

srlup - Submission: Draft Amendment to the State Environmental Planning Policy - (Mining, Petroleum Industry and Extractive Industries AND CSG Exclusion Zone) 2013

From: "Avril Lockton" <locktons@exemail.com.au>
To: <srlup@planning.nsw.gov.au>
Date: 3/24/2013 6:07 PM
Subject: Submission: Draft Amendment to the State Environmental Planning Policy - (Mining, Petroleum Industry and Extractive Industries AND CSG Exclusion Zone) 2013

To NSW Planning Minister

Submission in support of: Draft Amendment to the State Environmental Planning Policy - (Mining, Petroleum Industry and Extractive Industries AND CSG Exclusion Zone) 2013

Dear Mr Hazzard,

I would like to express the **Community Environment Network – Lake Macquarie Planning Committee's** strong support for the proposed amendments that will prohibit Coal Seam Gas exploration and extraction 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) i.e. Upper Hunter Equine and Viticulture CICs.

Thank you for the opportunity to comment on this planning proposal.

Yours sincerely,

Avril Lockton

Deputy Chair, Community Environment Network (CEN)

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Nature Conservation Saves for Tomorrow

Ref: BMCS 9-April-2013

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

Re: Draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013

Dear Sir/Madam,

I write on behalf of the Blue Mountains Conservation Society, having reviewed the public consultation draft of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013* and its associated documents.

The draft SEPP amendment constitutes a first step in the right direction in rationalising CSG activity in NSW. It also provides a firm government response to the demonstrated health, environmental and economic costs of CSG activities, and serves as a government admission to these costs. These aspects are to be commended.

Despite this effective admission, the amendments fall seriously short of managing these threats in any rational or coherent manner. There is no evidence presented to justify the selected exclusion zones. Rather, these variously seem to align with certain marginal electorates and high-profile or 'iconic' industries. The amendments must be revisited on the basis of an evidence-based assessment. Such an assessment would need to extend proposed exclusions to include Sydney Catchment Authority (SCA) water catchment & Special Areas, Conservation estate, groundwater dependent ecosystems, bore-dependent agricultural systems and other sensitive key resources.

The amendment restricts its charter to conventional Coal Seam Gas operations. This fails to address the comparable impacts of tight gas (presently being explored in parts of the Northern Rivers). The SEPP amendment should be extended to cover all unconventional natural gas. Furthermore, the public costs arising from other extractive industries (such as coal) are known to be equal to or greater than those of CSG. The public of NSW still awaits a comprehensive and fair planning response to the management of extractive industries that recognises the burden of such extractive industries on our natural environment, productivity and social amenity.

The amendment to permit local government to "opt out" of the proposed exclusion zone protections is concerning. This loophole undermines the entire purpose of the draft SEPP amendment – that is to exclude key assets from damage through CSG – suggesting that the amendment package is for the purpose of window-dressing rather than constituting a serious policy response. This option must be removed to ensure public confidence in the proposed amendment and the NSW planning system.

We support in principle the proposed amendment, but strongly urge that an expanded and evidence-based response be provided to address the impact of extractive industries on our landscapes.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'P. Ridgeway', with a stylized, cursive script.

Peter Ridgeway
President, Blue Mountains Conservation Society

9 April 2013



9th April 2013

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

Sent by email to srlup@planning.nsw.gov.au

Dear Sir/Madam:

Re: Draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013 - [Draft Mining SEPP Amendment]

I write on behalf of the Scenic Hills Association.

Issues and assumptions guiding our response to the Draft Mining SEPP Amendment

The Scenic Hills of South West Sydney are within the Sydney Metropolitan Area and, although *extractive industries* and *mines* are prohibited land use under the Environmental Protection (Scenic) zoning of the Hills in the local environment plan (LEP), AGL has a pending development application to expand the Camden Gas Project Stage 3 into this area, using residential streets in the surrounding suburbs for access and drilling under homes in those suburbs.

The Scenic Hills Association has always maintained that CSG mining in the Scenic Hills and surrounding suburbs created irreconcilable planning conflicts that undermined community confidence in and respect for the planning system (in particular zoning controls) along with risks to health, environment, natural and cultural assets of state significance and the local economy through land use conflict and flow-on effects from property devaluation. We have always stated that certainty should and could be given to areas of irreconcilable conflict as soon as possible without the need for further scientific research.

We therefore commend the NSW Government for taking the first steps to an early resolution of some of these conflicts and the associated social, physical and economic uncertainty by prohibiting CSG exploration and production where we need no more scientific research to establish the negative impacts, i.e. in existing and future residential areas and critical industry clusters.

While we are disappointed that environmental protection zones and heritage landscapes such as apply to the Scenic Hills and much of the historically significant South West are not specifically included in the proposed exclusion zones (despite making strong cases in our submissions to both the NSW Upper House Inquiry and the NSW Department of Planning on Stage 3 of the Camden Gas Project), we believe that a case can be made to include other irreconcilable planning conflicts within the area of the Sydney Metropolitan Strategy that would go some way to protecting these while a further case is prepared.

Finally, in the absence of an explicit rationale to guide the implementation of the policy announced by the Premier on the 19th February 2013, which this Draft Mining SEPP amendment seeks to implement, we have used the issues stated above as a guide, along with statements made in the Premier's media release of the same date, noting in particular the following statements:

“These actions clearly place public health and safety at the heart of all CSG activities.”

“...the exclusion zones will ensure there is no repeat of the former Labor Government’s handing out of exploration licenses in residential areas.”

“Families in residential areas should not have to worry about their quality of life being affected by the noise, visual impacts and other effects of coal seam gas mining.”

“This package will be welcomed by the community and the CSG industry as it increases certainty and significantly streamlines the regulation process.”

Recommended amendments to the Draft Mining SEPP Amendment

We have reviewed the Draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013 (**Draft Mining SEPP Amendment**) in the light of the above assumptions. Our recommended changes to this policy below are based on the need for the policy amendment to have a defensible rationale that is implemented in a way that is consistent and logical and avoids manipulation by companies wanting to develop natural gas resources in inappropriate areas. As it stands there are definitional issues and major loopholes that undermine the apparent intent of/rationale for the Draft Mining SEPP Amendment that we hope can be rectified if the community is to have any confidence in the policy as announced by Premier on the 19th February 2013.

1. CSG is only one type of natural gas and is generally classified within a wider category of ‘unconventional gas’ that includes shale and tight gas. We note information from the CSIRO and from the Petroleum Exploration Society of Australia that indicates that the Sydney Basin has potential reserves of shale and tight gas.¹ ***We believe that all types of gas extraction, and in particular ‘unconventional’ gas extraction, will have similar planning conflicts to CSG and recommend that this anomaly in the Draft Mining SEPP Amendment be corrected by prohibiting all forms of gas exploration and production within the proposed exclusion zones.***

In our subsequent points we will refer to ‘natural gas’ in place of ‘CSG’ where this is applicable and ‘development’ when referring to ‘exploration and production’.

2. **Schedule 1, Clause 3 Interpretation:** Sub-clause 3 (2) (c) excludes from the definition of what is to be prohibited within the exclusions zones *‘the recovery, obtaining or removal of coal seam gas in the course of mining’*. We understand that for safety reasons, natural gas may need to be extracted as part of coal mining. ***In order to rule out any unintended use of this clause we recommend that sub-paragraph (c) be amended to clarify that ‘natural gas’ development is only allowed in the course of mining ‘where it is required for the safe operation of existing mines.’***
3. ***A definition of critical industry cluster needs to be included in the Draft Mining SEPP Amendment so that there is a sound basis on which to determine what is included on the Critical Industry Cluster Land Maps in the future.*** As it stands this is open to subjective assessment by the NSW Department of Planning and can be revised at any time. This gives no certainty to those industries impacted by this amendment and, as we see it, defeats the purpose of this policy amendment.

¹ *Unconventional gas fast facts*, CSIRO, August 2012, and “An Overview of Tight Gas Resources in Australia” by Ingrid Campbell, Lakes Oil published in *PESA News*, June/July 2009

4. We are deeply concerned at the impossible choice being given to owners of rural properties within Sydney and on the urban fringe, and the apparent conflict that this creates with the Sydney Metropolitan Strategy and heritage conservation as recommended by the Heritage Council in 2000² for South West Sydney colonial rural landscapes. The preservation of land for urban agriculture has been nominated as a strategic consideration under the Sydney Metropolitan Strategy, but in the Macarthur area where AGL's Camden Gas Project is already developing gas, according to the Draft Mining SEPP Amendment those wishing to retain this land for rural purposes must choose between future residential development and natural gas development where these properties fall outside the 2 km exclusion zone and within AGL's PEL2. Many of these properties are small allotments where the negative impact of natural gas development is likely to be far higher than on larger properties and possibly devastating. Some of them will be important heritage landscapes supporting state significant buildings. This choice will undoubtedly force landowners to opt for residential development as the lesser evil in order to relocate to rural locations elsewhere leading to the demise of agriculture and heritage in the Sydney Basin.

To avoid what we believe is another irreconcilable planning conflict we recommend the exclusion apply to all land that falls within the Sydney Metropolitan Strategy (preferably), or, at the very least apply to small rural properties of 100 hectares or less (the minimum lot size within the Scenic Hills Environmental Protection zone). Further, where a rural property supports a state significant house or collection of heritage buildings we recommend that an exclusion zone be imposed consistent with commonly recommended minimum curtilages of approximately 130 hectares for state significant rural heritage estates (home lots) (as recommended for Maryland, Denbigh and Varro Ville), the actual lot size and position of which is determined by the Heritage Council according to context. The aim of the final determination should be that if the land around these heritage structures is reduced they will still be on a viable holding.

For all other zonings and consistent with our view about the lack of scientific evidence to establish the safety of unconventional gas mining, we recommend a moratorium be imposed until its compatibility with larger rural properties and other land uses has been determined, and its impact on water and air has been scientifically assessed.

5. There is an inconsistency in the rationale for protecting those places where people live and sleep from natural gas development that can only be rectified by applying this principle independently of the number of residences affected.

To ensure consistency, the 2km exclusion zone should apply to all buildings classified for residential usage independently of what land mass surrounds the residences across the state. At the very least, the Draft Mining SEPP Amendment should be amended to include rural residential zones such as R5 Large Lot Residential (without qualification).

6. We are deeply concerned at the inclusion of sub-clauses 9A (2) and (3) which allow local councils to 'opt out' of the exclusion zones. These sub-clauses are inconsistent with the intention of the Draft Mining SEPP Amendment and destroy any possible rationale for the Amendment unless the sole purpose of the Draft Mining SEPP Amendment was to deceive residential and industry cluster communities into believing that they would be protected from natural gas development. These clauses also seem to be inconsistent with the role of SEPPs which are concerned with environmental planning by the State (not local councils). Any suggestion that these clauses have

² Colleen Morris and Geoffrey Britton, "Colonial Landscapes of the Cumberland Plain and Camden, NSW: A Survey of selected pre-1860 Cultural Landscapes from Wollondilly to Hawkesbury LGA", National Trust, 2000 (commissioned by the NSW Heritage Council).

been included to *'give planning back to local communities'* is entirely disingenuous as local councils are not being provided with the logical extension of this which is to have the right to exclude areas from natural gas development not currently part of the exclusion zones.

We believe that the insertion of these sub-clauses opens this regulation up to corruption or to, at the very least, a perversion of the course of planning for local communities. With regard to the latter possibility, we note that the NSW Shires Association has called on the NSW Government to implement a 'Royalties for Regions Scheme'. Were this to occur, the effect of sub-clauses 9A (2) and (3) could lead cash-strapped Councils to open up exclusion zones within their Local Government Areas to natural gas development in exchange for royalties even though it might not be wanted by local communities or be in their best interests, making it hard to understand the rationale behind this if it is not to encourage such an outcome. The worst outcome would be outright corruption at the local government level.

The insertion of these sub-clauses makes the Draft Mining SEPP Amendment not worth the paper it is written on and can only be rectified by the removal of these sub-clauses.

7. A further loophole in the Draft Mining SEPP Amendment has been identified with regard to the application of s89E of the *Environmental Planning and Assessment Act 1979 (EPA Act)*, which concerns ***consent for State significant development***. AGL's Stage 3 of the Camden Gas Project was recently transferred by the NSW Department of Planning to its State Significant Development (SSD) regime, and we understand that all natural gas developments would likely be accepted into this regime and therefore s89E would apply. Under s89E of the EPA Act (3) *Development consent may be granted despite the development being partly prohibited by an environmental planning instrument*. This provides a loophole that can be exploited by companies wanting to develop natural gas resources in exclusion zones since all that would be required is for the project area to include some land outside the exclusion zones for the whole project, including those parts within the exclusion zones, to be approved. In this regard we note from documents acquired by us from the NSW Department of Planning under the *Government Information (Public Access) Act 2009 (GIPA Act)*, and with reference to AGL's statements in its Amended Development Application, that AGL may have been canvassing options with the NSW Department of Planning to avoid losing any part of the Stage 3 area on planning grounds by transferring its project from Part 3A to SSD and/or the possible extension of its Stage 2 Concept Plan to include Stage 3. We believe that statements in these documents clearly indicate the use of the SSD regime and/or other loopholes in the regulations to override any planning prohibitions on natural gas development.

If the Draft Mining SEPP Amendment is to be fully effective and to avoid manipulation by proponents of natural gas development, s89E of the EPA Act needs to be amended so that if part of an SSD site is prohibited then the whole of the project cannot be granted consent.

8. Finally, equivalent zonings must apply where the Local Government Area has not yet adopted the zonings in the *Standard Instrument – Principal Local Environmental Plan* (e.g. in Campbelltown).

Yours sincerely



Jacqui Kirkby
Scenic Hills Association



Submission to the Draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013

The Director Strategic Regional Policy, Department of
Planning and Infrastructure



11th April, 2013

Cotton Australia

Cotton Australia is the key representative body for the Australian cotton growing industry. It helps the industry to work together to be world competitive and sustainable, and also tell the good news about the industry's achievements. Cotton Australia determines and drives the industry's strategic direction, retaining its strong focus on R&D, promoting the value of the industry, reporting on its environmental credibility, and implementing policy objectives in consultation with its stakeholders.

Cotton Australia works to ensure an environment conducive to efficient and sustainable cotton production. It has a key role in Best Management Practices (*MyBMP*), an environmental management program for growers. This work has seen a significant improvement in the environmental performance of the industry, with huge improvements in water use efficiency, significant reductions in pesticide use, and millions of dollars invested into R&D.

The Australian cotton industry directly employs thousands of Australians and this year will contribute over \$2 billion to the Australia economy.

Cotton Australia welcomes the opportunity to provide this submission to the *Draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013*.

For further information or discussion on the content of this submission please contact Cotton Australia's Mining and CSG Policy Officer Mr Sahil Prasad on 0406 598 054 or sahilp@cotton.org.au.



Submission

Cotton Australia (we) welcome the opportunity to provide a submission on *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013*. Cotton Australia welcomes the NSW government's recognition of the implications of the coal seam gas (CSG) industry and its move to protect communities by creating CSG "exclusion zones". We are however, fundamentally concerned with the current Public Consultation Draft that only proposes protection for areas zoned residential (both currently zoned and land earmarked as a future residential growth area), Critical Industry Clusters (the Hunter Valley wine industry and equine industry) and the omission of all other agriculture industries.

In practice, the majority of the Agriculture sector has been ignored from exclusion protection despite repeated calls from Agriculture to honour the ring-fencing promise for prime agricultural land in Strategic Regional Land Use Plans. The proposed amendment is fundamentally unacceptable to the Australian Cotton Industry. It is further worth noting here that current protection of land under cultivation under the Petroleum (Onshore) Act 1991 is extremely limited (if not undermined completely) by the power of Ministerial discretion to grant certain areas of land under cultivation to be made available for the CSG industry.¹

The remaining elements of this submission will focus on developing an acceptable framework for our constituency and Agriculture sector more broadly.

Protection from Large Mining Projects.

The current application of the exclusion zones do not apply to mining projects. The impact of open-cut and underground mining methods on the agricultural productivity of cotton producers are currently unacceptable due to disruptions to the highly specific growing conditions that are necessary for efficient cotton production. For example, the irrefutable existence of subsidence impacts from both longwall and bord and pillar mining methods can render the commonly used gravity-fed irrigation system inoperable. Furthermore, the potential impact on water sources stemming from release of mine water due to mismanagement and extreme events poses huge risk to

¹ Under the Petroleum (Onshore) Act 1991(NSW) s. 71 Restrictions on rights of holders of leases over cultivated land

- (1) The holder of a production lease must not carry out any mining operations or erect any works on the surface of any land which is under cultivation except with the consent of the landholder.
- (2) The Minister may, however, if the Minister considers that the circumstances warrant it, define an area of the surface of any parcel of cultivated land on which mining operations may be carried out or works may be erected, and may specify the nature of the operations to be carried out or the works to be erected.
- (2A) Before any such operations are commenced or works are erected, an assessment is to be made as to the amount to be paid as compensation for any loss of or damage to any crop on the land concerned.



remaining users of the land. In light of this- it is reasonable to recommend that major mining including coal mining production as defined under the Mining Act 1992 (NSW) be incorporated into this amendment. This incorporation would require a definition inserted into cl. 3(2) of *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* (the Mining SEPP) and a change in terminology from “coal seam gas exclusion zone” to “large mining and coal seam gas exclusion zone”. Such terminology would be consistent with terminology proposed to be implemented under proposed modifications to the *Environmental Protection and Biodiversity Conservation Act 1999*(Cth.) where significant impacts on a water resource from large coal mining and coal seam gas projects are underway. This terminology would create some consistency between the State and Federal system whilst reducing the opportunity for confusion amongst the public generally.

Exclusion Zones

The current exclusion zones proposed to be inserted under a new cl. 9A of the Mining SEPP does not extend to agricultural land in its entirety, or even the residences that exist on agricultural land. This oversight in protection results in a default exclusion zone of 200m from a dwelling under Petroleum Legislation ²(unless landholder consent is provided). Similar provisions exist under the *Mining Act 1992* (NSW). The existence of a 200 m exclusion zone for areas not afforded protections proposed highlights the double standard that exists for our constituents and broader agriculture sector who reside outside residential zones and are not categorized within a CIC. For example, a 1.8km disparity in exclusion protection for cotton farmers from winemakers in the Hunter Valley is completely unacceptable for Cotton Australia. At a bare minimum- it is recommended that any exclusion zone be applied equally to all residencies including those in rural areas whose visual amenity, health and livelihoods as farmers stand to bear the impacts of mining first hand.

Submission Ends

² Under s. 72 of the *Petroleum (Onshore) Act 1991* (NSW),

- (1) The holder of a petroleum title must not carry on any prospecting or mining operations or erect any works on the surface of any land:
 - (a) on which, or within 200 metres of which, is situated a dwelling-house that is a principal place of residence of the person occupying it, or
 - (b) on which, or within 50 metres of which, is situated any garden, vineyard or orchard, or
 - (c) on which is situated any improvement (being a substantial building, dam, reservoir, contour bank, graded bank, levee, water disposal area, soil conservation work, or other valuable work or structure) other than an improvement constructed or used for mining or prospecting operations, except with the written consent of the owner of the dwelling-house, garden, vineyard, orchard or improvement (and, in the case of the dwelling-house, the written consent of its occupant).
- (2) A consent under this section is irrevocable.



CLARENCE ENVIRONMENT CENTRE

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Date: 10th April 2013

Submission

to

**The Director Strategic Regional Policy,
Department of Planning and
Infrastructure.**

srlup@planning.nsw.gov.au.

On

**Draft NSW Government SEPP Amendment
on Coal Seam Gas Exclusion Zones**

Compiled by John Edwards
Honorary Secretary

Submission on the Draft NSW Government SEPP Amendment on Coal Seam Gas Exclusion Zones

Introduction.

The Clarence Environment Centre has maintained a shop-front in Grafton for over 23 years, and has a proud history of environmental advocacy. We have been particularly concerned about the activities of coal seam gas miners in NSW and have already made a number of submissions and approaches at all levels of government over the past 4 years calling for a comprehensive review of all aspects of the industry. With a complete dearth of information dissemination from both the gas industry and government, we have also sponsored numerous information seminars for concerned landowners around the district.

The screening of the American documentary, “Gasland”, was a wake-up call to the world, and the predictable response from the gas mining industry, claiming that what they were doing here in Australia is not the same, failed to convince many in the community.

It now seems the community's scepticism was well-founded, with evidence emerging from Queensland to show that what the gas industry is doing in that State, is exactly what they were doing in the USA. Water bores are being set alight, carcinogens being found in water supplies, exploding well heads, and the release of toxic produced water into waterways. As well fugitive methane emissions finding their way to the surface, are resulting in elevated levels of methane and other toxins occurring in the vicinity of gas mining operations in south east Queensland, with direct implications for human health.

Past claims by the industry that it is highly regulated were a complete nonsense, and the NSW Government's recent moves to place restrictions on where gas wells can be sited has seen several gas companies 'spit the dummy' and leave the state.

Justification

Coal seam gas (CSG) is a fossil fuel and its use contributes to greenhouse gas pollution. It generates more than 40 times the amount of greenhouse gas per unit of energy generated than solar or wind and its use will make a major contribution to global warming.

The big lie being promoted by the Australian CSG industry, is that methane is an ideal, low emissions, transitory fuel for electricity production as the country moves to a renewable energy future. While that statement holds true for conventional natural gas, i.e. that sourced from underground reservoirs that do not require multiple well heads, horizontal drilling, and hydraulic fracturing (fracking), it does not hold true for unconventional gas such as CSG.

The lie becomes clear when all the collateral carbon emissions of unconventional gas mining are taken into consideration, something that has now been quantified by scientists from the Cornell University in the USA and other scientific institutions. They have found that when all the emissions, including methane vented or flared directly into the atmosphere, along with emissions from machinery used in land clearing; the manufacture and laying of pipelines; in drilling and fracking processes; as well as the pumping, refining and liquefaction processes, and transport, the total footprint of CSG exceeds even that of coal-fired electricity production.

The fact that most gas in NSW is extracted for export, not to meet local energy needs, further confirms the transition fuel lie.

We acknowledge that the proposed move to establish 200m buffer zones around urban settlements is a great step forward, compared to the virtually restrictions free rules that are currently in place.

However, given the urgent messages being received from the scientific community about the dire need to drastically cut greenhouse gas emissions, or face an untenable 7 degrees temperature rise by century's end, the Clarence Environment Centre believes CSG and other forms of unconventional gas mining should cease immediately, and sincere efforts made to achieve a 100% emissions free energy sector as soon as possible.

Therefore, we believe that any comments made in regard to proposed CSG buffer zones, would simply be condoning the continuation of an industry that, if unchecked, has the power to destroy life on earth as we know it.

We thank the NSW Government for this opportunity to comment, and sincerely hope our plea for a sane approach to tackling the causes of climate change is heard and acted upon.

Yours Sincerely

John Edwards
Honorary Secretary.

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Ref: DRBO-13-021/CO:ce

11 April 2013

Director of Strategic Regional Policy
Department of Planning and Infrastructure
GPO Box 39
Sydney NSW 2001Via email: srlup@planning.nsw.gov.au

Dear Director

Subject: Dart Energy submission to the State Environmental Planning Policy**1. Dart Energy Limited**

Dart Energy is an Australian ASX listed company focused on the development of unconventional gas in Australia, Asia and Europe. Unconventional gas includes coal seam gas and shale gas and offers a clean, safe, and cost-effective energy solution for an increasingly energy constrained world. Our portfolio comprises 52 licence areas which we are aiming to mature further with a view to achieving reserves certification, production and gas sales.

In New South Wales, Dart Energy has a portfolio of 8 Petroleum Exploration Licences (including one that it has recently agreed to acquire) and has invested tens of millions of dollars in the State since 2010. We engage extensively with local communities and other stakeholders interested in our projects and enjoy excellent relationships with landholders with whom we work.

2. Introductory comments

Dart Energy recommends that the new CSG regulations set out in the Public Consultation Draft State Environmental Planning Policy released on 14 March 2013 ("Draft SEPP") be re-considered.

The proposed changes will have a very material impact on the NSW CSG industry, on major industrial gas users and the more than one million retail gas users in the State. The changes will threaten the viability of many NSW businesses and retail gas supply putting thousands of jobs at risk as companies may not be able to secure an affordable gas supply.

Dart Energy's focus is on supplying the NSW domestic gas market and the consequences of the proposed regulatory changes will affect our ability to provide domestic gas users with reasonably priced domestic gas.

The recent announcements appear to be made without meaningful consultation and we believe without a full understanding of the materiality and the unintended consequences of the proposed measures across many licence areas in NSW.

The proposed changes have major implications for investment confidence and energy security in NSW and will contribute to higher costs of living for NSW residents.

CSG has a major role to play in NSW as a local low cost cleaner energy source supporting NSW industry. This can be done responsibly and sustainably and in partnership with local communities and business without adverse consequences to the environment, water or existing land uses.

3. NSW is facing an energy security crisis

NSW imports 95% of its gas requirements from interstate and interstate conventional gas fields are in decline. East coast gas demand is expected to rise strongly by 2020 due to population growth, increased consumer demand and LNG export projects coming on line in Gladstone.

The pipeline delivering gas from Bass Strait to NSW has limited spare capacity and gas from the Cooper Basin in the future will cost significantly more to produce and deliver to NSW, if it is available to NSW at all.

As many industry experts have stated, NSW is therefore facing a looming gas supply shortage as existing supply contracts from interstate expire between 2014 and 2017. This supply shortage will impact the supply and cost of gas to industries and households, putting pressure on energy prices with flow on effects to the cost of goods and services for NSW residents.

4. Local coal seam gas is the best solution to the looming NSW energy crisis

CSG can be produced safely without harm to the environment or existing land uses

For 10 years natural gas production from coal seams in NSW has been a low impact and low risk industry. Natural gas from coal seams can be safely produced without harm to the environment or human health and can comfortably coexist with other land uses.

CSG would ensure a gas supply for NSW and is economic to produce

Sources of gas become more expensive to produce with the passing of time as the most economic resources are developed first. Coal seam gas has been proven in Queensland to be produced at reasonable cost. If gas resources in NSW are not allowed to be developed, the next alternative is likely to be gas sourced from shales in the Cooper Basin which are not yet proven economic to produce, are far more expensive and will not be available for some years at least. If and when it is available, NSW will face strong competition from export markets and high prices for gas.

NSW can produce CSG at a cost which is well below possible alternative sources and without the significant transport costs required to move gas into NSW from interstate.

CSG will prevent jobs being lost and create new ones in NSW

A balanced regulatory framework which encourages the responsible development of NSW's indigenous gas resources can provide energy security to NSW residents and businesses. The alternative is significantly higher gas prices. These higher prices will not sustain the businesses of many manufacturers in NSW who face the real possibility of closing or relocating overseas permanently. Dart Energy has first-hand knowledge of this issue because it receives regular approaches from concerned gas users seeking long term supply contracts. The businesses which are at risk employ thousands of workers today whose jobs are being put at risk through unnecessary government regulation.

In terms of employment potential, the natural gas industry in Queensland employs 27,584 people, including more than 8,000 new jobs since June 2012 alone. By comparison NSW employs only 326 people due to the already restrictive regulatory environment preventing progress being made. We believe a similar order of magnitude to Queensland is possible in NSW. Over the next two decades, the CSG industry could spend as much as \$6 billion on NSW gas field developments and a further \$3.9 billion of operating spending, according to an ACIL Tasman report commissioned by APPEA ("ACIL Tasman Report"). This report, Economic Significance of Coal Seam Gas in New South Wales, found that a growing NSW gas industry would create an average of 2011 full-time equivalent positions each year over the next 10 years. In the CSG heartland of Western Downs Queensland, the unemployment rate was just 3.7 per cent in December 2011. In the nearby city of Toowoomba, a major hub for CSG support industries, the rate was 4 per cent. These figures are significantly better than the Australian and regional Southern Queensland unemployment rates. Just across the state border in Northern NSW, where Dart has an exploration licence, the region has an unemployment rate of 6.5 per cent while its significant CSG potential remains untapped.

CSG can mitigate considerable increases in cost of living pressures in NSW

Significant increases in the cost of energy not only impact jobs but increase cost of living pressures. Higher gas prices not only affect the cost of gas to consumers and industries but increases the cost of any item that uses energy to produce. Such cost pressures inevitably put upward pressure on electricity prices and will flow through to the cost of all goods and services.

With the dramatic changes occurring in East Coast gas markets described above, CSG is the only identifiable solution to this issue in NSW.

CSG would deliver economic benefits to NSW through taxes and royalties

Governments cannot afford, nor is it appropriate for them, to take the risks involved in exploring and extracting the State's gas resources and getting them to market, so the private sector takes on this role. But it will only do so once the commercial return available on the capital invested compensates the companies' owners (their shareholders, often superannuation funds) for the risks, such as expensive exploration failing to result in a viable discovery, the high cost of exploration and production, and the possibility of regulatory changes and tax increases once investments have already been made. If a return is not available, the resources will stay in the ground. In return for these rights companies pay royalties to the State Government. In the case of CSG in NSW this is 10 per cent of revenue for no financial contribution and no risk taken by the State. In addition, the gas industry is liable for company tax and Petroleum Resources Rent Tax.

According to the ACIL Tasman Report, if the industry is prevented from proceeding NSW Government receipts from CSG royalties and payroll tax alone over the period to 2035 is expected to be reduced by up to \$4.7 billion in aggregate.

This means less money for roads, schools, hospitals and public sector jobs.

Risks about CSG are perceived not real, and promoted by radical groups

Dart Energy acknowledges the concerns that exist in local communities regarding the CSG industry. As a company we have worked hard to engage with communities to explain how CSG works, its associated benefits and dispel some of the commonly held misconceptions about it. During 2012, Dart engaged with communities and other external stakeholders on more than 350 occasions for its Fullerton Cove pilot project alone.

Activists against the CSG industry are well-organised and have promoted misinformation and mistrust very effectively amongst communities creating fear and anxiety. This has led to local protest activity, in some cases unlawfully. We are aware that the tactics of threats and intimidation of local landholders and residents who may support CSG are commonplace. Groups such as Lock the Gate and Rising Tide are led by career activists who have conducted campaigns against a wide range of activities, and are skilled in obtaining media attention. They have associated themselves with the environmental movement to gain further acceptance. The discredited movie Gasland, which was based on the shale gas industry in the United States, has been used by them as a tool to frighten communities and the general public. A funding proposal associated with these groups which was leaked in November 2011 stated a clear strategy to disrupt and delay projects, and increase their cost and risk for investors.

In stark contrast to the Australian position, in the UK and US where similar groups operate governments have shown strong leadership to put in place policies to encourage development of the natural gas industry for the benefit of their economies, their citizens, and the environment.

5. Continuing regulatory change has created unacceptable investment risk in NSW

The NSW Government's recent decisions culminating in the Draft SEPP will seriously impact the development of the State's natural gas resources as well as the investment community's perception of NSW as a risky jurisdiction in which to invest. As a company with international gas exploration assets, Dart Energy is in a good position to advise that these changes have moved the State of NSW significantly up the sovereign risk curve. In fact we now view NSW as having a greater political risk profile than our operations in India and Indonesia.

On 2 April 2013, Dart Energy announced a restructuring and reassessment of its investment priorities driven in part by a view that recent NSW and Federal government decisions regarding CSG have materially impacted on the short-term prospects for Dart's assets in NSW. The company will instead focus investment on its assets in the UK. In making the announcement, Dart Energy's Chairman Nick Davies stated:

“The Board of Dart is extremely disappointed with the uncertainty created by recent NSW and Federal government decisions in relation to CSG development in Australia. The consequence is that investment is leaving the country, field operations are being suspended, Australian jobs are being lost, and the impending energy crisis in New South Wales is not being addressed, and indeed, will only get worse. This is in direct contrast to the United Kingdom, where the Government is actively seeking to support the responsible development of unconventional gas resources.”

Dart Energy had also been in detailed discussions with potential investors and strategic partners, proposing to inject tens to hundreds of millions of dollars into supporting NSW's gas industry over the coming years. The probability of concluding these discussions has now been seriously compromised.

6. Dart Energy's access to gas resource potential is estimated to be reduced by one-third

Dart Energy estimates that, if enacted, the Draft SEPP will eliminate access to approximately 34% or 17.3 trillion cubic feet of the company's estimated Gas in Place in NSW. Based on conservative recovery factors, this amount of gas equates to between \$550million and \$800million in economic benefit to NSW in state royalties alone.

While not all of this gas is necessarily practical or cost effective to extract, we feel strongly that existing environmental review and approval processes are more than sufficient to govern the safe and responsible extraction of this resource. By way of example, recently Dart Energy successfully defended an action by a local action group in the case of *Fullerton Cove Residents Action Group Incorporated v Dart Energy Ltd* heard in the NSW Land and Environment Court. In that case the court upheld the validity of Dart Energy's approval to drill a production project granted by NSW DTIRIS as well as the process conducted to determine that the project was unlikely to have a significant environmental impact on the area.

It is clear, therefore, that the Draft SEPP is duplicative of existing regulatory processes and unnecessary.

7. The existing SRLUP should be retained and tested

In September 2012, the NSW Government announced some of the most stringent natural gas regulations in the world in an effort to provide a message of strong regulation and to provide a clear framework for the industry to start developing a much needed gas supply for the State. Less than five months later the State has announced additional regulations without consultation. We submit that not enough time has elapsed since the release of the Strategic Regional Land Use Policy ("SRLUP") to properly test its effectiveness. While challenging to industry and likely to further increase costs, it is a framework that does not sterilise significant State resources but subjects the industry to a heavy burden of proof that its activities will have minimal impact before they are allowed to proceed.

8. Proposed changes to the SEPP Public Consultation Draft

If the Government judges that further changes to the SRLUP are inevitable, then we believe that modifications to the announced changes will lessen the impact on industry and future gas supply whilst maintaining the overall regulatory effect and message to communities the Government is seeking from these measures. These are set out below in terms of high level proposals and specific issues identified with the Draft SEPP:

High level proposals

(a) Relaxation of the underground exclusion

We recommend that the **underground (subsurface)** 2km restriction should be lifted or significantly relaxed. There is absolutely no technical, environmental, safety or social basis for a 2km underground (sub-surface) buffer zone when the industry is operating more than 500 metres underground. This would substantially improve the prospects of retaining access to

NSW's gas resources with the associated benefits set out above while achieving the same regulatory effect that is intended in the Draft SEPP.

It is unreasonable to suggest that a CSG company should be prevented from drilling a 15cm diameter horizontal well bore more than 500m underground in residential zones while major tunnels are being built less than 30m under people's homes in areas of Sydney. Furthermore we note the presence of many heavy industries located within 2 km of residential areas with often a much higher risk profile – most of these are heavy users of gas as well.

Furthermore this rule does not appear to apply to mining companies who drill similar wells – clearly a case of a double standard.

(b) Incorporate a sunset clause

We recommend that after a period of two years, the exclusion zone be reviewed and if justified then removed and normal planning processes re-applied. This will provide for more sensible regulation at a time when the industry has been able to prove its benefits and lack of adverse environmental impacts.

(c) Retention licences

We recommend that provisions be made for retention tenements in NSW to increase investment certainty in the State. All other jurisdictions in Australia have a retention lease tenement available that recognises resources may not be commercially viable.

Retention lease provisions are designed to give certainty of tenure (and thereby investment certainty) to encourage discoveries that may be commercialised in the future,

It is a well-established protection of the 'at risk investment' in the acreage, normally in the order of tens to hundreds of millions of dollars, without reference to the stage of the discovery in the exploration or development process. A retention lease tenure type is used to recognise the investment in a discovery or development that is not yet, or has ceased to be, viable for commercial reasons. It allows a company to retain its investment through renewable, longer term tenure, while balancing the need of the State to ensure acreage under title is being actively and efficiently exploited for the benefit of its people.

It is important that such provisions be adopted to protect the investments already made and safeguard them during this period of substantial regulatory uncertainty where companies will not be able to adequately progress their activities.

(d) Incorporate materiality criteria

We recommend that materiality criteria be included in the definition of residential areas and critical industry clusters. Regulation in Queensland provides for similar buffer zones around towns of more than 1,000 people.

Further, the Draft SEPP is flawed because a circumstance may arise where a company invests in an area only to be prevented from proceeding later due to a council re-zoning land in the meantime. This level of uncertainty, if retained, is highly likely to prevent further investment in NSW. Additional definition focused instead on materiality criteria would provide more certainty for the industry while achieving the same regulatory effect.

Specific issues with the Draft SEPP

(a) Definition of "residential zone"

The Draft SEPP would create significant uncertainty by transferring power to Local Councils and landholders to seek to rezone land at some point in the future after companies have invested in the area during the CSG exploration phase but prior to earning a return on that investment.

More clarity is required in the Draft SEPP to ensure that any no-go zones are defined up front and cannot be added to over time. The consequence of not doing so is to prevent investment

in maturing the State's resources in the interests of all NSW residents by not providing the necessary certainty up front around areas that the industry may evaluate.

(b) Clause 9A(1) – definition of “carrying out”

CSG development will include drilling wells and the construction of drill compounds, roads and pipeline infrastructure. The two questions that arise are as follows:

- a. Does the construction of drill compounds, roads and pipeline infrastructure constitute “CSG development”? In this case, the exclusion zone would be more extensive than if it included only the wells; and
- b. Would a proponent be “carrying out” CSG development by constructing drill compounds, roads and pipeline infrastructure? If so, then the proponent would be required to comply with the exclusion zone.

This clarification is required as to what specifically constitutes “carrying out CSG development” so that the industry knows the extent of the prohibition.

(c) Clause 9A(3) – uncertainty created by council opt-out

More clarity is required around the process for councils to opt-out of the exclusion zone requirements. When and how is this to be done, can a proponent make such a request to trigger the process, and is a council decision to opt-out final, are all important questions to be addressed to provide certainty to industry in advance that decisions will not be changed or reversed at a later date.

(d) Approved activities

The Draft SEPP is unclear whether developments with existing Part 3A approval or development consent are exempt which we understand is the intent. Clause 20 is quite specific about circumstances that do not give rise to exemptions but there are no express exemptions and exploration approvals have not been dealt with at all.

In conclusion, unless these modifications are made to the Draft SEPP we foresee that NSW will see:

- investment capital and job opportunities continuing to be re-allocated interstate and overseas;
- an even bigger energy security issue emerge than it faces today;
- further highly inflated energy prices in the near future and electricity price prices for NSW residents; and
- thousands of jobs put at risk as local industries/factories close their doors in NSW and decide to move to places with lower energy prices and lower sovereign risk.

Yours sincerely



Robbert de Weijer
Chief Executive Officer, Australia



Manning Clean Water Action Group (MCWAG) Inc.
PO Box 1050
Taree
NSW 2430

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

By email: srlup@planning.nsw.gov.au

11th April 2013

Dear Sir,

Submission on the Draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013

Manning Clean Water Action Group (MCWAG) welcomes the proposed changes where they provide protection for zoned residential areas, mapped critical viticulture and thoroughbred industry clusters.

However, MCWAG are extremely concerned that the amendments fail to protect those living on farms or rural properties and fail to protect vital food growing lands, water catchments and sensitive environmental areas.

MCWAG are also concerned that the amendments allow local councils to exempt areas from the proposed protections, but do not give councils the right to include additional areas for protection.

Neither do the amendments cover other types of unconventional gas or coal mining.

MCWAG requests that the Department and the Government:

1. Broaden the amendments to include a 2km buffer around all residential dwellings.
2. Remove the right of veto for local councils unless this is matched with an equivalent power for councils to list new prohibited areas.
3. Exclude all identified food producing lands, water catchments and sensitive environmental areas from coal seam gas, unconventional gas and coal mining (as was promised by the Premier prior to the last election).
4. Expand the amendments to apply to coal mining and to all forms of unconventional gas extraction including shale gas and tight gas.

5. Apply the amendments to projects that have been approved but have not yet satisfied their conditions of approval, and have not yet commenced operation (e.g. The AGL Gloucester Project).

