishes this security. Further it is silent on any process by which local councils should undertake to request the lifting of prohibitions on csg development.

The HTBA is of the view that if this provision remains, guidelines are needed that outline fair, transparent, accountable processes that all Councils should adopt to credibly gauge and reflect community attitudes on future csg mining. In the absence of such guidelines it is difficult to see how a



fair, transparent, consistent and accountable process can be implemented to secure certainty for communities and future investments.

The HTBA is also of the view that if councils are given the power to lift the csg prohibition this should not be one-sided. Councils should also be empowered to expand the areas where csg is prohibited and landholders should have the equivalent right to say no to csg or any mining activities on their land. One would seriously question the motivation of a power that only allows Councils to opt out of this prohibition and not allow them the same powers to expand the areas that opt in to protect strategic agricultural land and water.

EPA empowered to revoke licences

The HTBA supports the need for the EPA to be empowered to revoke licences from any companies that do not adhere to their licence conditions and to the effective resourcing of the EPA to professionally and expertly carry out their responsibilities and enforce the Government's newly announced protections. The HTBA also supports the need for appropriate yet serious penalties to deter companies from breaching licence conditions.

Transition Arrangements

The HTBA notes that the new Clause 9A csg prohibitions extends to any application made for development consent but not finally determined; any Part 3A project or concept plan made but not finally determined; and any modifications requests or applications for the modification of a development consent.

The HTBA notes, and is reassured by the Department's statements in the Frequently Asked Questions document accompanying this draft SEPP that in the interim the exclusion zones are being given effect through administrative processes to ensure that no approvals are granted for csg activity within the exclusion zones.

Thank you again for the opportunity to make a submission on this matter. Should you have any queries or require further information on this submission please contact our Director of Policy and Public Affairs, Ms Hellen Georgopoulos.

Yours sincerely

A Wiles
Vice President
Hunter Thoroughbred Breeders Association



The Director Strategic Regional Policy
Department of Planning and Infrastructure
GPO Box 39
Sydney NSW 2001

12 April 2013

Dear Director,

Submission – State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013

The Nature Conservation Council of NSW (NCC) welcomes the opportunity to comment on the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013.

NCC is the peak environment body for New South Wales, representing over 100 organizations across the state. We have long-standing experience in state environmental assessment and planning and would like to voice our concern about critical issues not addressed within this amendment.

Prohibiting new coal seam gas (CSG) activities within two kilometres of residential areas and critical industry clusters is a positive first step towards protecting urban communities and important industries from the damaging impacts of CSG. However, this policy will not deliver much-needed protection for our drinking water catchments, agricultural lands and iconic natural places. Furthermore, certain clauses within this amendment undermine the aims of this policy change.

NCC urges the NSW government to make these changes to the SEPP amendment to ensure our land, water, natural areas and communities are protected from destructive coal mining and gas development.

Critical areas remain at risk

Whilst vineyards, horse studs and urban residential areas are excluded from CSG development, this amendment does nothing to protect drinking water catchments, productive agricultural lands, rural residents and critical wildlife habitat.

As currently drafted, the SEPP amendment only relates to gas from coal beds. Coal mining continues to threaten water quality and availability, air quality, health, food production and other industries. The proposed amendment to the SEPP does nothing to protect communities and the environment from coal mining.

Tight gas, currently being explored in parts of the Northern Rivers region, and other unconventional gas should also be included in the SEPP amendment to avoid a patchwork of regulations that leaves large parts of the state at risk.

The Sydney Catchment Authority (SCA) prohibits development within drinking water catchments that do not have “neutral or beneficial” effects on water quality. Although these

areas strictly prohibit public access, mining is allowed. Mining activities have significant negative impacts on water supply and the natural environment in SCA Special Areas.

Coal mining by Metropolitan Colliery in the Woronora Special Area has destroyed upland swamps critical for filtering contaminants out of our drinking water and caused riverbeds to run dry. CSG mining is continually being linked to the pollution of waterways and ground waters. In particular, the extraction of ground water, a crucial process in CSG mining, is linked to the depletion and salinisation of surface water.¹

In order to protect our critical drinking water supplies, the exclusion zones should be extended to prohibit CSG extraction and coal mining in or near SCA water catchments areas, SCA Special Areas and other drinking water catchments across NSW.

CSG and coal mining expansion in NSW is pushing into iconic natural areas like Leard State Forest and the Pilliga Forest. These areas provide critical habitat for threatened species and endangered ecological communities. Exclusion zones should include protections for our public lands, especially high conservation value land, land bordering national parks, state conservation areas and travelling stock routes. The zones should also protect our critical food growing areas by prohibiting the expansion of coal mining and unconventional gas operations on productive agricultural land.

The amendment should prohibit the development of CSG or other mining to take place between critical industries clusters beyond the 2km zone to avoid fragmenting the areas in which they operate. Allowing coal mining and CSG development between individual horse studs and vineyards would limit their ability to operate as a cluster and runs counter to the intent of the amendment to protect these critical rural industries.

Damaging exemptions

We are extremely concerned with the insertion of s9A, particularly ss2 and 3. These clauses allow councils to override the 2km exclusion zone and exempt certain areas of land from being affected by exclusion zones. This will expose councils to the lobbying of powerful industry interests and will heighten the risk of corruption. This risk could also lead to negative environmental outcomes and would effectively undermine the aim of the legislative amendments. The right to veto for local councils should be removed unless it is matched with an equivalent power for councils to list new prohibited areas.

Further to this, the amendment does not apply to projects already through the approval stage. Current examples are the massive gas field planned for the Pilliga Forest and more than 100 gas wells near the community of Gloucester. The SEPP amendments should apply to projects that have been approved but have not yet satisfied their conditions of approval, and have not yet commenced operation.

Public health impacts

The amendment fails to adequately protect public health as it does not regulate the emissions that may be produced beyond the 2km exclusion zone, or provide any requirements for monitoring fugitive emissions from CSG extraction. Furthermore, within the 2km radius, the effects of CSG mining are still relatively unknown, as no comprehensive study has been undertaken to determine the likely effects.

The policy should be amended to include the development of air pollution standards that are specific to CSG and monitoring of air pollutants at all CSG fields and associated infrastructure, such as compressor stations. Given the risks to water resources and public health from CSG, the

¹NSW Office of Water (2009), "Development of Catchment Health – Indicators for the drinking water catchments" pp.11

government should also place a moratorium on all CSG drilling until a comprehensive study into the human health impacts of CSG has been conducted, as recommended by the South Western Sydney Local Health District and other community groups in NSW.