Yours sincerely,

A handwritten signature in black ink, appearing to be 'C. Sheed', with a stylized flourish at the end.

Chris Sheed OAM
President
MCWAG

c.c. Premier Barry O'Farrell: office@premier.nsw.gov.au
Planning Minister Brad Hazzard: office@hazzard.minister.nsw.gov.au

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

11.4.13

Dear Sir

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

The purpose of this letter is to bring to your attention the fact that the historic Wollombi Valley is an integral part of Hunter Valley Wine Country. The indigenous and historic importance of Wollombi plays an important part of the local visitor economy.

We are concerned that the policy does not include the Wollombi Valley in the exclusion zone as defined in the Critical Industry Cluster for Viticulture for the Lower Hunter.

The NSW Visitor Economy Taskforce Report endorsed by the government clearly spells out that the government needs to take a whole of government approach to managing the visitor economy. In light of this point, Destination NSW currently recognises the importance of Wollombi through flagship funding for Sculptures in the Vineyards event, a clear parallel with the wine / viticulture.

We urge the government to include Wollombi in the Critical Industry Cluster Land Map and legislate the policy.

Yours sincerely,



Dean Gorddard
Executive Manager



srlup - Draft Mining SEPP amendment to implement coal seam gas exclusion zones

From: stopcsgwollondilly <stopcsgwollondilly@gmail.com>
To: <srlup@planning.nsw.gov.au>
Date: 4/12/2013 1:53 PM
Subject: Draft Mining SEPP amendment to implement coal seam gas exclusion zones

Dear Director General

Stop Coal Seam Gas Wollondilly submits CSG mining must not proceed in NSW because there is not enough scientific evidence to demonstrate the risks of damaging water catchments are only small.

As far as we know, there is not enough evidence to measure the risk that water catchments will be contaminated by:

- 1 penetration of aquifers,
- 2 extraction of water from coal seams and aquifers,
- 3 damage to the surface by mining activity,
- 4 damage to creeks from saline and heavy metal effluent from drilling and production,
- 5 noise and traffic impacts from drilling and production,
- 6 global warming and biodiversity reduction due to greenhouse gas emission.

Further, we already have evidence the precautionary principle is not protecting water catchments enough. The Tahmoor Colliery has sucked so much water from below Thirlmere Lakes they have a noticeably lower water level than similar lakes. Even though the Xstrata coal mining took place 700 m from the Thirlmere Lakes, the NSW Government Thirlmere Lakes Inquiry failed to attribute a share of the blame for the lowered water levels to mining.

As there are no effective conditions imposed on CSG extraction, no penalties for failure to comply with the conditions and no requirements to measure the damage CSG extraction does to the environment, it is vital these amendments prevent mining and CSG extraction taking place in Water Catchments.

There is no mechanism to rehabilitate damage done by CSG mining.

There are no cash guarantees that restoration should take place once damage is discovered.

There are no requirements to measure environmental conditions before CSG extraction occurs.

There are no requirements to measure conditions before a CSG miner can leave a well, a pipeline, a road or production plant.

There are no requirements that the fugitive methane and carbon dioxide escaping during exploration and production are captured.

There are no requirements that CSG miners sequester the global warming gasses they release during CSG mining and when burnt by their customers.

It is only right to protect NSW residents from the risks CSG mining already poses.

We do not want Wollondilly industrialised by even one more CSG well. We know what they look like and they are unacceptable.

The Warragamba Catchment was one of the best protected areas in NSW because of

the exclusion zones and limitations placed on activities permitted in the Catchment. Until CSG Petroleum Exploration Licences were granted, it used to be that the water in Sydney's water catchments was cleaner than water from National Parks. Now our health is threatened by contaminated runoff, methane leaking to atmosphere and global warming because mining companies like AGL want to extract as much energy from fossil fuels in the next thirty years as they can. We want the resources at present underground left available for our children to decide whether they can use them and how to use them or to save them as a reserve for their children.

The NSW Department of Planning is the one NSW Government Department responsible for the allocation of future resources. Your Department must act in the interests of future generations, not just to satisfy the demands of people alive now. And you have no mandate to satisfy the insatiable appetite of miners and extractive industries wanting to maximise their next year's profit.

The proposed amendment does nothing to protect the fresh drinking water of NSW residents. 2% of the State provides drinking water for 60% of the residents. Within these catchments all activities are regulated by the Catchment Authority, and rightly so. Water Catchment regulations require that any activity, whether recreational or commercial, is only permitted if it is deemed to be either neutral or beneficial to the catchment. We argue that coal seam gas mining is NOT neutral or beneficial to the catchment. Even CSG exploration damages the Catchments. If the Department and the CMA both permitted CSG exploration to take place, THIS AMENDMENT MUST BE MORE STRONGLY WORDED TO PREVENT DAMAGE TO WATER CATCHMENTS.

At the very least, the SEPP amendments should be altered to include a 2 km buffer around ALL residential dwellings. Why should some who lives in a small rural village not be offered the same protection as large town or city dwellers?

The "opt out" right offered to councils may have been included for all the right reasons but is fraught with problems. It encourages intense lobbying of councils who increasingly are cash strapped and carries a real risk of corruption. We ask that this be removed from the amendment, an "opt in" clause could be considered to permit Councils opposed to mining and other extractive industries to require no damage to their environment.

The identification of critical regions of the state is welcome because you can do it. The most critical regions are food producing and water harvesting regions. Farmers need the security that their properties, including their water supply, are not threatened by coal seam gas mining.

Why would you exempt viticulture but not tourism?

We ask that the amendment include all forms of unconventional gas including shale and tight gas, it should also apply to all coal seam gas projects. Projects that have not yet commenced operation should also be stopped unless the proponent, AGL at Gloucester in this case, demonstrates with scientific evidence that CSG there will not contaminate aquifers, their wells will not leak, they will not emit methane and carbon dioxide to atmosphere and their activity will not clog the roads with mining vehicles. Already

Gloucester is full of miners and their 4WD cars. this development is not worth the unpleasentness of congestion and competition for scarce resources.

If you require the name and address of the person making this submission in order for it to be considered and displayed on the Department's website, please reply to this email.

Yours faithfully
Stop CSG Wollondilly



12 April 2013

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

Dear Sir,

Re: SEPP Amendment, Coal Seam Gas Exclusion Zones 2013

Metgasco opposes the proposed SEPP amendment. It unjustifiably sterilises large areas of prospective acreage from coal seam gas (CSG) operations without providing any net benefit to the community while damaging NSW CSG companies, including Metgasco. The company therefore strongly recommends that it is not implemented. If it is implemented, it should be done so in a manner that allows the amendment to be repealed easily in response to the expected positive experience of future CSG operations and considered argument and analysis.

Our position is explained in Attachment 1. In summary:

- there is no scientific basis, nor is there any risk management justification to support the proposed 2 km exclusion zone – it is nothing more than an arbitrary, politically based imposition on the CSG industry and the more than one million NSW gas customers who rely on competitive natural gas supplies;
- it will be difficult to quarantine the impacts of the amendment;
- the amendment damages the state's sovereign risk reputation;
- other similar industries with similar or higher risks are not subject to an exclusion zone as proposed for CSG activities;
- there is no need for additional regulation, let alone the proposed exclusion zone – NSW already has a plethora of planning, environmental and other controls to ensure that CSG and other activities are managed in a way that ensures safety, health and environmental needs are managed;
- the exclusion zone does enormous damage to the industry in two ways;
 - it significantly reduces the gas reserves that have been established through years of hard work and significant expenditure; and
 - it sends a message to the general community that there is something inherently wrong with CSG – a message that is fundamentally incorrect.

The proposed amendment has already damaged the credibility and viability of the NSW industry. If implemented it will result in the loss of significant state royalties, reduce job creation and compromise energy security. Metgasco has already been forced to terminate the employment of the majority of its staff and to suspend its NSW CSG activity indefinitely, directly as a result of the commercial effect of the exclusion zone announcement.

Instead of imposing new constraints, the NSW Government should be reducing the amount of its red and green tape with a view to facilitating an active industry, not responding to anti-fossil fuel and anti-development propaganda. NSW is a state which imports almost all of its natural gas, a lot of it produced from Queensland CSG wells, and it is very dependent on black coal for its primary energy. It needs sensible, consistent and stable policies for its CSG and general energy resources. Major changes in regulation only 6 months after the completion of an 18 month review/ moratorium and the announcement of the "toughest regulations in Australia, if not the world" destroy business confidence.

Regulations should be "smart" (ie; well considered), not "tough", developed with an objective understanding of risks involved, not set on an arbitrary basis. There is no merit in having the toughest regulations in Australia or the world if they are poorly considered and in practical application they unjustifiably damage the industry, destroying wealth in NSW.

We recommend that the proposed SEPP amendment is not adopted, but if it is that it is repealed on the basis of:

- a review in 12 to 18 months' time to take into account experience in other Australian states and overseas; and
- a quantitative risk assessment, which is a standard oil and gas industry process, conducted to determine what is acceptable for land use policy for the CSG industry and, in doing so, establishes whether the current Petroleum Onshore Act provisions and other regulations are adequate, providing the basis for removing the exclusion zone.

We also recommend:

- that the Chief Scientist and the new Manager of the Office of CSG within DTIRIS should be asked to review current regulatory processes with the view to making it the "smartest", not necessarily the "toughest"; and
- that the NSW Government has a leadership role to play in supporting a robust energy supply that includes both fossil fuels and renewables and countering the misleading and dangerous positions of the green and anti-development movements. This is consistent with the November 2012 findings of the Public Accounts Committee.

While other states and communities are benefiting from the oil and gas industry, NSW is foregoing job creation, royalty income, lower cost and secure energy supplies - and for no benefit.

Yours sincerely



Peter J Henderson
Managing Director and CEO

Attachment 1

Proposed Amendment to State Environmental Planning Policy: Metgasco comments

Metgasco has spent more than 8 years and close to \$100m exploring in the Clarence Moreton Basin (Northern Rivers) and has been successful in discovering about 400 BCF of 2P CSG reserves and 2,500 BCF of 3P CSG reserves. Metgasco has over three hundred voluntary access agreements with local farmers and we receive unsolicited calls regularly asking for natural gas wells to be located on farmers' properties. We have strong local council and business support. For example, the Richmond Valley Council recently released a position statement on CSG supporting the development of the industry, with the Council's General Manager recently stating:

"We know there's lots of gas and we know there's lots of coal and if it flows at the rates they (Metgasco) would hope... you'll see enormous economic growth, you'll see great development in the Richmond Valley, lots of jobs, lots of opportunity... and infrastructure improvements as well."

1. There is no basis for the proposed 2km exclusion zone

The proposed exclusion zone has no scientific or safety/environmental basis and has already badly damaged the CSG industry in NSW. The change has no credible scientific justification in terms of either environmental or health outcomes. Apart from the loss of reserves many companies face as a result, it has sent out a signal to the community that there is something fundamentally wrong with the CSG industry. This is clearly not the case. Experience in NSW and elsewhere supports the view that CSG has no more risks than other industries which do not have this arbitrary exclusion zone applied. The announcement also sent a message to say that the NSW Government puts a low priority on resource and energy development in the state.

Environmental regulations and controls are meant to manage risk. They are not justified in the absence of meaningful risk, nor should they unnecessarily hinder development. They should be based on a sound analysis of the risk (a combination of the likelihood and consequence of an event). If risks are low then controls should be minimal or non-existent. Conversely, if risks are high then controls need to be higher. This approach was espoused by the Planning and Infrastructure Minister Brad Hazzard during the Strategic Regional Land Use Policy consultation as the Government establishing a transparency, evidence-based planning system.¹ The current proposed changes to the SEPP in creating exclusion areas do not provide for any transparency in the assessment of risk.

No information has been provided to demonstrate what risks the exclusion zones are managing and why existing regulations are not adequate to manage risks. It is quite clear that the concept of risk management has not been considered in any way. Indeed, the NSW Premier has been quoted as saying "Families in residential areas should not have to worry about their quality of life being affected by the noise, visual impacts and other effects of coal seam gas mining". The existing planning process, which applies to other industries as well as coal seam gas, and the Petroleum Onshore Act already manage health, safety and environmental issues, including noise, visual impacts, traffic, etc. It is not clear why noise from our industry is any different from noise from other industries.

¹ Thompson F, 'Hazzard rejects calls to halt Hunter CSG exploration' Newcastle Herald, 13 April 2012.
SEPP Amendment, Coal Seam Gas Exclusion Zones 2013

We also point out that many other industries are able to operate well within a 2km buffer zone. For your interest, Attachment 2 provides a section from the NSW Environmental Planning and Assessment Regulation 2000, showing the separations required for a range of industries before they even become "Designated Developments" (ie; if not within this separation distance, they are not even considered to be "Designated Developments"). The Protection of Environment Operations ACT lists various industries which are 'politically sensitive' but distance restrictions don't apply. In the case of general blasting there is no prohibited distance, rather ANZECC guidelines provide the limits that apply at certain blast overpressure and ground vibration.

The coal extraction industry is perhaps the best example of an industry carrying with it recognised levels of risk that, some would argue, are greater than those posed by any CSG development. The Government has been party to the air quality monitoring regimes put in place to assess the concentration of dust in the Upper Hunter airshed to provide health alerts to the residential communities within the region. Yet approvals for this industry continue as before, under an evidence-based planning system - with apparently no thought to developing any exclusion zones such as that proposed for the CSG industry. It is difficult if not impossible to reconcile the treatment of the CSG industry with the regulations and controls placed on coal and other industries.

We also note that the NSW Government is proposing to allow local councils to opt out of the new exclusion zones. Local councils do not have the technical resources the State Government has to evaluate CSG projects. The proposed amendments are therefore clearly not driven by health, safety or environmental risk management but by political factors and short term expediency.

2. It will be difficult to quarantine the 2km exclusion zone for CSG or other industries

Metgasco is very concerned that it will be difficult to prevent the spread of the exclusion zone beyond the areas intended. Given that there is no risk or technical basis for the exclusion zone, many parties, particularly those with an anti-fossil fuel or anti-development agenda will seek to extend the exclusion zones. The government's own "Frequently Asked Questions" document devotes a lot of attention to trying to define the differences between rural residential areas, villages and other areas. We have already noted interest groups are arguing that the exclusion zones be extended well beyond what the NSW Government has intended. This creates a critical area of uncertainty for CSG companies.

Given that other industries carry risks as high or higher than coal seam gas, there is a concern that special interest groups will successfully target these industries and result in unwarranted restrictions on these industries as well.

3. Concern over sovereign risk created

Given that the government has announced the exclusion zone without any technical or risk based analysis, without any consultation with industry and despite announcing the "toughest regulations" in Australia only last September, how can any CSG company risk investing shareholder funds exploring for CSG in NSW? The government has created a significant sovereign risk component that has not existed before and a risk that does not exist in other states and countries that are competing for investment dollars.

4. No information has been supplied on the exclusion zone in Metgasco's exploration licences

Because the relevant maps referred to in the draft SEPP amendment are not yet available, the draft SEPP does not define the exclusion zones for our exploration licence areas in the Northern Rivers Region. This creates more uncertainty for Metgasco than those companies with interests around Sydney, where the exclusion zones have been mapped.

We also note with concern that the exclusion zone might apply to future residential growth areas. The Department of Planning and Infrastructure is apparently compiling information on all future growth areas across the state to include in a final map prior to finalisation of the SEPP amendment. Without this information it is unreasonable to expect Metgasco to comment on the amendment as it applies to its exploration licences.

Metgasco requests that there should be no further land exclusions for future residential growth areas and that this is confirmed at the earliest possible time.

5. The importance of the CSG industry and the need for communication and education has been acknowledged by the Public Accounts Committee (November 2012)

In November 2012 the Public Accounts Committee of the NSW Parliament (PAC) released its report 6/55 titled "The Economics of Energy Generation".

The PAC commented on the subject of CSG as part of its consideration of energy policy at paragraphs 7.21 and 7.21 as follows:

7.20 – The Committee considers that there will be an increased demand for gas-fired generation in the future as the State transitions to lower carbon emissions. This increased demand, along with other factors such as dwindling supply of conventional gas and moves towards international price parity, are expected to put pressure on conventional gas prices and, as a result, the cost of electricity.

7.21 – The development of New South Wales' significant coal seam gas resources has potential to ease some of these pressures. Coal seam gas has the potential to increase energy security and affordability in New South Wales, as well as providing other economic benefits to the State associated with the development of a new industry.

Whilst the Committee noted there were residual public concerns even after the imposition of the Strategic Agricultural Land protection measures and the new Aquifer Interference Policy in September 2012, the PAC concluded as its Recommendation 9.

7.25 – While the protective measures recently introduced by the NSW Government mean that New South Wales now has the strongest regulation of coal seam gas exploration and activity in Australia, the Committee believes that greater publicly available information and education about coal seam gas are required before CSG activity will be widely accepted in the community.

7.26 – The Committee therefore finds that coal seam gas should not be ruled out as a source of energy in New South Wales, where development meets the stringent government controls that have been recently implemented. The Committee recommends increased public education to provide accurate information about coal seam gas.

RECOMMENDATION 9

That the NSW Government conduct a public education campaign providing up-to-date and accurate information about the economic and environmental risks, relevant government regulations, and benefits of coal seam gas production in New South Wales.

6. 2012 Federal Energy White Paper

The Federal Government's Energy White Paper of 2012 was supportive of measures to promote the safe development of the nation's CSG resources, whilst acknowledging the need to work towards a best practice multiple land use solution and at page 77:

Multiple land use involves using land for different purposes simultaneously or sequentially, and accommodating those different uses efficiently and sustainably to retain the widest options for current and future use. The aim is to maximize the net benefits to present and future generations.

Multiple and sequential land use are considered the two key components of the Multiple Land Use Framework currently under development by the National Land Access Working Group of the Standing Council on Energy and Resources.

By way of contrast this SEPP Amendment proposes a blanket exclusive use restriction, applied indiscriminately of risk or demonstrated incompatibility of land uses.

The White Paper went on to recommend, with specific application to unconventional gas resources that in order to achieve the objectives of the White Paper, state and Federal governments would need to – (from page 83)

work with states and territories to help ensure that shale and tight gas resources are developed sustainably and with appropriate community consultation.

The proposed SEPP amendment departs from the planning objectives of the White Paper by proposing state wide exclusions. This is inconsistent with the views of committees which have had access to expert opinion and investigations. It is a reaction to short term political pressure, as opposed to implementing considered medium to long term planning objectives set out in the PAC report and the White Paper we have referred to.

7. Council right to opt out is unwise and an abrogation of the State Government's responsibilities

Metgasco believes that the state government should retain the responsibility for resource development, rather than abrogate its responsibilities to local councils. As such, we believe that not only is the exclusion zone amendment bad policy, the opt-out proposal is flawed. It is the NSW State Government's role to manage energy supplies to NSW and development of NSW's mineral and petroleum resources, it is a local council responsibility. The NSW Government has the technical and administrative staff resource, the legislative power to manage energy supplies, and resource development in the interest of all NSW citizens. Local councils do not have the technical and administrative resources to make decisions about CSG development, nor do they have the mandate to manage energy supply and NSW's resource development. NSW will find a series of parochial, local interest decisions overriding the welfare of NSW citizens in general if it abdicates its responsibilities to local councils.

It is important that the NSW Government confirms that the exclusion zones have no scientific or risk management basis and are nothing more than an arbitrary decision, so that local councils can make use of the opt-out provision.

8. Impact on Metgasco and the industry

The announced changes have had a devastating impact on Metgasco's share price. We suffered a 30% reduction in share price the day the announcement was made. We have had to suspend our exploration activities and terminate the employment of 21 of our 27 staff. Our share price is now trading at its lowest point, effectively at the level of its cash backing.

9. The exclusion amendment removes Metgasco's rights and significantly reduces our CSG reserves

As per the introduction, Metgasco has spent considerable time and money exploring in its exploration licences. We have done so with the expectation that our existing rights to explore and develop would be respected.

As an example, Metgasco went to the share market for additional capital last September based on the policies announced by the government at the time. The new regulations were announced as being the toughest in the nation. The announcements, along with the renewal of exploration licences, approval of our first production licence and general NSW Government actions made it clear that the NSW Government was supportive of the industry. Metgasco not only raised the additional capital but commenced its exploration and appraisal program in good faith. A seismic program and two wells were completed in the period between September and the time our suspension of field activities was announced. The rights and expectations which we and our shareholders believed we had when exploration licences were approved and then renewed are effectively being acquired and the value in them destroyed.

The 2km residential no-go zone could sterilise a significant amount of the State's productive gas resources and in Metgasco's case will potentially reduce our 2P reserves by between 20% and 30% and our 3P reserves by between 40% and 60%, depending on how residential areas are ultimately defined.

10. The CSG industry is safe, acceptable and important to NSW – positions that have previously been accepted by the NSW Government

- The CSG industry is not new. It has operated in Australia now for 17 years and the broader oil and gas industry has operated in Australia for over 60 years.
- There are close to 4000 CSG wells in Queensland.
- The Queensland CSG industry produces more than 35% of the gas currently consumed in the eastern states of Australia.
- The industry is already heavily regulated and has been for many years, before the current coalition government came to office in 2011.
- There are no health problems associated with the industry. The rumours related to health problems in the Tara Estate areas have been answered by a detailed Queensland Government health report issued in March this year. As another example, during the last 40 years the petroleum industry has been supporting an independent survey of the health outcomes of people working in the petroleum industry. There is nothing in the results from these surveys that would give any

support whatsoever to the claims of health problems related to natural gas production. There is absolutely no basis for any claims of health problems.

- Despite the number of wells drilled, both NSW and Queensland governments have stated publically that there is no evidence of any ground water contamination. The NSW Parliamentary Inquiry into CSG noted in 2012:

4.15 The Committee notes an hydrogeologist and other experts who appeared before the Committee were, despite their extensive experience over many years, unaware of any instance of cross-contamination of aquifers in Australia due to coal seam gas drilling for exploration or production. Page 44

To highlight NSW's needs for the CSG industry, we provide the following comments from the NSW Minister for Resources and Energy, Chris Hartcher (The Telegraph, January 27, 2013) – some sections highlighted in bold font by Metgasco:

THE state government will push ahead with the expansion of the state's Coal Seam Gas industry despite increasingly organised opposition from green groups, home owners and farmers.

Resources and Energy Minister Chris Hartcher told The Sunday Telegraph there would be "catastrophic consequences" if NSW did not develop its own supply of secure and cheap gas.

Gas supplies would begin to run dry as early as 2014 and prices are already set to soar, he said, with predictions they could double within five years without further development.

Mr Hartcher said for too long green groups with an anti-mining agenda had been allowed to spread misinformation and stir up fear in the community without being properly held to account by the government or industry.

The Minister said the state was already losing manufacturing businesses that were concerned about gas prices and supply. Australian company Incitec Pivot has decided to build an ammonia plant in Louisiana, US, rather than Newcastle, because of concerns over the prospect of the soaring price of gas. This has cost the city hundreds of jobs.

"The real problem is going to be the customers who are dependent on gas. One-third of all the state's energy needs come from gas," he said.

"It really is fundamental to not only the economy but the lifestyle of the whole state."

Mr Hartcher said the Greens had been allowed to "just stand up with great confidence and assert things as facts".

"They are determined to change our energy to solar and wind and destroy gas as an alternative," he said. "Well, people can have these forms of energy, but they will have to be prepared to pay more than ten times what they do now."

The recently released Infrastructure NSW report said exploitation of the state's vast coal seam gas deposits would be "game changing" allowing the state to re-energise its manufacturing industry.

"There are two million gas extraction wells throughout the world now, and it's difficult for the anti-gas protesters to point to one that is causing problems," he said.

"The challenge for them is to find a single example where the water has been tainted or the ground has been damaged. But they don't have a single example - anywhere in the world."

Attachment 2

NSW Environmental Planning and Assessment Regulation 2000

Designated Development Requirements

| | Must be within | Of to be DD |
|--|----------------|-------------------|
| Helicopter facilities | 1000m | Dwelling |
| Bitumen pre-mix and hot-mix industries | 250m | Residential Zone |
| Cement Works | 250 | Residential Zone |
| Coal mines - blasting | 1000 | Residential Zone |
| Composting facilities | 500 | Residential Zone |
| Concrete works | 100 | Dwelling |
| Crushing, grinding or separating works | 250 | Residential Zone |
| Extractive Industries - blasting | 1000 | Residential Zone |
| Limestone mine - blasting | 1000 | Residential Zone |
| Limestone Works | 250 | Residential Zone |
| Poultry Farms | 500 | Residential Zone |
| Mineral processing facilities | 500 | Residential Zone |
| Mines | 1000 | Residential Zone |
| Railway freight works | 500 | Residential Zone |
| Waste management facilities | 500 | Residential Zone |
| Timber processing works | 500 | Dwelling |
| Wood preservation works | 250 | Dwelling |

March 2013

Frequently Asked Questions Coal Seam Gas Exclusion Zones

WHY ARE YOU AMENDING THE MINING SEPP?

- On 19 February 2013, the Premier announced tough new measures to further strengthen the regulation of the coal seam gas (CSG) industry in NSW.
- These will ensure heightened protection for residential areas and certain critical agricultural industries by prohibiting CSG activity within or close to these areas.
- In order to implement these measures, an amendment is required to a State Environmental Planning Policy known as the Mining SEPP.
- As part of the process of amending the SEPP, the proposed changes will be placed on exhibition for public feedback until **Friday 12 April 2013**.

WHAT IS BEING EXHIBITED?

- The proposed changes to the Mining SEPP are known as draft *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013*.
- The proposed changes include amendments to the SEPP to describe what is being prohibited and where.
- The amendments are also accompanied by maps showing Critical Industry Cluster land, as well as an interim map of future residential growth areas which will be updated and completed to accompany the finalised SEPP.
- The exhibited documents can be found on the Department of Planning and Infrastructure's website at www.planning.nsw.gov.au/onexhibition

WHAT PROHIBITIONS ON CSG ACTIVITY WILL BE PUT IN PLACE?

- All new CSG exploration and production activity will be prohibited on, under and within two kilometres of, land zoned residential (see question below). The prohibition will also extend to future residential growth areas.
- All CSG exploration and production activity will also be prohibited within and under areas identified as Critical Industry Clusters. Currently, two Critical Industry Clusters have been identified – the equine and viticulture industries in the Upper Hunter.

- A Critical Industry Cluster is a localised concentration of activity associated with an agricultural industry of national or international significance that is potentially significantly impacted by mining or CSG development.

WHICH RESIDENTIAL ZONES WILL THE EXCLUSIONS APPLY TO?

- The SEPP will prohibit CSG exploration and production in and within two kilometres of the following zones (or their equivalent):
 - R1 – General Residential
 - R2 – Low Density Residential
 - R3 – Medium Density Residential
 - R4 – High Density Residential
 - RU5 – Village
- This prohibition will also apply in and within two kilometres of some areas zoned R5 – Large Lot Residential, which commonly applies to rural or semi-rural areas characterised by individual dwellings on large lots.
- However, the zone also applies to some village areas, and the SEPP will apply to these areas where they meet defined village criteria
- Areas identified could include an entire area zoned R5 or part of that area. That part of the area zoned R5 that meets the village criteria will be listed in the SEPP as an exclusion zone.
- Managing the impacts of CSG activity on rural residential subdivisions will be considered in the Chief Scientist & Engineer's review.

WHAT CRITERIA WILL BE USED TO DEFINE AN R5 VILLAGE THAT WILL BE SUBJECT TO THE EXCLUSIONS?

- A village is a small population centre in a rural setting consisting predominantly of residential development, but likely to also include a range of other land uses such as retail, business, industrial, educational or recreation that service the village or local rural community.
- The following criteria are proposed:
 - The area must contain a mix of land uses.
 - The zone must apply to a settlement that is long established and has some historic association with the district, region and/or rural hinterland.
 - The area must contain a mix of lot sizes, including an average lot size of up to 4,000 square metres.
- These criteria have been designed to provide key points of differentiation between villages and rural residential subdivisions.

WHO DECIDES WHETHER THESE VILLAGE AREAS QUALIFY AS EXCLUSION ZONES?


- Councils have been requested to nominate particular areas zoned R5 within their LGA for listing in the SEPP as an R5 village.
- 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.

HOW ARE FUTURE RESIDENTIAL GROWTH AREAS DEFINED?

- Future residential growth areas will include areas mapped in a Government-endorsed strategy such as a Regional Strategy or council housing strategy, as well as draft local environmental plans.
- 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.
- However, the Department of Planning and Infrastructure is currently compiling information on all future growth areas across the State in consultation with local councils to include in a final map prior to the finalisation of the SEPP amendment.

WHY IS A TWO-KILOMETRE BUFFER NOT PROPOSED AROUND CRITICAL INDUSTRY CLUSTERS?

- Any CSG activity proposed near a Critical Industry Cluster will still be subject to a range of comprehensive policies and requirements to minimise their impacts on land uses within the cluster.
- These include the requirement to prepare an Agricultural Impact Statement, which must identify whether the proposal is located within two kilometres of any strategic agricultural land, including a Critical Industry Cluster. If so, the application must specifically address potential impacts on the cluster.
- Other relevant measures that would still apply to CSG proposals within two kilometres of a Critical Industry Cluster include:
 - the Aquifer Interference Policy;
 - new community consultation requirements on licence applications and conditions;
 - updated and improved environmental assessment guidelines for exploration activities;
 - a ban on the use of dangerous BTEX chemicals and evaporation ponds; and
 - codes of practice for the CSG industry covering well integrity and fracture stimulation.



Strategic Regional Land Use Policy



- It's important to note that the exclusions will apply to CSG activity both on and below the surface, meaning it will not be possible for CSG companies to access gas by drilling underneath these areas from outside.

WHICH PROJECTS WILL THE EXCLUSIONS APPLY TO?


- The exclusions will apply to exploration and production proposals that do not have approval at the date that the Mining SEPP is made.
- The changes will also prevent exploration activities in these areas from expanding or transitioning to the production stage.
- 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.

WILL THESE EXCLUSIONS AUTOMATICALLY APPLY IN MY AREA?

- The Mining SEPP applies to the entire State of New South Wales. As such the exclusions will also apply to residential areas and Critical Industry Clusters wherever they exist across the entire State.
- However, 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.
- Therefore, to ensure local communities retain flexibility, local councils will be able to opt out of the exclusion areas should they wish to do so.
- A council opting out does not, however, represent an automatic green light for CSG activity in the area. All proposed exploration and production activities would still need to go through the most rigorous regime of CSG regulations in the country, as outlined in the Government's Strategic Regional Land Use Policy.

HOW CAN I MAKE A SUBMISSION?

- Submissions can be made online at www.planning.nsw.gov.au/onexhibition
- Alternatively, submissions can be mailed to:
 - The Director – Strategic Regional Policy, NSW Department of Planning and Infrastructure, GPO Box 39, Sydney NSW 2001
- For more information, people can call the Department of Planning and Infrastructure's Information Centre on 1300 305 695.



Strategic Regional Land Use Policy



WHAT IS THE PROCESS AFTER THE EXHIBITION IS FINISHED?

- When the public exhibition period finishes, the Department of Planning and Infrastructure will review all submissions and make any changes as necessary.
- The SEPP will be finalised in a timely manner to ensure the Government's announced protections are given legal effect as soon possible.
- The final SEPP amendment will then be approved by the Minister for Planning and Infrastructure and notified on the NSW legislation website www.legislation.nsw.gov.au

WHAT OTHER MEASURES ARE BEING PUT IN PLACE TO MANAGE CSG IN NSW?

The Premier's announcement of 19 February 2013 included a number of additional measures to regulate the CSG industry in NSW:

- The independent Environment Protection Authority (EPA) will now be the lead regulator of environmental and health impacts of CSG activities in NSW with responsibility for compliance and enforcement.
- An Office of CSG Regulation will be established within the Department of Trade and Investment to enforce other regulations.
- 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.
- All exploration, assessment and production titles and activities will be required to hold an Environment Protection Licence.

Centres, as identified in State Environmental Planning Policy (Sydney Region Growth Centres) 2006. The Department of Planning and Infrastructure is currently compiling information on all future growth areas across the State in consultation with local councils to include in a final map prior to the finalisation of the SEPP amendment.

- define CIC land by reference to a map that, in the first instance, will include the Upper Hunter equine and viticulture CICs. These maps will be reviewed following the completion of a regional CIC verification process currently being undertaken by NSW Trade and Investment and revised as necessary.
- provide that councils can identify areas for removal from all or part of an exclusion zone to enable coal seam gas development to occur, subject to relevant approvals, within the identified areas.
- make provisions for savings and transitional arrangements to the effect that the prohibition of coal seam gas activities within the exclusion zones applies to development applications made, but not determined, before the commencement of the amendments. In the period until the SEPP is made, the prohibitions will be dealt with through administrative processes and any relevant applications for both exploration and development activity will not be approved or, if determined, will exclude any activity within the SEPP exclusion zones.

Explanation of the intended effect of the proposed amendment to the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*

Before making any recommendation to her Excellency the Governor on whether an environmental planning instrument should be made, the Minister is to take such steps as is considered appropriate or necessary to publicise an explanation of the intended effect of the instrument and to seek and consider submissions from the public on the matter (section 38 of the *Environmental Planning and Assessment Act 1979* ("the Act").

This document has been prepared for the purposes of section 38 of the Act and when read together with the attached draft of the proposed *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013* forms an explanation of the intended effect of that instrument.

The proposed SEPP will:

- apply to the State,
- prohibit coal seam gas development on or under land in the following exclusion zones:
 - in and within 2km of a residential zone,
 - in and within 2km of a future residential growth area,
 - within critical industry clusters (CICs),
- define coal seam gas development as development for the purposes of petroleum exploration, but only in relation to prospecting for coal seam gas, and petroleum production, but only in relation to the recovery, obtaining or removal of coal seam gas, and not including:
 - the recovery, obtaining or removal of coal seam gas in the course of mining,
 - exempt development identified under clause 10 or 10A of the Mining SEPP (which includes development such as monitoring equipment, geological mapping and surveying and geophysical surveying that is of minimal environmental impact).
- define residential zone as any of the following zones or an equivalent zone:
 - Zone R1 General Residential
 - Zone R2 Low Density Residential
 - Zone R3 Medium Density Residential
 - Zone R4 High Density Residential
 - Zone RU5 Village
- prohibit coal seam gas development on land zoned R5 Large Lot Residential that meets criteria of land of a village character (these criteria are to be published separately during the exhibition of the proposed SEPP). Councils will be asked to nominate particular areas zoned R5 within their LGA for listing in the SEPP as an R5 village. Nominations will be evaluated by the Department of Planning and Infrastructure and Local Government NSW and recommendations will be made to the Minister for Planning and Infrastructure for inclusion in the finalised SEPP.
- define future residential growth area by reference to a map. In the first instance, this map will only include the North West and South West Growth



Submission on Coal Seam Gas Exclusion Zones in NSW – draft Mining SEPP amendments

prepared by

EDO NSW
12 April 2013

About EDO NSW

EDO NSW is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 25 years' experience in environmental law, EDO NSW has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO NSW is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

EDO NSW is part of a national network of centres that help to protect the environment through law in their [states](#).

Submitted to:

Director, Strategic Regional Policy
NSW Department of Planning and Infrastructure
By email: srlup@planning.nsw.gov.au

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Introduction

As a community legal centre specialising in public interest environmental and planning law, EDO NSW welcomes the opportunity to comment on the NSW Government's proposals to enact exclusion zones for coal seam gas (CSG) exploration and production.

This submission is divided into three parts. **Part 1** comments on the policy and legal background to these changes, including the NSW Strategic Regional Land Use Policy (SRLUP) and national attempts at regulatory improvements and harmonisation. This includes considering why mining exclusion zones are an important part of good strategic planning. **Part 2** examines and makes recommendations on the Government's draft amendments to the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (Mining SEPP)*. **Part 3** briefly considers the Premier's related policy announcements on 19 February, of an expanded regulatory role for the Environment Protection Authority (EPA) and a scientific review of CSG by the NSW Chief Scientist.

EDO NSW gives its strong in-principle support for exclusion zones from CSG development, including the proposals to be given effect in the draft SEPP amendment, subject to the further recommendations in this submission. This includes comments on:

- the added need to prioritise ecological values and protect 'High Conservation Value' lands, noting that recent policies have focused on protecting agricultural and residential areas from mining,¹ but not environmentally significant areas;
- the legal scope and technical details of the SEPP amendment, for example:
 - ensuring exclusion zones are not undermined by provisions that allow State Significant Development where a mining project is only *partly prohibited*;
 - extending exclusion zones to other forms of extraction such as shale gas and tight gas;
 - clarifying that exclusion zones apply to exploration whether or not the relevant activities require development consent (including in transitional provisions);
 - ensuring exclusion zones apply to infrastructure associated with CSG activity.

We also strongly support the EPA's role as the chief environmental regulator for CSG (and for other mining), and a comprehensive review of CSG by the Chief Scientist.

This submission addresses:

Part One – Policy and legal context of the proposed reforms.

1.1 Background

1.2 EDO NSW strongly supports exclusion zones as part of good strategic planning

1.3 Recommendations to address significant shortcomings of the Strategic Regional Land Use Policy

1.4 Protect High Conservation Value Lands and adopt a 'catchment-centred' approach

Part Two - Detailed comments and recommendations on the draft SEPP amendment

2.1 'Partly prohibited' State significant development projects must not override exclusion zones

2.2 Exclusion zones should apply to important environmental, agricultural and rural residential areas

¹ Including the current draft Mining SEPP amendments; the NSW Strategic Regional Land Use Policy (2012); and energy ministers' *Draft National Harmonised Regulatory Framework for CSG* (2012).

- 2.3 Exclusion zones should apply to exploration whether or not development consent is required
- 2.4 Excluding other forms of mining (including other types of unconventional gas)
- 2.5 Exclusion zones should apply to linear infrastructure associated with CSG
- 2.6 Remove or limit local council discretion to reinstate excluded areas
- 2.7 Transparency and consultation on finalised area maps

Part Three - Related announcements

- 3.1 EPA's regulatory role
- 3.2 Chief Scientist review

Part One – Policy and legal context of the proposed reforms

1.1 Background

EDO NSW lawyers have extensive experience working with mining laws, including on CSG – via legal advice and representation, engaging on state and national policy and law reform, and community legal education. Much of this work has arisen from increased public concern about the impacts of mining on environmental, social and other economic values.

Community concerns about CSG and other mining regulation are reflected in recent public attitude research. For example, the NSW Government report, *Who Cares about the Environment? 2012* found:²

almost half believe environmental regulation of two sectors, mining and property development/construction, is too lax, despite an increasingly positive view of environmental regulation of other sectors over successive surveys.

By far the most common response regarding 'mining' was that regulation is 'too lax' (49% of respondents). Only 10% of respondents thought mining regulation was 'too strict'.³ A NSW poll published at the time of writing found that 'Three-quarters of NSW voters oppose coal seam gas exploration on agricultural land', with 'fewer than one in five' (17%) in support.⁴ There is further evidence of community support for expanded protection of ecological, agricultural and social values in submissions on the NSW Government's SRLUP.

In response to such concerns, over the past two years, EDO NSW conducted 24 mining law education workshops at the request of local communities across the State. In December 2012, EDO NSW also released a comprehensive booklet, *Mining Law in NSW: A guide for the community* (December 2012),⁵ funded by the NSW Environmental Trust.

The EDO's recent policy work includes (among other things):

- a law reform discussion paper released in 2011, which recommended the Government establishes "no-go" areas of NSW where mining operations are prohibited as part of a state-wide strategic planning process;⁶
- appearance and submissions to the 2011-12 Legislative Council Inquiry into CSG;
- comments on funding the Upper Hunter air quality monitoring network;

² NSW Office of Environment & Heritage, *Who Cares about the Environment in 2012?* (2013), 'At a glance'.

³ 24% said mining regulation strictness was 'about right'; 17% were 'not sure'. For other sectors including fishing, farming, individuals, tourism, retail and forestry mentioned, the most prevalent response was that regulation is 'about right' (OEHS 2013, full report, 41-42).