Conclusion:

This amendment is an encouraging step towards protecting NSW from CSG mining. The 2km exclusion zone provides some protection for urban communities and certain critical industries.

However, this amendment is inadequate for protecting large parts of the state from potentially significant impacts of coal mining and gas expansion. NSW's drinking water, iconic natural places and agricultural land remains vulnerable under these changes. Furthermore, allowing councils to 'opt out' significantly weakens the protective aims of this amendment.

For these reasons, NCC recommends that the NSW Government strengthen the amendment to safeguard our productive agricultural land, critical natural areas, drinking water catchments and all communities from both coal and unconventional gas industries.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. Clarke', with a stylized, flowing script.

Pepe Clarke
Chief Executive Officer

12 April 2013

The Director
Strategic Regional Policy
Department of Planning and Infrastructure
GPO Box 39
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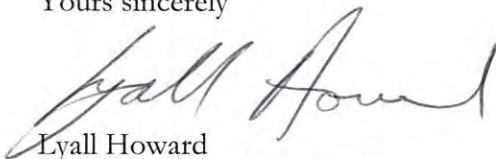
By email srlup@planning.nsw.gov.au

Dear Director,

The Australian Petroleum Production and Exploration Association (**APPEA**) welcomes the opportunity to provide a submission on the draft *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013 (Draft SEPP)*.

Please find attached APPEA's submission and do not hesitate to contact Siobhan Barry on (02) 8241 1902 or at sbarry@appea.com.au.

Yours sincerely



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*Draft State Environmental
Planning Policy (Mining,
Petroleum Production and
Extractive Industries) Amendment
(Coal Seam Gas Exclusion Zones)
2013*

APPEA Submission

12 APRIL 2013

TABLE OF CONTENTS

1. OVERVIEW 2

2. BACKGROUND 3

3. IMPLICATIONS FOR GAS SUPPLY IN NEW SOUTH WALES AND IN
THE EAST COAST GAS MARKET 4

4. ADDRESSING COMMUNITY CONCERNS ABOUT CSG 6

5. DETAILED COMMENTS ON THE DRAFT SEPP 7

6. SUMMARY 18

1. OVERVIEW

The Australian Petroleum Production and Exploration Association (**APPEA**) welcomes the opportunity to provide a submission on the draft *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013* (**Draft SEPP**).

APPEA strongly submits that the New South Wales (**NSW**) Government should not finalise the Draft SEPP in its current form.

The coal seam gas (**CSG**) industry in NSW has faced, and continues to face, ongoing regulatory uncertainty which is negatively impacting on the ability of the industry to invest in NSW.

APPEA and the industry have been broadly supportive of the NSW Government's efforts to manage competing land uses through the Strategic Regional Land Use (**SRLU**) package, including the gateway process. The SRLU package has been described by the NSW Government as being "the strongest regulation of coal seam gas exploration and activity in Australia". This is undoubtedly correct. However, APPEA and the industry have remained supportive of the SRLU package as being assessment focused and not including any unscientific exclusion zones.

APPEA and the NSW CSG industry do not, and cannot, support the CSG exclusion zones proposed in the Draft SEPP. The proposed CSG exclusion zone:

- represents a clear and unacceptable sovereign risk to the NSW CSG industry;
- is completely unsupported by any scientific research into, or risk analysis of, the impacts of CSG on other land uses; and
- will unnecessarily sterilise significant proved and probable reserves, resulting in a heavy financial impact on:
 1. the people of NSW in the form of lost royalty revenue and increased gas prices to consumers and industry; and
 2. the CSG industry, in the form of reduced asset values.

NSW has gas reserves (proved, possible and probable, 3P) equal to 50 years of supply at current gas usage of 139 PJ/year. The SEPP proposal would sterilise 3,730 PJ of identified gas resources, which eliminates 27 years of NSW gas supply.

The current Draft SEPP applies only to stand alone CSG activities, allowing the same activities, carried out by coal companies, to take place in zones that are proposed to be restricted but only to CSG. Under a coal mining lease as part of degassing the coal, CSG activities undertaken by coal companies under Mining Leases, do not face the "no-go zone" policy. Coal-miners are able to seek approval to not only conduct underground long-wall mining activities under houses and within 2km of urban areas, and within CICs, but are also permitted to conduct coal seam gas activities as part of their mining operations. This is clearly a perverse outcome which removes the credibility of the proposed CSG exclusion zone policy.

APPEA, across all Australian and the Commonwealth jurisdictions, consistently opposes no-go zones. Our position is that if government wishes to protect the values of a given area, it should specify the outcomes needed and require proponents to demonstrate they can achieve those outcomes, based on appropriate processes and scientific data.

2. BACKGROUND

APPEA is the peak national body representing the oil and gas exploration and production industries, including the CSG and the liquefied natural gas industries. Our members account for around 98 per cent of oil and gas production in Australia.

APPEA has previously made submissions on the NSW Government's SRLU package including:

- the draft *State Environmental Planning Policy Mining Petroleum Production and Extractive Industries Amendment 2012*; and
- the draft *Environmental Planning and Assessment Amendment (Gateway Process for Strategic Agricultural Land) Regulation 2012*.

The key element of the SRLU package was the gateway process. The gateway process was designed by the NSW Government to ensure that CSG production projects would only be allowed to proceed on biophysical strategic agricultural land and critical industry cluster land where an independent Gateway Panel was satisfied, based on a rigorous scientific assessment process, and that impacts could be acceptably managed.

The NSW CSG industry understood that the SRLU package would:

- be finalised and implemented in the near future; and
- provide the industry with the certainty required in order to make investment decisions in NSW.

The NSW Government has, before finalising the SRLU package, proposed to introduce an unscientific and unjustified CSG exclusion zone, denying the CSG industry of the opportunity to demonstrate that it can safely co-exist with other land uses.

This sudden change in policy has exposed the NSW CSG industry to a level of sovereign risk which is clearly incompatible with the NSW Government's stated aim of fostering development in NSW. It has also led to a further extended period of regulatory uncertainty which causes project delays that mean indigenous gas resources from within NSW will take longer to be appraised and come to market.

The impact of this about-face has already been significant on the NSW CSG industry:

- both Dart Energy and Metgasco have been compelled to suspend their NSW exploration projects; and
- other industry participants are considering a write down of the book value of their NSW assets to take into account the loss of significant CSG reserves.