⁴ S. Nicholls and P. Manning, 'Fracking fails the poll test', *Sydney Morning Herald*, 3/4/2013.

⁵ In hard copy and online at: <http://www.edo.org.au/edonsw/site/publications.php#mining>.

⁶ This strategic planning process would also involve identifying competing land uses, undertaking baseline environmental studies, taking account of cumulative impacts, and integrating economic, social and environmental factors in decision making. See EDO NSW mining law discussion paper (June 2011), recommendation 3, available at: http://www.edo.org.au/edonsw/site/policy_discussion.php#mining.

- comments on the establishment of a NSW Land and Water Commissioner;
- submissions seeking greater environmental emphasis in the NSW Strategic Regional Land Use Policy (**SRLUP**);
- detailed submissions on strategic planning as part of the NSW Planning Review.⁷

In 2013, EDO NSW and the Australian Network of Environmental Defenders Offices (**ANEDO**) recommended that mining and planning law frameworks that prioritise ecologically sustainable development (**ESD**) and apply ESD principles in decision-making. We have explored these issues in detail in responses to a proposed guideline from Australian energy ministers (*Draft National Harmonised Regulatory Framework for CSG*) and a Productivity Commission inquiry into mineral exploration.⁸

The EDO's policy work coincides with substantial law reform and policy initiatives from state and federal governments. In addition to reforms already noted above, these initiatives include a national partnership agreement on CSG and large coal mining development, and the welcome establishment of the related Independent Expert Scientific Committee (**IESC**) to provide oversight of mining projects, and advice to federal and state governments.⁹ Noting that NSW is the only jurisdiction which has not met its first milestone under the agreement, **EDO NSW recommends that the NSW Government conclude negotiations with the Australian Government on the referral of relevant mining projects to the IESC as a matter of priority, and in a way that '[ensures] that the best scientific information and expertise underpins all relevant regulatory processes and decisions'**.¹⁰

Most recently, on 19 February the NSW Premier announced the creation of buffer zones from CSG activities around residential areas (the subject of this submission), as well as a further scientific review by the NSW Chief Scientist, and more independent oversight and regulation from the Environment Protection Authority (**EPA**).¹¹ Finally, in March 2013 the federal Environment Minister introduced a bill to create a new 'water trigger' under national environmental law (the *EPBC Act 1999*).¹² This will require federal assessment and approval of large coal mines and all CSG activities likely to have a significant impact on a water resource – a protection measure that EDO NSW strongly supports.¹³

1.2 EDO NSW strongly supports exclusion zones as part of good strategic planning

EDO NSW has consistently highlighted the need for better land use planning, greater certainty and proper protection for sensitive areas from the negative impacts of mining and CSG. This includes the need for 'no go areas' that recognise unique and important environmental, social and economic values that should not be in constant competition with mining interests. **EDO NSW therefore gives its strong in-principle support for exclusion zones from CSG development.** This includes the proposals to be given effect in the draft SEPP amendment, subject to the further comments (particularly in Part 2) below.

⁷ Submissions and reports available at: <http://www.edo.org.au/edonsw/site/policy.php>.

⁸ February and March 2013. Submissions and reports available at: <http://www.edo.org.au/edonsw/site/policy.php>.

⁹ EDO NSW (as part of ANEDO) made a submission on the establishment of the IESC in April 2012, available at: http://www.edo.org.au/policy/120426epbc_bill_inquiry.pdf.

¹⁰ See COAG Reform Council, *Coal Seam Gas and Large Coal Mining Development: First assessment report* (February 2013), available at <http://www.coagreformcouncil.gov.au/agenda/coal.cfm>. See in particular, p 3, 'Objectives and outcomes' of the national partnership agreement.

¹¹ See NSW Premier media release, 'Tough new rules for coal seam gas activity', 19/2/2013.

¹² Australian Environment Minister media release, 12/3/2013, 'Greater protection for water resources', at <http://www.environment.gov.au/minister/burke/2013/mr20130312.html>. This Bill has passed the Lower House.

¹³ See ANEDO submission to the Senate Inquiry into the EPBC Amendment Bill 2013, available at www.edo.org.au.

1.3 NSW Strategic Regional Land Use Policy

As the Department is aware, there has been a high level of community interest in the development of the SRLUP, including almost 1600 written submissions on the draft policy.¹⁴ An official submissions analysis conducted for the Planning Department found that 1,110 submissions, or 70%, were concerned with how the SRLUP would protect the natural environment.¹⁵ This included 41% of community group submissions, and 36% of individual submissions (excluding form letters).

Importantly, the official analysis also found 'There is a strong view from community, agricultural and environment groups that the SRLUPs should clearly identify "no go" zones in which mining and coal seam gas development is not allowed.'¹⁶ This included submissions from seven of the 12 key stakeholder groups who were closely involved. The SRLUP was finalised in September 2012. By this stage its scope had narrowed to protecting agricultural lands and resources, particularly water. Many stakeholders expressed concerns at the ongoing uncertainty of protection for agricultural *and* environmental land uses in the SRLUP.

In December 2012, EDO NSW made a submission on the draft 'Gateway' assessment process to give effect to the SRLUP.¹⁷ **The submission made 20 recommendations on the SRLUP across several areas, and identified a number of significant shortcomings:**

- While the proposed Gateway process allows for additional scientific scrutiny, it does not afford definitive protection to mapped Strategic Agricultural Land.
- There is no specific prohibition of exploration or mining in Strategic Agricultural or High Conservation Value lands, despite the Government's previously stated belief (in Opposition) 'that agricultural land and other sensitive areas exist in NSW where mining and coal seam gas extraction should not occur.'¹⁸
- The inability for the expert panel to *refuse* a 'Gateway certificate' (removing previously proposed powers to do so), no matter how severe the potential impact on Strategic Agricultural Land.
- A complex series of exceptions which limit the application and rigour of the new processes (including the Gateway assessment and Aquifer Interference Policy), and introduce additional inconsistency and complexity to the system.¹⁹

In our view, the Government's proposed exclusion zones for residential areas and 'critical industry clusters' are an important first step in addressing some of the inadequacies of the 2012 SRLUP. We also recommend the Government considers the other key matters noted above. Clearer protection for mapped High Conservation Value land is explored below.

¹⁴ NSW Government, *Strategic Regional Land Use Policy* (September 2012).

¹⁵ Goldberg Blaise report for the NSW Department of Planning and Infrastructure, *Analysis of Feedback: Draft Strategic Regional Land Use Plans* (June 2012), p 20.

¹⁶ Goldberg Blaise, *Analysis of Feedback: Draft Strategic Regional Land Use Plans* (June 2012), p 12.

¹⁷ Available at: http://www.edo.org.au/edonsw/site/policy_submissions.php.

¹⁸ NSW Liberals & Nationals policy statement, *Strategic Regional Land Use: Triple bottom line assessment to protect our regions* (2011), p 2.

¹⁹ For example, the following activities are to be excluded from the new Gateway assessment – renewals of existing exploration licences and production leases; 'linear infrastructure' associated with CSG and mining; and expansions of CSG and mining projects that are located on Strategic Agricultural Land, but within existing leases. See NSW Government, *Strategic Regional Land Use Policy* (September 2012), p 4.

1.4 Protect High Conservation Value Lands and adopt a 'catchment-centred' approach

EDO NSW recommends the Planning Department liaise with the Office of Environment and Heritage (and other environmental and resource agencies²⁰) to jointly agree on:

- (1) greater protections for High Conservation Value lands, and**
- (2) a 'catchment-based' approach to strategic planning.**

High Conservation Value Lands

One of the EDO NSW's key concerns around the SRLUP,²¹ which also extends to the current proposals to amend the Mining SEPP, is the lack of any specific protection or strategic recognition of environmental land uses and ecological values beyond water. This is despite recent investment in strategic mapping and assessment of 'High Conservation Value' areas in NSW.²²

There has been a considerable (and justified) focus on protecting water resources from mining impacts at both state and federal levels, including in the context of impacts on agricultural land. In addition, the Government's previous emphasis on 'triple bottom line' protections should be reasserted,²³ to ensure balanced and sustainable land-use planning and development assessment.

The Department's official submissions analysis of the SRLUP process found: 'An important view regarding the natural environment is that stronger policies are required to protect mapped areas of high conservation value.'²⁴ This is reinforced by the NSW OEH finding that 'almost half the community [45%] believes we do not place enough emphasis on the protection of natural habitats in competition with other land use needs'. (The most common response to this survey question.²⁵) This is also important given the federal State of the Environment 2011 committee finding that 'Our unique biodiversity is in decline, and new approaches will be needed to prevent accelerating decline in many species.'²⁶

Legal, scientific and public support for increased protection of environmental values coincides with the growing sophistication of international and domestic methods to valuing ecological assets and services for economic and social wellbeing.²⁷

EDO NSW supports previous statements by the NSW Liberals and Nationals that:

²⁰ This could include the Office of Environment & Heritage (OEH), the EPA, Natural Resources Commission, the Department of Trade and Investment (Division of Resources & Energy) and the federal Environment Department.

²¹ EDO NSW, *Submission on draft amendments to give effect to the 'Gateway' process under the Strategic Regional Land Use Policy (amendments to the Mining SEPP and Environmental Planning & Assessment Regulation)* (December 2012), available at <http://www.edo.org.au/edonsw/site/pdf/subs/121217SubmissionongatewayprocessSRLUP.pdf>.

²² EDO NSW understands that the term 'High conservation value' has been used in the mapping process agreed between the Office of Environment and Heritage and the Department of Planning during the development of the SRLUP in 2011-12. The term 'high conservation value' has developed internationally (see for example www.hcvnetwork.org) but would need to clear definition in the NSW context. Related terms in NSW include 'environmental conservation zone' and 'environmentally sensitive area' (see, for example, the Mining SEPP cl 3).

²³ NSW Liberals & Nationals, *Strategic Regional Land Use – Triple bottom line assessment to protect our regions* (circa 2010-11). Available at <http://www.nswnationals.org.au/images/stories/pdf/strategic%20regional%20land%20use%20policy.pdf>.

²⁴ Goldberg Blaise report for the NSW Department of Planning and Infrastructure, *Analysis of Feedback: Draft Strategic Regional Land Use Plans* (June 2012), p 9.

²⁵ NSW Office of Environment & Heritage, *Who Cares about the Environment in 2012?* (2013), 'At a glance'.

²⁶ *State of the Environment 2011*, 'Headlines', available at www.environment.gov.au.

²⁷ See for example the 'stepwise approach' to valuing environmental benefits under UNEP's *The Economics of Ecosystems and Biodiversity* program, at <http://www.teebweb.org/publications/teeb-study-reports/local-and-regional/>; and the High Conservation Value Resource Network, www.hcvnetwork.org. See also Australian Bureau of Statistics, 1370.0.55.001 – *Measures of Australia's Progress: Summary Indicators 2012*, 'Environment'.

*Strategic land use plans will be prepared using triple bottom line assessments of the environmental, social and economic values in regional areas. These assessments will inform our decisions about the best way to use land and identify the environmental, social and economic values that need to be protected.*²⁸

However, despite the strategic mapping and assessment of 'High Conservation Value' areas during the development of the SRLUP, and significant public support for protecting these valuable environmental assets, these 'triple bottom line assessments' have not resulted in meaningful strategic-level protection for environmentally significant areas and values (such as forests, ecosystems, habitat and stored carbon). Instead, local communities who wish to protect these areas must do so on a site-by-site basis. This makes it difficult to consider the cumulative, catchment-based implications of projects. Mining companies too may face the uncertain prospect of losing their initial investments in areas of intractable land-use conflict.

Overall, the lack of protection for valuable environmental assets contrasts markedly with the proposed exclusion zones for residential areas and critical industry clusters under the draft Mining SEPP amendments. **EDO NSW strongly recommends the protection of high conservation value lands as part of a triple bottom line approach to mining and CSG regulation. As part of this, the NSW Government should model a policy option to establish 'mining exclusion zones' around scientifically-defined High Conservation Value lands (in addition to residential areas and strategic agricultural land).** This is an important priority for further implementation, as the SRLUP consultation and other findings above demonstrate.

A catchment-centred management approach

To further improve strategic planning, mining and CSG regulation, **EDO NSW recommends that the Government:**

- **identify environmental baselines and cumulative limits to the environment's carrying capacity, and**
- **ensure that mining and any other development will not occur if it would compromise the catchment's limits and capacity.**

This proposal for a catchment-centred management approach is consistent with EDO recommendations on harmonising national CSG regulation,²⁹ and reflects the findings of a recent review of CSG regulation by the former NSW Natural Resources Commissioner.³⁰ A cumulative impact assessment tool developed by the Namoi Catchment Management Authority (CMA) is a practical example of this approach. The Namoi tool uses comprehensive environmental baseline data to establish the carrying capacity of the landscape, and then models the cumulative impact of potential mining developments to see what activities can take place without exceeding this capacity.³¹ As Dr Williams notes, 'Unfortunately the current legislative arrangements in NSW mean that the outputs of the Namoi CMA tool will have no legislative power.'³² **EDO NSW recommends the Government**

²⁸ NSW Liberals & Nationals, *Strategic Regional Land Use – Triple bottom line assessment to protect our regions* (circa 2010-11), p 2.

²⁹ ANEDO Submission on the *Draft National Harmonised Regulatory Framework for Coal Seam Gas 2012* (February 2013), available at http://www.edo.org.au/edonsw/site/pdf/subs/130228CSG_draft_national_framework_ANEDO.pdf.

³⁰ John Williams Scientific Services Pty Ltd, *An analysis of coal seam gas production and natural resource management in Australia - Issues and ways forward* (October 2012), recommendations 1 and 2.

³¹ See John Williams Scientific Services, *ibid* (2012), p 102; see further EcoLogical Australia, *Proposed Framework for Assessing the Cumulative Risk of Mining on Natural Resource Assets in the Namoi Catchment*, prepared for Namoi CMA (2011).

³² John Williams Scientific Services, *ibid* (2012), p 102. The Report continues: 'The existing arrangements in NSW and Queensland and federally do not use an assessment of regional landscape capacity and landscape limits to determine what developments should proceed.'

adopt and legally integrate such catchment-centred tools and approaches in the planning system.

By contrast, approaches to date (including the NSW SRLUP and energy ministers' Draft National CSG Framework) have adopted an underlying presumption that CSG activities can occur in any landscape, provided impacts are properly 'managed'. This ignores the need for evidence-based land-use planning to maintain environmental assets, resolve conflicts, and provide linkage between planning and natural resource management (NRM) aims and targets.

Part Two - Detailed comments and recommendations on the draft SEPP amendment

This part of the submission considers the details of the draft *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013 (SEPP Amendment)*.

2.1 'Partly prohibited' SSD projects must not override exclusion zones

EDO NSW is very concerned that existing provisions in the *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**) could allow CSG proposals that are State Significant Development (**SSD**) to override the proposed exclusion zones. Unless the EP&A Act is amended along with the Mining SEPP, s 89E of the Act would allow SSD (which includes most CSG exploration and production³³) to be approved wherever CSG is *only partly prohibited*. Section 89E(3) states: 'Development consent may be granted despite the development being partly prohibited by an environmental planning instrument.' The EP&A Act overrides the provisions of the Mining SEPP.

In practice, while the draft Mining SEPP amendments may prohibit CSG in and within two kilometres of a residential area, for example, if part of a CSG project footprint goes beyond this exclusion zone, this is likely to constitute only a *partial prohibition*. The effect of s 89E(3) would override this partial prohibition and allow the approval of any CSG activity that is SSD. This would seriously undermine the stated intent of the draft Mining SEPP amendment.

EDO NSW recommends that s 89E of the *Environmental Planning and Assessment Act 1979* be amended in tandem with the Mining SEPP, either by removing s 89E(3) (so that if part of an SSD site is prohibited, then the whole project cannot be granted consent); or clarifying that s 89E(3) does not apply where the project overlaps with an exclusion zone.

2.2 Exclusion zones should apply to important environmental, agricultural and rural residential areas

The proposed exclusion zones for residential and critical industry cluster lands (surface *and* underground) are an important step towards improved strategic land use planning and the resolution of incompatible land uses. **In summary, EDO NSW recommends appropriate mining/CSG activity exclusion zones around important social, environmental and economic areas.** We make four key recommendations on this.

First, as discussed above, **EDO NSW strongly recommends exclusion zones for other sensitive areas, including for High Conservation Value (HCV) lands identified during the SRLUP development process, and Strategic Agricultural Lands.** EDO NSW would

³³ As declared in the *SEPP (State and Regionally Significant Development) 2011*, Schedule 1, cl 6.

also welcome the publication of HCV land maps (including on the SRLUP websites), as we understand that these have not yet been made available for public viewing.³⁴

Second, while a minimum two-kilometre buffer zone would provide some clarity and certainty, there may well be circumstances where increased buffer zones are justified, particularly on environmental grounds (such as aquifer location and connectivity). The proposed buffer zones have a social focus in that they will provide a physical separation between residential areas and CSG activities. However as mentioned previously, EDO NSW believes exclusion zones should also apply to important environmental areas. In this context, buffer zones will need to cover the full environmental resource or asset (such as an aquifer) rather than be based on a simple distance measure. The buffer zone will also need to consider connectivity between assets such as groundwater and surface water. Similar buffer zones could be afforded to 'critical industry clusters', which will not currently attract a two kilometre buffer.

EDO NSW recommends that best available scientific information, including geospatial mapping of sensitive areas, should form the basis of exclusion zones – to protect environmental and other land uses (such as 'critical industry clusters'). The two kilometre buffer zones could therefore be extended further on scientific grounds (consistent with the objectives of the national partnership agreement, referred to above).

Third, the Government should consider the effectiveness of existing mining prohibitions (including CSG) in Environmental Zones under Local Environmental Plans.³⁵ Under the existing Mining SEPP, surface mining and petroleum production can be carried out, only with consent, on land for which *agricultural and industrial uses* are permitted (with or without consent).³⁶ There is no default prohibition of agricultural uses in zones E2, E3 or E4 under the Standard Instrument. This leaves Environmental Zones open to CSG development in some local government areas, in contrast to the exclusion zones currently being proposed for *residential* zones. Noting the first point above about protecting sensitive areas, **EDO NSW recommends CSG exclusion zones also be considered for Environmental Zones.**

This problem should also be considered in relation to the Government's proposed new *E5 Environmental Protection Zone* for the Standard Instrument. Consistent with our current concerns, in May 2012 EDO NSW recommended that the proposed zone should explicitly prohibit all mining, petroleum production and extractive industries (including *underground* mining). We also recommended clarifying that State significant mining and extraction projects do not override an E5 zoning prohibition.³⁷

Fourth, the EDO notes that the exclusion zones in the draft SEPP Amendment do not apply to rural residential zones. (The accompanying FAQs note this 'will be considered' in the Chief Scientist's review of CSG activities in NSW, discussed below). The Government has not provided any specific justification for excluding rural residential areas from the draft SEPP Amendment; or statistics or maps to explain the scope of areas this would affect if exclusion zones applied to rural residential zones. To give equal protection to communities and residential areas in rural and regional areas, **EDO NSW recommends the exclusion zones could be extended to rural residential areas as an interim measure.** This could

³⁴ See for example, the information available at <http://www.nsw.gov.au/strategicregionallanduse> and <http://www.planning.nsw.gov.au/srlup> (accessed April 2013). EDO NSW has not seen the HCV maps to date.

³⁵ Zone E1 National Parks and Nature Reserves; Zone E2 Environmental Conservation; Zone E3 Environmental Management; Zone E4 Environmental Living. See *Standard Instrument Principal LEP*.

³⁶ See Mining SEPP, cl 7(1)-(2). See also Department of Planning and Infrastructure, LEP Practice Note (2009), *Environmental Protection Zones* (PN09-002), p 8.

³⁷ EDO NSW Submission on standard instrument amendments (May 2012), http://www.edo.org.au/edonsw/site/pdf/subs/120529Standard_Instrument_Amendments.pdf.

then be subject to further review by the Chief Scientist as to the ongoing scope of exclusion zones, and the impact on communities, mining and other industries, and the environment.

2.3 Exclusion zones should apply to exploration whether or not development consent is required

EDO NSW understands the Government intends to prohibit 'all new CSG exploration and production activity' within the exclusion zones, as noted in the accompanying FAQs. Under draft clause 9A(1) 'the carrying out of coal seam gas development is prohibited on or under land within a coal seam gas exclusion zone.' These zones include a 2km buffer around zoned 'residential areas'.³⁸ In brief, *coal seam gas development* means development for the purposes of petroleum exploration or production, but only in relation to prospecting, recovery, obtaining or removal of CSG (with two further, relatively minor exemptions³⁹).

It is understood that this would prohibit CSG exploration *whether or not development consent is required* (other than existing 'exempt development' of minor environmental significance). However there is no specific reference to the issue of development consent in the SEPP Amendments or the FAQs. Furthermore, draft cl 20 states that draft cl 9A 'extends to (a) an application for development consent made, but not finally determined...'. That is, the draft transitional provisions in cl 20 do not specifically include CSG activities that can be approved (without consent) under Part 5 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

EDO NSW recommends:

- **clarifying that exclusion zones to apply to CSG exploration whether or not that exploration requires development consent;**
- **clarifying the transitional provisions so that exclusion zones apply to 'Part 5' activities that have not yet received approval.**

2.4 Excluding other forms of mining (including other types of unconventional gas)

The current phrasing of exclusion zones in the draft SEPP Amendment is deliberately and narrowly targeted at CSG. However, EDO NSW notes the potential for development of other forms of unconventional gas in Australia,⁴⁰ which may pose similar risks and disruptions to important existing land uses. **EDO NSW recommends the draft SEPP Amendment be amended to exclude other forms of mining, including other unconventional gas (such as shale gas and tight gas).** At the very least, the Government should seek advice from the Chief Scientist and Engineer, and/or the national IESC, on the potential application of exclusion zones to other forms of mining and unconventional gas development in future. For example, the Planning Assessment Commission has noted the need for 'a clear policy position' if social (and environmental) values are 'to be balanced in the approval process for coal mines' more equitably.⁴¹

³⁸ See draft clause 9A(4) and 'residential zone' definition. Includes zones R1-R4, RU5; and specified areas zoned R5 (large lot residential) to be nominated by local councils and approved by the Minister.

³⁹ See SEPP Amendment, item [1], 'coal seam gas development' (insertion into cl 3(2)). The two exemptions are for the removal of CSG 'in the course of mining' ('mining' is currently defined in cl 3 of the Mining SEPP); and 'exempt development' under existing cl 10-10A of the Mining SEPP.

⁴⁰ See further, CSIRO, *Unconventional gas fast facts* (2012), available at <http://www.csiro.au/en/Outcomes/Energy/Energy-from-oil-and-gas/unconventional-gas.aspx>.

⁴¹ Planning Assessment Commission, Warkworth Extension Project (09_0202), 3 February 2012, pp 8-9.

2.5 Exclusion zones should apply to linear infrastructure associated with CSG

The SEPP Amendment prohibits 'coal seam gas development' in exclusion zones. However, the SEPP Amendment (including the definition of 'coal seam gas development'⁴²) does not make clear that exclusion zones also apply to 'linear infrastructure' or ancillary 'petroleum related works' such as pipelines and processing plants. This issue turns on the interpretation of several intersecting, new and existing definitions.⁴³ **EDO NSW recommends that the SEPP Amendment be clarified in a way that protects residential, environmental and agricultural assets and land uses (including linear reserves⁴⁴) from disturbance by ancillary mining works.** In December 2012, EDO NSW expressed a similar concern about the exclusion of related 'linear infrastructure' from the gateway assessment under the SRLUP.

2.6 Remove or limit local council discretion to reinstate excluded areas

EDO NSW is concerned that the proposed process of 'reinstating' excluded areas contains few details or legal safeguards to ensure the community and environment will be protected in the public interest. The proposed process allows local councils to nominate residential areas or critical industry cluster lands that should be open to CSG activity, despite the general prohibition. It is not clear whether this amendment has been requested by any councils themselves. However, an open-ended ability (both in time and location) to 'reinstate' areas for CSG exploration and production, via local council nomination, will increase uncertainty and complexity of the overall proposal. As ICAC has noted, an 'increasing tendency towards departures from the stated requirements [or sets of "rules"]' can also introduce corruption risks.⁴⁵ This uncertainty could be addressed in several ways – the simplest being to remove the proposed discretion.

EDO NSW recommends either:

- **removing the ability for local councils to nominate 'exclusions from exclusion zones'**, on the grounds of clarity and administrative simplicity (that is, removing cl 9A(2)-(3) and Schedule 2 from the draft SEPP Amendment); or
- **imposing clear and significant additional safeguards, including:**
 - limiting the circumstances in which such zones can legally be excluded (for example, based on social and environmental characteristics of an area);
 - limiting the timeframe in which councils can nominate the reinstatement of an excluded area (such as six months from commencement of the SEPP Amendments);
 - requiring specific public consultation and exhibition requirements before councils formally nominate areas to be reinstated for CSG activities; and
 - clarifying that such zones can only be 'reinstated' for CSG activities with PAC review and approval, and where public consultation requirements were followed.

⁴² See SEPP Amendment, item [1], 'coal seam gas development' (insertion into cl 3(2)), noted above.

⁴³ For example, the draft definition of 'coal seam gas development' refers to certain development for the purposes of 'petroleum production'. We note the Mining SEPP's existing definition of 'petroleum production' includes the construction (etc) of associated 'petroleum related works'. The latter is itself defined to include works (etc) that a mining company is entitled to construct (etc) under a production lease, but not further works under the EP&A Act. The intent and effect of these definitions should be clarified in a way that properly protects excluded areas.

⁴⁴ The NSW Roadside Environment Committee recognises 'linear reserves', including roadsides and Travelling Stock Routes, as containing significant biodiversity, including ecological communities and critical wildlife habitat, requiring appropriate protection and management. See:

<http://www.rta.nsw.gov.au/environment/roadsideenvironmentcommittee/index.html>.

⁴⁵ See ICAC, *Anti-corruption safeguards and the NSW planning system*, 'Providing certainty', p 5.

2.7 Transparency and consultation on finalised area maps

EDO NSW notes that only certain maps have been made available for this consultation process.⁴⁶ It is also understood that the identification of 'R5 Villages', future residential growth areas, 'Critical Industry Clusters', and 'High Conservation Value' lands (for which we recommend added protection) is ongoing; including as the Government proceeds with its SRLUP process across the State. While the current consultation process is timely and important, this has also meant the community has been asked to provide input on the basis of incomplete information. To promote transparency and public engagement in the finalisation of exclusion zones, **EDO NSW recommends the Government provide sufficient further opportunities for public consultation on areas to be identified, mapped and protected from CSG and other mining.**

Part Three - Related announcements

3.1 EPA role

EDO NSW welcomes the Premier's announcement that the EPA will become the lead environmental regulator for CSG in NSW. This is consistent with concerns previously raised by the NSW Ombudsman, EDO NSW and the Legislative Council regarding potential or perceived 'conflicts of duties' for the Department of Trade and Investment – in promoting and facilitating the industry on one hand, and regulating it on the other.⁴⁷

The exact nature of the additional powers proposed for the EPA to regulate 'environmental and health aspects' of CSG, and the timeframe involved, remains unclear since the February policy announcement.⁴⁸ **EDO NSW recommends the Government provide further public detail on the EPA's new role, including the relationship with the proposed Office of CSG within the Department of Trade and Investment. We would welcome the opportunity for further input.**

3.2 Chief Scientist's review

EDO NSW welcomes the Chief Scientist and Engineer's review of CSG in NSW.⁴⁹ We also welcome the opportunity for public input into this review, although the FAQs to the SEPP Amendment do not refer to this. To assist this review, **EDO NSW recommends that:**

- **the Chief Scientist's review take into account:**
 - the recommendations of the NSW Legislative Council Inquiry into the impacts of CSG (May 2012);⁵⁰
 - the implications (and limitations) of the draft *National Harmonised Regulatory Framework for CSG* (December 2012);⁵¹

⁴⁶ As the accompanying FAQs note, 'the Department of Planning and Infrastructure is currently compiling information on all future growth areas across the State in consultation with local councils to include in a final map prior to the finalisation of the SEPP amendment.'

⁴⁷ See for example, NSW Ombudsman, *Submission to NSW Legislative Council Inquiry into Coal Seam Gas* (2011); *Report of the NSW Legislative Council Inquiry into Coal Seam Gas* (May 2012), recommendations 31-35.

⁴⁸ Only basic information is provided on the EPA website (as at April 2013):

<http://www.environment.nsw.gov.au/licensing/coalseamgas.htm>.

⁴⁹ See <http://www.chiefscientist.nsw.gov.au/latest-news/nsw-chief-scientist-and-engineer-to-review-csg-activities-in-nsw>.

⁵⁰ http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/318A94F2301A0B2FCA2579F1001419E5?open&refnavid=CO5_1

⁵¹ Available from the COAG SCER at: <http://www.scer.gov.au/workstreams/land-access/coal-seam-gas>.

- the scientific review of CSG recently conducted by Dr John Williams, which recommended a 'catchment-based approach' to strategic planning and mining assessment;⁵² and
 - relatedly, the cumulative impact assessment tools developed by the Namoi Catchment Management Authority.⁵³
- the Chief Scientist **consider the need for exclusion zones applicable to unconventional gas development and other forms of mining in NSW** (including rural residential, agricultural and environmental exclusion zones), if other forms of unconventional gas are not excluded in revisions to the draft Mining SEPP Amendment.
- **the NSW Government commit to tabling the Chief Scientist's CSG report** in Parliament within a month of receiving it, and the Government's own draft regulatory response by December 2013 (or within 6 months of the Chief Scientist's report).

⁵² John Williams Scientific Services Pty Ltd, *An analysis of coal seam gas production and natural resource management in Australia - Issues and ways forward* (October 2012), available at: www.wentworthgroup.org.

⁵³ See EcoLogical Australia, *Proposed Framework for Assessing the Cumulative Risk of Mining on Natural Resource Assets in the Namoi Catchment*, prepared for Namoi CMA (2011).



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

Dear Sir,

On behalf of the Wollombi Valley Landcare Group (WVLG), we wish to record our appreciation of the initiative being taken by the New South Wales government to introduce legislation to restrict areas where coal seam gas development and mining may occur. However we do not consider the proposed legislation goes far enough.

We therefore wish to register our concerns as follows:

1. Whilst the amendment to the State Environmental Planning Policy (SEPP) as proposed in Schedule 3 (14th April) is commendable it does not address all of the concerns of our members and for that matter those applying to other regions of New South Wales. The limited restriction zones effectively serve to discriminate against the many other regions that are equally deserving of protection, e.g. recognised heritage, scenic and tourist regions.
2. While the Critical Industry Cluster Land (Viticulture) identifies the larger viticulture areas in the Hunter Valley, it fails to recognise the many other vineyards located elsewhere in the state, including those in the Wollombi Valley. All established and producing vineyards should be declared exclusion zones.
3. The SEPP amendments should apply to all gas extraction processes and coal mining operations, including all forms of unconventional gas extraction including shale gas and tight gas.
4. We oppose coal seam gas mining in the Wollombi Valley region including Laguna and Bucketty as cited in the NSW Government publication "*The Lower Hunter over the next 20 years: A Discussion Paper*" Energy Resources (page 33).

5. The village of Wollombi (RU5 Zone under Cessnock LEP 2011) in the Lower Hunter with its natural and cultural heritage should be protected from inappropriate mining and gas development. WVLG considers that all valuable cultural and heritage assets of the Wollombi Valley are afforded proper protection.
6. The neighbouring village of Laguna (although not currently classified with a RU5 Zoning) exhibits all the aspects that a reasonable person would consider comprises a 'village'. This includes a heritage classified public school with a current enrolment of approximately 50 students, a church, volunteer Bush Fire Brigade, community hall, general store and wine bar, a playing field and cricket oval. It also has a minimum of 15 residences within walking distance of this infrastructure. As a result of the village character of Laguna, it should also be included in Schedule 3 'Exclusion Zone' for coal seam gas mining.
7. The exclusion zone around Critical Industry Clusters (CICs), villages, towns and cities, and educational facilities, e.g. Tocal, should be provided and increased from 2km to 5km.
8. The SEPP amendments should be broadened to include a 2km buffer around all residential dwellings, not just those within prescribed villages, towns and cities.
9. The WVLG consider that there are potential short and long term health and environmental concerns associated with the coal seam gas industry that have not, as yet, been properly investigated. We therefore consider it essential that villages, townships and their surrounds, and outlying residences, should all be protected from future coal seam gas exploration and mining.
10. Wollombi Valley and surrounds also comprises part of the region nationally recognised as "*Hunter Valley Wine Country*" and "*Hunter Valley Tourism*", exhibiting commercial agricultural interests and values consistent with other 'critical industry clusters' afforded exempt status under Section 3 of the amended SEPP. Accordingly we submit that the Wollombi Valley and surrounds should also be afforded exempt status under the amended SEPP.
11. All tourism activities associated with the viticulture industry that form part of the local tourism industry should be included along with the Viticulture CICs, e.g. tourism accommodation, shopping villages/shops, concert venues and restaurants/cafes.
12. Recognised scenic locations, e.g. Bow Wow Creek Gorge and heritage sites such as the Convict Trail Project along the Great North Road should be afforded protection from coal seam gas activities.

13. The provisions for exclusions should include all identified agricultural food producing lands, water catchments and sensitive environmental areas to prevent coal seam gas activity in these areas.
14. All coal seam gas operations should comply with the draft NSW Aquifer Interference Policy. In fact this policy must become operational and no longer be a draft, but instead become law and be enforced with suitable penalties in excess of the cost of non-compliance.
15. Land within 2km of waterways, National Parks, public land (Crown reserves), travelling stock reserves, water storages and community water resources must be excluded from coal seam gas activities.
16. 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. For example, Councils should have the power to list new areas that they wish to remain CSG free.
17. 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 such as Gloucester coal mining and CSG wells.

Yours sincerely,

A handwritten signature in cursive script that reads "Jane Mowatt". The signature is written in dark ink on a white background.

Jane Mowatt
President

For and on behalf of
Wollombi Valley Landcare Group, Inc.

12th April 2013

MULLUMBIMBY COMMUNITY ACTION NETWORK

Po Box 583, Mullumbimby, NSW 2481

www.mullumaction.org Tel: 0266843723

To: The Director, Strategic Regional Policy, Department of Planning and Infrastructure

Dear Sirs

RE: Draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013

I write on behalf of Mullumbimby Community Action Network (MCAN) regarding the above, and in particular the 2k exclusion zones for CSG mining. Whilst this decision is welcomed, we feel that it does not go far enough to protect our precious food-growing areas, water catchments and sensitive environmental areas.

Mullumbimby is in the heart of the Wollumbin Caldera on the beautiful North Coast of NSW. Our area is particularly special with a unique landscape and seascape and an important tourist industry; this area is worthy of more protection than your current draft amendment.

Furthermore, your policy allows councils to exempt areas from protection. This is not fair! It could lead to some unscrupulous behaviour such as the mining scandals currently under investigation with ICAC. Your draft amendments also do not cover other types of unconventional gas mining and coal mining. Please upgrade your amendments to include these.

MCAN also requests that:

- the 2k buffer zone is extended to protect all residential dwellings.
- Local council's right to veto is removed unless it is matched with the equivalent power for council's to list new prohibited areas
- The provisions should include all identified food producing lands, water catchment areas and sensitive environmental areas
- The SEPP amendments are expanded to apply to coal mining and to all forms of unconventional gas extraction including shale gas and tight gas.
- The SEPP amendments will apply to projects that have already been approved but have not yet satisfied their conditions of approval or started operation.

Thank you for your attention.

Yours truly

Deborah Lilly, Coordinator, Mullumbimby Community Action Network



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

Dear Sir/Madam,

RE: The Wilderness Society Newcastle submission on Draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013

The Wilderness Society Newcastle welcomes the State Government for providing increased protection for residential zoned areas and mapped critical viticulture and thoroughbred industry clusters. However, the proposed amendments in their current form are inconsistent and leave families, water users, threatened species, publicly owned natural areas and agricultural industries across NSW at risk from the impacts of coal seam gas mining.

An example of the inconsistency of the proposed amendments is the 2km buffer zone only being applicable to residential zoned areas. As there has been no comprehensive study or risk assessment by the NSW Health Department into the health effects of CSG mining, the impacts on nearby residents are currently unknown. To allow families in other zoned areas to live in close proximity to coal seam gas wells is negligent.

NSW residents most at risk from this oversight include over 80 families who live within 2km of the proposed coal seam gas wells at Fullerton Cove should Dart Energy restart their operations in NSW. Also at risk are residents in rural farm houses across the State who are being forced by law to have coal seam gas wells on their properties. We therefore recommend that the 2km buffer zone apply to all residential dwellings.

The other key points in addition to the inconsistency of the 2km exclusion zone that this submission will demonstrate are:

- A minimum of a 2km buffer zone is needed around our drinking water catchments, noting however the threat from coal seam gas to our water supplies may impact an area far greater than 2kms and this must be independently assessed prior to any drilling taking place
- NSW's important environmental areas such as State Conservation Areas, land bordering National Parks, travelling stock routes, recognised biodiversity corridors, Ramsar listed wetlands, critical habitat for threatened Koala populations and iconic natural such as the Pilliga Forest must also be excluded from coal seam gas drilling and buffered by a minimum 2km exclusion zone.
- Whilst the amendments protect the critical industries: viticulture and horse breeding, they fail to protect critical food production industries. These industries

must be afforded the same level of protection as viticulture and horse breeding and be excluded from coal seam gas development.

Further to the improvement of the draft SEPP amendments, we would like to hear back from the NSW Government in relation to the suite of related announcements made by Premier O'Farrell in his February 2013 media release. The Wilderness Society Newcastle requests a detailed briefing of the process and details regarding:

- The independent Environment Protection Authority (EPA) will be the lead regulator of environmental and health impacts of CSG activities in NSW with responsibility for compliance and enforcement
- All exploration, assessment and production titles and activities will be required to hold an Environment Protection Licence;
- An Office of CSG Regulation will be established within the Department of Trade and Investment to enforce other regulations.

Key Submission Points

Thank you for the opportunity to comment on the Draft SEPP amendments. Below we have detailed the risks that coal seam gas poses and recommended suitable amendments to the SEPP to address these risks.

1. Risks to Communities

The potential for impacts on human health from the coal seam gas extraction and delivery system are many. In addition to land and water contamination issues, at each stage of production and delivery, tons of toxic volatile compounds, including benzene, toluene, ethylbenzene, xylene, etc., and fugitive natural gas (methane), escape and mix with nitrogen oxides from the exhaust of diesel-driven, mobile and stationary equipment to produce ground-level ozone[1].

The coal seam gas flaring process can produce many hazardous chemicals including polycyclic aromatic hydrocarbons (PAHs, including naphthalene), benzene, toluene, xylenes, ethyl benzene, formaldehyde, acrolein, propylene, acetaldehyde and hexane, as stated by the Colorado School of Public Health[2].

Due to the above stated risks to public health and the risks to water (as detailed below) from CSG, the government should 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, Doctors for the Environment Australia and other community groups in NSW.

The SEPP amendments fail to adequately protect public health as they do not apply to the many people living within 2km of a coal seam gas well in areas that are not zoned residential. Nor do they regulate the emissions that may be produced beyond the 2km exclusion zone or provide any requirements for monitoring fugitive emissions from CSG extraction.

[1] Colburn, T, 2010, The Endocrine Disruptor Exchange
<http://www.endocrinedisruption.com/chemicals.introduction.php>, accessed 23 August, 2010

[2] Witter et al, 2008, White Paper: The Potential Exposure-Related Human Health Effects of Oil and Gas Development, Colorado School of Public Health

The SEPP should be amended to include baseline testing of air and water pollution, 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.

Recommendation 1: That the 2km exclusion zone be applied not just to residential zoned areas but to all inhabited dwellings. That within the exclusion zone baseline water and air quality testing be conducted and strict coal seam gas specific air and water monitoring be implemented as per the recommendations of an independent comprehensive health investigation. A moratorium on all coal seam gas drilling must be put in place until the health study is completed.

2. Risks to Water

The risks of having coal seam gas in our water catchments, including the depletion of valuable water resources and the contamination of drinking water sources, will ultimately be felt by the public. These risks to our water sources from coal seam gas include (as per the National Water Commission position statement):

- Extracting large volumes of low-quality water will impact on connected surface and groundwater systems, some of which may already be fully or over-allocated, including the Great Artesian Basin and Murray-Darling Basin.
- Impacts on other water users and the environment may occur due to the dramatic depressurisation of the coal seam, including:
 - changes in pressures of adjacent aquifers with consequential changes in water availability
 - reductions in surface water flows in connected systems
 - land subsidence over large areas, affecting surface water systems, ecosystems, irrigation and grazing lands.
- The production of large volumes of treated waste water, if released to surface water systems, could alter natural flow patterns and have significant impacts on water quality, and river and wetland health. There is an associated risk that, if the water is overly treated, 'clean water' pollution of naturally turbid systems may occur.
- The practice of hydraulic fracturing, or fraccing, to increase gas output, has the potential to induce connection and cross-contamination between aquifers, with impacts on groundwater quality.
- The reinjection of treated waste water into other aquifers has the potential to change the beneficial use characteristics of those aquifers.

These potential threats have been realised in the Pilliga forest where surrounding each well pad there are hectares of dead trees that appear to be through either spills or a contaminated plume travelling from the well pad through the unconfined aquifer system.

Operator error in the Pilliga Forest has been known to cause 21 incidents including a number of spills including 10,000 litres of untreated coal seam gas water that spilled out into the Pilliga killing vegetation, destroying the soil profile and entering the groundwater system. Water samples of the spill found:

- 0.05 milligrams per litre of lead (25 times natural levels and 5 times the acceptable level for drinking water);
- 0.021mg/l of Arsenic (21 times natural levels and 2.1 times drinking water standards);

- 0.187mg/l Chromium (37 times natural levels and 3.74 times drinking water standards)*

In light of the above risks and evidence of water contamination, it is concerning that the current SEPP amendments do not take into account any impacts of CSG mining operations within water catchment areas, or ground water recharge areas, including in Sydney Catchment Authority (SCA) Special Areas and the recharge zones for the Great Artesian Basin. The Apex CSG project in the Illawarra escarpment will be drilling close to three key water catchments including the SCA Woronora Special Area, which provides water for the people of Sydney and Wollongong.

In order to protect our critical drinking water, the exclusion zones should be extended to prohibit CSG extraction in or near Sydney Catchment Authority (SCA) water catchments areas, SCA Special Areas and other drinking water catchments across NSW.

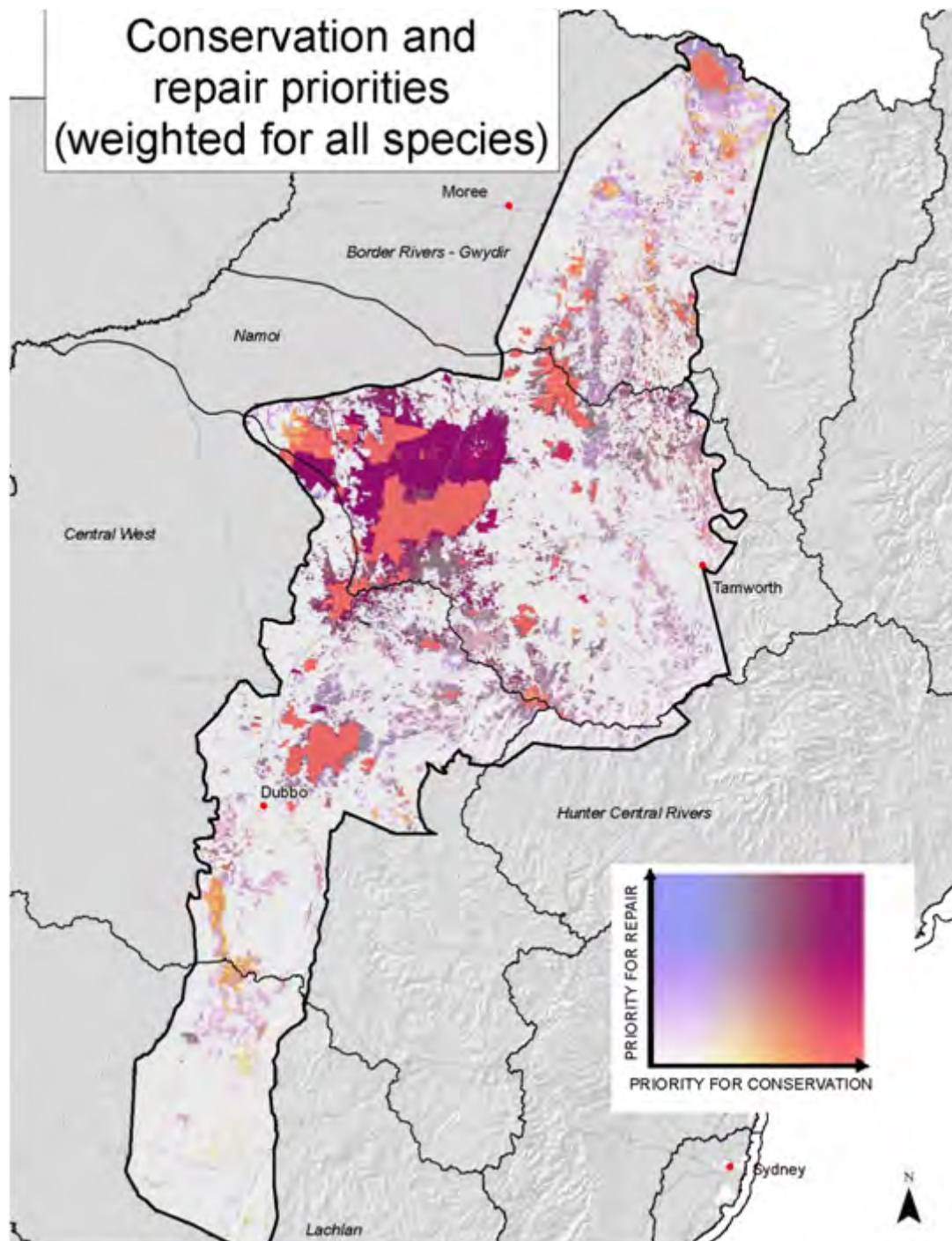
Recommendation 2: The SEPP amendments exclude drinking water catchments from coal seam gas. These would include the Sydney Catchment Authority (SCA) water catchment areas, SCA special areas, the Tomago and Stockton Sand Dune aquifer systems and other drinking water catchments across NSW.

3. Risk to Environment

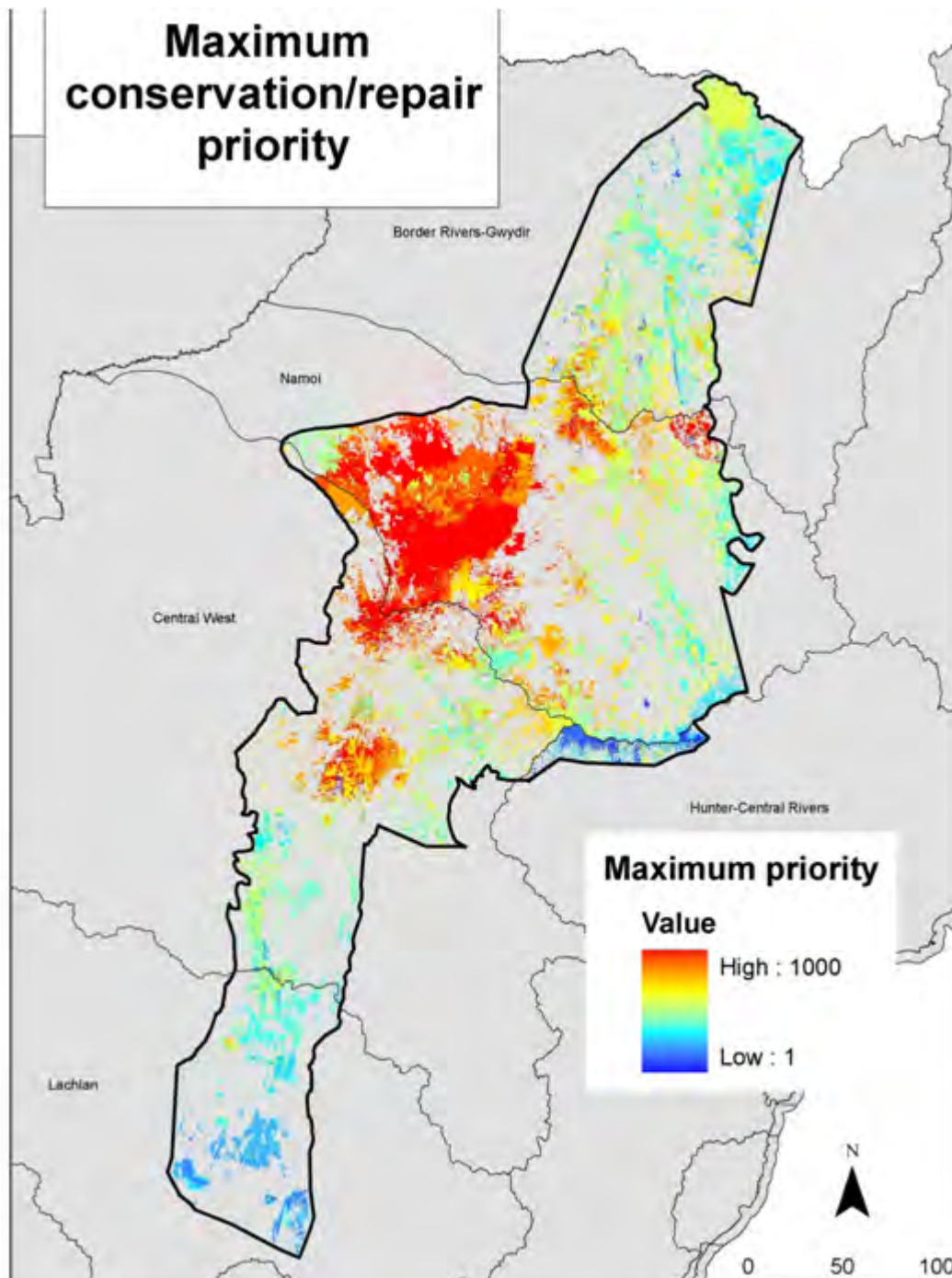
The Pilliga Forest in North-west NSW provides a clear example of where coal seam gas has already caused damage to an ecosystem and where the natural values of the area should preclude it from coal seam gas extraction as it is an inappropriate industry for this area.

The attached photos in a PDF offer insights into the damage coal seam gas does to an otherwise intact forest that provides refuge to a range of NSW listed threatened species.

The below map, produced by the NSW Government as part of their report 'Western Woodlands Way', shows clearly where the NSW Government has mapped the Pilliga as a critical area for conservation and repair of biodiversity and vegetation.



The report also includes the Pilliga as a high maximum priority for conservation and repair.



Further, the first draft SRLUP maps for the the North-west NSW region also mapped the Pilliga as 'Tier 1' biodiversity and maps critical waterways across the forest.

Pilliga Water

The surface water from the Pilliga runs via Bohena Creek into the Namoi River and into the Murray Darling system. The area is the Southern Recharge Zone for the Great Artesian Basin. The entire forest has been mapped by the Bureau of Meteorology as likely a groundwater dependant ecosystem.

These ecological and water critical values should be clear triggers for an exclusion zone from coal seam gas by the NSW Government. However, it appears the government's own science is being ignored by the SEPP amendments and buffer zones. The

Wilderness Society would like to see this situation rectified, as forests such as the Pilliga, mapped by the NSW and Federal government as important for conservation and groundwater should not be fragmented and polluted for coal seam gas extraction activities.

Downstream water impacts on multiple users must be taken into account when considering sensible further exclusion zones.

Coal seam gas drilling in the Pilliga Forest, for which NSW Minister Chris Hartcher recently expressed support, <http://news.smh.com.au/breaking-news-business/santos-seeks-nsw-support-for-csg-20130410-2hkpr.html>, goes directly against the mapping of the forest and the need to conserve and restore the ecological values of the biodiversity hotspot. Further to this, the attached ecological report, *National Significance, The Ecological Values of the Pilliga East Forests*, includes work of ecologists who identified six key threatening processes that will occur from Pilliga coal seam gas production, including loss of global climate change refugia, loss of habitat for long-distance migrants and the pollution of water drainage systems and underground aquifers. Increased methane will likely cause bushfire risk and contribute the potent greenhouse gas into the atmosphere, accelerating climate change.

Recommendation 3: NSW's important environmental areas such as State Conservation Areas, the Pilliga Forest, land bordering National Parks, travelling stock routes, recognised biodiversity corridors, Ramsar listed wetlands, critical habitat for threatened Koala populations and other iconic natural areas must also be excluded from coal seam gas drilling and buffered by a minimum 2km exclusion zone.

4. Risk to Food Producing Land

Australian agriculture plays a crucial role in supplying fresh quality food to Australia and the world and to global food security. The safety of Australia's food must not be jeopardised by the mineral and petroleum industries. Exclusion zones should also protect our critical farmland by prohibiting the expansion of coal mining and unconventional gas operations on productive agricultural land.

The profitability and sustainability of food and fibre production must not be compromised. The impacts of coal seam gas on food producing land include the change of drainage, disruption of soil and accelerated soil erosion, the compaction of soil, the contamination of soil, surface water and groundwater, the depletion of groundwater supply and massive drop in groundwater levels and many more. This includes direct and indirect as well as current and future impact arising from exploration, mining and production activities, beyond the confines of the licence area and the life of the licence.

Recommendation 4: The SEPP amendments excludes productive food producing land.

Other Recommendations:

Recommendation 5: 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 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.

Recommendation 6: The SEPP amendment only relates to gas from coal beds. This leaves out tight gas, which is being explored in parts of the Northern Rivers region. All unconventional gas should be included in the SEPP amendment to avoid a patchwork of regulations that leaves parts of the state at risk.

Recommendation 7: 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.

Recommendation 8: There is a risk of exploitation of the Council “opt out” clause of the amendment. Allowing Local Councils to override the 2km exclusion zone may lead to negative health outcomes for families and exposes councils to lobbying by powerful industry interests and a heightened risk of corruption.

Yours sincerely,

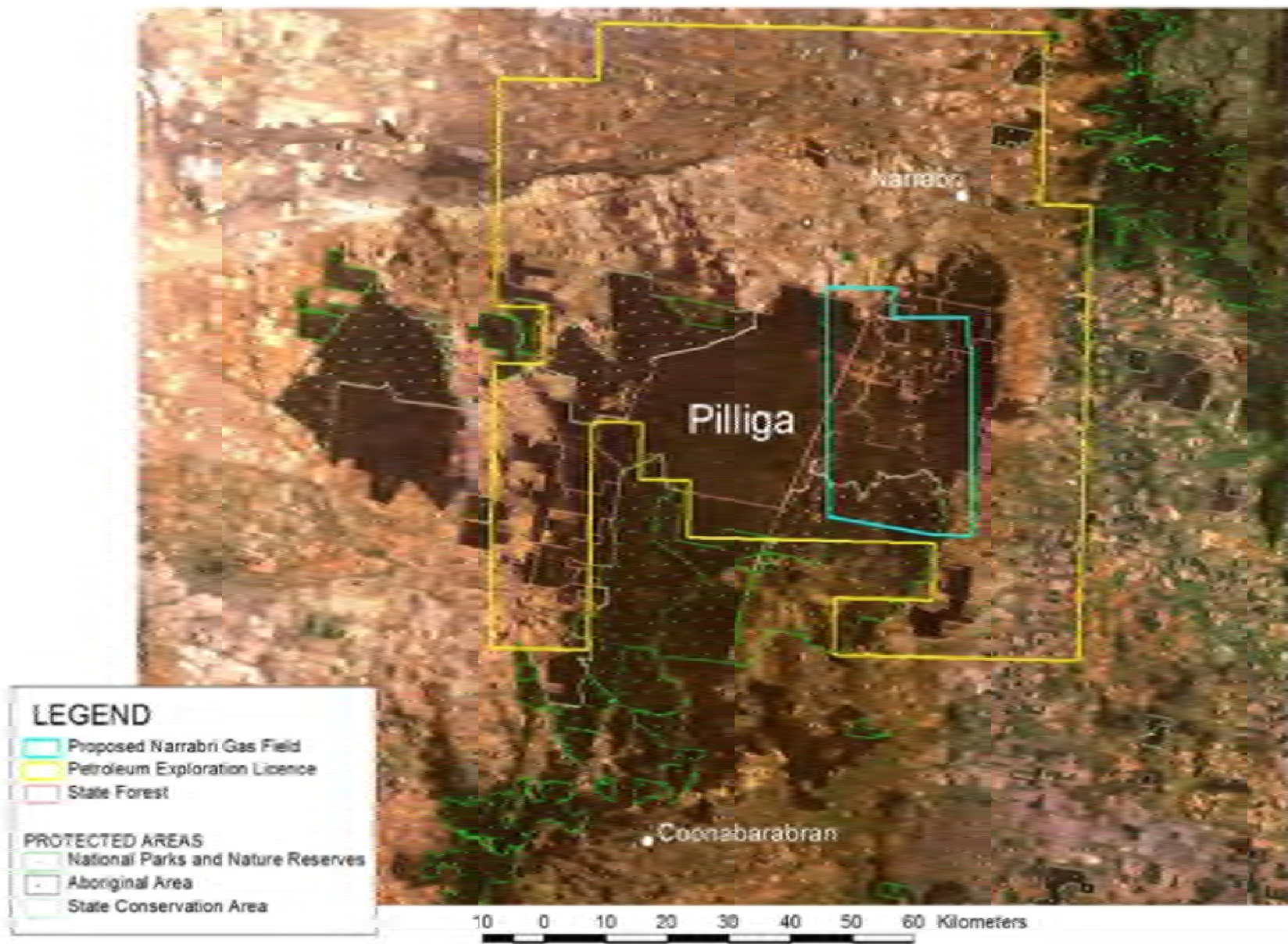
Naomi Hogan

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Coal Seam Gas in NW NSW and the Pilliga Forest



COAL SEAM GAS TITLES IN THE PILLIGA FOREST



Map of Petroleum Exploration Licences in the Pilliga region

The Pilliga is a very special place.

Largest remaining block of temperate woodland in eastern Australia

Native species refuge, National Biodiversity Hotspot, Important Bird Area

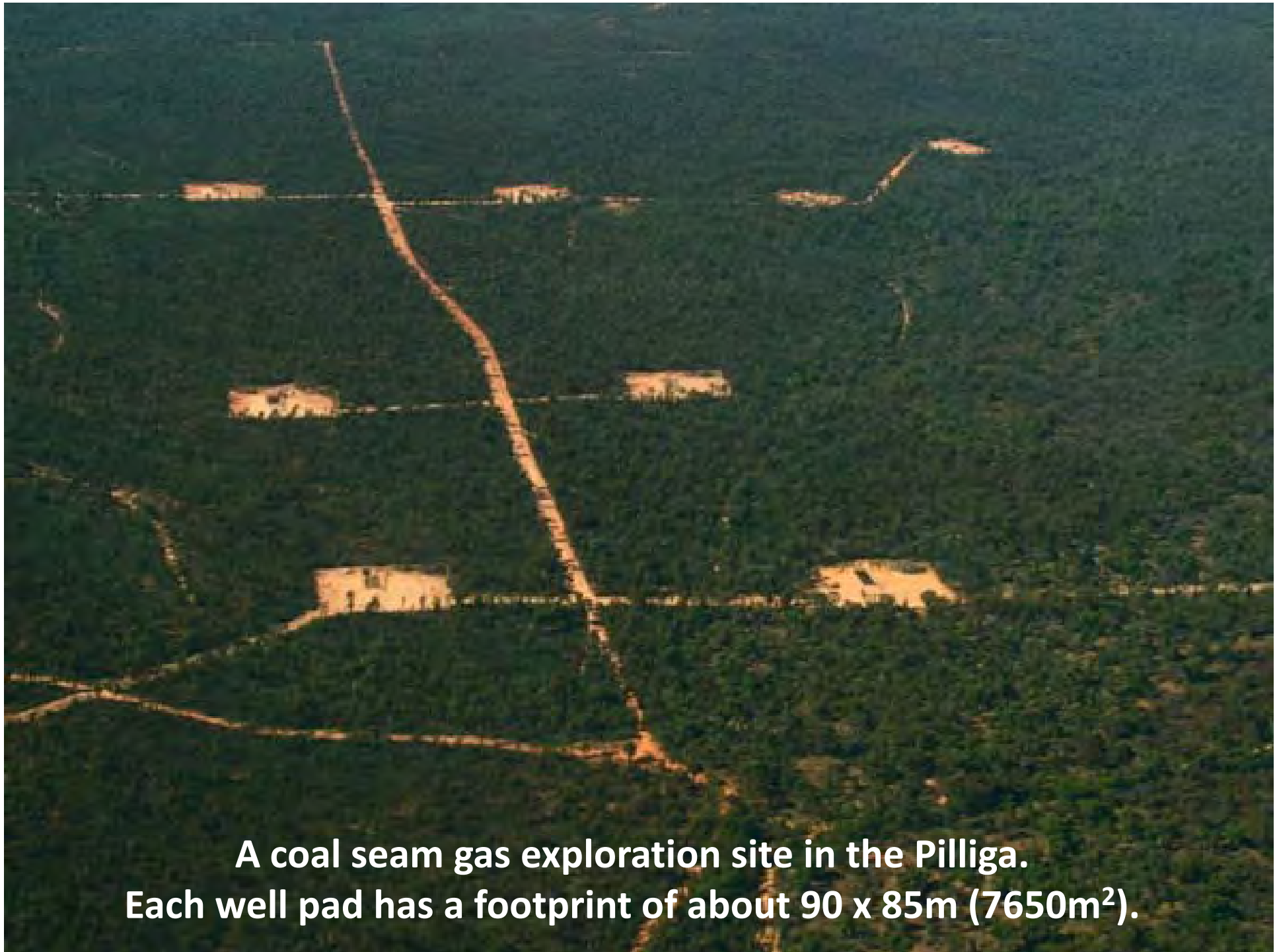


Southern recharge area for the Great Artesian Basin



Critical habitat for the Pilliga Mouse – vulnerable in Australia since 16th July 2000 (EPBC Act 1992)





**A coal seam gas exploration site in the Pilliga.
Each well pad has a footprint of about 90 x 85m (7650m²).**



Well pads require extensive land-clearing

Toxic Spills from coal seam gas activities in the Pilliga

Independent sampling reveals:

- Arsenic 21x
- Lead 25x
- Chromium 37x
- Mercury 8x
- Nickel 171x



**A cocktail of heavy metals,
Salts, petro-chemicals, killing
all vegetation in its path**

Independent sampling
reveals:

- Total dissolved Solids 100x
- Chloride 191x
- Sodium 264x
- Total petroleum hydrocarbon 20x





Sludge and tree kill near an abandoned CSG well pad - July 2011



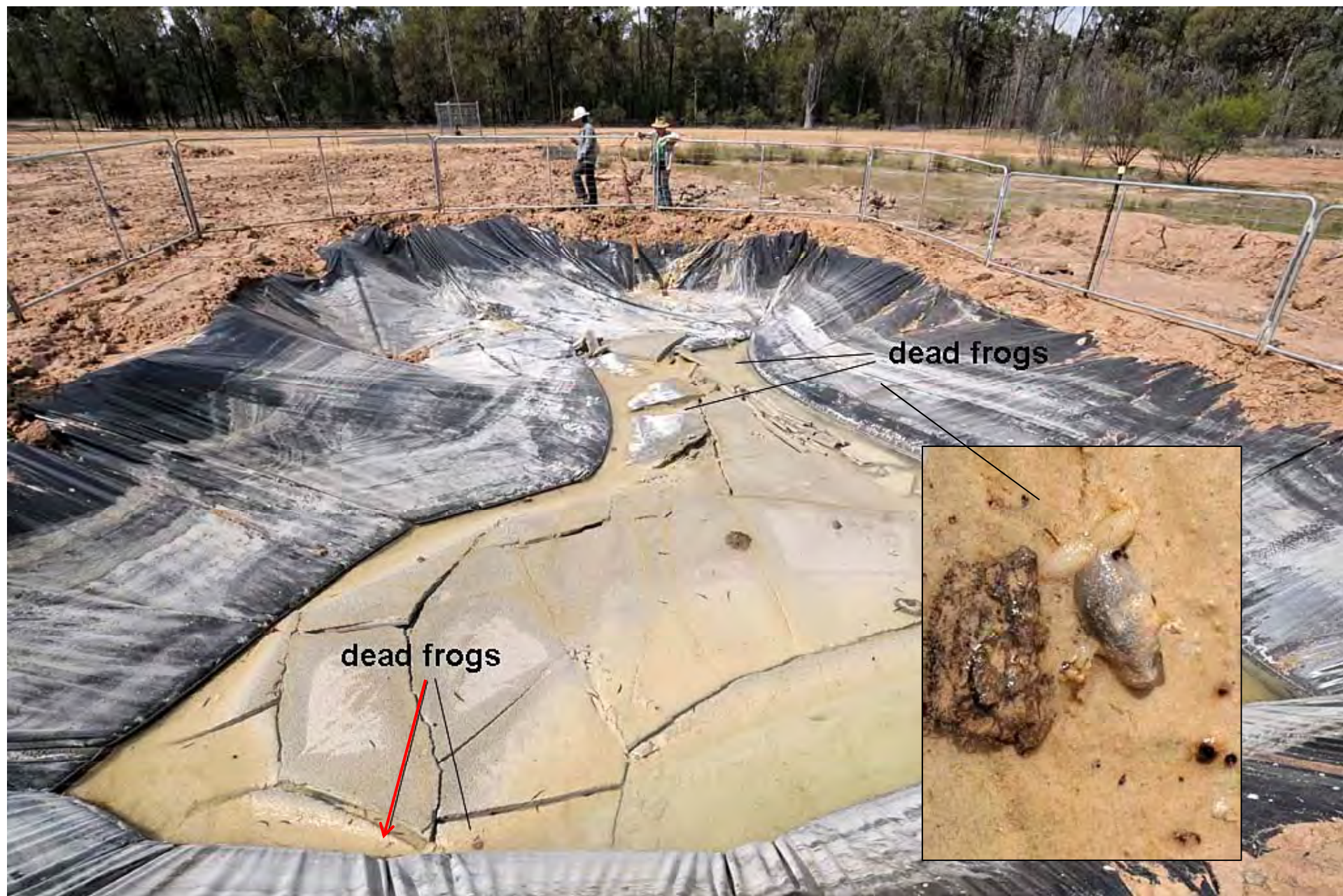
Overflowing unlined CSG holding pond – photo: July 2012



Spill site at Bibblewindi water treatment plant, over 12 months since the spill is alleged to have occurred – July 2012



Wallaby tracks in the coal seam gas water spill near Bibblewindi treatment plant
July 2012



8 dead frogs found in CSG drilling fluid holding pond - October 2011



Santos try to remove all contaminated soil from a spill zone. This is a known recharge area of the Great Artesian Basin - December 2012



Pale Headed Snake – vulnerable in NSW (TSC Act 1995)



Eastern Pygmy Possum – vulnerable in NSW (TSC Act 1995)



The Director Strategic Regional Policy
Department of Planning and Infrastructure
GPO Box 39
Sydney NSW 2001
By Email: srlup@planning.nsw.gov.au

12 April 2013

Re: Submission on Draft Amendment to the State Environmental Planning Policy (Mining Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013 (NSW)

Dear Sir/Madam,

Thank you for the opportunity to comment on the draft State Environmental Planning Policy (Mining Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013 (NSW) ("**SEPP amendment**").

About ERM Power Limited

ERM Power Limited ("ERM Power") is an energy company listed on the ASX that operates electricity sales, generation, and gas exploration and production businesses across Australia. Of the 2,522 MW of low emission gas-fired generation plant constructed since inception, ERM Power retains ownership of 442 MW and operates 982 MW. All of these plants have been commissioned in accordance with contemporary best practice environmental considerations. These assets have required the construction of approximately 330 km of large diameter pipeline to deliver gas to the plants. ERM Power has an additional 2,029 MW of approved generation projects and 285 km of pipelines under development.

Traditionally our gas-fired power generation business has involved purchasing large volumes of gas from third parties under long term contracts. In recognition of the imminent gas supply shortfall impacting the East Coast gas market, driven by the commencement of Queensland's LNG export industry in 2014, we have identified the value and necessity of owning and having access to longer term gas supply. That supply will serve the requirements of not only our own local generation development opportunities, but also the needs of energy consumers, inclusive of household, commercial and industrial users.

Accordingly, we have made investments in petroleum exploration acreage, including in NSW, with the objective of securing and developing our own longer term gas supplies in a range of prospects which include conventional, shale and coal seam gas. Through our wholly owned subsidiary, ERM Gas, we have equity interests in eight petroleum exploration tenements in the WA Perth Basin and an interest in petroleum exploration acreage with certified 3P reserves of 380 PJ in the Clarence-Moreton Basin in Northern NSW. The Clarence-Moreton Basin is identified by the NSW Department of Trade & Investment as having in excess of 40% of the State's recoverable gas resources. Recent exploration efforts in ERM Power's acreage have identified the additional potential for a significant conventional gas resource.

Whilst our exploration opportunities in the Clarence-Moreton Basin and elsewhere in NSW are still being assessed, we acknowledge the community concern around GSG and the Governments efforts in providing a rigorous regulatory framework. The introduction of the proposed SEPP amendment, as drafted, will have significant ramifications for gas exploration and extraction and we trust our submission is helpful.

1. Exclusion zones would more effectively be defined on the basis of population density

The draft SEPP amendment does not appear to be underpinned by any scientific evidence or any specific policy objective, and has been developed before the NSW Chief Scientist and Engineer has delivered to the NSW Government her independent review of the coal seam gas industry (which we understand is due to be delivered around July 2013). Similarly, there have been no findings by the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development that would guide the amendment as drafted.

We also have concerns with the way in which an Exclusion Zone has been defined under the draft SEPP amendment. A review of Local Environmental Plans for local government areas relevant to our exploration acreage has identified anomalous isolated pockets of R2 zoned land that could not practically be considered urban and that would sterilise significant State resources under the current drafting.

Accordingly, we believe it would be more efficient and effective to adopt a policy that assesses an exclusion zone on the basis of population density, rather than just proximity to residential zoned land, similar to the policy adopted in Queensland. We note that the policy in Queensland has been in place since 2011 and appears to be operating effectively. The Queensland policy is developed from impartial statistical data, is similarly prudent and will provide greater certainty. We recommend the NSW Government adopt a similar approach.

Recommendations:

- We urge the NSW Government to consider the adoption of policy which delineates an exclusion zone on the basis of population density, rather than simply proximity to residential zoned land.

2. Affected tenement holders need to be given the opportunity to submit amended work programs which take into consideration the impact of the SEPP amendment including potential impacts on the delivery of work commitments

We bring to the NSW Government's attention the specific issue that the SEPP amendment has the potential to undermine existing work programs, certified reserves and resources, and commitments made to the NSW Government by exploration tenement holders. Any tenement holder affected by the SEPP amendment should therefore be given an opportunity to submit an amended work program, including an extension of its program schedule which takes into account the SEPP amendment impact (including potential project delays arising from the SEPP amendment). The Department of Planning and Infrastructure should ensure that relevant government departments, in particular NSW Trade and Investment, are appropriately consulted to ensure that the SEPP amendment impacts are taken into account in decisions regarding licences, work programs and commitments.

Recommendation:

- The SEPP amendment has a potentially deleterious impact on work programs, certified reserves and resources, and commitments made to the NSW Government by tenement holders. Any tenement holder affected by the SEPP amendment should be afforded an opportunity to submit an amended work program including extension of its program schedule that reflects the impact of the SEPP amendment including potential project delays caused by the SEPP amendment. The Department of Planning and Infrastructure should ensure that relevant departments, including NSW Trade and Investment, are appropriately consulted to ensure that the SEPP amendment impacts are taken into account in decisions regarding licences, work programs and commitments.

3. Public consultation period should be allowed after the full set of maps are completed and made available to tenement holders, before finalising the SEPP amendment

At the time the draft SEPP amendment was released only a few maps were issued, including maps showing Critical Industry Clusters. No maps were released showing existing residential zones, and only two maps were released showing future residential growth areas (for the North West and South West Growth areas). No further details have been released during the consultation period to date and accordingly ERM Power is unable to fully consider and comment on the implications of the draft SEPP amendment.

To understand potential impacts, a tenement holder needs to be able to clearly define, from a geographic perspective, land "in and within 2km of a residential zone" and "in and within 2 km of a future residential growth area". To complete this task, we require the spatial data for mapping supporting the Local Environment Plans (i.e. GIS format data). Spatial data is urgently required to work out details such as the location of scattered areas of known residential zoned land that exist in small pockets across local government areas.

Further, the Department of Planning and Infrastructure has advised that maps showing future growth areas are currently being developed but will not be completed until after the consultation window closes. We understand that these maps will nevertheless be incorporated in the final SEPP amendment.

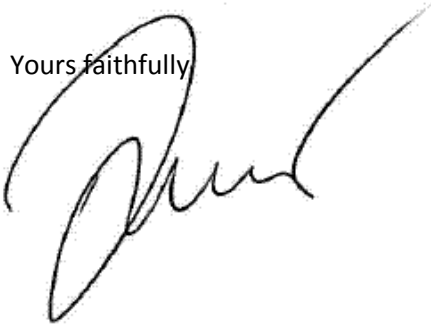
We believe that it is unreasonable to expect affected parties to be able to comment meaningfully on the draft SEPP amendment without having the full and complete information available to perform an assessment of the impacts. An opportunity for consultation should be allowed following completion of all maps. Also the Government should require authorities to release spatial data to interested parties upon request, to assist these parties with their impact analysis.

Recommendations:

- We recommend that all parties be given the opportunity to comment on the draft SEPP amendment having full and complete information at hand. This includes completed maps and definitions of all future growth areas across the state. Without such information, public comment on the draft SEPP amendment will not be complete or meaningful.
- The Government should require local authorities to release such spatial data to enable tenement holders to perform a full and complete analysis of the impacts of the policy.
- The consultation window should be extended or an additional consultation phase allowed, prior to finalising the SEPP amendment, to enable parties to fully assess the impacts and provide an informed response in their submissions.

Thank you for the opportunity to provide our comments on the draft SEPP amendment.

Yours faithfully

A handwritten signature in black ink, appearing to read "Andy Pittlik".

Andy Pittlik
NSW Director
ERM Power Limited

The Director Strategic Regional Policy
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001
By email: srlup@planning.nsw.gov.au

12 April 2013

Dear Sir/Madam,

AGL Submission on the draft *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013 (Draft SEPP)*

AGL Energy Ltd (**AGL**) welcomes the opportunity to provide a submission to the NSW Government on the draft *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013 (Draft SEPP)*.

AGL is Australia's leading renewable energy company with the largest privately owned and operated renewable portfolio in the country. AGL operates across the supply chain with investments in energy retailing, coal-fired electricity generation, gas-fired electricity generation, renewable and upstream gas exploration and production projects.

AGL is also one of Australia's largest retailers of gas and electricity with more than three million customers in Victoria, NSW, South Australia and Queensland.

AGL is an experienced developer and operator of coal seam gas projects and is familiar with the challenges involved in developing natural coal seam gas (**CSG**) projects within the technical, environmental and commercial constraints to which major projects are subject.

Accordingly, the diversity of AGL's portfolio has enabled AGL to develop a detailed understanding of the risks and opportunities presented by CSG and the broader energy sector.

Set out below is AGL's submission on the Draft SEPP.

1. Executive Summary

AGL understands that some members of the community are genuinely concerned about CSG, and we acknowledge that more needs to be done to engage and communicate with stakeholders on their specific concerns, as well as share information on the benefits of our projects. AGL has been proactively engaging with our landholders, neighbours, community groups and the communities in which we operate, as well as through government bodies. We will continue to build our community relations activities over the coming months and years.

However there are many myths and unsubstantiated claims circulating about the NSW CSG industry, with the responsibility to address these issues resting with the CSG industry, government and the media. The NSW Government has a crucial role to assist this important industry by providing a balanced and sustainable regulatory framework.

- > Being selected as a member of the Dow Jones Sustainability Index 2006/07
- > Gaining accreditation under the National GreenPower Accreditation Program for AGL Green Energy®, AGL Green Living® and AGL Green Spirit
- > Being selected as a constituent of the FTSE4Good Index Series

It is critical that the NSW Government implements policy:

- that is based on objective scientific evidence, merit-based assessment, and one which balances the interests of local communities and the long-term interests of the broader population, businesses and industry. This balance was previously achieved by the Government's Strategic Regional Land Use Policy (SRLUP); and
- that is consistent with the priorities which the NSW Government itself has identified in the *NSW 2021: A Plan to Make NSW Number One* (Department of Premier and Cabinet, September 2011) (NSW 2021).

The Draft SEPP neither achieves this balance nor works consistently with the Government's own benchmark goals in NSW 2021.

CSG production in NSW remains a low impact and low risk industry which can comfortably co-exist with other land uses.

The Draft SEPP will severely compromise AGL's ability to deliver a future indigenous supply of gas for NSW. It will exacerbate the gas supply crisis that NSW is facing as existing supply contracts end between 2014 and 2017 due to the increases in demand for gas as LNG export projects come on line in Queensland.

The absence of multiple new sources of supply in NSW will add to substantial upward pressure on gas and electricity prices in the state.

Approximately half of all gas supplied to western Sydney by AGL is consumed by businesses. NSW businesses will be adversely impacted by gas price pressure and security of supply issues. Jobs and the future economic development of NSW will be threatened under the current proposal.

A key NSW investor, AGL has invested many hundreds of millions of dollars in good faith and on the basis of clearly defined rights under our Petroleum Exploration Licences and relevant legislation. The Draft SEPP effectively extinguishes many of those rights. The Draft SEPP clearly highlights the sovereign risk issues business faces in investing in NSW.

AGL believes that the Draft SEPP should not be made, but if it is made, that it be amended having regard to the changes set out below which we consider would balance the concerns of local communities, while securing the long-term interests of the broader population and businesses. It is essential that the final policy not only protects the environment, but does not compromise the security of gas supplies for businesses and the people of NSW.

The Draft SEPP amendments we propose are as follows:

1. the definition of "coal seam gas development" should exclude:
 - > low-impact activities such as laying natural gas pipelines and water pipelines, ground water testing, non-invasive seismic and other surveys and subsurface CSG infrastructure; and
 - > subsurface CSG infrastructure;
2. a materiality threshold of minimum population (1,000 persons) for residential exclusion areas should be included;
3. landowners should be afforded the ability to opt out of the 2 kilometre residential buffer or critical industry cluster (CIC) area;

4. fair and reasonable materiality criteria should be established before an area is declared a CIC. The CIC must be of critical national and international significance (in accordance with the SRLUP);
5. "coal seam gas exclusion zone" - residential zones and 2 kilometre exclusion:
 - > the residential zone and 2 kilometre exclusion around residential zones should only apply to residential zones existing as at the date of commencement of the Draft SEPP, and for deferred zoning, the zone existing under the applicable local environmental plan (LEP);
 - > future residential zones and areas should be required to demonstrate that they will not constrain the development of the state-critical CSG resources;
6. the "coal seam gas exclusion zone" should not include "future residential growth area" and a 2 kilometre buffer around those areas;
7. only land which is truly a village should be included in Schedule 3, and the maximum average lot size should be significantly reduced from up to 4,000 square metres;
8. the CSG industry should be consulted in relation to the land that would be included in Schedule 3 (not just Councils);
9. the prohibition of "coal seam gas development" in the "coal seam gas exclusion zone" should not apply to existing exploration or production wells, and should only apply to future infrastructure development outside of approved project areas;
10. the Draft SEPP should be amended to clarify that the prohibition of "coal seam gas development" in the "coal seam gas exclusion zone" does not apply to the already approved Gloucester Gas Project and the Camden Gas Project areas;
11. the transitional provisions should be clarified, particularly in relation to the potential impact of the Draft SEPP on existing approved projects, as detailed in section 5.9 and 5.10 below; and
12. there should be an automatic review of the SEPP in 2015/16 to adjust for future independent technical and scientific reviews.