In addition to the implications noted above for the value of individual companies affected by the policy, adverse changes to the sovereign risk profile of NSW can adversely affect the ability of companies to invest in NSW by increasing the financial risk premium of projects. These implications can affect investments in industries other than CSG by increasing the perception that New South Wales is now a more "risky" place to invest.

Such changes can see investment lost to other Australian jurisdictions or to other locations overseas, noting that NSW is not the only investment destination for potential onshore gas developments.

3. IMPLICATIONS FOR GAS SUPPLY IN NEW SOUTH WALES AND IN THE EAST COAST GAS MARKET

In 2011, ACIL Tasman produced for APPEA a report¹ that considers the economic implications of a growing CSG industry in NSW and compare that scenario with one where development of the industry fails to proceed.

Specifically, ACIL Tasman compared two scenarios:

- a “Base Scenario” in which New South Wales CSG production expands steadily so that it becomes the main source of gas supply in the state; and
- a “CSG Freeze” Scenario in which NSW CSG production does not expand beyond current levels.

The study, *Economic significance of Coal Seam Gas in New South Wales*, found that the “CSG Freeze” Scenario would result in:

- reduction in overall gas consumption in Eastern Australia compared to the Base Scenario, with the gap widening over time to 191 PJ/ per annum (PJ/a) by 2035. Gas consumption in NSW would be up to 25 PJ/a lower;
- wholesale gas prices between 15 per cent and 20 per cent higher in NSW, Victoria, South Australia and Tasmania; 5 per cent to 6 per cent higher in Queensland by 2030. Wholesale gas prices in Sydney \$0.89/GJ higher (real 2010 \$/GJ) on average relative to the Base Scenario over the period 2025 to 2035;
- increased dispatch of coal-fired plant with less gas used for electricity generation compared to the Base Scenario, leading in turn to an increase in CO₂ emissions from the electricity generation sector of about 4 million tonnes per year by 2030;
- electricity prices generally higher in all regions of the Eastern Australian electricity market, with the price gap increasing over time and strongest in Victoria, South Australia and Tasmania. NSW wholesale electricity prices on average 7.4 per cent higher relative to the Base Scenario over the period 2020 to 2030;
- a reduction of around \$4.3 billion (real 2011 dollars) in direct capital investment in upstream CSG development and loss of around \$2.7 billion of associated recurrent operating expenditure foregone in New South Wales over the period to 2035
- while these losses will be at least partly offset by increased investment and expenditure on gas production elsewhere in the country, the net result sees a reduction in real NSW Gross State Product of \$22.9 billion in total over the period to 2034–35
- this equates in net present value terms (7 per cent discount rate) to a \$7.3 billion reduction in real value-added;

¹ ACIL Tasman (2011), *Economic significance of Coal Seam Gas in New South Wales*, 17 November (available at www.appea.com.au/images/stories/Policy_CSG/nsw%20csg%20stage%202%20report%2017nov2011.pdf).

- NSW real income \$32.3 billion lower in total over the period to 2035 (\$10.3 billion lower in net present value terms which equates to \$1,400 per NSW resident);
- total employment in New South Wales 1,350 lower per year on average (FTE basis); and
- NSW Government receipts from CSG royalties and payroll tax over the period to 2035 reduced by \$1.1 billion in aggregate, or \$0.36 billion in NPV terms.

In summary then, the study found CSG has the potential to become an important part of the energy supply mix in New South Wales, reducing the state's reliance on interstate gas imports and improving energy supply security.

A growing CSG sector in NSW would deliver significant economic benefits to the state and to the nation. These positive outcomes include:

- increased availability of gas for residential, commercial and industrial consumers in New South Wales and elsewhere in Eastern Australia;
- lower wholesale gas prices and electricity prices than otherwise would be expected;
- increased use of gas in electricity generation, resulting in lower CO₂ emissions;
- increased economic output (Gross State Product, Gross Domestic Product);
- increased average household real income;
- increased employment; and
- increased government royalty and taxation receipts.

To further understand the implications of the Draft SEPP and other policy developments on gas supply in NSW and in the integrated east coast gas market and the economic welfare of NSW and the broader economy, APPEA has commissioned ACIL Allen Consulting to update their 2011 report to take in account changes in the east coast gas market (and broader energy market) since 2011 and to consider the implications of the Draft SEPP.

That report will be available in coming weeks and we will make a copy available to the NSW Government once it is finalised.

4. ADDRESSING COMMUNITY CONCERNS ABOUT CSG

APPEA's opposition to the Draft SEPP is based on a concern that CSG exclusion zones lead to more cost and investor uncertainty without improving environmental outcomes. The SRLU package is sufficiently rigorous to meet community expectations of environmental management. Unfortunately, the emotional debate about proposed CSG development in New South Wales has reached the point where there is complete disregard of technical information and the government is imposing on industry ever more regulation and approval conditions, which are driven more by the need to appease opponents than to protect the environment.

The CSG industry has existed since the mid-1990s in Queensland and has experienced rapid expansion in response to overseas demand for LNG. This expansion has brought the industry into contact with a much wider segment of Australian society than the energy extraction industry has historically known.

In particular, the CSG industry has learnt how to better co-exist with farming and thereby bring substantial economic and social benefits to rural and remote communities. Over 3,500 land access agreements have been signed with landholders in Queensland and more than 280 agreements have been signed in the emerging industry in New South Wales². APPEA has no doubt that the CSG industry can safely co-exist with other land uses.

APPEA acknowledges that the SRLU initiatives and the Draft SEPP have been put forward by Government in response to ongoing community concerns about the impacts of the CSG industry. The detailed assessments and studies completed to date confirm that the CSG industry can operate without any significant or unacceptable impacts on communities or the environment.

APPEA, and the NSW CSG industry, believe that the work already done and required to be done under the SRLU package is sufficient to demonstrate that the CSG industry is able to safely co-exist with other land uses, however, we acknowledge that satisfying the community of this remains a work in progress.

² APPEA Quarterly Industry Data, APPEA Media Release *NSW policy forces job losses while Queensland gas jobs soar* 13 March 2013, from <http://www.appea.com.au/images/stories/media/130313%20nsw%20policy%20forces%20job%20losses%20while%20qld%20gas%20jobs%20soar.pdf>

5. DETAILED COMMENTS ON THE DRAFT SEPP

This table contains APPEA's detailed comments on the Draft SEPP.