2. Overview – Impact of Draft SEPP on NSW's CSG Industry

2.1 What is coal seam gas?

CSG is simply natural gas from coal seams. CSG wells are essentially the same as coal mine degassing wells, which can be constructed anywhere in NSW with approval.

In NSW, around 1.1 million homes and businesses use the natural gas produced in part by the State's CSG industry from coal seams for hot water, cooking and heating. Around 450 large NSW industries which employ over 100,000 people rely on this natural gas to operate.

2.2 Why is CSG so important to NSW?

Energy security. More than 95 percent of NSW's gas is imported from other states. NSW's only domestic gas supply source is AGL's Camden Gas Project, which supplies around five percent of NSW's gas demand. This means that NSW is not in a position of strength when it comes to security of gas supply.

- > Being selected as a member of the Dow Jones Sustainability Index 2006/07
- > Gaining accreditation under the National GreenPower Accreditation Program for AGL Green Energy®, AGL Green Living® and AGL Green Spirit
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The supply of reliable and affordable gas to NSW homes and businesses will become a major social and economic issue over the next few years. At the same time that demand for gas is predicted to increase, long term gas contracts for the supply of gas to NSW expire, and other gas suppliers become attracted to the higher prices which will be paid by the Queensland liquefied natural gas projects that will begin exporting gas internationally in 2015.

In the absence of a sustainable and growing local CSG industry, NSW will be significantly exposed to a risk of constrained gas supply and sharp upward price changes.¹ NSW could therefore be left with critical gas supply shortages – a fact that will greatly disadvantage the many homes and businesses in the State.

It seems to us that this potential gas crisis is particularly alarming to NSW's manufacturing industries. Around half of NSW's gas supply is used by industry. Many industries including explosive producers (for mining companies), food processing industries, fertiliser producers and manufacturers rely on gas to do business. These industries employ thousands of people, and are the building blocks of NSW's economy.

In addition, CSG is a well recognised low carbon emission energy source which will help transition Australia from a coal dominated to a renewable energy future.

The CSG industry can play a major role in providing an advantage to the State's gas-reliant businesses and homes by keeping a downward pressure on gas prices.

If the CSG industry is allowed to access the proven gas reserves in NSW, there is enough natural gas trapped in coal seams in NSW to supply the State's current levels of consumption for many decades.

2.3 What are the NSW Government's strategic priorities?

Under its NSW 2021 plan, the NSW Government's number one priority is to **rebuild the economy** through improving the performance of the NSW economy, rebuilding State finances and placing downward pressure on the cost of living (**Attachment 1**). The NSW Government aims to establish NSW as "the first place in Australia to do business". The NSW 2021 plan identifies the following actions to achieve this priority:

- attracting petroleum and mineral exploration investment in under-explored areas of NSW and grow NSW mineral and petroleum production;
- making NSW the first choice for investors by supporting our existing businesses to grow;
- placing downward pressure on the cost of living by placing as much downward pressure as possible on household electricity bills through more cost-effective energy supply; and
- driving economic growth in regional NSW.

2.4 Will the Draft SEPP achieve the NSW Government's strategic goal?

Put simply, no. Not only is the Draft SEPP contrary to the NSW Government's own priority goal, it also poses a significant threat to the development of a CSG industry in NSW.

Since the CSG exclusion zones were announced by the Premier, two CSG operators have suspended their CSG activities in NSW, and another has written off all its CSG investments in NSW, all citing regulatory uncertainty. NSW has now been termed a "high risk jurisdiction" by industry commentators and investors. The Premier's policy announcement and the release of the Draft SEPP have already resulted in a loss of jobs, investment, royalty income and cost-effective gas supplies for the State.

¹ See *Coal Seam Gas in NSW: implications for energy security and economic sustainability* (ACIL Tasman, March 2012).

By introducing the Draft SEPP, the NSW Government seems to have undermined its very own priority goal by driving investors away, seeking to implement a scheme which appears to encourage an upward pressure on the cost of living, and providing a disincentive to petroleum and mineral exploration investment.

2.5 AGL's experience of the CSG industry in NSW

When weighing up the potential benefits of a CSG industry with the potential impacts, it is critical to focus on the facts and established track record of the NSW CSG industry.

Currently, NSW's CSG industry is small (for example, the NSW CSG industry employs 332 people, compared to 27,252 in Queensland), but it has potential to expand in a way that will benefit the State and its communities while addressing community concerns, as well as maximising the development of a valuable resource. In addition to providing a secure energy supply to NSW homes and businesses, the potential flow-on benefits to the community from a vibrant CSG industry include increased opportunities for regional businesses, community investment as well as direct and indirect employment.

Comparisons have been drawn by some stakeholders between the CSG and shale gas industries in the USA and the Queensland CSG experience. However, it should be noted that the scale and intensity of CSG operations in NSW and the geology and hydrogeology in NSW are vastly different to those in Queensland. Another key difference is that the focus of AGL's CSG developments in NSW are for the domestic supply of natural gas in NSW – not for export – which is the case in Queensland.

Additionally, the CSG extraction process is also not comparable in terms of scale and intensity to the shale gas extraction industry in the USA.

Section 3.2 below describes in detail NSW's only CSG production project – AGL's Camden Gas Project. In summary however, AGL's experience in NSW has demonstrated that its CSG operations cause no subsidence, have no material surface impact outside the time it takes to drill a well, and leave no impact on the surface of land once a well is rehabilitated after its 15 to 20 year life. CSG extraction does not create a network of surface pipelines crisscrossing the land – these all lie underground and are planned and located with the full co-operation of landowners. The only major by-product of CSG extraction in NSW is the production of small amounts of deep, ancient, typically saline groundwater. Contrary to misleading claims by some opposing stakeholders, in AGL's experience in NSW there has been no evidence of:

- negative impact to local property values;
- harm to local beneficial aquifers or surface water; and
- risk to human health.

Despite this, it appears to AGL that the Draft SEPP sends a message that a CSG industry in NSW represents a risk to residential areas and Critical Industry Clusters (**CIC**). This message is at odds with the facts and actual experience of the industry in NSW.

Overall, the Draft SEPP:

- restricts the ability to access a resource owned by the State, which will significantly reduce future gas supply at the lowest possible price, exposing NSW industry and businesses to higher interstate gas prices, restricting local flow-on business opportunities, reducing local community investment, and decreasing royalty returns to the NSW Government;
- is contrary to the NSW Government strategic policy in the NSW 2021 report;
- is an extreme and arbitrary measure that is not supported by any science or evidence;
- is already having and will continue to have a material impact on the emerging NSW CSG industry;
- is contradictory due to its differentiation between CSG and coal mining; and
- removes confidence in energy resource investments in the State.

If the NSW Government adopts the Draft SEPP in its current form, around 16 years worth of natural gas supply for the entire NSW market from AGL's proposed Camden Gas Northern Expansion project, the Hunter Gas Project and the Gloucester Gas Project will immediately be sterilised².

2.6 Is the Draft SEPP retrospective?

Contrary to assurances from the NSW Government at the time the policy was announced that the proposed changes would not be retrospective, the effect of the Draft SEPP is to prevent the exercise of existing, clearly defined rights granted under existing titles by significantly diminishing the right to explore within petroleum exploration licence areas.

This conflicts with the intent of the NSW petroleum legislation, as well as the objectives of the *State Environmental Planning Policy (Mining, Petroleum production and Extractive Industries) 2007 (Mining SEPP)* itself.

2.7 Structure of AGL's submission

Section 3 of this submission describes the CSG production industry in NSW, providing the background context to the Draft SEPP.

Section 4 outlines how the Draft SEPP, if adopted in its current form, will detrimentally impact on AGL's operations.

Section 5 sets out AGL's detailed submissions on the Draft SEPP.

3. Background –CSG Production in NSW

In order to consider the effect of the Draft SEPP in its proper context, it is important to understand the CSG activity that the Draft SEPP proposes to restrict.

3.1 NSW CSG industry is already subject to the strictest controls in Australia

The Draft SEPP seems to proceed on the basis that the CSG industry in NSW requires further regulation.

However, the CSG industry is more heavily regulated in NSW than in any other Australian jurisdiction, and is already the most heavily regulated industries in NSW.

As a starting point, there are already significant restrictions on where CSG activities can be undertaken. For example, Petroleum Exploration Licences (**PELs**) prohibit CSG activities in National Parks, on Mine Lease areas, Commonwealth land and some State Forests. Further, the *Petroleum (Onshore) Act 1991*(NSW) (**Petroleum Act**) already imposes a 200 metre buffer around residential dwellings, and a 50 metre buffer around vineyards, gardens and orchards, unless written consent from the owner is obtained.

Exploration activities, which are generally low impact and temporary in nature (such as seismic surveys, coreholes, monitoring bores and exploration wells) are regulated under PELs. Most exploration activities require a merits based assessment under Part 5 of the *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**). This typically takes the form of a Review of Environmental Factors, which must be supported by an Agricultural Impact Statement and other expert environmental assessment reports such as noise, air quality, water, visual, traffic and archaeology.

Petroleum production projects such as the Camden Gas Project are categorised as State significant development under the EP&A Act. This means that they require a full environmental impact statement, assessing all potential impacts, which must be publicly exhibited. The NSW Government SRLUP, which was adopted in September 2012 after 18

² The potential sterilisation of gas reserves in the Camden, Hunter and Gloucester regions has been estimated by AGL to be about 2,200 PJ, which is equivalent to about 16 years of the current NSW gas demand, which is about 140 PJ per annum.

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months of moratorium and consultation with multiple stakeholders, requires any CSG production project to follow a gateway process. The gateway process will ensure that CSG production projects may only be allowed to proceed on biophysical strategic agricultural land and CIC land where an independent Gateway Panel has been satisfied, based on a rigorous scientific assessment process, that any impacts on the surface and groundwater relevant to agricultural land and CICs could be appropriately managed.

As part of the process outlined above, there is already a very high level of assessment by Governmental agencies and independent scientific bodies. For example, in order to obtain approval for a CSG production project in NSW today, the project must be assessed by:

- the Commonwealth Independent Expert and Scientific Committee (**IESC**);
- an independent Gateway Panel (with advice from State Ministers and the IESC);
- the State Government (taking into account advice from various government departments, the IESC, local governments as well as public submissions);
- an independent NSW Planning Assessment Commission (**PAC**);
- the Minister for Planning; and
- the Commonwealth Department for Sustainability, Environment, Water, Populations and Communities (**SEWPAC**).

In addition to the assessment process under the EP&A Act, CSG activities in NSW are also subject to a large range of environmental and safety legislation, policies and guidelines. These include:

- EP&A Act and *Environmental Planning and Assessment Regulation 2000* (NSW);
- Petroleum Act; *Protection of the Environment Operations Act 1997* (NSW) (**POEO Act**);
- *Heritage Act 1977* (NSW);
- *Native Vegetation Act 2003* (NSW);
- *Work Health & Safety Regulation 2011* (NSW);
- *Threatened Species and Conservation Act 1997*(NSW);
- *Water Management Act 2000* (NSW) (**WMA**);
- *Water Act 1912* (NSW);
- *Roads Act 1993* (NSW);
- NSW Aquifer Interference Policy;
- Draft Code of Practice for Coal Seam Gas Exploration;
- ESG2: Environmental Impact Assessment Guidelines for exploration, mining, and petroleum production activities subject to Part 5 of the EP&A Act (and supplementary guideline);
- Code of Practice for Coal Seam Gas Well Integrity;
- Code of Practice for Coal Seam Gas Fracture Stimulation Activities (the Code);
- SRLUP;
- Schedule of Petroleum (Onshore) Exploration and Production Safety Requirements (1992) (NSW); and
- *Environmental Protection and Biodiversity Conservation Act 1994* (Cth) (**EPBC Act**).

These Acts and policies contain detailed requirements for environmental impact assessment, risk analysis, environmental management plans and monitoring and mitigation measures.

It is also worth noting that under the Petroleum Act, AGL is liable to compensate every person having any estate or interest in land that is injuriously affected by reason of AGL's operations. AGL has never received a claim for compensation for impacts to land.

The case studies below illustrate the extent of regulation of the CSG industry in NSW.

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Case Study 1: Gloucester Gas Project

AGL went through a four year process to secure the approvals it needed for the Gloucester Gas Project. The project was assessed by the NSW Government, the PAC, the Commonwealth Government and the IESC. In February 2011, the PAC approved the Gloucester Gas Project under Part 3A of the EP&A Act. The Part 3A project approval, which was challenged, was upheld by the New South Wales Land and Environment Court. The Part 3A project approval contains 92 conditions that need to be satisfied before the project can be developed. On 11 February 2013, SEWPAC approved Stage 1 of the Gloucester Gas Project under the EPBC Act. The EPBC Act approval contains 36 conditions, including 11 conditions relevant to the protection of water resources.

Case Study 2: Code of Practice for Coal Seam Gas Fracture Stimulation Activities

The new Code was released in September 2012. Prior to carrying out a fracture stimulation and flow testing activity, a CSG operator is required to prepare and have approved:

- a Review of Environmental Factors, including expert air quality and greenhouse gas assessment, visual impact assessment, noise and traffic assessments;
- a Fracture Stimulation Management Plan, which identifies and discloses all chemicals proposed to be used and a full human health and environment risk assessment from the use of those chemicals;
- a Groundwater and Surface Water Management Plan;
- a Produced Water Management Plan;
- a full risk assessment in compliance with AS/NZS ISO 31000:2009 Risk Management assessing public safety, chemical use, impacts on water resources, land contamination, air pollution, noise and vibration, waste management, loss of well integrity, induced seismicity, induced subsidence and other ground movements and conflicts with existing land uses;
- a Safety Management Plan;
- an Emergency Response Plan; and
- an Environmental Incident and Pollution Response Plan.

In contrast, mine degassing wells (which may also be fracture stimulated) are not subject to the Code.

Taking into account the above case studies, it is clear that the existing regulation of the CSG industry already incorporates a stringent and precautionary level of controls which ensure that all possible impacts of CSG projects are identified, mitigated and managed. Against this background it is also clear that the further level of regulation proposed in the Draft SEPP is unnecessary and inappropriate.

3.2 Current CSG production in NSW

This section of the submission outlines how NSW's only CSG production facility, AGL's Camden Gas Project, operates.

The Camden Gas Project has been supplying natural gas to NSW for 12 years without significant impact or incident. The project employs 60 people (80% of whom are local),

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and has contributed over \$100 million to the local economy. In 2012/13 alone, the Camden Gas Project spent over \$4 million on local contractors.

AGL does not own any land at Camden – all of its activities are carried out under access and compensation arrangements with local landholders in accordance with the Petroleum Act.

In undertaking the Camden Gas Project:

- no subsidence of land in the project area has occurred;
- there has been no negative impact to local property values;
- no harm to local beneficial aquifers or surface waters has been identified;
- there has been no salt production;
- the total amount of produced water has not exceeded the equivalent of two Olympic sized swimming pools (about 5 ML) each year for the entire project;
- fracture stimulation has not affected the land or any beneficial aquifers; and
- there has been no evidence of risks to human health.

Since AGL assumed operatorship of the Camden Gas Project in 2006, we have received 12 formal complaints about impacts from our activities:

- Noise and vibration (4)
- Dust (4)
- Visual amenity (2)
- Traffic (1)
- Water (1)

Complaints are treated very seriously by AGL and are responded to as soon as practicable by our community and land and approvals teams. Based on our experience, the main potential impacts from CSG activities are visual and noise impacts during well construction. Each well can take two to three weeks to construct. However, visual and noise impacts can, and are, effectively managed by the use of temporary walls, bunds and noise barriers.

The Camden Gas Project in south western Sydney represents a good example of how CSG developments can co-exist with residential and rural land uses. AGL's track record of safely and reliably delivering about 5% of the NSW natural gas demand from the project speaks for itself.

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3.3 What is the Camden Gas Project's infrastructure footprint?

Some stakeholders have raised concerns over aerial photographs from Queensland showing large scale CSG developments. Below is an aerial photograph of land in the vicinity of AGL's Camden Gas project area (the buildings are not part of AGL's project). The area in this photograph contains 11 CSG wells. This photograph illustrates the minimal impact of the CSG footprint associated with the Camden Gas Project.



One of the most common misstatements about the NSW CSG industry is that CSG activities will somehow crowd out or sterilise other land uses. Our experience shows that this is simply wrong. One of the greatest advantages of CSG as an energy source is its ability to be produced alongside other uses of the land.

AGL has drilled 144 production wells within the Camden Gas Project area which co-exist with local farms, equine land uses and residential areas.

Well sites need to be located near the gas resource, which is identified following geological exploration and analysis. Having gas reserves located close to markets is also a major strategic advantage for NSW families and industry due to the lower cost of delivering this gas to customers.

Once a gas resource is identified, preliminary well sites are selected based on the restrictions noted in section 3.1, as well as an assessment of social and environmental factors, including land uses, flora and fauna, heritage, local topography and noise.

One of the key benefits of CSG projects is that there is flexibility in final well locations, which are determined after taking into account landowner preferences, and by reference to locational principles that have been established over time in partnership with local councils,

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landowners and NSW Government agencies. This process minimises potential impacts, and enables gas infrastructure to best co-exist with existing and future land uses.

The photograph **below** is an example of a Camden Gas Project CSG well located approximately 140 metres from a house, which would be within the proposed CSG exclusion area under the Draft SEPP. This well has been operating for several years.



The photograph **below** is an example of a Camden Gas Project CSG well located approximately 480 metres from a retirement village and residential area, which would be within the proposed CSG exclusion area under Draft SEPP.



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It is also worth pointing out that there have been several instances where Camden landowners have asked AGL whether their land is also suitable for CSG wells, on the basis that they too would like a regular income stream by having CSG wells on their land.

The photograph **below** is one of the Camden Gas Project CSG wells within the vicinity of the Menangle Park Raceway, illustrating the co-existence of CSG with equine land uses. There are a total of 7 operating wells on this property.



The photograph **below** shows a cluster of Camden Gas Project CSG wells adjacent to residential zoned land which is screened from direct sight of the future residential area.



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Once constructed, AGL's CSG activities operate with a low visual profile and a minimal surface footprint. These wells will be on these locations for between 15-20 years, after which time they will be filled with cement, capped below the ground and rehabilitated.

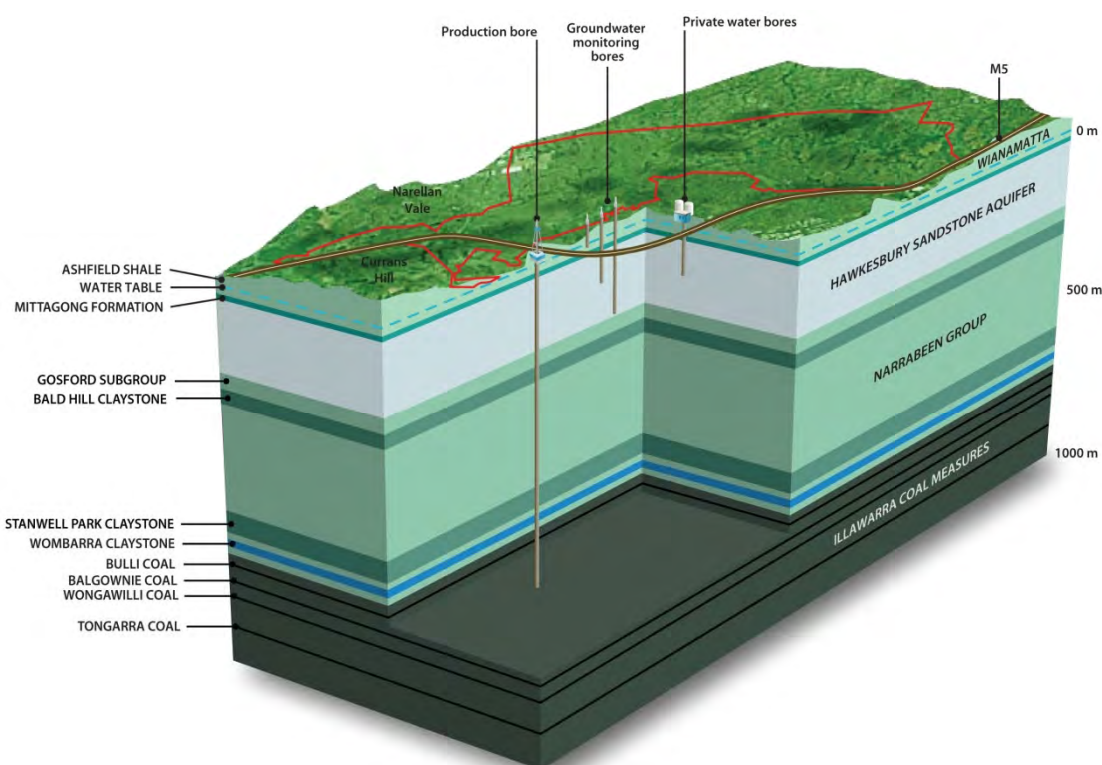
Overall, AGL's experience at the Camden Gas Project is that CSG activities and associated infrastructure represent a low impact, temporary and efficient land use, that provide significant local and state benefits without long term impacts.

3.3 Are there groundwater impacts associated with AGL's activities?

Shallow beneficial groundwater in most CSG areas is typically used for agricultural uses (such as livestock) only because of its marginal salinity and low production rates. It is rarely located in areas that are drinking water catchments or where there are drinking water aquifers.

During the CSG extraction process, the target coal seams are depressurised and water is produced from the micro-fractures in the coal seams. At the Camden Gas Project, target coal seams begin at around 650 metres below the surface and extend to around 800 metres.

The schematic diagram below shows the depth of the CSG wells at the Camden Gas Project which are located hundreds of metres below any beneficial aquifers.



Schematic diagram: the depth of the CSG wells at the Camden Gas Project

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When groundwater from the coal seam is pumped to the surface, this water is generally referred to as produced water, associated water or extracted water. It is simply deep, salty groundwater. It is not a beneficial groundwater resource - which means this water is not readily accessible nor used by the community. Produced water volumes are very small in NSW compared to the large gas fields that are under construction in south east Queensland. Typically produced water volumes are less than 50,000 litres per well per year in the southern Sydney Basin in NSW compared to around 15,000,000 litres per well per year in the Surat Basin in Queensland. For comparison purposes, one Olympic swimming pool holds approximately 2,500,000 litres of water. Accordingly, using the water extracted from an average southern Sydney Basin CSG well it would take more than 50 years to fill an Olympic swimming pool.

AGL understands that the water is a topic of high concern in the community. This is one of the reasons why we now have groundwater studies conducted in all of our project areas. These studies are based on data from groundwater monitoring networks that monitor both water levels and water quality in our project areas. To date, these studies confirm that our CSG activity has not and will not likely negatively impact any beneficial water resources.

In summary, our Camden Gas Project groundwater studies indicate as follows:

- studies have shown that the produced water from target coal seams is tens of thousands of years old, unlike water located in the shallow alluvial aquifers which typically has an age less than 50 years and water in the overlying sandstone and other naturally fractured rocks that may be several thousand years old. This shows us that the different groundwater systems have different recharge discharge and flow characteristics and are therefore unlikely to be connected;
- at Camden, there are many hundreds of metres of impermeable rock layers located between the coal seams and shallow beneficial aquifers. These layers are not disturbed by the drilling, fracture stimulation or CSG extraction process and shallow water resources are effectively separated from deeper groundwater found in the coal seams. This also confirms that shallow aquifers are unlikely to be impacted during CSG production;
- many of the wells at the Camden Gas Project area no longer produce any water, only gas, yet the shallower aquifers and surface water sources above remain unaffected. This provides further evidence that our activity in the coal seam does not impact the ground or surface water resources; and all gas wells drilled by AGL are fully cased and pressure cemented when drilled to ensure that all aquifers are sealed off.

In AGL's experience at Camden Gas Project, there is no evidence that water produced from coal seams impacts shallow, beneficial aquifers. There is no evidence of contamination to beneficial aquifers or surface water. AGL will continue to carry out its comprehensive groundwater monitoring program at each of its project areas to ensure that any potential impacts to groundwater resources are identified, mitigated and managed.

3.4 What about fracture stimulation?

Hydraulic fracturing is a tightly regulated operation that has been used safely for more than 60 years in Australia to increase the productivity of a gas well by improving the flow of gas.

When hydraulic fracturing a coal seam, a fluid is injected into the seam at pressures high enough to widen the existing fractures in the coal. Sand is then pumped in to hold the fracture open, which creates a better path for gas and water to flow out of the coal seam and back to the surface.

Typically for AGL's operations, fractures are millimetres wide and extend for tens of metres into the coal seam. The process is carefully managed so that there is minimal impact to the rock layers above and below the coal seam.

Most fracture stimulation fluids used by AGL comprise simply of sand and water. Sometimes small amounts (usually less than 2% of the total volume of fluid used) of

additives are used to prevent bacterial growth, to make it easier to pump the fluid into the coal seam, and to thicken the fluid so that less water is needed to carry the sand into the fracture.

These additives are used in such tiny doses, and in such diluted forms, that they pose minimal or no risk to the environment or to beneficial aquifers. This is validated by AGL's groundwater monitoring programs.

The fracture stimulation fluid inserted into the well is recovered back up the well through 'flowback' and dewatering processes. Once back to surface, the fluid flows to tanks or to lined storage dams. The flowback water is then tested for water quality and then disposed of by truck to an approved waste water facility or reused.

The use of BTEX chemicals (benzene, toluene, ethylbenzene and xylenes) is now banned in Queensland and NSW. Specifically for the Camden Gas Project, our environment protection licence prohibits the use of BTEX chemicals. AGL has never used any BTEX chemicals in any of its fracture stimulation activities.

About 80% of wells within the Camden Gas Project have been fracture stimulated. In AGL's experience, there is no evidence that fracture stimulation has or will cause damage to shallow beneficial aquifers at Camden, which are hundreds of metres above the fracture stimulated coal seams.

3.5 How is private land accessed?

Most of AGL's operations occur on land owned by others. Despite some opposing stakeholders' claims to the contrary, AGL has positive relationships with many landholders, and has successfully negotiated, and renewed, over 200 access and compensation agreements with local landholders across its exploration and production projects.

There has never been an instance where AGL has entered land without express, voluntary permission of the landowner to do so.

4. What is the impact of the Draft SEPP on AGL's Projects?

4.1 Existing Camden Gas Project

AGL had understood from the Premier's policy announcement that the proposed CSG exclusion zone would not apply to existing approved projects, and therefore the Camden Gas Project should continue without restriction.

Impact of Draft SEPP on the Camden Gas Project

The application of the Draft SEPP is vague and unclear in relation to existing approved projects, which has resulted in uncertainty for some CSG activities within the approved Camden Project area (refer to detailed submissions in sections 5.9 and 5.10 below).

It is also worth pointing out that if the new CSG exclusion zone had been applied to the existing Camden Gas Project from the outset, the majority of the project area would have been sterilised. This would have meant that NSW's only natural gas supply project, which supplies 5% of the State's gas with minimal impact, would likely not exist.

4.2 Camden North Expansion Project

A major project application for the Camden North Expansion Project was first made in September 2010. The project has been the subject of a detailed environmental assessment, public submissions, substantial amendments to address community concerns, including removal of the gas plant, reduction of proposed number of wells and surface infrastructure, and a further public submission process. The project was transitioned from Part 3A of the EP&A Act to the State significant development regime which replaced Part 3A.

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Overall, the Camden North Expansion Project environmental assessment concluded that the project could be carried out within acceptable environmental limits, and that the project avoided or otherwise minimised potential environmental impacts wherever possible.

The project was set down for a public PAC hearing, but has been suspended to enable AGL to respond to community concerns. The NSW Government commended this action and "AGL's commitment to community engagement".

As a result of a submission by the South West Sydney Local Health District on the Northern Expansion, AGL commissioned an Environmental Health Impact Assessment (EHIA) to address concerns raised by NSW Health and the local community in relation to the health impacts of the proposed Camden North Expansion Project. The EHIA is considering any potential for adverse health effects in the community associated with environmental impacts that may be associated with the proposed Northern Expansion. This report will be released by AGL as soon it becomes available.

AGL believes that the potential risks to health from the project in terms of noise, air quality, vibration, groundwater, surface water, hazards and subsidence are low and that the project will be able to successfully co-exist with other land uses.

Impact of Draft SEPP on Camden North Expansion Project

If the Draft SEPP was adopted in its current form, it seems to AGL that it would be very difficult for the Camden North Expansion Project to proceed.

Therefore the Draft SEPP would effectively sterilise 100PJ of certified gas reserves, wipe out \$135 million worth of investment and prevent significant positive flow-on benefits to the local economy.

4.3 Hunter Gas Project

AGL is currently undertaking gas exploration pursuant to PELs 4 and 267 in the Hunter Valley.

AGL has estimated that the gas reserves which could be accessed in this region are up to 2000 PJ.

Since acquiring PELs 4 and 267, AGL has undertaken exploration drilling within the wider Hunter Gas Project area to assess the gas resource, including coreholes, stratigraphic wells, pilot exploration wells, a seismic survey and a groundwater monitoring program with over 40 water monitoring bores.

In October 2010, as a result of its modest exploration activities, AGL was able to announce booked reserves of an estimated proved plus probable (2P) gas reserves of 142 PJ and proved plus probable plus possible (3P) reserves of 271 PJ.

These booked reserves, which are located around the Broke/Bulga area, would form the cornerstone for a Hunter Gas Project to supply gas to NSW customers. The reserves in the Broke/Bulga area are clearly material to AGL's business and gas supply in NSW.

In general, the Broke/Bulga region is a highly prospective area that is adjacent to, but not constrained by, existing mining leases. Since announcing its booked reserves, AGL has purchased a number of properties in the area, with a combined total area of 3,450 acres. Several of these properties, including the Yellow Rock Estate, Spring Mountain, the former Pooles Rock Vineyard and Windermere, were specifically purchased in order to demonstrate that CSG activities can co-exist with existing agricultural and viticultural land uses. Two of AGL's properties have vineyards on them, totalling 104 acres out of 2,990 acres.

As part of its ongoing exploration program, in 2013, AGL intends to carry out pilot testing of existing wells on its Windermere and Spring Mountain properties to certify additional reserves. However, these existing wells are located in proposed CIC areas or within 2

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kilometres of residential areas, and therefore AGL's ability to carry out these activities is now uncertain.

The production data to be obtained from this pilot testing is critical to certify additional reserves which would supplement the existing 142 PJ (2P) reserves to underpin the first stage of a gas development project.

Impact of Draft SEPP on the Hunter Gas Project

The impact of the Draft SEPP on AGL's proposed Hunter Gas Project is as follows:

- All of AGL's properties are covered by the Broke/Fordwich CIC, despite only 104 out of 3,450 acres being under vine. Therefore AGL would no longer be able to carry out future CSG activities on its own properties, including the properties which are not used for any wine industry related purpose.
- AGL estimates that up to 500 PJ reserves would be sterilised in the Broke/Bulga and Pokolbin CICs and residential exclusion areas, including gas resources under AGL's properties, with a market value of about \$3 billion at \$6/GJ.
- The existing Broke/Bulga stage one prospect area would be sterilised.
- The Draft SEPP would significantly reduce the available area for exploration in PELs 4 and 267, as shown by red shading in **Figures 1 and 2** below. Of the remaining area of PEL 267, a large portion is in difficult terrain, thus representing areas where significant access issues would arise.

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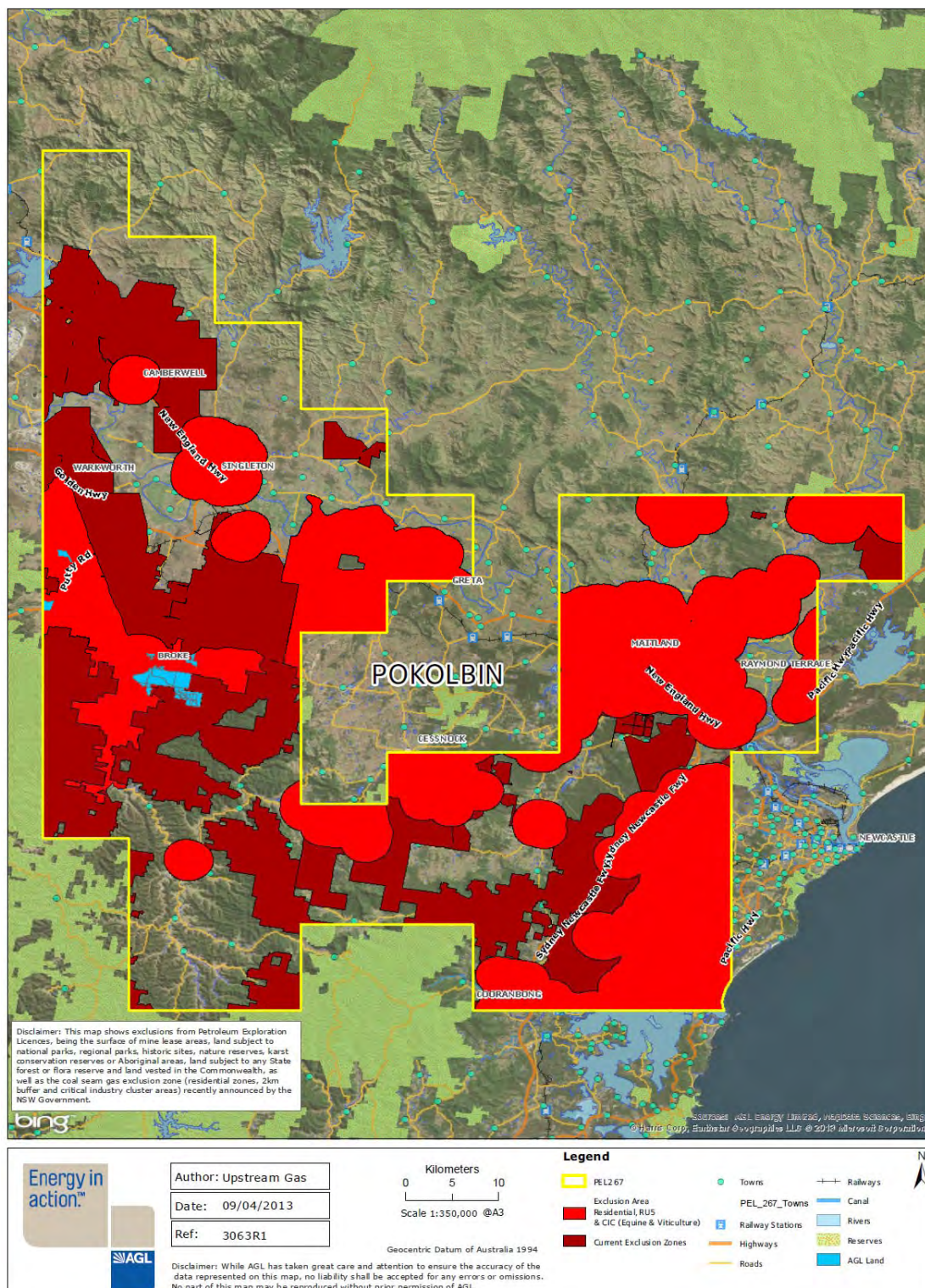


Figure 1: PEL 267 Exclusion Zones

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- A residential buffer around Broke and Bulga would sterilise gas resources which are located under AGL's 2,720 acre Yellow Rock cattle property and 151 acre Windermere property as illustrated in **Figure 3** below.

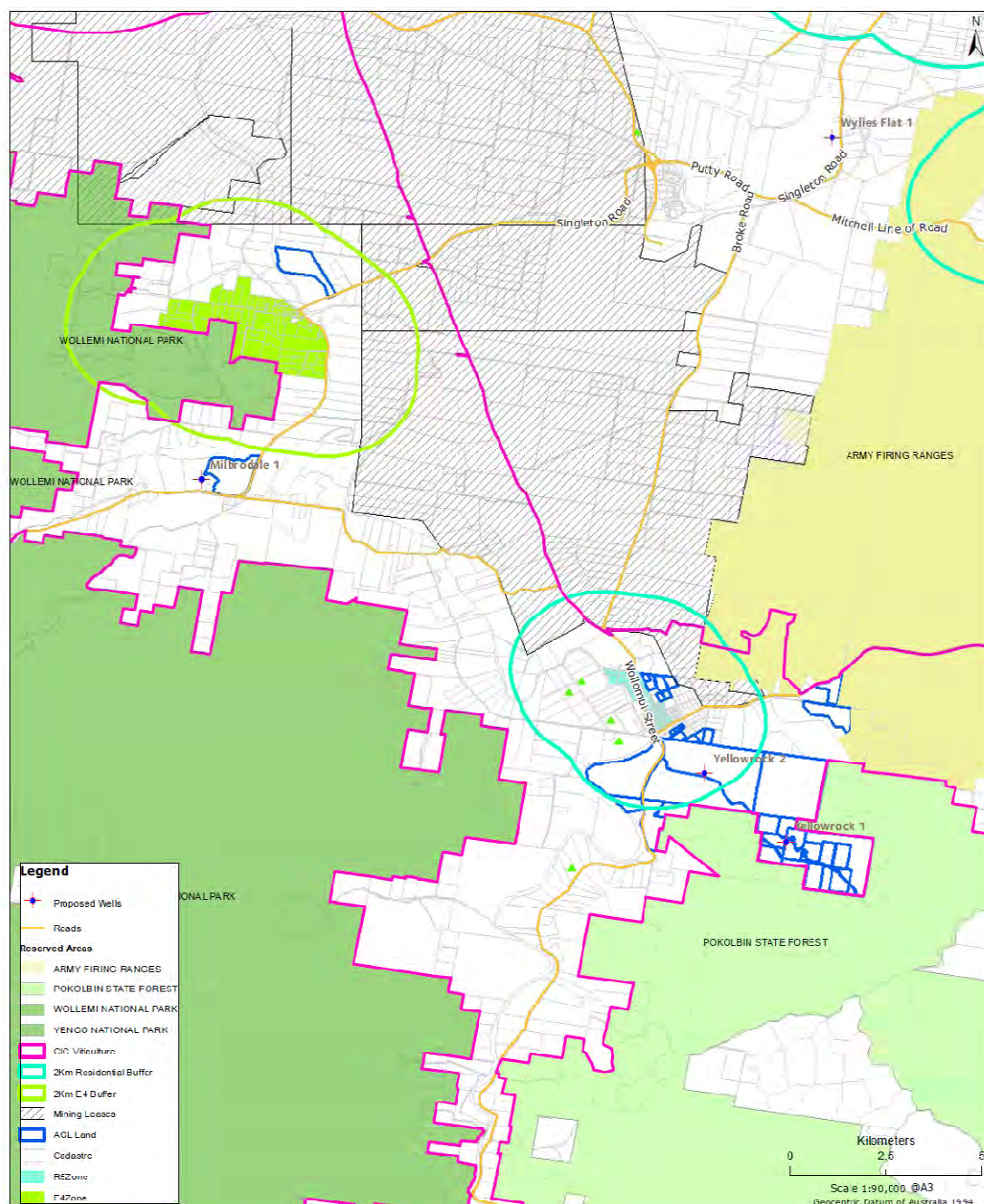


Figure 3: Broke and Bulga Residential Area Exclusion Zones

- Bulga is currently zoned E4 1d Rural Small Holdings. Singleton Council had proposed to rezone this area to E4 (Environmental Village) under the proposed local environmental plan which has been deferred pending further planning studies. Therefore the impact of the Draft SEPP on AGL's PEL 267 and activities in this area is unclear. This highlights one of the weaknesses of the Draft SEPP, being that there is a lack of clarity on how deferred zonings would be dealt with. If a residential buffer is proposed around

Bulga, this would sterilise the natural gas reserves located under AGL's Windermere property, which neighbours the Warkworth coal mine.

- In summary, the future of AGL's exploration projects in the Hunter would become highly uncertain.

Economic Impact

The economic impact of the Draft SEPP on AGL's Hunter Gas Project is set out below.

- AGL's total investment on this project to date is \$192 million.
- AGL expects to invest a further \$80m in exploration activities over the next 3 to 5 years.
- Nearly all current gas reserves of 142 PJ (2P) and most, if not all, of the 2000 PJ potential reserves in future stages would be impacted. This would potentially eliminate about \$2.7 billion of investment over the life of the project.
- The proposed residential buffer zones in PEL 267 would impact AGL's exploration activities and sterilise gas reserves booked by AGL.
- Over a 20 year production period, the royalty estimate to the state government is in excess \$260 million.
- AGL currently employs over 25 people directly working on the Hunter Gas Project in addition to over 40 consultants and contractors. The majority of these employees live in regional areas.
- It is estimated that up to 50 full time equivalent jobs in regional NSW and up to 100 construction jobs would be generated by a Hunter Gas Project.

4.4 Gloucester Gas Project

This project is located within PEL 285, approximately 100 kilometres north of Newcastle.

On 19 December 2008, AGL purchased a 100% interest in PEL 285. On 24 August 2010, AGL increased its reserves to 669 PJ (2P) and 832 PJ (3P).

The Gloucester Gas Project Stage 1 gas field development area (**Stage 1 Area**) includes 110 gas wells and associated infrastructure.

Impact of Draft SEPP on the Gloucester Gas Project

Based on the Premier's announcement, Stage 1 of the approved Gloucester Gas Project will not be impacted as the planning approval has already been obtained. However, the application of some aspects of the Draft SEPP to existing projects is uncertain, and must be clarified to ensure that this vital, approved gas supply project will proceed.

It is imperative that this uncertainty be addressed by clearly providing that the Stage 1 Gloucester Gas Project area is excluded from the Draft SEPP's CSG exclusion zone (see detailed submissions in 5.9 and 5.10 below).

Future stages of the Gloucester Gas Project would be materially affected by the two kilometre exclusion zone around residential areas due to the possible sterilisation of gas reserves. Further work is being done to confirm the extent of the impact.

Economic impact

- The total investment to date is \$452 million including the original acquisition of 100% interests and subsequent land purchase and exploration activities.
- AGL expects to invest approximately \$1 billion over the life of this project.
- Once the project is developed the royalty estimate to the NSW Government is approximately \$400 million.

4.5 Summary of impact

In summary, it should be clear from this section that the Draft SEPP will have a material economic impact on the Camden Northern Expansion Project, the Hunter Gas Project and the Gloucester Gas Project, as well as AGL's legitimate business interests.

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5. Detailed Submissions on Draft SEPP

For the reasons set out above, AGL submits that the Draft SEPP should not be made.

However, if the NSW Government determines that the Draft SEPP should be made, this section sets out our detailed review of, and proposed amendments to, the Draft SEPP.

5.1 The Draft SEPP should not be made

Taking into account the background information above, and actual experience of the industry in NSW to date, AGL does not support the Draft SEPP in its current form, on the basis that CSG exclusion zones are unjustified and inappropriate.

AGL Submission 1 – SEPP should not be made

AGL submits that the CSG exclusion zones are unjustified and inappropriate, and that the Draft SEPP should not be made.

AGL asks that the NSW CSG industry be given the opportunity to continue to demonstrate how the CSG industry can co-exist with other land uses and supply gas safely based on facts, experience and extensive consultation. We ask that the NSW Government stand by the goals it has set for itself in the NSW 2021 plan and its SRLUP which went through an extensive consultation process and independent review, and is based on science and evidence, rather than impose an arbitrary and contradictory blanket ban on CSG activities across vast areas of the State.

AGL understands that the community is concerned about CSG. AGL strongly believes that the Draft SEPP can be amended so that it can meet community concerns whilst enabling the CSG industry to grow safely and responsibly, without sterilising NSW's valuable gas reserves.

5.2 Definition of “coal seam gas development”

Schedule 1, clause 1

Issue – inclusion of low impact activities

The Draft SEPP will prohibit all new “coal seam gas development” on or under or within two kilometres of residential land, as well as **CICs (CSG exclusion zones)**.

The definition of “coal seam gas development” is vague and uncertain. It does not take into account that a number of CSG activities are temporary, low impact, and identical to other land uses which will continue to be allowed within CSG exclusion zones in other industries. Activities listed under clause 10(2) of the Mining SEPP which are of minimal environmental impact are permitted within the CSG exclusion zone. The language used in the Draft SEPP needs to be amended to clarify that the following low impact activities will not be included in the definition of “coal seam gas development”:

- **Groundwater monitoring bores.** It is unclear under the current definition of “coal seam gas development” and its reference to clause 10(2) of the Mining SEPP whether groundwater monitoring bores are intended to be excluded or not. Groundwater monitoring bores are similar to water bores (except that they monitor, rather than extract, groundwater). They are very low impact as illustrated in the photograph **below**. Groundwater monitoring bores are critical to CSG activities because they enable groundwater baseline studies and ongoing groundwater investigations associated with exploration or production – including the assessment of potential impacts on surface water, residential land and CICs. Exactly the same groundwater monitoring bores for other activities (such as

government monitoring bores, mining bores or bores located around underground fuel storage tanks) will continue to be allowed within the CSG exclusion zones.



Groundwater Monitoring Bores in Yellow Rock, Hunter Valley (within proposed CIC)

- **Seismic surveys.** Seismic surveys are low impact, temporary activities that primarily involve a seismic truck travelling along public road verges and established tracks. Seismic surveys are critical to understand the broader local geology, geological structure and hydrogeology associated with approved or proposed activities beyond the CSG exclusion zones. Mining companies also use seismic surveys, and their use would not be excluded from the proposed CSG exclusion zones.
- **Gas and water pipelines:** The main difference between CSG gas gathering lines and gas supply pipelines is that gas gathering lines tend to be lower pressure, and gas gathering lines carry untreated gas (which may contain water, CO₂ and coal fines). Gas gathering lines are typically constructed with high density polyethylene, as illustrated in the photograph **below**, whereas gas supply lines are typically constructed with polyethylene or steel.

Gas and water pipelines currently co-exist with all land uses, including residential land uses. Gas and water pipelines run under most streets in NSW residential areas. A number of vineyards in the Hunter Valley use natural gas as part of their wine making processes and are already connected today to natural gas pipelines. All gas customers in NSW have gas distribution pipelines running directly to their houses. These gas pipelines already transport CSG from existing CSG production projects in eastern Australia. For these reasons, the installation of gas and water pipelines for CSG purposes should not be excluded from any CSG exclusion zones.



Illustration of a typical polyethylene gas gathering line being installed below the surface of a road verge at the Camden Gas Project

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The photograph **below** shows a newly installed polyethylene gas gathering line after rehabilitation works at the Camden Gas Project.



Illustration of a newly installed polyethylene gas gathering line after rehabilitation works at the Camden Gas Project

The photograph sequence **below** illustrates the location of natural gas supply pipelines servicing various Hunter Valley vineyards located within the currently mapped CIC.

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- **Access tracks and roads:** Access tracks and roads for multiple purposes currently co-exist with residential uses, viticulture and equine areas, as illustrated in the photograph **below** – which shows a CSG access track within the currently mapped CIC area.

There is no justification for excluding access tracks and roads for the purpose of CSG activities from the CSG exclusion zone.



AGL Submission 2 – exclusion of low impact activities

For the reasons set out above, if the CSG exclusion zone is to be retained, AGL submits that the following low impact activities be excluded from the definition of coal seam gas development:

- gas pipelines (including pipelines licensed under the *Pipelines Act 1967* (NSW));
- water monitoring networks;
- seismic and other low-impact surveys such as aeromagnetic surveys; and
- access roads and tracks.

Accordingly, we propose the following amendment to the definition of “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, and

(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:

~~*(a) the recovery, obtaining or removal of coal seam gas in the course of mining,*~~

~~*(b) development to which clause 10 or 10A applies;*~~

(c) the installation, operation and maintenance of gas pipelines (including pipelines licensed under the Pipelines Act 1967 (NSW) for coal seam gas activities,

(d) water monitoring networks for coal seam gas activities,

(d) the undertaking of seismic and other similar surveys,

(e) the construction and maintenance of access roads and tracks for coal seam gas activities,

Issue- subsurface CSG infrastructure

Horizontal wells (sometimes referred to as surface to in-seam wells) are located within coal seams, hundreds of metres below the earth's surface. 34 horizontal wells at a depth of around 700 metres, with a diameter of 5.5 inches (around 14 cm) have been drilled successfully at the Camden Gas Project with minimal environmental impact.

AGL acknowledges that there has been significant community concern expressed about horizontal wells being located beneath residential areas. AGL is proactively consulting with the community in relation to the perceived risks of horizontal wells. However, there is no scientific justification for excluding the horizontal sections of these wells from within the 2 kilometre residential buffer areas or under CICs as these horizontal well sections do not impact on the surface in any way.

AGL expects that the findings and observations of the NSW Chief Scientist and Engineer into the NSW CSG industry will shed further light on this matter in the reports to be issued by July 2013. These findings should be incorporated into the Draft SEPP (see submission 4.10 below).

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AGL Submission 3 – exclusion of subsurface CSG infrastructure

For the reasons set out above, if the CSG exclusion zone is to be retained, AGL submits that subsurface CSG infrastructure within 2 kilometres of a residential zone, future residential growth area or critical industry cluster land be excluded from the definition of coal seam gas development.

Accordingly, we propose the following amendment to the definition of “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, and

(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:

(a)....

(f) the construction, operation and maintenance of other subsurface CSG infrastructure within 2 kilometres of a residential zone, future residential growth area or critical industry cluster land.

Issue – contradictory and inconsistent regulation of activities

The definition of “coal seam gas development” specifically excludes “the recovery, obtaining or removal of coal seam gas in the course of mining”. CSG wells are essentially exactly the same as mine degassing wells, except that the gas from CSG wells is captured, processed and transported directly to NSW homes and businesses.

In contrast, CSG from mine degassing wells is often flared or vented directly to the atmosphere, instead of being captured for use by the community. Mine degassing wells typically occur at a much higher density in a smaller area than CSG wells, and operate for a shorter period (although a mine life is typically longer than the life of a CSG project). CSG wells tend to be more spread out and have a life of 15-20 years.

This exclusion means that coal mining companies can, and will, continue to carry out exactly the same activity as CSG wells in the CSG exclusion area.

It seems to AGL that not allowing one industry to carry out an activity while allowing another to carry out an identical activity in the same area underscores the contradictory nature of the Draft SEPP.

To illustrate this point, one underground coal mine operator within 6 kilometres of Broke with a coal mine development application currently on public exhibition, is proposing to develop around 100 coal mine degassing wells within the currently mapped Broke Fordwich CIC. Those degassing wells will use the same or similar drilling techniques as CSG wells. However, the Draft SEPP will prohibit AGL from developing and producing gas from the same type of well in the same area, for the purpose of supplying natural gas to customers in NSW.

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AGL Submission 3 – mining exclusion

AGL submits that the contradictory and inconsistent nature of the Draft SEPP creates an absurd outcome, where one version of CSG extraction is permitted within the CSG exclusion zone, but not the other.

5.3 Two kilometre residential exclusion

Schedule 1, clause 4

Section 72 of the Petroleum Act already provides for a 200 metre exclusion zone from residential dwellings unless the written consent of the owner and occupier is obtained. AGL considers that this distance continues to remain appropriate as a starting point for an exclusion zone for residential dwellings.

CSG extraction has been proven to be compatible alongside a variety of land uses, including residential and viticulture. CSG infrastructure is flexible with the land and the footprint of a drilled well is not large.

The proposal to increase this exclusion zone by 1000% to two kilometres only for CSG projects:

- is arbitrary, and unsupported by any merit based assessment of potential impacts associated with CSG development or conflict with residential development two kilometres away. Environmental impact assessments conducted for CSG developments in New South Wales to date suggest that a two kilometre exclusion zone would be unnecessary; and
- has an absurd outcome in that other industries with potentially greater impacts, such as underground coal mines (where subsidence of the surface occurs), will continue to be allowed within 2 kilometres of residential land.
-

AGL Submission 4 – two kilometre residential exclusion zone

AGL submits that if the Draft SEPP is made and the 2 kilometres residential exclusion is maintained, then a materiality threshold of a minimum population of 1,000 people within that residential zone should be adopted, which is consistent with the criteria proposed in Queensland.

5.4 Reduction of landholder’s rights

AGL has numerous access and compensation agreements with landowners within the proposed 2 kilometre residential buffer and CIC areas. Access and compensation agreements provide landowners a regular income. The imposition of the CSG exclusion zone will remove this as an option for landowners, many of whom appreciate and rely on this guaranteed and valuable compensation.

Under the EP&A Act, landowners or developers can seek a rezoning of their land by following a specified process.

In addition, under the SRLUP process, applicants and landholders are able to verify individual sites prior to lodging a gateway application, to determine whether or not the site in fact meets specified CIC or biophysical strategic agricultural land criteria.

Under the Petroleum Act, landowners and occupiers of residences are able to choose to consent to petroleum activities within the prescribed distance of their residences and improvements.

However under the Draft SEPP, there is no ability for landowners to “opt out” – whether or not their land is not being used for residential purposes or meets the CIC criteria. Rather, there is a power for local councils to request that certain areas to be excluded. It is

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unusual that only a local council has been given the power to request that certain parts of a CSG exclusion zone be excluded from the prohibition of CSG development.

If this provision is to remain in the Draft SEPP, taking into account the existing rights of landholders under the Petroleum Act and EP&A Act, it would be reasonable for the “opt out” provision to be broadened to include a request from a landowner.

AGL Submission 5 – Landowner “opt out”

AGL submits that if the Draft SEPP is made and the CSG exclusion zone is retained, individual landowners should be afforded the ability to “opt out” of the 2km residential buffer or CIC area if their land is not for the dominant purpose of residential use, or does not meet the CIC criteria.

Accordingly, AGL submits that clause 9A be amended as follows.

- (4) A local council or a landholder may request that the Minister recommend to the Governor that this Policy be amended to list an area of land in Schedule 2.

5.5 Future uncertainty and inconsistency with Mining SEPP objectives

Schedule 1, clause 1

The Draft SEPP is not limited to existing residential zoned areas. Any future residential zones (as well as a 2 kilometre buffer around those zones) will also be included in the CSG exclusion zone.

This creates a totally untenable situation for petroleum title holders, who will face significant ongoing uncertainty as to where their operations can be located, or whether they will be affected or sterilised in the future. In particular, AGL is aware that the zoning of certain areas has been deferred from current LEPs, and may take more than a year for local councils to assess and determine. This will create significant delay and uncertainty for operations in the vicinity of such areas.

In addition, the Draft SEPP provides no recognition whatsoever of the status of CSG as a critical industry supplying energy for the State of NSW. The Draft SEPP needs to be amended to give appropriate recognition to this and to balance the industry with that of future residential subdivisions.

The aims of the **Mining SEPP**, “in recognition of the importance to NSW of mining, petroleum production and extractive industries”, are:

- (a) to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State; and
- (b) to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources; and
- (c) to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources.

It is difficult to understand how the Draft SEPP achieves any of these aims.

Clause 12 of the current Mining SEPP requires that before determining an application for a petroleum production development, the consent authority must consider the existing, approved and likely land use trends in the vicinity of the development, then evaluate and compare the respective public benefits of the development and those land uses and evaluate any measures proposed by the applicant to avoid or minimise any incompatibility.

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The Draft SEPP provides a blanket ban on CSG activities within residential and potential future residential areas. There is no evaluation of respective public benefits of CSG extraction compared with future residential subdivisions, no evaluation of potential compatibility, and no evaluation of possible mitigation measures. The Draft SEPP negates any ability for CSG and residential areas to co-exist within the CSG exclusion zone.

Further, clause 13 of the current Mining SEPP requires that in relation to any application for consent for development in the vicinity of an existing petroleum production facility or identified on a government map as being the location of a State or regionally significant resource for petroleum, the consent authority must consider whether or not the development is likely to have a significant impact on current or future extraction of petroleum, as well as evaluate the respective public benefits.

Gas is an essential resource for the State. The resource is determined by geological conditions, and is finite. Where CSG activities can be established without significant impact, then other future land uses which have the potential to sterilise the availability of CSG should be constrained, not the other way around.

The protection of resources from developments that might prevent or constrain extraction is a well recognised planning principle (see for example, *State Environmental Planning Policy – Exempt and Complying Development 2008* - under which a house cannot be undertaken as complying development if it is within 250 metres of the boundary on which there is an extractive industry).

In contrast to the Draft SEPP, the Queensland Government's approach was to apply a 2 kilometre buffer to towns greater than 1000 people. However, it should be noted that the Queensland Government has never enacted this policy, and applies it as a general policy to the grant of new titles only. It does not apply retrospectively to existing titles. The imposition of such significant restrictions on existing resource titles in this way is without precedent in Australia. This puts NSW at a distinct disadvantage in the development of a CSG industry.

AGL Submission 6 – Future residential zones

AGL submits that if the residential zone exclusion and 2 kilometre exclusion around residential zones is retained, the exclusions should only apply to residential zones existing as at the date of commencement of the Draft SEPP (and for deferred zonings, the zone existing under the applicable LEP).

In addition, future residential zones should be required to demonstrate that they will not constrain the development of the state-critical CSG resources.

5.6 “Future Residential Growth Area” land exclusion

Schedule 1, clause 1

The Draft SEPP will also exclude CSG development from certain land mapped as “future residential growth area land”, as well as land within two kilometres of future residential growth area. This is over and above the proposed residential zone exclusions.

The Draft SEPP notes that the future residential growth area map will be amended after the Draft SEPP is exhibited to include, not only the North West and South West Growth Centres, but also as yet unspecified “other future residential growth areas”. No indication is given as to the criteria which will be applied to determine which land is to be included in the map, or the timing.

For the reasons set out above in relation to the “future residential zones”, there is no public policy reason why, where land is not yet even zoned residential, let alone used for any residential use, CSG projects should not be able to proceed in advance of the residential rezoning of the land.

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In addition, the inclusion of “future residential growth areas” creates an untenable situation for title holders, on the basis that there will be ongoing uncertainty as to where CSG activities can take place.

In fact, the South West Growth Centre and surrounding 2 kilometre buffer will reduce AGL’s PPL 5 by around 41%, casting considerable uncertainty over AGL’s rights under its existing PPL 5.

Prohibiting gas production from potential future growth areas and land within two kilometres of future residential growth areas, will sterilise valuable gas resources for no social or environmental benefit, and without scientific or public policy justification.

The “Question and Answer” document published with the Draft SEPP suggests that future residential growth areas will be mapped in Government-endorsed Regional Strategies or council housing strategies (or similar), although such a restriction is not articulated in the Draft SEPP itself. The Department of Planning and Infrastructure has indicated that it has requested that local councils nominate areas for consideration as future residential growth areas, but there is no information provided on the timeframe or process for finalising the mapping of these areas.

The unconstrained and arbitrary nature of this decision-making process generates significant risk and uncertainty. There appears to be no reasonable protection to prevent this mechanism from being utilised to stop CSG development arbitrarily in future.

Further, and is often the case for broad scale urban development areas such as the North West Growth Centre and the South West Growth Centre, little consideration is given to the final mix of land uses and configuration of land use zones prior to nominating such a growth centre (or other urban/ residential release area). It is pre-emptive to completely prohibit CSG development in such areas in the absence of more detailed consideration of each area to determine whether CSG development would be an appropriate development category within the mix of land use zones and permissible uses established in the final zoning instruments for each area.

AGL Submission 7 – future residential growth areas

AGL submits that “future residential growth area” land and a 2 kilometre buffer around the future residential growth area land should not be included in the CSG exclusion zone in the Draft SEPP.

In addition, consistent with the Mining SEPP, applications for future residential areas should be required to demonstrate that they will not have an adverse impact on state-critical gas resources.

5.7 Large lot residential subdivision (R5)

Schedule 1, clause 1 and Schedule 3

The Draft SEPP excludes CSG development from certain, as yet unspecified, land set out in Schedule 3 which is zoned R5 Large Lot Residential. It is proposed that part or all of some R5 areas that meet certain village criteria will be listed in the SEPP as an exclusion zone.

However, 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 the following criteria are proposed:

- The area must contain a mix of land uses.
- The zone must apply to a settlement that is long established and has some historic association with the district, region and/or rural hinterland.

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- The area must contain a mix of lot sizes, including an average lot size of up to 4,000 square metres.

Councils have been requested to nominate particular areas zoned R5 within their local government area for listing in the SEPP as an R5 village.

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. The unconstrained and arbitrary nature of this decision-making process generates significant risk and uncertainty. There appears to be no reasonable protection to prevent this mechanism from being utilised to stop CSG development arbitrarily in future.

AGL Submission 8 – Large lot residential subdivisions

AGL submits that:

- the draft criteria are uncertain and should be amended so that only land which is truly a village (and which includes a range of uses sufficient to service a village) should 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); and
- the industry should be consulted with in relation to the land to be included in Schedule 3 (and not just Councils).

5.8 Critical Industry Clusters

The Draft SEPP includes a blanket exclusion zone for all CIC land. CIC land is stated to be a “localised concentration of activity associated with an agricultural industry of national or international significance that is potentially significantly impacted by mining or CSG development”.

Two CICs (viticulture) are proposed in the Hunter region – the Pokolbin CIC and the Broke Fordwich CIC.

This exclusion is directly contrary to, and inconsistent with, the SRLUP, and is without scientific justification or evidence. As discussed above, AGL has current exploration activities in the Hunter which are located in close proximity to vineyards, with minimal impact. The exclusion of CSG activities from CIC areas cannot be justified where mine degassing wells can continue, without restriction.

CIC areas were originally broadly mapped as part of the SRLUP – to be first tested and verified against defined criteria - in order to assess whether a production project was required to go through a rigorous and scientific gateway process. CIC areas were based on historical Geographical Indicator Regional Mapping, which was developed decades ago for an entirely different purpose.

The current draft 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 basis on which to impose a blanket exclusion for CSG activities.

The SRLUP also included an optional site verification certificate process which proponents could undertake to determine whether or not land mapped as CIC does in fact meet the relevant criteria so that the gateway process applied.

In addition, the SRLUP only applied to CSG production projects, not low impact, temporary exploration activities.

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In contrast, the Draft SEPP proposes a non-scientifically based exclusion zone from CIC land and does not make provision for any site verification of land mapped as CIC. Now, the CIC maps as currently drafted are being used for a fundamentally different purpose from that originally intended – to prohibit CSG activities - rather than create a requirement for further assessment. The Draft SEPP now proposes that all exploration and production activities are excluded from mapped CIC areas.

Hundreds of millions of dollars worth of investment, as well as huge reserves of gas, now hinge upon finalisation of CIC mapping and the associated criteria.

AGL believes it can co-exist and work hand in hand with the viticulture and agriculture industry during planning of a development project, and that treated produced water can be beneficially re-used by vineyards in the area. AGL believes that this would benefit the local viticulture industry in the Hunter region, which currently relies primarily on Private Irrigation District (PID) water taken from the Hunter River.

The CIC mapping is fundamentally flawed

AGL submits that the CIC mapping is flawed. To illustrate this point:

- the mapping does not reflect the actual extent of existing vineyards, but in fact grossly exaggerates their existence;
- Based on extensive site assessment and aerial mapping, AGL estimates that about 696 ha of the 22,570 ha area is actually under vine. This amounts to about 3% of the currently mapped CIC area. This is illustrated in **Figure 4** below;
- 42 ha (105 acres) of the actual vineyards is owned by AGL;
- Approximately 7,186 hectares (or around 32%) of the mapped Broke-Fordwich CIC area is covered by mining/coal leases, and a large portion of that land contains operational mining areas;
- Approximately 2,275 hectares within the mapped Broke-Fordwich CIC (or 10%) is Commonwealth defence land;
- AGL owns 3,450 acres within the Broke-Fordwich GI area that is currently mapped as CIC. This land was purchased to demonstrate that agriculture and natural CSG exploration and production can co-exist. There are no grape vines growing on AGL's 2,720 acre Yellow Rock property. The property is used primarily for grazing, yet the entire property is within the currently mapped CIC area; and
- There are three exploration wells located on AGL's Spring Mountain vineyard, on which there are 29 hectares (72 acres) of grape vines. This vineyard, as well as the former Pooles Rock vineyard, are successfully managed and operated by AGL with the assistance of Brian McGuigan. The grapes from these vineyards produce award winning wines, and continue to demonstrate the co-existence of CSG exploration activities with viticulture.

The case study **below** discusses whether or not the Broke Fordwich area currently mapped as a CIC meets the criteria of being an area of "national or international significance", as required under the definition of a CIC.

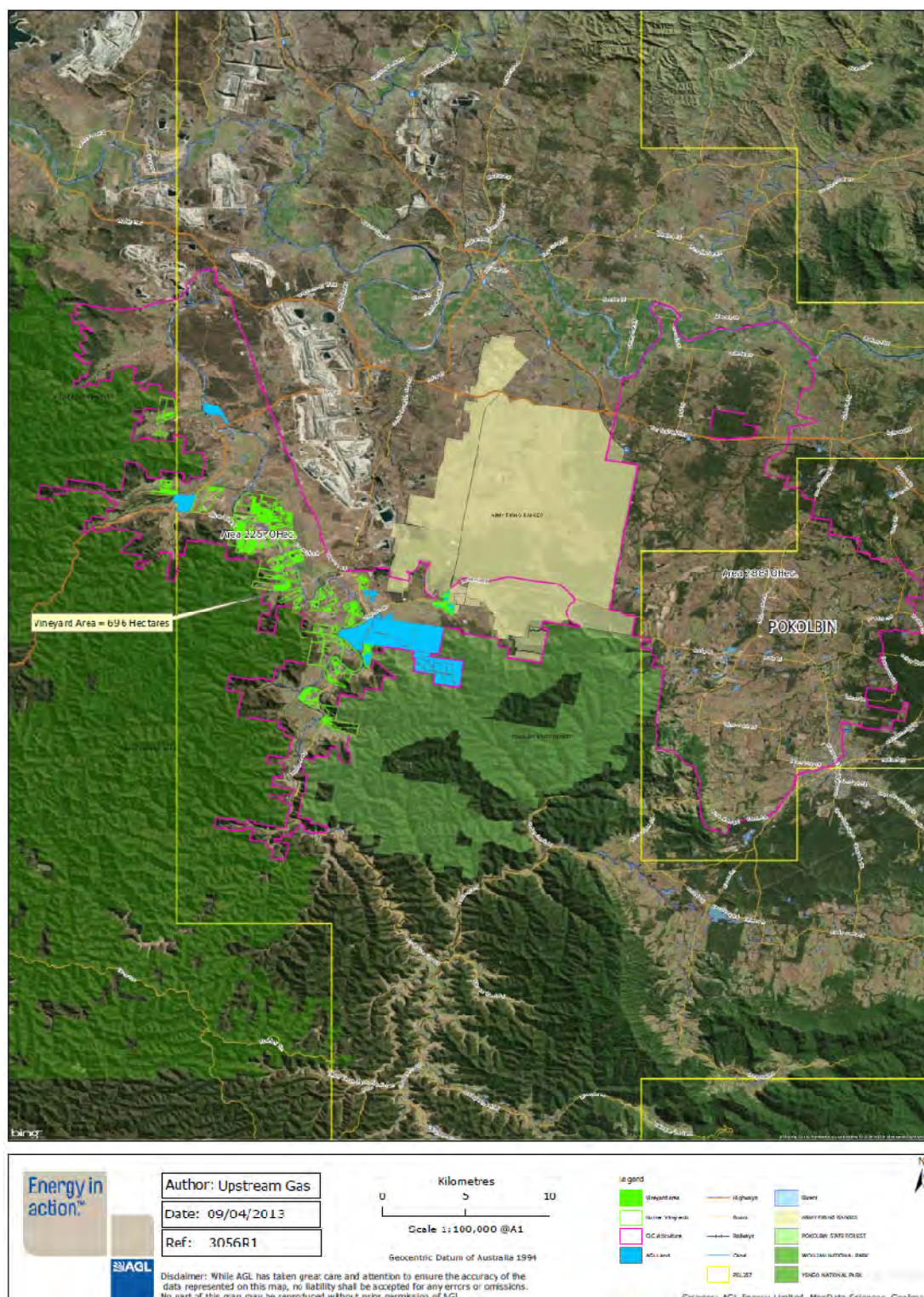


Figure 4: Critical Assessment of Proposed Broke Fordwich CIC

[Based on AGL site assessment and mapping work]

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Case Study 3: Is the Broke-Fordwich CIC area of national or international significance?

In terms of its "national or international significance", the Hunter Valley is a small wine grape producer and Broke Fordwich an even smaller producer:

- › Wine grape production from the Hunter Valley is only 0.7% of Australia's total production and only 2.3% of NSW production⁽¹⁾
- › The Broke Fordwich area is an even a smaller producer with the planted area only 11% of the entire Hunter Valley wine area⁽²⁾
- › The ABS estimates that the Hunter region produces 10,554 tonnes of grapes from 2,664 hectares of vines
- › Allocating 11% of the Hunter region wine production to Broke/Fordwich, grape production from Broke/Fordwich is about 1,160 tonnes

Pokolbin is the location for the well known Hunter wine brands:

- › Established Hunter Valley brands such as McGuigans, De Bortolio, Tyrrells, Lindemans, Tullochs, Oakvale and Wyndham Estate all come from Pokolbin
- › Pokolbin area has over 90 cellar doors/wineries⁽³⁾
- › By contrast Broke Fordwich area has 13 cellar door/wineries⁽²⁾ with only three opening 7 days per week

What is the value of co-existing industries in Broke/Fordwich?

- › Wine grape prices from Hunter in 2012 averaged \$920/tonne⁽⁴⁾
- › Broke Fordwich grape production of 1,160 tonnes has a market value of around \$1.1 million
- › This area also contains about 500PJ of natural gas with a future market value of about \$3 billion at a market value of \$6/GJ

CIC boundaries in Broke/Fordwich

- › Broke Fordwich CIC area is 22,570 hectares with mixed land uses such as coal mining, military land, state forest, vineyards
- › This area contains 3,450 acres of land acquired by AGL – the majority of this land is used for beef cattle grazing
- › Of AGL's land, a total of 42 hectares (105 acres) is under vine where CSG activities co-exist with award winning vineyards operated by Brian McGuigan
- › AGL's site assessment and mapping work estimates only around 696 hectares of land is under vine in the currently mapped Broke/Fordwich CIC area, which represents only about 3% of the currently mapped Broke Fordwich CIC area
- › The whole Broke Fordwich area is now proposed to be sterilised for CSG exploration and production by operation of the Draft SEPP
- › (1) <http://www.abs.gov.au/> Vineyards Estimates, Australia, 2011-12
- › (2) 2013 Broke Fordwich Wine & Tourism Association statistics <http://www.brokefordwich.com.au>
- › (3) <http://www.winecountry.com.au/wine/cellar-door-tasting>; <http://www.hvwia.com.au/members.html>
- › (4) <http://www.wineaustralia.com/en/Winegrape+crush+and+prices>

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Allen Consulting Report – Critical Industry Clusters in the Hunter Valley

AGL engaged the Allen Consulting Group to objectively examine what defines a Critical Industry Cluster. The Allens research paper is **Attachment 2** to this submission.

The Allens paper finds that the largest industry in the Hunter Valley (excluding Newcastle) is the black coal industry at \$2.2 billion, which dwarfs any other industry. The paper also concludes that in economic terms the “Hunter Valley viticulture industry itself cannot, in itself, be considered a Critical Industry.” The report acknowledges that wine-related tourism is an important industry and contributor to the Hunter region with the economic benefits largely derived from the concentration of wine-related tourism enterprises in the Pokolbin area. From the analysis undertaken, the Allens paper concludes that “the wine-tourism industry in the Broke/Fordwich area is not a Critical Industry.”

In fact, the Allens paper concludes that based on the NSW Government’s criteria, the coal seam gas industry in the Hunter Valley has the potential to be a critical industry cluster.

Conclusions

Taking the analysis presented in the Case Study above, it can be concluded that there is no rational basis for the inclusion of the currently mapped Broke Fordwich CIC area as a CIC for the purpose of the operation of the Draft SEPP.

AGL recognises the beauty of the Broke-Fordwich area and is proud to be part of the community. We acknowledge that some members of the community have concerns about CSG development. That is why we have dramatically increased our community relations activities, to listen to these concerns first hand. AGL has hosted dozens of community information sessions, open days, site tours and face to face meetings. For example, over 300 people have visited our water and core hole drilling in the Hunter over the past month.

AGL is confident that its operations can co-exist with existing land uses in the Broke Fordwich area, with minimal impact. AGL’s current exploration activities are already located along side agricultural and viticultural land uses with minimal impact. AGL is developing an extensive groundwater monitoring network to ensure that any potential impacts to groundwater are identified, mitigated and appropriately managed. Any CSG production project would be the subject of an extensive State and Commonwealth assessment process, which would ensure that any potential visual, amenity, groundwater and land use type impacts are avoided, managed or mitigated.

AGL considers that not including the Broke-Fordwich area as a CIC would not diminish the value of the area in any way.

The CIC criteria are flawed

In addition, the CIC criteria are vague, loosely drafted and will create significant confusion for both industry and landholders.

The SRLUP Gateway process envisages that applicants for gas production projects would first verify whether the land within the mapped CIC areas were in fact CIC. The SRLUP for Upper Hunter, which took 18 months of intensive consultation to develop, lists the criteria for CIC as:

- a. A concentration of enterprises that provides clear development and marketing advantages and is based on an agricultural product.
- b. The productive industries are interrelated.
- c. It consists of a unique combination of factors, such as location, infrastructure, heritage and natural resources.
- d. It is of national and/or international importance.
- e. It is an iconic industry that contributes to the region’s identity, and is potentially substantially impacted by coal seam gas or mining proposals.

However to satisfy the above criteria, under the draft *Guideline for Site Verification of CIC* (NSW Government 2012) it appears that all a landholder needs to do to be included as viticulture CIC is to lodge a development application for a vineyard (and not even have this

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determined), or hold a current membership of the Hunter Valley Wine Industry Association. Neither of these criteria indicate that the land is of national or international significance.

In any event, by the Government's own definition, the Pokolbin area cannot be a CIC relevant to the CSG industry. In 2012, in response to community concerns, AGL relinquished its PEL over the Pokolbin area. Therefore, no CSG activities can be carried out, and there is no opportunity for the area to be "potentially substantially impacted" by the CSG industry or otherwise as required under the definition of a CIC.

Similarly, there is no basis for any claim that the Broke-Fordwich area will be potentially substantially impacted by CSG. To date, AGL has been granted numerous REF approvals for its exploration activities on the basis that the potential impacts have been negligible to minor. There is simply no evidence to support a claim that the area will be potentially "substantially impacted" by a CSG industry.

AGL Submission 9 – Critical Industry Clusters

- Taking into account the above, on the basis of AGL's site assessment and mapping, the Broke/Fordwich CIC does not meet the definition of "national or international significance", and should be removed as a CIC.
- In addition, if the CIC areas are retained, then the NSW Government must apply fair and reasonable criteria for CIC, which meet the definition of "national or international significance". For example, criteria could include:
 - a. There must be five or more contiguous vineyards (or equine properties) or five sites within one kilometre of each other in order to be a "cluster".
 - b. Each CIC site must have revenue of \$10 million or more and employment of at least 30 full time employee equivalents averaged over one year to satisfy the National and International significance criteria.
- 2. Site verification for mapped CIC land must then be carried out on a site by site basis. Land that does not meet the CIC criteria, and all land that is not currently being used as CIC (for example, greenfield sites) should be excluded from the CIC mapped areas.

5.9 Transitional Provisions

The Draft SEPP does not include any real transitional provisions, and is currently drafted to apply to current applications and Part 5 assessments.

In addition, the Draft SEPP is stated to apply to modifications of existing approved activities, despite the Premier's announcement that approved activities would not be caught. In practice it is unclear how this would work. If an approved project overlaps a CSG exclusion zone, would it be the case that modifications cannot be made (even if they improve the environmental outcome)? This does not make sense.

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AGL Submission 10 – Transitional Provisions

AGL requests the following amendment to clause 20(1):

20 Savings and transitional—coal seam gas development in certain exclusion zones

Clause 9A ~~extends~~ does not apply to:

- (a) any development approval or development consent under the Environmental Planning and Assessment Act 1979 (NSW), or any decision or approval issued by any determining authority under Part 5 of the Environmental Planning and Assessment Act 1979 (NSW).
- (b) an application for development consent under the Environmental Planning and Assessment Act 1979 (NSW) made, but not finally determined, before the commencement of that clause, and
- (c) an ~~Part 3A project~~ application for development approval or concept plan approval application under Part 3A of the Environmental Planning and Assessment Act 1979 (NSW) made, but not finally determined, before the commencement of that clause, and
- (d) an assessment being undertaken under Part 5 of the Environmental Planning and Assessment Act 1979 (NSW), but not finally approved or decided, before the commencement of that clause.
- (e) the following requests and applications made, but not finally determined, before the commencement of that clause:
 - (i) a request to modify an approved project under the Environmental Planning and Assessment Act 1979 (NSW),
 - (ii) an application to modify a development consent under the Environmental Planning and Assessment Act 1979 (NSW) (including an application to modify a development consent referred to in clause 8J (8) of the Environmental Planning and Assessment Regulation 2000)-, and
- (f) the following requests and applications made after the commencement of that clause:
 - (i) a request to modify an approved project under the Environmental Planning and Assessment Act 1979 (NSW).
 - (ii) an application to modify a development consent (including an application to modify a development consent referred to in clause 8J (8) of the Environmental Planning and Assessment Regulation 2000).

5.10 Existing infrastructure and retrospective effect

AGL has existing production and exploration wells that are now located within the CSG exclusion zone. Since September 2012, additional approval has been required to fracture stimulate and flow gas from these wells. The SEPP may retrospectively prevent partially executed exploration and production activities from their intended completion. For example, several existing exploration wells now require approved Fracture Stimulation Management Plans before exploration operations can continue.

This is not only without scientific basis, but is wholly unreasonable where the wells have already been drilled at significant expense in reliance on existing government policy.

If the CSG exclusion zone captures existing infrastructure, then the Draft SEPP would be retrospective in nature, which is clearly not the intention of the announced policy.

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AGL Submission 10 – existing infrastructure

AGL submits that the prohibition of “coal seam gas development” in the “coal seam gas exclusion zone” should not apply to existing exploration or production wells (including wells which may need additional approval to carry out further CSG activities), and should only apply to future infrastructure development outside of approved project areas.

Accordingly, AGL requests the following amendment to clause 9A(2):

9A Coal seam gas development prohibited in certain exclusion zones

...

(2) This clause does not apply to or in respect of coal seam gas development:

- (a) on or under an area of land listed in Schedule 2;*
- (b) in relation to existing petroleum exploration wells and petroleum production wells, including wells which may require further approval in order for coal seam gas activities to be carried out.*
- (c) on or under an area the land comprising the coal seam gas projects already approved under the Environmental Planning and Assessment Act 1979 (NSW) as listed in Schedule 4. and*
- (d) on or under an area of land subject of a current petroleum production lease.*

AGL Submission 11 – existing approved projects

To accurately reflect the NSW Government’s stated intention and make it abundantly clear that the Draft SEPP does not apply to activities carried out within approved areas, AGL submits that a new clause Schedule 4 be inserted after Schedule 3 as follows:

Schedule 4 Approved project areas which are not prohibited in coal seam gas exclusion zone

Stage 1 area of the Gloucester Gas Project as approved under the Environmental Planning and Assessment Act 1979 (NSW)

Stages 1 and 2 areas of the Camden Gas Project as approved under the Environmental Planning and Assessment Act 1979 (NSW)

5.11 Review of Draft SEPP

The Draft SEPP represents a serious threat to the viability of the CSG industry in NSW, and domestic supply of natural gas.