<p>The Draft SEPP should not be finalised in its current form</p>	<p>For the reasons outlined above, APPEA submits that:</p> <ul style="list-style-type: none"> the CSG exclusion zones proposed by the Draft SEPP are unjustified and inappropriate; and the Draft SEPP should not be finalised in its current form. <p>If, contrary to APPEA's main submission, the Draft SEPP is to be made, APPEA submits that it should be amended as outlined in boxes below.</p> <p>APPEA submits that:</p> <ul style="list-style-type: none"> the CSG exclusion zones proposed by the Draft SEPP are unjustified and inappropriate; and the Draft SEPP should not be made.
<p>Interaction with the SRLU Package</p>	<p>SRLU package proposed a scientifically robust gateway process aimed at resolving land use conflicts and did not include arbitrary exclusion areas.</p> <p>In contrast, and without the SRLU package having been finalised or introduced, the NSW Government now proposes to create a CSG "exclusion zones" covering:</p> <ul style="list-style-type: none"> land zoned residential and land within 2 km of any such land; certain land zoned large lot residential and land within 2 km of any such land; future residential growth area land and land within 2 km of any such land; and Critical Industry Cluster land. <p>Draft SEPP is accordingly inconsistent with the SRLU package and, in particular, the draft <i>State Environmental Planning Policy Mining Petroleum Production and Extractive Industries Amendment 2012</i> which was previously exhibited as part of the SRLU package. It is currently unclear:</p> <ul style="list-style-type: none"> how these inconsistencies will be resolved; and which of the two (inconsistent) draft amendments to the <i>State Environmental Planning Policy Mining Petroleum Production and Extractive Industries</i> (Mining SEPP) which have been recently exhibited will in fact proceed. <p>APPEA submits that, the Draft SEPP should not be finalised until:</p> <ul style="list-style-type: none"> the SRLU package has been completed; and the interaction issues and inconsistencies between the Draft SEPP and the draft <i>State Environmental Planning Policy Mining Petroleum Production and Extractive Industries</i>

	<p><i>Industries Amendment 2012</i> have been resolved and made clear.</p> <p>APPEA asks to be consulted further in this regard.</p>
<p>Definition of Coal Seam Gas Development</p>	<p>The Draft SEPP proposes that all “coal seam gas development” be prohibited within the proposed “coal seam gas exclusion zone”.</p> <p>“Coal seam gas development” is defined by the Draft SEPP as follows:</p> <p><i>coal seam gas development means the following:</i></p> <ul style="list-style-type: none"> (a) <i>development for the purposes of petroleum exploration, but only in relation to prospecting for coal seam gas,</i> (b) <i>development for the purposes of petroleum production, but only in relation to the recovery, obtaining or removal of coal seam gas,</i> <p><i>but does not include the following:</i></p> <ul style="list-style-type: none"> (c) <i>the recovery, obtaining or removal of coal seam gas in the course of mining,</i> (d) <i>development to which clause 10 or 10A applies.</i> <p>This definition is very broad and will capture all CSG exploration and production activities which are not exempt development.</p> <p>This fails to recognise that many CSG exploration and production activities are extremely low impact and no different from many other land uses which are carried out across all parts of NSW. For example:</p> <ul style="list-style-type: none"> • CSG exploration and production both use low pressure water and gas pipelines. These low pressure pipelines are no different from the low pressure gas and water pipelines which are used to safely deliver essential services to homes across NSW. • CSG exploration and production both necessitate the creation (or upgrade) and use of access roads. These access roads are no different to access roads created for any other land use (for example, an agricultural land use). • Water monitoring bores are typically installed in and around CSG exploration and production projects. These enable the ground water impacts of CSG activities to be monitored to verify that no unacceptable impacts are occurring. Apart from the fact that these water monitoring bores are only used to monitor, and not to extract, ground water, they do not vary significantly from the water bores constructed and used by landholders for stock and domestic or irrigation use. • Geological surveys (including 2D and 3D seismic surveys) are typically carried out by the CSG industry to obtain a better understanding of the underlying geology and hydrology (for

	<p>example, to identify any geological fractures). Such surveys are temporary, low impact activities which can be safely carried out on any land.</p> <ul style="list-style-type: none"> • CSG production projects typically include high pressure gas pipelines which are licenced under the <i>Pipelines Act 1967 (NSW)</i>. These high pressure gas pipelines: <ol style="list-style-type: none"> 1. are identical to those which form part of the NSW gas distribution network and which safely operate alongside a wide range of land uses; and 2. are designed, constructed and maintained in accordance with stringent requirements and conditions. <p>APPEA submits, that if the Draft SEPP is finalised, then it is imperative that the current definition of “coal seam gas development” be amended to exclude all:</p> <ul style="list-style-type: none"> • gas and water pipelines (including, but not limited to, any pipelines licenced under the <i>Pipelines Act 1967 (NSW)</i>); • access tracks and roads; • water monitoring bores; and • seismic and other surveys.
<p>Proposed 2km Exclusion Zone Buffer for Residential Land is Excessive and Unjustified</p>	<p>Exploration is at the heart of the resources industry. It provides the environmental and resource information on which subsequent CSG activities are founded. These early exploration activities which are by their very nature short-term and of low environmental impact, designed to appraise the potential of an area should not be included in the proposed exclusion zones.</p> <p>Section 72 of the <i>Petroleum (Onshore) Act 1991 (Petroleum Act)</i> already provides that CSG activities may not be carried out within 200 metres of any residence (and not just residences located on land zoned in a certain manner) unless the written consent of the owner and occupier of the house is obtained. The Petroleum Act accordingly already:</p> <ul style="list-style-type: none"> • imposes a 200 metre exclusion zone around residences; but • allows individual owners and occupiers to agree to opt out of this exclusion zone if they so wish. <p>The Draft SEPP proposes to:</p> <ul style="list-style-type: none"> • increase the existing 200 metre exclusion zone around residences by 1,000 per cent so as to capture all land within 2km of: <ol style="list-style-type: none"> 1. all land zoned residential; 2. certain land zoned large lot residential; and 3. future residential growth area land; and

	<ul style="list-style-type: none"> • remove the right of individual owners and occupiers to agree to opt out of this exclusion zone. <p>APPEA is not aware of, and the NSW Government has not produced, any scientific paper or risk assessment which recommends that CSG activities be separated by a 2 km buffer from residential uses.</p> <p>CSG and residential land uses are not incompatible. CSG wells can safely co-exist with residences without any unacceptable impacts, according to risk assessments conducted pursuant to SEPP 33. The safe coexistence of CSG wells and other land uses:</p> <ul style="list-style-type: none"> • has been demonstrated by the experience of the industry to date; and • is supported by robust risk assessments which have not identified any significant hazards or risks arising as a result. <p>There is no public policy justification as to why the CSG industry has been targeted in this manner and other, potentially more hazardous, industries have not.</p> <p>For example the Draft SEPP will still allow mining activities (including wells for “the recovery, obtaining or removal of coal seam gas in the course of mining”) within 2 km of land zoned residential. Mining activities, especially open cut mines, have the potential to generate significant noise and dust impacts. Further, mine degassing wells essentially operate in the same manner as CSG production wells.</p> <p>APPEA does not submit that mining activities should be excluded from all land within 2km of land zoned residential. However, the above examples demonstrate how unscientific and unjustified it is for the Draft SEPP to single out CSG activities in this manner.</p> <div data-bbox="523 1391 1350 1675" style="background-color: #004d40; color: white; padding: 10px;"> <p>Primary Submission: APPEA submits that, if the Draft SEPP is to be finalised, then it should be amended by removing the current 2 km exclusion zone surrounding:</p> <ul style="list-style-type: none"> • all land zoned residential; • certain land zoned large lot residential; and • future residential growth area land. </div> <p>Further, APPEA understands that the 2 km distance contained in the Draft SEPP has been selected to mirror the QLD policy which restricts the grant of new CSG exploration licences on land within 2 km of a town with a population of 1000 or more. However, the QLD policy differs in a number of important respects from that proposed in the Draft SEPP. The most important of these differences are that the QLD policy:</p> <ul style="list-style-type: none"> • has not been given legal effect in manner proposed in the Draft SEPP;
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	<ul style="list-style-type: none"> • does not apply to existing exploration or production titles, and so does not prevent access to any proved reserves; and • does not apply to all residential land but only to towns with a population of 1000 or more. <p>Alternative Submission: APPEA submits that if:</p> <ul style="list-style-type: none"> • the Draft SEPP is to be made; and • the current 2 km buffer exclusion zone surrounding residential land is to be retained, <p>then it should be amended so as to only apply to towns with a population of 1,000 people or more.</p>
Residential Land Exclusion	<p>For the reasons outlined above:</p> <ul style="list-style-type: none"> • section 72 of the Petroleum Act already provides more than adequate protection for residential land; and • any additional exclusion is unnecessary, and not supported by any scientific or public policy justification. <p>Primary Submission: APPEA submits that, if the Draft SEPP is to be finalised, then it should be amended to remove residential land from the proposed exclusion zone.</p> <p>In particular, the Draft SEPP proposes that the CSG exclusion zone will apply:</p> <ul style="list-style-type: none"> • not only to land zoned “Zone R1 General Residential”, “Zone R2 Low Density Residential”, “Zone R3 Medium Density Residential”, “Zone R4 High Density Residential” and “Zone RU5 Village”; but also • to all zones “in which (in the opinion of the Director-General) equivalent land uses are permitted to those permitted” under those zones. <p>The Draft SEPP does not provide any guidance as to the matters to which the Director-General must have regard in reaching this opinion. The Standard Instrument is still being progressively rolled out across NSW and not all of NSW is yet zoned under the Standard Instrument.</p> <p>Accordingly, the Draft SEPP will require landholders and the proponents of CSG projects to seek determinations from the Director-General before they will be able to accurately determine the boundaries of the proposed CSG exclusion zone. This will create further and undesirable uncertainty for the CSG industry, the community and regulators.</p> <p>Alternative Submission 1: APPEA submits that, if:</p> <p>the Draft SEPP is finalised; and</p> <p>residential land is retained in the proposed CSG exclusion zone, then it should be limited to residential land zoned R1,</p>

	<p>R2, R3, R4 and RU5 under the Standard Instrument.</p> <p>Further as currently drafted, the CSG exclusion zone will include all land which is zoned “residential”, regardless of whether that land becomes zoned residential before or after the commencement of the Draft SEPP.</p> <p>Given the absence of any meaningful transitional provisions in the Draft SEPP, this means that CSG projects will be assessed on, and subject to, the extent of the exclusion zone applying as at the determination date. This is the case even if certain land has been rezoned residential after the application seeking approval for the CSG project has been lodged.</p> <p>Alternative Submission 2: APPEA submits that, if:</p> <p>the Draft SEPP is finalised; and residential land is retained in the proposed CSG exclusion zone, then transitional provisions should be included to ensure that applications made (including environmental assessments lodged under Part 5), but not yet determined, are not affected by any rezonings which occur after the date of lodgement.</p>
<p>Large Lot Residential Exclusion</p>	<p>It is proposed that the Draft SEPP will also exclude CSG development from certain, as yet unspecified, land set out in Schedule 3 which is zoned R5 Large Lot Residential.</p> <p>No mechanism is contained in the Draft SEPP which enables land to be included in Schedule 3. Instead, the “Question and Answer” document published with the Draft SEPP states that:</p> <p><i>The following criteria are proposed:</i></p> <ul style="list-style-type: none"> ○ <i>The area must contain a mix of land uses.</i> ○ <i>The zone must apply to a settlement that is long established and has some historic association with the district, region and/or rural hinterland.</i> ○ <i>The area must contain a mix of lot sizes, including an average lot size of up to 4,000 square metres.</i> <p>...</p> <p><i>Councils have been requested to nominate particular areas zoned R5 within their LGA for listing in the SEPP as an R5 village.</i></p> <p><i>Nominations will be evaluated by the Department of Planning and Infrastructure and recommendations will be made to the Minister for Planning and Infrastructure for inclusion in the finalised SEPP. The Department is currently consulting Local Government NSW about local government involvement in the evaluation process.</i></p> <p>This is inappropriate as it gives no guidance to proponents on the outcomes Government requires from proponents.</p> <p>Primary Submission: APPEA submits that, if the Draft SEPP is finalised, then land which is zoned R5 Large Lot</p>