The Premier has announced that the NSW Chief Scientist & Engineer will conduct an independent review of CSG activities in NSW.


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AGL Submission 12 - Review

In view of the significance of the Draft SEPP, AGL submits that the CSG exclusion provisions in the Draft SEPP be reviewed once the Chief Scientist has conducted her review of the NSW CSG industry, and as a minimum, a review of the Draft SEPP in 2015/16.

I would be happy to discuss any of these submissions with you.

Yours sincerely,



Michael Moraza
Group General Manager, Upstream Gas
AGL Energy

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Attachments

- 1. NSW 2021: A plan to make NSW number one**
- 2. Allen Consulting Report – Critical Industry Clusters in the Hunter Valley**

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NSW 2021

A PLAN TO MAKE NSW NUMBER ONE

The Allen Consulting Group

Critical Industry Clusters in the Hunter Valley

April 12 2013

Report to AGL

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Contents

| | |
|---|----|
| 1. Report context | 4 |
| 2. The Hunter Valley economy | 4 |
| 3. The importance of Hunter Valley viticulture relative to NSW and Australian viticulture | 8 |
| 4. The importance of Hunter Valley Coal Seam Gas | 9 |
| 5. Conclusions | 10 |

1. Report context

The NSW Government has announced two kilometre residential buffer and exclusion zones over Critical Industry Clusters (CIC). Coal Seam Gas (CSG) activities will be excluded from these zones. The proposed Viticulture CIC around Broke, Pokolbin and Denman in the Hunter Valley will effectively stop AGL from exploring and producing CSG in that area, with the potential loss of up to 1200 PJ of gas for NSW customers from the estimated total 2000 PJ in AGL's PEL267/4 exploration area.

The criteria for determining a CIC, as described by the NSW Government, are set out in Box 1 below.

Box 1

CIC CRITERIA

CICs must meet the following criteria:

- There is a concentration of enterprises that provides clear development and marketing advantages and is based on an agricultural product,
- The productive industries are interrelated,
- It consists of a unique combination of factors such as location, infrastructure, heritage and natural resources,
- It is of national and/or international importance,
- It is an iconic industry that contributes to the region's identity, and
- It is potentially substantially impacted by coal seam gas or mining proposals.

Source: NSW Government 2012

These criteria are vague and open to any number of subjective interpretations. For example, what does it mean for an industry to be "iconic", and contributing to a "region's identity"? And what does it mean to be of national or international importance?

There are many possible kinds of importance, but objectively the best way to measure the importance of an industry is in terms of the value of its production, or the amount of its production in physical terms. On this basis, the Hunter Valley viticulture industry, while talked much about by wine connoisseurs comprises only a small part of the Hunter Valley economy, and only a small part of the NSW and Australian viticulture industries. (Wine-related tourism, however, is quite significant in the Pokolbin area of the Hunter Valley.) On the other hand, AGL's CSG potential production will comprise a very large percentage of CSG production in NSW, and a significant proportion of the consumption of natural gas in general in NSW. Moreover, gas is a very important input to the mining industry, which is a very important industry in the Hunter Valley.

2. The Hunter Valley economy

The absolute and relative importance of viticulture to the Hunter Valley economy is shown in the Table 1 below. The data in the table are derived by the Centre of Policy Studies at Monash University from ABS 2011 Census.

In analysing the importance of the viticulture industry (or any other rural industry) to the Hunter Valley economy the first thing that needs doing is to take out the Newcastle economy. There are no grapes grown and virtually no wine made in Newcastle. Since the Newcastle economy comprises over two thirds of the Hunter Valley economy, it would be misleading to consider the value of the Hunter Valley viticulture industry relative to the Hunter Valley economy as a whole. It is much more reasonable to consider it relative to the non-Newcastle Hunter Valley economy. This is done in Table 1.

Table 1

THE HUNTER VALLEY ECONOMY (EX NEWCASTLE)

| Industry | Value of production (\$m) | Per cent of total |
|----------------------|---------------------------|-------------------|
| 1 BroadAcre | 7.7 | 0.1 |
| 2 BeefCattle | 38.9 | 0.6 |
| 3 DairyCattle | 20.4 | 0.3 |
| 4 OthFarmFrst | 50.4 | 0.8 |
| 5 Grapes | 5.0 | 0.1 |
| 6 CoalBlack | 2197.3 | 33.0 |
| 7 OthMining | 78.5 | 1.2 |
| 8 FoodProcesng | 50.6 | 0.8 |
| 9 WineSpirits | 10.0 | 0.1 |
| 10 OthManufact | 261.1 | 3.9 |
| 11 ElectricGen | 129.2 | 1.9 |
| 12 ElecDist | 49.1 | 0.7 |
| 13 GasSupWatrSp | 33.6 | 0.5 |
| 14 Constructn | 346.5 | 5.2 |
| 15 Trade | 587.7 | 8.8 |
| 16 Transport | 140.3 | 2.1 |
| 17 OthService | 2054.6 | 30.9 |
| 18 GovAdmDef | 121.2 | 1.8 |
| 19 Education | 233.5 | 3.5 |
| 20 Health | 242.1 | 3.6 |
| Total | 6657.6 | 100.0% |

Source: ABS and Centre of Policy Studies

According to these data, the viticulture industry (defined in the table as the Grape industry and the Wines/Spirits industry) is a minor part of the non-Newcastle Hunter Valley economy, with a value of production of \$15 million out of \$6.7 billion. The largest industry in the non-Newcastle Hunter Valley is the black coal industry, with a value of \$2.2 billion.

The value of the viticulture industry as shown in Table 1 is suspiciously small and probably wrong. Another source of the relative importance of the viticulture industry to the Hunter Valley economy comes from the 2009 report by Anderson et al, *Economic contributions and characteristics of grapes and wine in Australia's wine regions* for the Grape and Wine Research and Development Corporation Winemakers Federation of Australia (WFA) and the Australian Wine and Brandy Corporation.¹

According to this report, in 2006 the gross value² of grape growing in the Hunter Valley was \$12.7 million while the gross value of wine production was \$90.3 million. These values, especially for one wine production, are significantly larger than those in Table 1.³ Nonetheless, the overall conclusion still holds: viticulture industry production is only a small proportion of the non-Newcastle Hunter Valley economy.

Anderson *et al* also compare the relative importance of employment in 27 Australian grape growing and wine making regions⁴. They calculate grape and wine's share of total employment in each region, relative to nationally (i.e. grape and wine's share of employment in each region divided by the industry's employment share nationally).

The Barossa Valley has the highest standardised employment share, at 43 per cent, followed by Murray Darling (NSW) 36 per cent, Riverland 36 per cent, Murray Darling Victoria 34 per cent, Riverina 24 per cent, Clare Valley 24 per cent and Margaret Valley 22 per cent. In contrast, the Hunter Valley is in the tail of the field, with a standardised employment share of just three per cent.

Cutting the employment data a different way, the Hunter region had just 1.4 per cent of national wine and grape employment, while wine and grape's share of total employment in the Hunter region (including Newcastle) was 1.02 per cent.⁵

On these figures it is very difficult to escape the conclusion that the Hunter Valley viticulture industry, while talked about a lot⁶, is just not very important to the Hunter Valley economy.

However, there is another sense in which the Hunter Valley viticulture industry might be important, and that is in relation to wine tourism.

¹ Downloadable at www.adelaide.edu.au/wine2030.

² Gross value means that no account is taken of depreciation of the capital stock used for production. These figures are on the same basis as those in Table 1.

³ They are also for different years, 2006 and 2011, with the difference possibly accounted for (in part) by differences in rainfall in those (or just preceding) years.

⁴ 2008 data.

⁵ 2006 data.

⁶ This could be because the Hunter Valley is associated with high quality wines. Over 85 per cent of wine grape production is commercial premium or super-premium. (Anderson et al p75).

A series of reports⁷ indicates that annual wine expenditure by tourists in the Hunter Valley is about \$330 million per year, with (on average) 2.2 million tourists spending \$150 per person. About one third of this expenditure is cellar door sales. This expenditure represents about 40 per cent of expenditure of domestic overnight tourists in the Hunter Valley, and about 9.5 per cent of domestic overnight expenditure by tourists in NSW.⁸

The expenditure figures for wine tourism are not directly comparable to the production value added data — to obtain the value added from wine tourism it is necessary to subtract the costs of producing wine tourism services (other than labour costs). However it is reasonable to conclude that wine tourism in the Hunter Valley *as a whole*, is a fairly important industry, inasmuch as it is a large proportion of (domestic overnight) Hunter Valley tourism, and about one-tenth of the same type of NSW tourism.

However, wine tourism is more important in some parts of the Hunter Valley than others. This point is discussed in the next section.

Tourism in Broke/Fordwich area versus tourism around Pokolbin

Wine tourism in the Hunter Valley takes place where the wineries are, and these are concentrated (for the most part) around the town of Pokolbin. The Pokolbin area has 80 cellar doors where tourists buy wine directly from wineries.⁹ This does not include the restaurants around Pokolbin.

It is reasonable to conclude that wine tourism *in the Pokolbin area* could be a Critical Industry.

However, there are no plans to explore for and develop CSG in the Pokolbin area. AGL plans to develop CSG in the Broke/Fordwich area. Broke is 21.4 kilometres west of Pokolbin along Broke Rd and Broke-Cessnock Road. Fordwich is a further 6.9 kilometres north west of Broke. It is extremely unlikely that wine tourists around Pokolbin would even be aware of CSG activities in the Broke-Fordwich area, much less have their tourism enjoyment disrupted by them.

There is some wine tourism in the Broke-Fordwich area. However, it is very small. There are only 11 cellar doors in the area, and eight of those are open only on weekends.¹⁰ Wine tourism in the Broke-Fordwich area of the Hunter Valley — which is where AGL's CSG activities are planned — is *not* a Critical Industry.

Numerical definition of Critical Industry in the Hunter Valley

There exists no objective numerical definition of a Critical Industry. For the purposes of clarity for this report, a Critical Industry in the non-Newcastle Hunter Valley economy is defined as one whose value added (including the value added of direct customers and suppliers) is \$200 million per annum or greater i.e. about three per cent of the value of that economy.

⁷ Stollznow Research Pty Ltd, Project Cellar door, Market Research Report prepared for the Tourism New South Wales, January 2004, CRC for Sustainable Tourism Pty Ltd. Holidays and wine regions survey, 2007, NSW Government – Destination NSW Snapshot ending September 2012, Cessnock City Council Report 2003.

⁸ NSW Government – Destination NSW Snapshot ending September 2012

⁹ <http://www.winecountry.com.au/>

¹⁰ <http://www.brokefordwich.com.au>

3. The importance of Hunter Valley viticulture relative to NSW and Australian viticulture

While Hunter Valley viticulture is not an important part of the non-Newcastle Hunter Valley economy, is it an important part of the NSW and Australian viticulture industries? The answer is no, at least measured objectively.

Table 2 shows data for wine grape production in the Hunter Valley.

Table 2

HUNTER VALLEY GRAPE PRODUCTION RELATIVE TO THE STATE AND NATIONAL WINE INDUSTRY

| | Hunter Valley | | NSW | Australia |
|---|----------------|---------------------|---------|-----------|
| | Broke Fordwich | Hunter Valley total | | |
| Production for winemaking or distillation (t) | 3160 | 24 411 | 534 322 | 1 683 342 |
| Total area (ha) – bearing + not bearing but planted | 570 | 4 484 | 41 899 | 186 717 |
| Yield (ha) | 6 | 5 | 13 | 9 |

Source: ABS Vineyards Estimates, Australia, 2008–09 and Colton C. Wine regions – Broke Fordwich, <<http://www.winediva.com.au/regions/broke-fordwich.asp>>, October 2008

Table 2 shows very clearly that Hunter Valley grape production is a very small fraction of grape production in NSW, let alone Australia. Only 4.6 per cent of wine grapes produced in NSW, and only 1.4 per cent of wine grapes produced in Australia, are produced in the Hunter Valley.¹¹

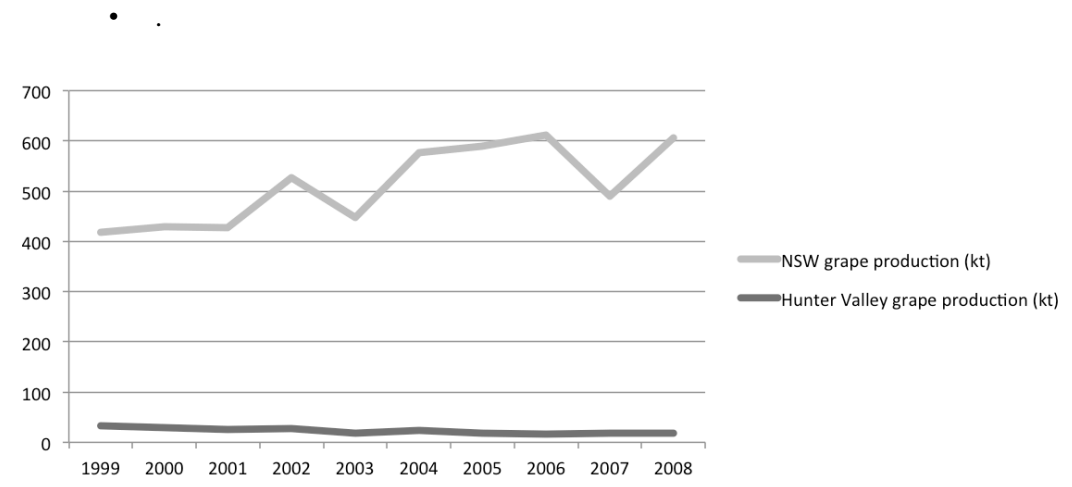
The Hunter Valley's share of total area devoted to viticulture (relative to NSW and Australia) is bigger than its production share, but that is because the Hunter Valley viticulture industry's productivity is low compared to NSW and Australia. The Hunter Valley industry produces five tonnes per hectare compared to 13 for NSW and nine for Australia.

Grape production in the Broke Fordwich area is around 13 per cent of production in the Hunter Valley, with around the same proportion of total area planted.

Finally, Figure 1 shows trends in grape production in the Hunter Valley and NSW, from a different source. Two facts are apparent. First, Hunter Valley production is very small relative to NSW. Second, production in NSW is trending up, but trending down in the Hunter Valley. Between 1999 and 2008, wine grape production fell by 57 per cent. Even if part of that decline is drought-related, it is still very marked.

¹¹ 2008 data, to enable comparison with Broke Fordwich.

Figure 1

HUNTER VALLEY AND NSW GRAPE PRODUCTION

Source: (Anderson et al 2009)

4. The importance of Hunter Valley Coal Seam Gas

AGL projects to 500PJ of CSG over 20 years, i.e. 25 PJ per year on average. Assuming a wholesale gas price of \$8 per GJ¹², this amounts to a wholesale value of \$200 million per year.

Table 3

RELATIVE IMPORTANCE OF GAS PRODUCTION AND CONSUMPTION

| Gas | Total In 2010-2011 | Relative importance of the AGL project |
|---|-----------------------|---|
| CSG production in NSW | 6 PJ | Very high |
| CSG production in Australia | 240 PJ | Medium |
| New South Wales natural gas consumption | 168.9 PJ | Medium |
| East coast natural gas consumption | 699.8 PJ | Small |
| East coast natural gas production | 591 PJ | Small |
| Australian natural gas production | 2091 PJ | Small |

Sources: Source: Australian Bureau of Agricultural and Resource Economics and Science (ABARES), Energy in Australia 2011 and Bureau of Resources and Energy Economics, Australian Energy Update 2012 and BREE 2012, 2012 Australian Energy Statistics, BREE, Canberra, July.

¹² While this is higher than current wholesale prices of \$4-\$5 per GJ, given the likely move of domestic prices toward international netback prices, \$8 per GJ is a reasonable assumption.

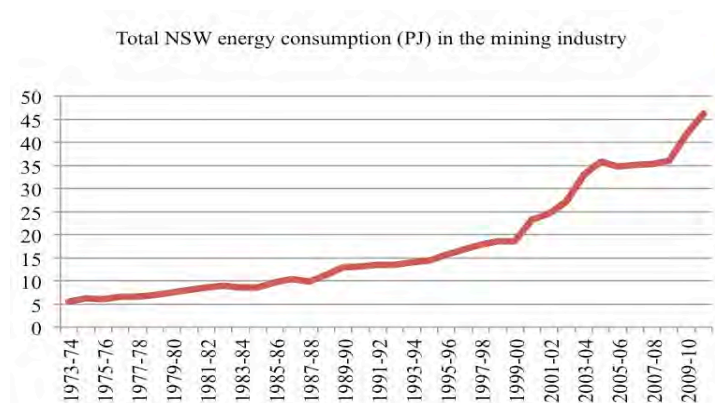
Table 3 shows the relative importance of AGL's proposed CSG production. As Table 3 above shows, CSG production on NSW in 2010-11 was 6PJ. AGL's Hunter Valley project — 25PJ per annum — is very large in comparison. Relative to CSG in Australia as a whole (mainly in Queensland), AGL's proposed projection is fairly significant, and it is also a significant percentage of NSW gas consumption.

AGL's Hunter Valley CSG production is a small percentage of East Coast gas production, but this mainly comes from mature (or declining) non-CSG fields such as the Cooper Basin and Bass Straight. It is also a small percentage of Australian gas production as a whole, but this is mainly produced in Western Australia for LNG export.

Figure 2 shows the strong growth of gas consumed in the mining industry.

.Figure 2

NSW ENERGY CONSUMPTION IN THE MINING INDUSTRY



Source 2012 Australian Energy Update

The relevance of this figure is that the mining industry is the largest industry in Hunter Valley and that one of the criteria for declaration of CICs is that “the productive industries are interrelated”. There clearly is an interrelationship between the gas industry and mining industry. Thus, ironically perhaps, the CSG and mining industries, given their importance to Hunter Valley, could plausibly be classified as Critical Industry Clusters.

5. Conclusions

From the analysis in this report, the following conclusions can be drawn

1. The Hunter Valley viticulture industry cannot, in itself, be considered a Critical Industry.
2. However, the associated wine tourism industry *in the Pokolbin area* could arguably be considered a Critical Industry.
3. The wine tourism industry in the Broke/Fordwich area is not a Critical Industry.
4. The nascent coal seam gas industry in the Hunter Valley is likely to be a Critical Industry.

Our Ref: FRACG SEPP Submission. 13.04.12

The Secretary
c/- 417 Fullerton Cove Road
Fullerton Cove NSW 2318

12th April 2013

The Director Strategic Regional Policy
Department of Planning and Infrastructure
GPO Box 39
Sydney 2001
Email: srlup@planning.nsw.gov.au

Dear Sir/Madam,

The Fullerton Cove Residents Action Group Inc. represents a diverse group of residents from the Port Stephens Shire in NSW, with reach to over 900 public supporters.

Over the last 2 years the Coal Seam Gas Industry has continued to develop within the Lower Hunter, even though the Lower Hunter was excluded from any public briefing sessions in 2011, is heavily populated and intrinsically linked to the Hunter River Catchment and Ecosystems.

Under PEL 458 a Coal Seam Gas company now has approval for 2 x CSG exploration (production style) wells at Fullerton Cove, which were opposed in the Land and Environment Court by the FCRAG Inc. and is still subject to possible appeal.

Whilst the FCRAG Inc. applaud the NSW Liberal Government for its initial approach to 're-think' previous Labor mandates for uncontrolled Coal Seam Gas mining across NSW, we share strong community concerns about the limitations of the proposed SEPP (Mining Petroleum Production and Extractive Industries (Coal Seam Gas Exclusion Zones) 2013 amendments as proposed.

Fullerton Cove is a semi-rural/residential hamlet which is located on the Hunter River, 5km north of Stockton, Newcastle NSW. It is characterised as a:

- Drinking water catchment for the Hunter and for local residents.
- Flood plain RL 1-3m AHD.
- High Water Table (1-2m below surface).
- Nationally recognised 'High Priority Ground Water Dependant Ecosystem' by the Federal Water Commission.
- Part of the RAMSAR internationally listed Hunter Wetlands.
- Proven breeding and foraging ground for rare and nationally endangered species.
- Breeding ground for International migratory bird communities.
- Freshwater subterranean Aquifers known as the Tomago/Stockton/Tomaree system which provides Newcastle, The Hunter and Central Coast 20% of our drinking water.
- Acid Sulphate Soils region
- Koala habitat and bushfire prone land.

With respect we offer the following points for your consideration prior to approval of the draft SEPP amendment, to better safeguard the state and nationally significant natural groundwater resource which exists at Fullerton Cove and throughout Port Stephens NSW.

1. Prohibiting new CSG activities within 2km of residential areas and critical industry clusters is a positive first step towards protecting residential 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. Fullerton Cove's drinking water catchment is the land itself as rainwater does not run off, it permeates the ground to charge the Aquifer. Aquifer catchments must be excluded from CSG exploration and mining areas.
2. There is a risk of exploitation of the council "opt out" clause of the amendment. Allowing councils to override the 2km exclusion zone may lead to negative environmental outcomes and exposes councils to lobbying by powerful industry interests and a heightened risk of corruption. This clause should be removed.

Dart Energy's own 'experts' have told us they will mine horizontally 2.5km and with future technology up to 5km. This can cause subsidence, gas leaks, mechanical failures and contamination well outside of any 2km buffer.

3. CSG mining threatens water quality and availability, air quality, health, food production and other industries. The proposed amendment to the SEPP still allows risk to communities such as Fullerton Cove and the surrounding environment from CSG exploration or mining. The government must put in place policies that cumulatively safeguard our land, water, ecosystems and communities from both coal and unconventional gas industries, such as mandatory EIS reporting, independent (not CSG company provided) ground water research and monitoring before any works are approved. Where existing data is available on ground water it should also be utilised to prevent mining companies falsely suggesting they need to mine or 'explore' to find out what they claim they don't know.
4. Given the risks to water resources and public health from CSG, the government must 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. The FCRAG Inc. has alerted Hunter New England Health to our concerns and request that cumulative effects of the Coal industry on human health in the lower be understood before further unconventional industries are allowed to contribute to the pollution.
5. In order to protect our critical drinking water, the exclusion zones must be extended to prohibit CSG extraction in or near ALL Lower Hunter water catchment areas. Our local residents rely on 'immediate' local catchments including their own backyards and fields to charge aquifers. The aquifer waters are then shared via ground bores, back into domestic tanks for drinking, watering stock and vegetable gardens.
6. Exclusion zones should include protections for our public lands, including high conservation value land, land bordering national parks, state conservation areas,

RAMSAR Wetlands and the contributing lands surrounding the wetlands such as flood plains and travelling stock routes.

7. Exclusion zones should also protect our critical farmland by prohibiting the expansion of coal mining and unconventional gas operations on productive agricultural land including 'Intensive Agriculture' which exists at Fullerton Cove.
8. 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. 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, gas flaring from stagnant exploration wells in bushfire prone lands and koala habitat areas such as Fullerton Cove.
9. 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 CSG development between individual horse studs, vineyards or major tourism and public transport hubs such as the Newcastle Airport economic development zone in Port Stephens, would limit the ability for important state economic regions to operate as a cluster and runs counter to the intent of the amendment to protect these critical areas. This is the same for wetlands and floodplains which share a delicate balance and one does not exist without the other therefore CSG should be banned from Flood Plains such as Fullerton Cove.
10. The SEPP amendment only relates to gas from coal beds. This leaves out tight gas, which is being explored in parts of the Northern Rivers region. All unconventional gas should be included in the SEPP amendment to avoid a patchwork of regulations that leaves parts of the state at risk.

Thank you for your serious consideration of these above mentioned matters. We would welcome an opportunity to support our claims in person to the review panel.

Yours sincerely,



On behalf of the Fullerton Cove Residents Action Group Inc.
Justin Hamilton
Public Officer
Phone: 0413 245 777

Santos Pty Ltd
A.B.N. 33 083 077 196
Level 7
51-57 Pitt Street
SYDNEY NSW 2000
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12 April 2013

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

Email: srlup@planning.nsw.gov.au

SUBMISSION BY

Santos Ltd
Level 7,
51-57 Pitt Street
SYDNEY NSW 2000

Submission on the Draft State Environmental Planning Policy Mining Petroleum Production and Extractive Industries Amendment 2012 (Coal Seam Gas Exclusion Zones) 2013

Santos appreciates the opportunity to provide comments on the proposed amendments to the Mining SEPP to implement a number of new measures outlined in the Premiers announcement of 19 February 2013 – “*Tough new rules for coal seam gas activity*”.

The challenges of developing coal seam gas (**CSG**) in NSW are numerous for all involved, including the Government, gas users, the Community, and the Industry. The gas supply situation in NSW is becoming difficult, with gas supply shortages clearly now likely to occur.

It is important for the people of NSW that the Policy debate on the issue of CSG development is resolved in a timely fashion, but equally in a way that protects the interests of all involved. It is critical the regulatory framework is finalised and stabilised to allow some resolution of the current impasse.

The NSW regulatory environment for CSG over the last 18 months has been uncertain, which is leading to lack of investor confidence to invest in the State. The most recent changes come almost immediately after the Strategic Regional Land Use Policy (**SRLUP**) were announced in September 2012.

Santos maintains that CSG exploration and production operations can be undertaken safely and co-exist with other land-uses. Nonetheless Santos understands the Governments need to address the public concern around the industry.

The comments on the most recent changes to the CSG framework have been provided to assist in its timely and workable implementation. While the proposals will impact on some of Santos NSW assets, the need for a timely and workable solution is the key priority for Santos.

It is stressed that the comments provided should not form the basis for further delaying the implementation of the Governments CSG regulatory framework. The issues raised could generally be addressed through either: appropriate transition arrangements; minor modifications; and parallel processes.

Santos is now keen to go forward with an exploration and development program that demonstrates how we can work with the new regulatory requirements.

SANTOS

Santos has invested heavily in the prospective NSW coal seam natural gas areas, and has plans to invest an additional \$500 million on exploration and appraisal over the next 3 years. This investment in NSW reflects Santos' confidence in the quality of its natural gas resources based on its experience in Queensland coal seam natural gas operations.

The development of a viable and sustainable natural gas industry in NSW will have significant benefits for the State including:

- Providing an opportunity for long-term, efficient and reliable energy security for NSW;
- Reducing reliance on other States for NSW Energy supply;
- Substantial economic benefits through provision of jobs and investment in the State; and
- Environmental benefits through lower carbon emissions.

Santos' primary area of interest is in North-Western areas of NSW, with operations based regionally in Narrabri and Gunnedah.

At present Santos' activities in NSW are limited to exploration and appraisal activities, which are largely assessed under Part 5 of the Environmental Planning and Assessment Act 1979 (NSW) (EP&A Act). Commercial production works are several years off and will be dependent on further environmental assessment and approvals being obtained under the EP&A Act and relevant Commonwealth Government legislation, and will include extensive community and stakeholder consultation.

Santos will continue to work constructively with the NSW and Commonwealth Governments to develop a viable, sustainable and timely natural gas industry that co-exists with agriculture and which contributes substantial social, environmental and economic benefits to the State.

SUBMISSION

Summary of Comments

The following comments provide an overview of Santos submission. Please see the attached table for further detailed comments.

Exclusion zones applying to the CSG industry only

Santos understands the new exclusion zones will affect only the CSG industry. This raises a number of questions around its equity, and particularly achieving objectives of protecting sensitive areas. As has been stated by Santos on numerous occasions, there is no objection to the development of a robust and balanced regulatory framework, provided it is applied equally to all stakeholders.

Lack of science and evidence based decision making

The SRLUP put in place by the Government in September 2012 resulted in significant regulatory impacts on the CSG industry. These were accepted on the basis that decision making processes relied on science and evidence.

It's disappointing the Government has now vacated this position through the introduction of blanket exclusion zones, particularly CIC areas, which apply to the CSG industry only.

Critical Industry Cluster exclusion zone & future expansion/creep

Concern is raised over the use of the CIC mapped areas from the Upper Hunter SRLUP for the purposes of identifying immediate exclusion zones for CSG activities. Those areas were mapped on the basis they would serve as a trigger for the Gateway process only. In response the mapped areas

were expansive and covered significant areas of land currently not used for the CIC purpose. This is particularly the case for the equine CIC.

It is noted the Government intends to refine these areas after the SEPP is made. If the CIC is to be retained as an exclusion zone, it is recommended that in the short term the independent Gateway review process established as part of the September 2012 announcement apply to the CIC's, on the basis the criteria and mapped areas will be refined for the purposes of identifying exclusion zones. The refinement process should include engagement with stakeholders.

Of particular concern, and as raised previously by Santos, is the potential future expansion or "creep" of CIC areas. Close attention needs to be given to, and appropriate processes put in place for any future expansion of existing, or identification of new CIC areas. This is particularly the case given they are now used as blanket exclusion zones for CSG activities.

Refinement of definitions – what activities are excluded

Consideration should be given to allowing some minor low impact activities to take place within the 2 km residential buffer zone and the critical industry cluster (CIC) zone where they would not have unreasonable impacts on these sensitive areas. This is particularly the case for "non-drilling" exploration activities such as gathering lines and access roads.

For coal seam gas development – production, it is understood the intent is to limit the affectation of the exclusion to only those activities directly involved in extracting gas from the ground (e.g. production wells). It should be made explicitly clear that pipelines or other linear infrastructure are not affected by the proposed exclusion zones.

Identification of additional exclusion areas

It is understood the Government will further refine and expand the exclusion zones for CSG areas including:

- Future residential growth areas;
- R5 Zoned large lot residential areas where they have "village" characteristics; and
- CIC areas.

Of chief concern are CSG exclusion areas being continuously expanded in the future without sufficient justification. It is critical the identification of these areas be subject to a rigorous and transparent process based on sound criteria. Similar to the concerns raised with CIC areas relating to further exclusion zone expansion, before any additional exclusion areas are finalised, there should be direct consultation with the CSG industry to allow for engagement in the process.

Transition Arrangements

As noted above, the comments provided in this submission should not form the basis for further delaying the implementation of the Governments CSG regulatory framework. The issues raised could generally be addressed through appropriate transition arrangements, minor modifications, and parallel processes.

Reasonable transition arrangements should be applicable for both CSG production and CSG exploration activities.

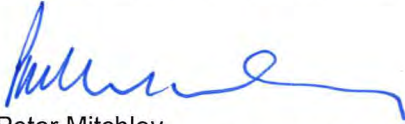
FURTHER ENGAGEMENT WITH THE PROCESS

The regulatory reforms affecting the CSG industry need to be finalised as soon as possible to provide investment certainty for this vital industry for NSW, as well as providing certainty for communities and other stakeholders.

Santos is committed to working with the NSW Government to assist in developing a robust and efficient regulatory framework in NSW that serves the interests of all stakeholders.

If the NSW Government would like further clarification of any of the issues raised above they should feel free to contact Alan Feely, Manager Environment and Water – Energy NSW on (02) 9251 5599 or via e-mail at alan.feely@santos.com. Similarly, Santos would welcome the opportunity to meet with the Department of Planning and Infrastructure to discuss its submission.

For and on behalf of Santos Limited

A handwritten signature in blue ink, appearing to read 'Peter Mitchley', with a stylized flourish at the end.

Peter Mitchley
General Manager - Energy NSW

ATTACHMENT

Detailed Consideration of Proposed Amendments

The following table provides a detailed analysis of relevant issues relating to the proposed amendments to the Mining SEPP:

| Draft State Environmental Planning Policy (Mining Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013 | |
|--|--|
| <p>Clause 3 Interpretation – Establishes definitions for:</p> <ul style="list-style-type: none"> • coal seam gas, • coal seam gas development, • critical industry cluster land & map, • future residential growth area land & map, • Residential zones | <p><u>Coal seam gas development</u></p> <ul style="list-style-type: none"> • <u>Petroleum exploration</u> – All exploration activities appear to be affected by the exclusion zones other than those minor works identified in clauses 10 & 10A of the Mining SEPP. • There are some other low impact activities associated with CSG exploration which should be able to occur within the exclusion zones without adverse impact to any adjoining residential areas. These include: <ul style="list-style-type: none"> • Gas and water gathering lines (linear infrastructure) • Access roads • Water monitoring bores • <u>Petroleum production</u> – It appears only CSG production wells are intended to be captured by the exclusion zones. • The definition should make it explicitly clear pipelines (linear infrastructure), water monitoring bores, and any other CSG related infrastructure supporting production is not captured/affected by the exclusion zones, and that these activities can take place within the exclusion zone area. • <u>Application to CSG development only</u> – Whilst it's understood the policy as announced only affects CSG operations, this raises questions around equity and achieving the policy objectives of protecting sensitive areas such as residential zones or CIC land. • Impacts associated with any use (agricultural, industrial etc) where there are potential conflicts are typically resolved through science and evidence based processes such as the development assessment process. <p><u>Critical industry cluster land</u></p> <ul style="list-style-type: none"> • The use of the CIC areas from the Upper Hunter SRLUP for the purposes of identifying immediate exclusion zones for CSG activities raises concerns. • Those areas were mapped on the basis they would serve as a trigger for the Gateway process only. In response the mapped areas were expansive covering significant areas of land currently not used for the CIC purpose. This is particularly the case for the equine CIC (<i>note this issue was raised by Santos and other industry representatives in its submission on the SRLUP in May 2012</i>). • It was always the intent there would be a science and evidence based assessment process over the CIC areas which would be used to determine whether or not an activity could occur. • The draft SEPP notes the intent to revise the CIC map after the exhibition period concludes, which is supported. Of concern is the supporting information accompanying the announcement states the exclusion zones to the CIC areas will be applied immediately through administrative processes, even though it's implied the areas are not fit for purpose? • It is recommended the original policy intent as announced for CIC areas be retained, at least in the interim, and the exclusion zones serve as a trigger process for a science and evidence based assessment process through the Gateway. • If CIC exclusion zones are to be introduced, it is recommended that: <ul style="list-style-type: none"> • Transition arrangements be put in place allowing projects to proceed under the previously announced Gateway process until such time as the refined mapping has been finalised; and • The development of new CIC criteria and mapped areas be established in close consultation with CIC representatives, CSG industry representatives, and other relevant stakeholders before they are finalised and implemented. • Other concerns relating to CIC are: |

- How the new CIC exclusion regime alters the previously exhibited Mining SEPP amendments to establish the Gateway process? Will these amendments be made available for comment to affected stakeholders, particularly the CSG industry which is directly affected?
- For land within a CIC exclusion zone, a site verification process should be established so that existing landowners whose land use is not related to the CIC or potential applicants can test the validity of the affectation against the criteria.
- As mentioned above, it is critical the CIC criteria be revisited in the context of them now forming the basis for excluding land from CSG development. As part of its May 2012 submission to the SRLUP, Santos raised concern over the subjective nature of the criteria: *"The criteria put forward for the identification of CIC are subjective and at risk of being widely interpreted. Statements such as "concentration of enterprises", "productive industries are interrelated", "consists of a unique combination of factors", "is of national and/or international importance", or "contributes to the regions identity" highlight the subjective nature of the approach taken."*
- This concern is substantially more valid given the CIC are now to be used as exclusion zones. The criteria must be further refined to provide tighter controls and guidance for CIC areas. Before the CIC is implemented as an exclusion zone, industry and other related stakeholders must be engaged in the process.
- Concern was also previously raised that if the criteria remain as drafted there is a significant risk of CIC areas being widely expanded or included without sufficient or valid justification. For future inclusion or expansion of any CIC areas the Government must put in place clear guidelines which limit the ability for wide interpretation of the existing subjective criteria.
- Equity in the exclusion of only CSG from CIC areas is also questioned. Presumably there are other threats to agricultural industries, including structural changes to agricultural economics, alternative agricultural land uses, subdivisions of farms etc, which warrant a similar level of attention? The identification and protection of CIC should be applied equally to all land use changes, not just the resource extraction industries.

Future residential growth areas

- The exclusion of only CSG from future residential growth areas raises the following concerns:
 - The draft Mining SEPP notes additional "other" future residential growth areas where they exist will be included in the future. This will be based on strategic land use plans and council housing strategies. Similar to the concerns raised with CIC areas, before any additional future residential areas are added, there should be direct consultation with the CSG industry to ensure there is awareness of the new rules and the areas that will be affected.
 - Local housing strategies may be seen as an opportunity by some council's to effectively ban CSG activities from occurring in certain areas. When new residential growth strategies are put forward, in addition to the State Government undertaking a rigorous analysis process, the CSG industry should be directly consulted given its affectation.
 - The chief concern is CSG exclusion zones affecting the CSG industry will be widely expanded or "creep" without sufficient justification.

Residential zones

- It's understood the residential exclusion zone will be extended to cover some Residential R5 (large lot) zoned areas where they meet village defined criteria (outlined in the frequently asked questions section).
- Similar to the requests for the CIC map refinement and identification of future residential growth areas, before any future R5 areas are identified in the SEPP as exclusion zones (+2km), there should be direct consultation with the CSG industry.
- It's noted the Department is currently *"consulting Local Government NSW about local government involvement in the evaluation process"*. As this process is designed to affect/exclude only the CSG industry and its activities, it is reasonable the CSG industry be represented.

| | |
|--|--|
| | <p><u>Other Zone Related Matters</u></p> <ul style="list-style-type: none"> • Santos has previously raised (previous submission on the Mining SEPP) the issue that the new gateway and site verification processes will also be applied to lands <u>not zoned</u> for agricultural purposes. For example, Santos' proposed operations which are largely based in the Pilliga State Forest will be subject to the new regime which has been designed to protect agricultural land. • Given the Mining SEPP will now identify explicit exclusion zones for CSG activities, there should be a commensurate acknowledgement of where CSG activities could occur (subject to environmental assessment processes taking place) where they are unlikely to affect sensitive receptors or agricultural productivity. • It is requested that CSG activities that are proposed on land zoned for non-agricultural purposes (for example RU3 Forestry) not be required to undertake the site verification process or the gateway process. |
| <p>Clause 9A Coal seam gas development prohibited in certain exclusion zones being:</p> <p>Clause 9A (4) – Defines the CSG exclusion zone and what areas the zone applies to being:</p> <ul style="list-style-type: none"> • Land within a residential zone or within 2km of a residential zone • Land specified within Zone R5 (to be included in Schedule 3) • Future residential growth area land or land within 2km of future residential growth area • Critical industry cluster land | <p><u>CSG prohibited in or under a "CSG exclusion zone"</u></p> <ul style="list-style-type: none"> • As noted above, there is some small scale or low impact CSG activities (eg gas gathering pipelines) which should be able to occur within the 2km buffer to residential zoned areas and the CIC areas. <p><u>Exclusion does not apply to areas where the local council has requested coal seam gas not be prohibited</u></p> <ul style="list-style-type: none"> • This approach is supported, and should include transparent processes to address concerns that have been raised over potential probity issues. <p><u>CSG exclusion Zone</u></p> <p><u>Land within a residential zone or within 2km of a residential zone</u></p> <ul style="list-style-type: none"> • As per the comments outlined above, consideration should be given to allowing certain low risk non-drilling activities to be undertaken within the buffer area (eg water monitoring bores, gathering lines etc) where it can be demonstrated there would not be unreasonable impacts on residential areas. • While Santos is strongly of the view CSG exploration and production can be safely undertaken in some of these areas, Santos also recognises the Governments and Communities concern at this approach and understands the desire for an Exclusion Zone. <p><u>Land specified within Zone R5 (to be included in Schedule 3)</u></p> <ul style="list-style-type: none"> • See detailed comments/issues raised above. <p><u>Future residential growth area land or land within 2km of future residential growth area</u></p> <ul style="list-style-type: none"> • See detailed comments/issues raised above. <p><u>Critical industry cluster land</u></p> <ul style="list-style-type: none"> • See detailed comments/issues raised above. |
| <p>Clause 20 - Savings and transitional provisions relating to CSG applications</p> | <ul style="list-style-type: none"> • The transitional provisions under clause 9A mean that the exclusion zones will apply to applications that have been lodged for assessment. • This approach is not supported in principle. • Whilst Santos does not have any current applications that would be affected by the new requirements, transitional provisions should be extended so that applications which have been made but not determined are not affected by the new changes. • It is considered unreasonable to retrospectively apply the new exclusion zone provisions to an application which is actively under consideration. |

We, the Discalced Carmelite Nuns and the Discalced Carmelite friars at Varroville, are fortunate to be beneficiaries of the proposed 2 kilometre exclusion zone, and we are grateful to have the tranquil semi-rural environment in the Scenic Hills, which supports our life of contemplative prayer, protected from the industrialisation associated with CSG mining. Nevertheless, we are concerned for other residents and communities in NSW that might not be so fortunate.