	<p>Residential should be excluded from the CSG exclusion zone.</p> <p>Alternative Submission: APPEA submits that if:</p> <ul style="list-style-type: none"> • the Draft SEPP is finalised, and • the option to include land zoned R5 Large Lot Residential in the CSG exclusion zone is retained, <p>then draft criteria should be amended so that:</p> <ul style="list-style-type: none"> • only areas which are truly a village (and which includes a range of uses sufficient to service a village) will be included in Schedule 3; • the maximum average lot size should be significantly reduced from up to 4,000 square metres (as this indicates a rural rather than a village land use); • an additional minimal population criteria of 1,000 people be included; and • [landholders and] industry will be consulted with in relation to the land to be included in Schedule 3 (and not just Councils).
<p>Future Residential Growth Area Land Exclusion</p>	<p>It is proposed that the Draft SEPP will also exclude CSG development from certain land mapped as future residential growth area land. The Draft SEPP notes that this map will be amended, after the Draft SEPP is exhibited, to include the North West and South West Growth Centres and “other future residential growth areas”. No indication is given in the Draft SEPP, or the “Question and Answer” document published with the Draft SEPP, as to the criteria which will be applied to determine which land is to be included in the future residential growth area map.</p> <p>As outlined above:</p> <ul style="list-style-type: none"> • experience to date (backed up by robust risk assessments) has shown that CSG and residential land uses can safely co-exist; and • section 72 of the Petroleum Act already provides for a 200 metre buffer for CSG activities from residences unless the written consent of the owner and occupier of the house is obtained. <p>Further, CSG exploration and production is a transitional use:</p> <ul style="list-style-type: none"> • Exploration projects are temporary in nature, and most only involve active works over a number of weeks or months. • The average life of a CSG production well is only approximately 10-15 years. Once a CSG production well is no longer producing CSG it is plugged and rehabilitated to a standard which allows residential and agricultural uses to be

	<p>carried out over the top of the former well site.</p> <p>Accordingly, there is no public policy reason why CSG projects are unable to co-exist with land which is not yet even zoned so as permit residential uses, let alone used for any residential use.</p> <p>Primary Submission: APPEA submits that, if the Draft SEPP is finalised, then future residential growth area land should not be included in the CSG exclusion zone.</p> <p>Alternative Submission: If, contrary to APPEA's primary submission:</p> <ul style="list-style-type: none"> • the Draft SEPP is finalised; and • future residential growth area land is retained within the exclusion zone, <p>then rigorous criteria should be adopted to ensure that only land which will definitely be developed for residential use within the next [15 years] is included in the Future Residential Growth Areas Land Map.</p>
<p>Critical Industry Cluster Land Exclusion</p>	<p>The proposal to amend the Mining SEPP to include a blanket exclusion zone for all land mapped as being within a Critical Industry Cluster (CIC Land) is directly contrary to, and inconsistent with, the SRLU package.</p> <p>As outlined above, the SRLU package:</p> <ul style="list-style-type: none"> • proposed a rigorous scientific gateway process which would apply to mapped CIC Land; • set out clear and scientifically based criteria against which the independent gateway panel would assess the project before determining to grant a gateway certificate; and • included an optional site verification certificate process which proponents and landholders could undertake to determine whether or not land mapped as CIC does in fact meet the relevant criteria. <p>In contrast, the Draft SEPP:</p> <ul style="list-style-type: none"> • proposes a non-scientifically based exclusion zone for all CIC land; and • does make provision for any site verification of mapped as CIC Land. <p>Primary Submission: APPEA submits that:</p> <ul style="list-style-type: none"> • the gateway process proposed in the SRLU package should be retained as applying to land mapped as CIC Land; and • there should be no exclusion zone for CIC Land.

	<p>The draft <i>Guideline for Site Verification of Critical Industry Clusters</i> states that “given the regional scale of the CIC maps, NSW Trade and Investment is currently undertaking a regional CIC verification process.”</p> <p>Alternative Submission 2: If, contrary to APPEA’s primary submission, an exclusion zone is applied to mapped CIC Land then this exclusion zone should only come into effect after the Department has completed a rigorous regional CIC verification process.</p> <p>APPEA’s earlier submission on the draft <i>State Environmental Planning Policy Mining Petroleum Production and Extractive Industries Amendment 2012</i> commented in detail on the draft site verification criteria for CIC Land. APPEA notes that:</p> <ul style="list-style-type: none"> • The current CIC criteria were developed for the purpose of the gateway process and so were designed to be followed by a proper and independent scientific consideration against the gateway criteria. They were not designed as a proper basis on which to impose a blanket exclusion and do not provide such a basis. • There are considerable issues with the CIC site verification criteria proposed in the draft “guideline for site verification of critical industry clusters.” These include that the draft criteria: <ol style="list-style-type: none"> 1. rely on access to information which only in the possession of landholders; and 2. require confirmation as to the current and past use of all land within 2 kms of the property. • It is currently unclear as to whether or not any further CICs will be developed and implemented. There are many industries which would arguably qualify, eg poultry farms, mines etc. <p>Alternative Submission 3: APPEA submits that if, contrary to APPEA’s primary submission:</p> <ul style="list-style-type: none"> • the Draft SEPP is finalised; and • it includes CIC Land within the CSG exclusion zone, then: <ul style="list-style-type: none"> • the draft CIC criteria should be amended so as to impose a materiality threshold which ensures that only sites which are of true “national and/or international importance”; • the draft CIC criteria should be amended so as limit CIC Land to land which is currently being actively used for purposes directly related to the relevant industry;
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	<ul style="list-style-type: none"> the Draft SEPP should be amended to confirm that the CSG exclusion zone will only apply to the equine and viticulture critical industry clusters (and not to any further critical industry clusters which may be announced, in line with previous Government assurances); the Draft SEPP should be amended so that that the CSG exclusion zone only applies to the surface of CIC land, and does not restrict subsurface coal seam gas development; and the Draft SEPP should be amended to make provision for land to be promptly removed from the Critical Industry Cluster Land Map once it has been verified (in accordance with the proposed CIC site verification process proposed in the SRLU package) as not meeting the relevant criteria. <p>APPEA further submits that an independent risk based criteria needs to be established for CICs, similar to that in place for Biophysical Strategic Agricultural Land (BSAL) or the terrestrial biodiversity matrix.</p>
<p>“Opt Out” Rights</p>	<p>APPEA supports the proposed inclusion in the Draft SEPP of a right for a Council to “opt out” of the CSG exclusion zone.</p> <p>However, APPEA submits that individual landholders should also be given the right to “opt out” of the CSG exclusion zone. Such a right would be consistent with the rights currently enshrined in sections 71 and 72 of the Petroleum Act which enable landholders and occupiers to consent to CSG activity on land in the vicinity of residences and other improvements.</p> <p>Unless such a right is included then:</p> <ul style="list-style-type: none"> many landholders will be unfairly deprived of the secure revenue stream which may be derived from CSG exploration and production. In some cases, this revenue stream may be required to ensure that their farm or property based business remains financially viable; and land which is owned by the Commonwealth, the State or CSG or mining companies may also be subject to the CSG exclusion zone. This would seem to be a perverse and unintended outcome which does not deliver any benefit to any person or interest group. <p>APPEA submits that:</p> <ul style="list-style-type: none"> if the Draft SEPP is finalised; and the CSG exclusion zone is retained, <p>then individual landholders should be given the right to “opt out” of the CSG exclusion zone in accordance with</p>

	<p>the rights contained in sections 71 and 72 of the Petroleum Act.</p>
<p>Transitional Provisions</p>	<p>The Draft SEPP does not include any real transitional provisions and so will apply to current applications and Part 5 assessments. This is contrary to the standard approach taken to amendments made to environmental planning instruments and effectively gives the Draft SEPP a retrospective operation.</p> <p>APPEA submits that, if the Draft SEPP is finalised, transitional provisions should be included to ensure that the amendments effected by the Draft SEPP will not apply to applications, or Part 5 assessments, which have been lodged but not yet determined.</p> <p>Further, the Draft SEPP also proposes that the CSG exclusion zone provisions will apply to modification applications made in relation to existing projects. It is unclear what is intended by this but it appears contrary to the established principles governing existing uses.</p> <p>APPEA submits that, if the Draft SEPP is finalised, transitional provisions should be included to ensure that the amendments do not apply to any modification applications.</p>
<p>Maps Not Yet Finalised and Draft SEPP Incomplete</p>	<p>The maps which will underlie the Draft SEPP are not yet finalised and Schedules 2 and 3 of the Draft SEPP are currently blank. Without this very important information having been provided, it is very difficult for APPEA (and the rest of NSW) to determine the impact of the Draft SEPP and provide meaningful comments on it.</p> <p>APPEA asks to be consulted in relation to the finalisation of the draft maps and the materials to be included in Schedules 2 and 3.</p>
<p>Review by the Chief Scientist and Engineer</p>	<p>Premier has announced that the Chief Scientist and Engineer will conduct an independent review of all CSG activities in NSW, including the potential impact on rural residences and potential impacts on water catchments.</p> <p>APPEA submits that, if the Draft SEPP is finalised, the NSW Government should commit to reviewing the amendments made by the Draft SEPP as soon as the Chief Scientist and Engineer's review is complete so as to take into account the findings made in that review.</p>

6. SUMMARY

In an era when Eastern Australian energy markets are undergoing massive changes, APPEA believes the CSG industry represents an historic opportunity to achieve a secure, reliable indigenous gas supply for NSW.

We support the NSW Government's initiatives to ensure that land and water resources are protected and that the CSG sector has a social licence to operate. However, we believe that this can be achieved without the need for buffers and exclusion zones.

APPEA opposes no-go zones in any Australian jurisdiction. Protection needs to be based on outcomes delivered through appropriate processes and scientific data.

The CSG industry in NSW has faced, and continues to face, ongoing regulatory uncertainty which is negatively impacting on the ability of the industry to invest in NSW and we urge the Government to reconsider.



10 April 2013

The Director Strategic Regional Policy
NSW Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Re: Public consultation draft – State Environment Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013 (the ‘Amendments’)

E-mail submission: srlup@planning.gov.au

NSW Farmers appreciates the opportunity to provide input into the above Amendments. The Amendments insert a clause into the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (‘Mining SEPP’) which will prohibit the carrying out of coal seam gas (CSG) development on or under land within a CSG exclusion zone. Whilst NSW Farmers support the concept of exclusion zones in offering definitive protection and balance between competing land uses, NSW Farmers are very disappointed in these Amendments as they:

1. Do not include Bio-Physical Strategic Agricultural Land (BSAL) or agricultural land in the exclusion zones in addition to the equine and viticulture Critical Industry Clusters (CICs). All prime agricultural industries should be treated equally;
2. Unreasonably favour the protection of town and city dwellers over rural residents;
3. Inexplicably prioritise CSG protection over other harmful exploration and mining activities in certain areas; and
4. Inappropriately place opt-out decisions in the hands of local councils without providing stringent principles and processes for local councils to follow.

1. The Exclusion Zones do not protect Bio-Physical Strategic Agricultural Land.

The Amendments define CSG exclusion zones to include, along with residential and future residential zones, CIC land. CIC land is defined as land mapped under the Mining SEPP as CIC land, and in these draft Amendments are the equine and viticulture CIC lands in the Upper Hunter. The Amendments do not include other areas of agricultural land, let alone land which has been mapped and identified as BSAL in the current Strategic Regional Land Use Policy (SRULP).

NSW Farmers questions the instigation of an exclusion zone around the Upper Hunter’s equine and viticulture CIC’s only. BSAL is land for the purposes of SRLUP and Strategic Agricultural Land (SAL) Mapping that is considered valuable enough to trigger further and more rigorous protection of that Policy, as with CIC land. Exclusion zones for CIC in the Amendments offer a level of protection not currently offered through SRLUP. NSW Farmers supports the protection of CIC’s through zoned exclusion, although believes that this protection should be extended to land that grows our food and fibre as well.

NSW Farmers represents a diverse range of interests of farmers across NSW. Our members grow food and fibre for the domestic and export markets from beef, sheep and goat meat to wool, grains, cotton, horticulture, poultry, dairy, oysters, eggs and pork. The value of the farming industry is clear.

NSW Farmers believes that to offer definitive protection and balance between competing land uses it may be appropriate to zone contested areas according to their most suitable long term purpose. Establishing exclusion zones for the CSG industry offers rural industries and communities certainty about how their locality can be expected to change into the future.

The SRLUP fails to deliver an adequate level of rigour and regulatory force in protecting agricultural land. NSW Farmers aims to ensure that farmers are not further disadvantaged by the proposed exclusion zones in these Amendments. NSW Farmers welcomes the protections afforded to CIC land through the operation of these Amendments although strongly believes that these contemplated protections should be extended to cover our State's valuable agricultural land and BSAL.

2. The exclusion zones do not offer rural residents the same level of protection as that offered to urban residents.

The exclusion zones contained in the Amendments prohibit CSG development in and within 2km of a residential zone, in and within 2km of a future residential growth area and within mapped CIC land. NSW Farmers not only questions the protection of CIC over BSAL and other valuable agricultural land, but also the protection of residential zones and future residential growth areas over residences on rural and farming properties.

NSW Farmers submits that the level of protection in prohibiting CSG development in and within 2km of a residential zone in town and city areas should be available to protect the areas of land and earth that hosts dwellings outside of urban areas- rural residences.

3. Harmful mining activity can still take place in and around areas deemed off limits for CSG development in these Amendments.

First and foremost NSW Farmers would like to raise a concern that NSW Farmers have consistently maintained - the need for upfront science in the consideration of activity in and around natural resources. Lack of this science upfront places a serious question mark on the parameters of exclusion zones both in terms of the defined zones and scientific rationale. For example, depending on water recharge and connectivity, 2km may not be enough to protect water resources in particular areas. Not only do the exclusion zones in their current form not protect BSAL or other agricultural land, 2 kilometres appears to be an arbitrary measurement.

Along these lines, NSW Farmers would also like to express that the Amendments provide protection from CSG development in residential areas and CIC's but leave open these areas for harmful mining and extractive industries activity to take place. If these areas are zoned unsuitable for CSG development, it would follow that these areas are unsuitable for other exploration and production activity such as open cut coal mining.

4. Council-initiated exemptions are inappropriate and procedurally inadequate

The proposed Clause 9A in the Amendments prohibits CSG development in the defined residential zones. Clause 9A (2) and (3) then provide an avenue whereby a local council may identify areas of land to be exempted from the exclusion zone by requesting that the Policy be amended to list an area of land that will be exempt ('opt-out clause').

NSW Farmers' members are predominately landholders residing outside of the residential exclusion zones. Given that the opt-out clause allows local councils to exempt land located within residential zones, NSW Farmers submits that these opt-out clauses do not currently significantly affect our membership base to the extent that we are able to wholeheartedly comment in support or not of the opt-out clause.

However, NSW Farmers is aware of the possible implications of an opt-out clause and the effect that such a clause would have on a rural community. To the extent that a local council opt-out could potentially relieve the pressure of CSG development on agricultural land, NSW Farmers would be in support of an opt-out clause, so long as it is implemented with stringent principles and processes for exercising opting-out. However, NSW Farmers believes that an opt-out clause creates unnecessary pressure and potentially even a risk of corruption within local councils, which NSW Farmers could not support in the wider interest of rural communities.

Ultimately, each council is unique in their capacity to make such major decisions, and their ability to adequately represent community interests in deciding for or against development- with major, unknowable risks. If the CSG exclusion zones contained in these Amendments guarantee residential areas off limits to CSG development, then NSW Farmers cannot support the loop-hole created by an opt-out clause. Although NSW Farmers' interests lie predominately in protecting agricultural land, NSW Farmers could not support an opt-out when it is not certain that every council is in an appropriately informed position to make decisions of this nature.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Leys', with a stylized, cursive script.

Danica Leys
Policy Director- Environment

Our ref: R11/0033 Out-21396

12 April 2013

Mr Daniel Keary
Director Strategic Regional Policy
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Email: srlup@planning.nsw.gov.au

Dear Mr Keary:

CSG Exclusion Zones – Proposed Amendments to Mining SEPP

Local Government New South Wales (LGNSW) welcomes the opportunity to provide feedback on the draft amendments to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 - known as the Mining SEPP. We note that the proposed amendments would prohibit coal seam gas (CSG) development:

- on or under land in and within 2km of a residential zone or future identified residential growth areas; and
- on or under land which is in a Critical Industry Cluster (CIC), and that currently, two CICs have been identified - the Upper Hunter equine and viticulture CICs.

We also note that this proposed amendment to the Mining SEPP is a second and separate amendment to those which were proposed in late 2012 to put into effect the gateway process for strategic regional land use plans (SRLUPs). LGNSW made a separate submission on these amendments. Comments on these most recent proposed amendments are outlined below.

1. Future residential growth areas

The future residential growth areas map being exhibited as part of the SEPP amendment currently only covers the North West and South West Growth Centres in the Sydney metropolitan region. LGNSW notes that the Department of Planning and Infrastructure is currently compiling information on all future growth areas across the State in consultation with councils, to include in a final map prior to the finalisation of the SEPP amendment. LGNSW encourages the Department to finalise these maps as soon as possible to minimise uncertainty.

2. Excluding certain R5 areas – Potential confusion

By not including R5 zones along with the other residential exclusion zones, and placing certain criteria on only particular selected areas within R5 zones, we expect confusion among councils and rural residential property owners. If CSG extraction activity is deemed to be inappropriate in and within 2km of residential zones, it will be difficult to uphold a distinction between R1 – 4 and R5, given that all are “residential zones” under the Standard Instrument LEP. It raises the question as to how and why the Government has made this distinction.

Councils and communities may consider that the exemption should apply to all "residential zones" under the Standard Instrument LEP, including R5 subdivisions. If all residential zones were included in the CSG prohibitions, and there were no distinctions made between zones and no "R5 village criteria", this would negate the need to introduce evaluation of nominations from councils as another planning approval layer. For simplicity and consistency, it would therefore appear to be a more practical approach, particularly in the context of removing complexity within our planning system which is one of the platforms of the wider planning system reform.

3. Council exemptions

Allowing councils to opt out of the provisions of the SEPP by identifying land to be exempted from the CSG prohibition, is consistent with the overall message of returning powers to councils and is a position that is strongly supported by LGNSW.

We note in the *Frequently Asked Questions* alongside the draft amendments that the "NSW Government believes that local councils know their local areas better than anyone and is giving councils greater say in the planning decisions that affect their area". Local Government would like to see the Government extend this principle, giving councils greater control over their local areas, into other planning initiatives.

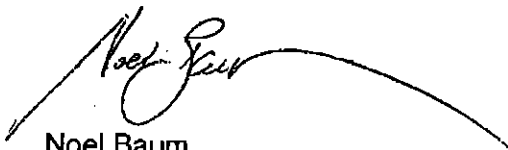
We understand that the Department does not intend to apply any sort of 'assessment' of requests by councils for exemption to this policy, and that following receipt of such a request, the Department would make a subsequent amendment to the SEPP by adding the identified land to Schedule 2 (referred to in clause 9A).

There are some practical implications in the application of this exemption provision that we wish to raise:

- Will the opt-out areas only apply to specific localised areas of land within the LGA, rather than a blanket LGA-wide exclusion that would apply to all residential zoned land in the LGA?
- Would there be any intention or requirement for the Department to publicly exhibit any proposed additions to the Schedule 2 prior to amending it?
- What happens in the event that a new council decides they wish to reverse a decision (of a previous council) to opt out? There could be potential economic ramifications for companies which may have invested in the area on the basis of the council-initiated exemption, which could create uncertainty for those investors/companies.

Ms Jane Partridge (phone 9242 4093; email jane.partridge@lgnsw.org.au) is available to discuss these matters with your staff, should you wish to contact LGNSW.

Yours sincerely



Noel Baum
Director - Policy