In this submission, we focus on three points: the 2 kilometre exclusion zone around residential areas, the proposed opt-out clause for local councils and the interface between State Significant Developments and the Draft Mining SEPP Amendment.

Two kilometre exclusion zone

We request that the scientific basis for designating a 2 kilometre exclusion zone around CSG well sites be made public. Over the last three years we have studied a great deal of documentation about the CSG industry and CSG extraction. Our reading suggests that the underground effects on geology and groundwater, and the above ground effects on greenhouse gas emissions and air quality possibly extend much further than 2 kilometres from any well location. Therefore, in the interests of transparency, we request that the public be informed about the scientific basis of this criterion so that it can be properly evaluated. It seems to us that the designated exclusion zone might need to be greater than 2 kilometres.

In connection with this, we question the exclusion of some residential communities from the protection of an exclusion zone in the Draft Mining SEPP Amendment. If the designation of an exclusion zone is based on potential harm to human health, surely equity demands that protection be applied to all residential areas? We therefore seek to have residential zones Zone RU6 Transition and Zone R5 Large Lot Residential included in Clause 3 (2) along with any other zoning that permits residential development.

Further, we consider that the Draft Mining SEPP Amendment needs to be broadened to include rural residential land and environment protection zones.

Opt-out clause for local councils

Whilst we believe that Local Councils should be the best judges of what is acceptable for the residents of their LGAs, we consider that this clause opens the way for undue influence by mining companies on Local Councils. Recently, so much evidence has come to light of shady dealing and/or corruption in NSW governance in relation to mining approvals that we do not accept this wide-ranging provision (loophole) in the Mining SEPP.

Therefore, we consider that subclauses (2) and (3) of Clause 9A should be deleted from the SEPP. They offer no benefit to anybody but the CSG companies, while removing safeguards from the public. Subclauses (2) and (3) potentially offer monetary benefit to Local Councils without the knowledge of, or need to seek approval from, affected residents.

We believe strongly that there are important human values for Councils to safeguard for residents in addition to short-term economic benefits. They include health and well-being in

the broadest sense (including physical, mental, psychological, emotional, social and spiritual aspects), preservation of the beauty and integrity of the local environment (above and below ground), preservation of land and water resources for food security and for the benefit future generations and preservation of local heritage.

State Significant Developments and the Draft Mining SEPP Amendment

We are concerned that the interface between State Significant Developments (SSD) and the Mining SEPP has not been addressed in the Draft Amendment. Our legal advice suggests that if the Draft Mining SEPP Amendment is to be fully effective, s89E of the EPA Act needs to be amended so that if part of a SSD site is prohibited, then the whole of the project cannot be granted consent. Failure to address this inconsistency between the EPA Act and the Draft Mining SEPP Amendment could simply result in proponents extending their project area beyond the 2 kilometre exclusion zone so that the whole of the project becomes permissible via s89E of the EPA Act.

We request that this deficiency in the Draft Mining SEPP Amendment be rectified.

Finally, as members of the Scenic Hills Association, we endorse its submission in full.

A handwritten signature in blue ink, appearing to read 'Jocelyn Kramer', with a stylized flourish at the end.

Sister Jocelyn Kramer OCD

12 April 2013



Hunter Branch

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Adamstown, NSW 2289

hunter@npansw.org.au

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

Sent to: <srup@planning.nsw.gov.au>

Dear Sir/ Madam

DRAFT SEPP RELATING TO COAL SEAM GAS EXCLUSION ZONES

The Hunter Branch of the National Parks Association of NSW (NPA) wishes to comment on the Draft *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013*.

Formed in 1957, NPA is a non-profit community organisation that promotes nature conservation and sound natural resource management. We have a particular interest in the protection of the State's biodiversity and its supporting ecological processes, both within and outside of the formal conservation reserve system.

The primary purpose of the draft SEPP is to introduce a mechanism for 'coal seam gas exclusion zones', which would prohibit coal seam gas development in certain locations. Whilst the actual objective for introducing the proposed exclusion zones is unstated, we would presume that the intention is to exclude development from locations where impacts would be unacceptable or irreversible. We would strongly support the introduction of such a mechanism.

Extent of exclusion zones

Under the draft SEPP, the proposed coal seam gas exclusion zones are confined to only two matters, namely existing or proposed residential development, and 'critical industry clusters' (comprising certain mapped areas dominated by the equine and viticultural industries within the Hunter Region).

However, these two matters could hardly be said to represent the full scope of settings with potential for unacceptable impacts. Exclusion zones should be widened so as to consider a broader range of relevant matters, particularly impacts on regional biodiversity conservation values, protected areas (such as State conservation areas), drinking water catchments, groundwater systems and agricultural land. To do so would be consistent with widespread community expectations for sound natural resource management. We would like to draw particular attention to the failure of the draft SEPP to meet widespread community expectations following from the Premier's 2009 statement that:

'The next Liberal-National government ... will ensure that mining can't occur in any water catchment area, and will ensure that mining leases and mining exploration permits reflect that common sense. No ifs, no buts, a guarantee.'

It is suggested that clause 9A of the draft SEPP should be amended so as to expand the scope of the proposed coal seam gas exclusion zones to include the following areas.

- (e) land declared to be a special area for a water supply authority under:
 - (i) section 44 of the *Sydney Water Catchment Management Act 1998*, or
 - (ii) section 53 of the *Hunter Water Act 1991*, or
 - (iii) section 302 of the *Water Management Act 2000*,
- (f) land that is otherwise used for water catchment purposes by a water supply authority,
- (g) land within an environmentally sensitive area of State significance,

Note. “environmentally sensitive area of State significance” is defined in clause 3 of the Policy to include the following areas:

- (a) coastal waters of the State, or
- (b) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies, or
- (c) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*, or
- (d) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention, or
- (e) land identified in an environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance, or
- (f) land reserved as a state conservation area under the *National Parks and Wildlife Act 1974*, or
- (g) land, places, buildings or structures listed on the State Heritage Register, or
- (h) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes, or
- (i) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

Other matters, relating to protected areas, high value conservation lands, water resources and agricultural land, might be better dealt with in terms of impact triggers rather than mapped exclusion zones.

Coal seam gas development with significant impacts

A major shortcoming of the proposed regulatory and assessment framework for coal seam gas development is the failure to provide specific ‘triggers’ that are related to the impact of development. Such triggers should operate so as to exclude development with significant natural resource impacts, especially those that are likely to be intergenerational or largely irreversible. Such a framework could be implemented by an expansion in the scope of the proposed ‘Gateway’ process. For example, a Gateway Certificate should be required where coal seam gas development is likely to have a significant impact on:

- a water resource (including rivers and groundwater systems)
- the natural or cultural values of land reserved or dedicated under the *National Parks and Wildlife Act 1974*
- the achievement of regional biodiversity conservation objectives or targets, as set out in a relevant Regional Conservation Plan or Catchment Action Plan (as prepared by the Office of Environment and Planning or the relevant Catchment Management Authority, respectively)
- the productive value of agricultural land or systems
- matters of national environmental significance under Part 3 of the (Commonwealth) *Environment Protection and Biodiversity Conservation Act 1999*.

Opt-out provisions

The proposal to enable local councils to opt out of the exclusion zone provisions (under clause 9A(2) and Schedule 2 of the draft SEPP) is inappropriate and should be removed. If implemented, there would be the potential for poor outcomes as well as a significant corruption risk.

Yours faithfully



Ian Donovan
President, Hunter Branch
National Parks Association of NSW

12 April 2013

UNDERCLIFF
WINERY • GALLERY
SETTLERS COTTAGE

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

Dear Sir

**Re: Draft amendment to the State Environmental Planning Policy (Mining,
Petroleum Production and Extractive Industries) Coal Seam Gas Exclusion Zones
2013**

We are the owners and managers of Undercliff Winery and Gallery in Wollombi, Lower Hunter Valley and are very concerned that the exclusion zone as defined in the Critical Industry Cluster for Viticulture for the Lower Hunter does not include Wollombi.

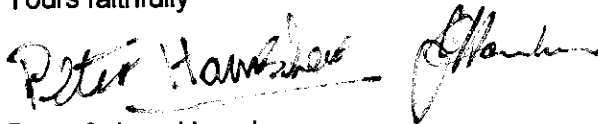
Undercliff vineyard and winery is located in Yango Creek Road, 1 km from the historic village of Wollombi and has been operating for the last 20 years and relies on bore water and water from Yango Creek for irrigation. Any interference with the water table will have a major impact on the environment and our viticulture. There are six commercially run vineyards in the Wollombi Valley who rely on wine tourism as their business.

Wollombi Valley is listed as a classified conservation area and has scenic and cultural qualities that must be conserved. It is part of the convict trail that is a classified listing.

As other viticultural areas in the lower Hunter are defined in the exclusion zone as a CIC for viticulture we urge the Government address this oversight and include The Wollombi Valley in the Critical Industry Cluster Land Map and legislate the policy.

Look forward to your support in protecting the sensitive environment of the Wollombi Region.

Yours faithfully



Peter & Jane Hamshire
Directors
Undercliff Winery, Gallery and Settlers Cottage

cc. Premier Barry O'Farrell
Planning Minister Brad Hazzard



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

by email: srlup@planning.nsw.gov.au.

Dear Sir/Madam

Re: Draft amendment to the State Environmental Planning Policy (Mining, petroleum production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013

Friends of the Koala is licensed by the Office of Environment & Heritage to rescue rehabilitate and release koalas on the Northern Rivers. Our mission, which we have been pursuing for over a quarter of a century, is conserving koalas, particularly in the Region, in recognition of the contribution the species makes to Australia's biodiversity.

I write on behalf of our 370 members to provide comment on the proposed amendments to prohibit coal seam gas (CSG) development on or under land in and within 2 kms of a residential zone or future identified residential growth areas, and on or under land which is in a Critical Industry Cluster (CIC).

While these amendments are a step in the right direction, they don't go nearly far enough. They will not deliver essential protections for sensitive environmental areas such as core koala habitat or other high conservation value land. Nor will land bordering national parks, state conservation areas and travelling stock routes be protected.

Indeed, the proposed amendments leave large parts of the state open to CSG development as projects already through the approval stage, including a massive gas field planned for the Pillaga Forest which contains a numerous koala population. Nor do they do anything to protect the environment from coal mining already approved or otherwise. The remaining koala habitat adjacent to the Maules Creek Project and the Boggabri Mine Extension which were approved earlier in the year look set to be destroyed.

Our members are dismayed that while this government has undertaken to improve protection of koala habitat it is allowing koala habitat across the state to be exposed to (a) contaminant risks associated with CSG operations, and (b) clearance associated with open cut mining, and koalas themselves to be exposed to air pollutants associated with both.

We urge:

- broadening the amendments to include exclusions for all koala habitat and other sensitive environmental areas, water catchments and identified food producing lands;
- expanding them to apply to coal mining and to all forms of unconventional gas extraction including shale gas and tight gas; and
- applying them to projects that have been approved but have not yet satisfied their conditions of approval, and have not yet commenced operation.

Yours sincerely

Lorraine Vass

President

Koala Rescue and Information
6622 1233 12 April 2011

PO Box 5034
East Lismore NSW 2480
info@friendsofthekoala.org
www.friendsofthekoala.org

*Volunteers working for koala conservation on the Northern Rivers.
Friends of the Koala services the local government areas of Ballina, Byron, Kyogle,
Lismore, Richmond Valley and Tweed.
We are a member of the New South Wales Wildlife Council, Inc.
and the Nature Conservation Council of NSW*

srlup - Submission from CHAFG

From: Michelle Lopert <miclop@tpg.com.au>
To: <srlup@planning.nsw.gov.au>
Date: 4/12/2013 11:24 AM
Subject: Submission from CHAFG

The Camden Haven Anti-Fracking Group (CHAFG) feels that the Government's proposed amendments to implement a 2km buffer zone for residential areas, fails in some significant ways.

The amendments:

- Give councils the power to override the exclusion zones. This unacceptable loophole will make councils vulnerable to pressure from mining interests.
- Fail to protect a wide variety of agricultural land by narrowly defining it as a "critical industry clusters". Currently, this refers to vineyards and horse studs.
- Do not include a buffer zone around critical industry clusters. This will allow coal seam gas mining to operate right up to the boundaries of critical industry infrastructure.
- Do not protect residential properties sufficiently. Rural residential clusters or small villages are not covered in the legislation, leaving too much discretion with councils and Ministers as to whether these areas will be protected.
- Fail to protect water catchments, which **Barry O'Farrell promised would be protected prior to election in 2011.**
- Do not apply to other forms of unconventional gas, such as tight sands and shale gas, which pose similar risks as coal seam gas.
- Provide a back door for the industry to continue with "business as usual" in councils that are compliant with industry demands.

CHAFG spokesperson,

Michelle Lopert,

Kendall

12th April, 2013



Far North Coast Dairy Industry Group Inc.

ABN: 54 071 729 379

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

11 April 2013

Sent by email to srlup@planning.nsw.gov.au

**SUBMISSION ON THE DRAFT NSW GOVERNMENT SEPP AMENDMENT ON
CSG EXCLUSION ZONES**

This submission is on behalf of DIG FNC Dairy Industry Group and represents dairy farmers and processors on the Far North Coast.

Our industry welcomes the changes that your Government has released to protect residential areas and the viticulture and thoroughbred industry clusters.

Why would your Government place exclusion zones on wineries and thoroughbred industry clusters over food production? We cannot comprehend the reason but embrace the knowledge that industries you feel are vitally important to protect from the CSG invasion will now be excluded.

Rural communities and families deserve the same protection that its city counterparts now enjoy with the 2 kilometre buffer zones from CSG. The health of families should be paramount to your government and should not be compromised.

We would like to stress that Food security is of growing importance throughout the world and by 2050 there will be a need for farmers to increase production by 70% as global population escalates. Farmers on the North Coast are in a great position to capitalise on this growth.

We believe that your government should be focusing on the vital role that Agriculture is to the NSW economy and our potential for future growth. Our region has a clean green image that is vital to our Asian neighbours with increasing export opportunities. These regions offer an enormous market potential for our industry that we have only just started to explore. The dairy industry in our region is placed to capitalise on this market that is on our doorstep. To enable this outcome we must retain our clean green image. These export markets have the potential to bring growth to our region and the flow on would be a huge gain for our local community.

It is critical that our industry is recognised for the important role that it has in our region and therefore we cannot stress enough the role your government has in protecting our industry. Our local processor has recently invested millions on capital projects to place our industry in a position to capitalise on this growth potential.

CSG has the potential to damage the image that our farmers and community proudly display to our global customers. The two critical factors to our agricultural industry land and water are being jeopardised by CSG exploration and production. Farmers do not have confidence that there is no risk to our environment and agricultural industries with the current regulatory policies that oversees CSG.

Dairy farmers have huge capital outlays on their farms and need the confidence that future investment in our industry is not in jeopardy. CSG has only short-term gains for a few investors but has the potential to cause irreparable damage to water systems and our regions image.

It is vital that this review considers our industry and the wealth that it creates for our economy now and into the future. We must protect and encourage a sustainable North Coast Dairy Industry. Our industry asks that our region is included in SEPP amendments exclusion zones and in doing so is protected from the risk of any damage caused by mining and CSG activities.

If you wish to discuss any part of this submission we would be happy to do so.

Leigh Shearman
Chairperson
DIG Far North Coast Dairy Industry Group Inc
1335 Nimbin Road
Goolmangar NSW 2480



SOUTHERN HIGHLANDS

Coal Action Group

Comment on: State Environmental Planning Policies (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013 ('SEPP')

For the first time since the election of the O'Farrell Government, we are pleased to be able to compliment the Government on its actions in relation to the development of Coal Seam Gas ('CSG') in NSW.

The announcements made by the Premier on the 19th February 2013 are a welcome recognition of the widespread and deep community concern about how CSG mining will damage the amenity of so many, many people's homes across NSW.

The Southern Highlands Coal Action Group ('SHCAG') has more than 4,000 signed-up members, who wish to stop Coal Seam Gas and new coal mining in the Southern Highlands region of New South Wales ('Southern Highlands').

The Southern Highlands is threatened by PELs 2 (AGL Energy Limited) and 469 (Leichhardt Resources Pty Limited).

Whilst we compliment the Government for the abovementioned announcements, there is still much more that needs to be done to protect water resources, aquatic ecosystems and agricultural land.

Significant further changes are also required to reverse another aspect of the damage caused by CSG development. That is the blighting effect that exploration leases are having on the huge areas of land over which they are granted.

In the Southern Highlands, that effect is evidenced by the difficulties landowners are experiencing in selling their properties in prospective CSG or coal mining areas. Inevitably, those difficulties in selling translate into lower property prices.

We list below further changes to the SEPP, SHCAG believes should be added to the Government's initiatives, which seek to address the community's concerns:



SOUTHERN HIGHLANDS

Coal Action Group

| Proposal | Rationale |
|--|--|
| <p>1. The Petroleum (Onshore) Act 1991 as currently framed, restricts the proximity of a CSG wellhead to no less 200m from a residential dwelling. With the advent of multi unit wellheads and directional drilling capabilities, SHCAG believes that the minimum distance from wellhead to a residence should be increased to 1km.</p> | <p>Such change would significantly reduce the damage to the amenity of CSG activities on closely settled areas. The Southern Highlands is by farming standards, closely settled which means the impact of CSG mining bears on many, many people and brings most of the wells in close proximity to many of the residences</p> |
| <p>2. SHCAG believes CSG wells should not be established in coal seams less than 250m from the surface.</p> | <p>Shallow coal seams present two material issues for CSG mining:</p> <ul style="list-style-type: none"> • Simply by virtue of the shallow seam, there is a high risk that domestic and stock bore water supplies will be damaged • There is an increased risk of fugitive emissions as a result of fracking |
| <p>3. In the interests of broadening NSW's gas supply sources, SHCAG strongly encourages the NSW Government foster the commercial development of the foreshadowed Queensland Hunter Gas Pipeline or other pipeline.</p> | <p>The commercial arguments regularly advanced for the development of CSG in NSW is that our contracts of supply will expire. Accordingly, we need to widen our supply options.</p> |



SOUTHERN HIGHLANDS

Coal Action Group

| Proposal | Rationale |
|--|--|
| 4. Include zoning R5 in the definition of “residential zone”. | It is not clear why it is necessary to distinguish “between villages and rural residential subdivisions”. Many areas zoned R5 in the Southern Highlands may not satisfy the draft criteria for “village” in their own right simply because they are part of an established township. |

srlup - submission for the state environment planning policy

From: Jill Lyons <jaygee_25@hotmail.com>
To: "srlup@planning.nsw.gov.au" <srlup@planning.nsw.gov.au>
Date: 4/12/2013 12:14 PM
Subject: submission for the state environment planning policy

on: The Director Strategic Regional Policy, Department of Planning and Infrastructure.

iting to you on behalf of the Richmond Valley Group Against Gas, regarding the State Environmental Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zone the Government is to be applauded for its recognition that unconventional gas mining poses a real thrs and very real fears of the residents of NSW and for finally starting to listen to the people. However a very idea that only a token number of people and farming businesses will be guaranteed a safe clea ment to live and work, is far from ideal.

right across our state are alarmed and have very real concerns at the rate of development of this inc raphening in spite of growing lists of people and organizations, such as doctors, scientists, The Austr health Association, Cancer Council, United Nations, voicing their concerns at the very serious threats y will and could inflict on our waterways, lands and the very air we breath. Threats to the health and f the people along with livestock, domestic and native animal life are very real and yet this industry l re green light on all levels of government.

do not want to be forced to live with this industry just because of where you decide to 'draw a line i What makes a vineyard in the Hunter Valley more important than a small dairy farm in the Northern takes a horse stud more valuable than a family living on a 5 acre block surrounded by other similar s nts outside a small rural town? Why should people living in a city be given a higher priority then the i a rural setting? Who decides, and on what criteria, whose life and address is more important than a effects that the gas industry will cause will be no different, regardless of how big the farm or how mu e the government can extract. This decision is discriminatory and shows an intense negligence and la tanding on your part.

r concerning point is the shifting of responsibility from state to local government regarding the final d what will be protected from this industry. Up until now local government has had no say or power their people and now suddenly the State wants to give them that power. What is the reason behind o you know now, that has provided the impetus for you to give such 'power' and the associated sibility and accountability to local councils? Division and conflict between councils and communities n will bring. Who will protect the people from councils that say 'yes' to a gas industries that has local ito a false sense of safety or promise of returns? Who will these people turn to when their land drop nd their children are sick? Where will they get their water from? Who will be responsible?

ncils have the right to overstep the 2 klm zone and allow gas wells to be set up anywhere and every ess of the 2klm zone? Schools, hospitals, shops, businesses along with people homes will all be at ris bsidence, toxic fumes, noise, lights and increase in traffic from heavy vehicles.

ould this be allowed? Why should people who have made their living off the land and provided food loose their right to live and work their land safely? Why should the average person who chooses to li / now have to live in fear of a gas company setting up on their land or on a neighbours land and be al der their land without their knowledge? How exactly will the 2klm exclusion zone protect them?

about the waterways both above and below the ground? How will the exclusion zone work to protect our last state election Barry O'Farrell promised to protect them as follows: "The next Liberal/National Government will ensure that mining cannot occur ... in any water catchment area, and will ensure that mining exploration permits reflect that common sense; no ifs, no buts, a guarantee."

On December the 1st, 2012, Premier O'Farrell said to Alan Jones, "I don't intend to allow — particularly the light we went through over a decade — mining or any other activity to threaten water resources." He then went on to say "[CSG] exploration licences have been granted, in some cases to mine in areas, frankly, that have never been on the list."

Will exclusion zones apply below the ground as well as above the ground? Surely a gas company will not stop a gas well 2kms from a village, or waterway, town, city or dam and then drill directly underneath the village, or business or farm, waterway etc? Thus turning the 'excluded' area into a farcical, tokenistic 'buffer' zone? Our land and waters are too precious. The risk is too great and the long-term costs are simply too high. Is 2kms anywhere near enough to protect and safeguard our waterways?

Furthermore, along with many others right across the Northern Rivers expect the State Government to identify the region as a Critical Industry Cluster. Indeed, it is a recognised, unique and iconic cluster of World-Heritage-listed rainforest and biodiversity seamlessly interwoven with world-class eco-tourism and production of quality beef, fruit, nuts and coffee. As such it should surely rank higher than the almost-monocultural wine and equine industries of the Hunter, for urgent protection from the destructive threats of unconventional gas mining companies who want to exploit our region at the expense of the people and wildlife that call this region home.

In addition, an additional "buffer zone" of a further say 2kms would give added protection to all CICs and ensure these areas are kept safe from gas companies working on their boundaries. Regardless, the governments need to include all forms of gas mining not just CSG. Shale gas, tight sands, any unconventional activity must be under these same regulations. The risks are similar and people need to know these risks will be part of any exclusion policy.

On the 2nd of April, a Newspoll published the findings that 75% of all Coalition voters and 73% of Labor voters support the protection of this industry.

We can only hope and expect that you will listen to the people who voted you in to protect them and their future, by stopping any further damage this industry will cause.

Sincerely,

Yours faithfully,
On behalf of the Richmond Valley Group Against Gas. RVGAG

12 April 2013

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

By email to srlup@planning.nsw.gov.au

**Submission on public consultation draft
Of proposed amendment to the State Environmental Planning Policy (Mining,
Petroleum Production and Extractive Industries) 2007 by inclusion of Coal Seam
Gas Exclusion Zones 2013**

Apex Energy welcomes the opportunity to provide a submission on the draft SEPP (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013 (Draft SEPP).

Apex Energy strongly submits that the NSW Government should not adopt the Draft SEPP in its current form.

This arbitrary 2 km exclusion zone unilaterally applied to just a single industry, and not based on scientific or evidence based fact, sends a very strong message that the NSW Government is making "ad hoc" responses to anti activism, and is avoiding its responsibility to the constituents of NSW to assess matters diligently and impartially, and seeking appropriate expert advice on the matters.

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

- represents a clear and unacceptable sovereign risk to the NSW CSG industry and other businesses in the State;
- is completely unsupported by any scientific research into, or risk analysis of, the impacts of CSG on other land uses; and
- may materially impact on the value of our company's assets and the viability of developing it's commercial project: and
- will unnecessarily remove significant areas of prospective land resulting in a heavy financial impact on:
 1. the people of NSW in the form of lost royalty revenue, increased energy prices and diminished security of supply for consumers; and
 2. the CSG industry in NSW, in the form of reduced asset values.

Unilateral application and broader context

Apex Energy observes that it is totally illogical to place an imposition upon a particular industry without considering that industry in broader context of currently accepted and continuing activities surrounding it.

It is unacceptable in the draft SEPP amendments that they apply only to businesses who are in the “gas extraction industry”, and to specifically state in the draft SEPP “but only in relation to the recovery, obtaining or removal of coal seam gas, **and not including: the recovery, obtaining or removal of coal seam gas in the course of mining**”. We find this obscure that the coal mining industry, under the NSW Mining Act, can and will continue to operate CSG operations without imposition of the exclusion zones. These operations in many cases are the same as undertaken by CSG companies operating under the Petroleum (Onshore) Act, except that CSG operators are under far more rigorous and restrictive regulatory regime.

In context, there are many activities already undertaken every day which communities find acceptable, however we believe can pose greater potential risk to the environment and human health than does CSG activity.

- There are over 97,000 officially recorded bore holes drilled in NSW, for a range of purposes, and the department suggests that an additional 40% may not be recorded – drilling is not a new activity!
- There are over 27,000 kilometres of natural gas reticulation pipes around the streets and houses of urban NSW, currently delivering a clean and efficient energy source.
- There are tunnels for rail, road, sewer and other purposes regularly dug close under urban areas, yet a CSG lateral borehole at 500 meters below houses causes concerns.

Sovereign Risk

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, or attract and retain investment in NSW.

The implications of adverse changes to NSW’s sovereign risk profile, particularly a perception that NSW is “closed for business” from gas industry development perspective, is potentially severe.

In addition to the direct implications for CSG industry participants in reduced asset values of individual companies affected by the policy, adverse changes to the sovereign risk profile of NSW can adversely affect the ability of other businesses, and indeed government, looking raise capital in NSW, by increasing the risk premium associated with doing business in the State. The perception is that NSW is now a more “risky” place to invest. Such changes can see investment, and associated economic and social benefits lost to other Australian jurisdictions or to other locations overseas.

CSG has the potential to become an important part of the energy supply mix in NSW, 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.

SRLUP and perceived impacts

Apex Energy broadly supports the NSW Government's efforts to manage competing land uses through the Strategic Regional Land Use package, including the gateway process. The SRLUP has been described by the NSW Government as being "the strongest regulation of coal seam gas exploration and activity in Australia". This assessment focused process does not require any unscientific exclusion zones.

Apex and the industry acknowledge that the SRLUP and the Draft SEPP have been put forward by Government in response to ongoing community concerns about the perceived adverse 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 the environment or communities. It has been well demonstrated in Queensland and overseas that the CSG industry can safely co-exist with other land uses. We recommend that the NSW Government take a pragmatic approach to presenting facts about CSG activities and assist the industry in educating the public with facts, not adding to their emotional and unfounded fears.

Apex Energy acknowledges the request by government, announced at the same time as these proposed SEPP amendments, for the State Chief Scientist and Engineer to conduct an independent review of all CSG activities in NSW, with a focus on the impacts of these activities on human health and the environment. We note that the Terms of Reference are to "provide independent advice to the government and the public informed by a rigorous evidence-based platform of work". We totally support this approach.

In conclusion, Apex Energy submits that the proposed draft SEPP amendments in relation to exclusions zones should not be accepted, and rather that the SRLUP should be relied upon to provide the framework for expert scientific assessment of proposed CSG activities in NSW, and that each project be assessed on individual merit and considering local relevant factors.

Apex Energy directly, or through APPEA, our industry body, would be pleased to engage in consultation on these matters with government and other stakeholders.

Regards,



Stephen O'Keefe
Director

**UPPER HUNTER PROGRESS ASSOCIATION
501 ROUCHEL ROAD, ABERDEEN, NSW 2336**

SUBMISSION APRIL 2013

DRAFT AMENDMENT TO MINING SEPP

1. Background

The Upper Hunter Progress Association [UHPA] is a community organisation whose members include farmers, graziers, thoroughbred breeders and the Presidents of all the local water user groups. It was formed in 2008 out of concerns arising from the Bickham Coal Company [BCC] Open Cut Coal Project near Murrurundi in the Upper Hunter Valley.

The Association strives to take a reasoned approach based on fact and expert opinion. For the purposes of submission to the Bickham PAC, the UHPA commissioned reports from several well-regarded experts, namely Worley Parsons [Surface and Groundwater], ACIL Tasman [Economics], Environment Resources Management [Planning] and Enable Advisory [Mining] and commissioned two rounds of polling by Newspoll.

Since BCC's re-emergence in February 2012, the UHPA has commissioned further expert reports from Gilbert + Sutherland [Water risks of an underground mine], Geoplan Services [Geology and underground mining] and Environment Resources Management [Planning]. Copies of these reports have already been submitted to the Ministers for Planning and Mineral Resources but are resubmitted as appendices to this submission.

2. Executive Summary

The proposed amendment to this SEPP has been motivated by concerns about the adverse impacts which coal seam gas (CSG) exploration and development will have on the environment and economy of, and especially the surface and groundwater resources in, various parts of the State.

The State's designated Equine Critical Industry Cluster (ECIC) in the Upper Hunter has been mapped in the proposed SEPP amendment as a special, economically significant part of the State in which all CSG related activities will be prohibited. The UHPA unequivocally supports this amendment of the SEPP.

Notably, over 8 years ago in 2005, the State government agencies regulating planning, mining and the environment cooperated in the publication of a report "*Coal Mining Potential in the Upper Hunter Valley*" strategically assessing the viability of coal mining in the Upper Hunter Valley and the environmental risks of such mining at various sites.

Relevantly, that report concluded that, unlike all other potential coal resources in NSW, the small and isolated coal resource now covered by two expired Exploration Licences ("ELs") held by BCC north of Scone ought not proceed to any kind of formal environmental assessment (such as an EIS) without detailed water studies.

The 2005 report concluded that the proponent of any form of mine in the locality of the Bickham EL would be obliged to establish that it would not adversely affect the waters of the Pages River, the Kingdon Ponds and the related and connected surface and groundwater resources which sustain the entire economy of the Upper Hunter.

The Bickham EL coal resource, identified as marginal and environmentally risky so long ago, lies completely within the ECIC in the Upper Hunter now sought to be protected from CSG exploration and development by this SEPP amendment.

As is well known, BCC's many water studies were fatally criticised by the NSW Planning Assessment Commission in its 2010 report. The State subsequently and swiftly amended the same SEPP as is now on exhibition so as to ban open cut mining at the site proposed by BCC near the banks of the Pages River. The mine proposed by BCC was found to be likely to threaten the water resources of the Upper Hunter, potentially for generations to come.

The State's well founded concerns about the water resources of the Upper Hunter in 2005 now find clear form in these latest proposed amendments banning CSG activities in the very same area where BCC suggests that the same banned coal resource be extracted in an underground operation.

If anything, the predicted long term harm to water resources posed by BCC's failed and banned open cut plan are likely to be less severe than those of an underground operation given the difficult geology and interconnectedness of the regional surface and groundwater. This is the expert opinion of Gilbert + Sutherland whose report *"Water-related risks of underground mining in the Bickham area"* concluded -

"The risks described by the Commission are as relevant to underground operations as they were to the open cut proposal. In our view, it is unlikely that these inherent water-related risks, detailed in the Commission's 2010 Report would be in any way reduced by employing underground techniques. Indeed, in some instances, the risks could be exacerbated because of the site unseen condition of any underground operation".

Members of the UHPA and others in the community have, for over 15 years, agitated for a complete and permanent moratorium on any form of mining of the coal covered by the Bickham EL. The shadow cast over the region by the remote possibility of a small, isolated and utterly speculative mine proposal has threatened investment and united the community in anger and frustration.

The PAC report damned Bickham's open cut proposal and the subsequent planning prohibition of that form of mine briefly restored economic certainty and confidence to the region. Bickham have now suggested, and are apparently marketing, the chimera of an underground mine in the same location. Although no one expects that such a plan is geologically or economically feasible, until the long delay which is likely to precede an inevitable refusal of consent is eliminated, a critical, sustainable part of this State's economy is to be held to ransom by an unrealisable mirage.

The amendments now proposed to this SEPP will, if made, properly protect the ECIC from adverse impacts caused by one form of underground development. But unless those amendments are, for the lands within the Bickham EL area, extended to prohibit the devastation which an underground coal mine will generate, they will be futile.

We thus urge the Department of Planning to confer immediately with the Department of Mineral Resources to ensure that:

- that Department immediately and unconditionally recommends that the application to renew Bickham's expired EL is refused; and, simultaneously
- the SEPP amendment on exhibition is gazetted along with a small, critical extension to the existing prohibition to cover underground mining within the area of the Bickham's expired EL.

3. Bickham History

The history of this project is well known to be long and contentious, and it dates back to the first grant of EL 5306 in 1997. The first plans were presented by BCC in 2001 and the first opposition group formed shortly thereafter. Since then Bickham's varying proposals have been vehemently opposed by the overwhelming majority of the community. Further, the Bickham project not only initiated the strategic land use debate but defined and symbolized the land use conflict in the Upper Hunter, and still does. Indeed it is widely accepted, even argued by the NSW Minerals Council in their submission on the draft SRLUP, that the process prescribed for the Bickham Project in the 2005 multi-departmental document *"Coal mining in the Upper Hunter Valley - Strategic Assessment"* was the precedent, or prototype, for the NSW Government's Gateway Process.

The 16 year timeline of the Bickham saga is contained in Appendix 2, it includes 2 Reviews of Environmental Factors, 4 different mine proposals, two sets of Water Resource Assessments and draft Water Management Plans, NSW Planning Assessment Commission [PAC] hearings and an unequivocal rejection of the project by the PAC.

It should also be noted that the project is largely in continuance because of Ian MacDonald. As Minister, MacDonald renewed Bickham's exploration licences on October 27th 2009, just 3 days before the DoP referred Bickham to the PAC. A more judicious approach would have been to defer consideration of those renewals until after the PAC had handed down their recommendation on whether the project should, or should not, proceed to merit assessment, as opposed to renewing them just before those deliberations had begun. We are not questioning the propriety of the Minister's decision but we are certainly questioning its prudence, because this flawed decision has effectively allowed Bickham to continue to threaten the Pages River that flows through the site, the groundwater resources beneath the site and the well-established and sustainable Equine Industry that surrounds the site.

4. The Bickham PAC

The Bickham PAC was preceded and prescribed by the previously mentioned *"Coal Mining Potential in the Upper Hunter Valley - Strategic Assessment"* The Executive Summary of which noted -

"This study fulfills a commitment made by the Government in January 2004, which followed approval for a 25,000 tonne bulk sample of coal from a deposit at Bickham . . . The proposal generated community concern because of its proximity to the Pages River and because the Upper Hunter Valley has not been significantly impacted by coal mining in the past. Consequently it was announced that:

"The Government has decided to conduct a strategic investigation into the implications associated with extending mining activity into this region, under the auspices of the Department of Infrastructure, Planning and Natural Resources, The Department of Environment and Conservation, along with the Department of Mineral Resources. This investigation will focus on the potential short and long-term impacts of mining on the water resources in the catchment, including any cumulative impacts"

"Major Issues for New Coal Mines

There is a need to ensure that the potential economic benefits of any new coal mine are carefully assessed against the risks of significant environmental, amenity or social impacts. The Pages River Catchment has high conservation and environmental values, much higher than those of the Dart Brook Catchment. The values of the Pages River Catchment are particularly associated with the river itself, which has perennial flow and good water quality.

The major issues associated with a potential new mine at Bickham are directly related to the river and are of such significance that they need to be separately considered.”

“Water Management in Domain A (Bickham)

The Key water resources issues for any future open cut coal mine at Bickham are:

- ***Whether mine de-watering will lead to significant in-flow of saline groundwater and if so what to do with this water; and***
- ***Whether there is significant connectivity between the Pages River and groundwater on the mine site, and if so, how to prevent water from the river from reaching the mine”.***

“Recommendations

A) That the Director General of DoP ensures that any project application under part 3A of the Environment Planning and Assessment Act 1979 for coal mining within the Pages River Catchment contain the report of a full groundwater and surface Water Resource Assessment and a draft life-of-mine Water Management Plan (including water management relating to mine closure and post mining). The local community should be consulted by the project’s proponent to identify its concerns during the preparation of the draft Assessment and Management Plan. An independent expert panel should review both documents and provide advice to the DoP, DNR, DEC and DPI. No environmental assessment for coal mining should be prepared until DoP has first advised it that the draft Assessment and Management Plan adequately provide for the achievement of the outcomes contained in these recommendations”.

The above passages are included in this submission for the following reasons -

- They put the Bickham PAC Report and the recommendations contained therein into context.
- They make it clear that the long-held view of multiple Government Departments is that the Bickham project site is unique, environmentally sensitive, geographically isolated from other mining projects and that no mining should occur there *unless* it can be proven that that mining will not have significant impacts on the Pages River and a locality that still has no coal mining activity occurring within it.
- The proponent has recently criticized the prescribed process for taking ***“torturously long”*** and as being ***“highly questionable”*** and ***“one of the most poorly handled planning processes this state has seen”*** for prescribing ***“all manner of repetitive and seemingly ad-hoc requirements never asked of any other miner in the country”***¹. These comments illustrate to us a proponent who still does not understand the unique nature of the project site and who obdurately refuses to recognise that this uniqueness is why the BCC project required and received additional and more rigorous scrutiny.

5. The Bickham PAC Report

After a site visit, two days of public hearings (held at the request of the Commission) and after careful consideration of a mountain of scientific and social evidence submitted for and against the proposal the independent review delivered a thorough, unequivocal and damning rejection -

“The Commission concludes that there is sufficient residual concern generated by its assessment of the water-related risks to warrant that the Bickham project proposal not be recommended for further merit assessment under Part 3A.

¹ ‘Seeking a fair, prompt and transparent process’ BCC Opinion Scone Advocate March 21 2013

The Commission further concludes that there is strong evidence from the non-water-related issues raised in submissions that the Bickham project proposal has had, and would continue to have, significant adverse effects on other industries and investments that would outweigh any advantages in proceeding to merit assessment under Part 3A”.

There are a plethora of other quotes from the PAC Report (A compilation of these, arranged under the headings ‘Accuracy and adequacy of the Proponent’s work’, ‘The Bickham Proposal’, ‘Water-related issues’, ‘Equine Industry’, ‘Effects on the Community’, ‘Bickham’s Employment Claims’ and ‘The Pages River’ is included as Appendix 4). Perhaps the most relevant and telling of all those quotes is -

“Community frustration at the length of time taken to get to this stage (10 years) and the constant disruption caused by the continued existence of the threat posed by Bickham has been a source of uncertainty for business and the community”.

That frustration, disruption and uncertainty for business and the community is ongoing and is mixed with a growing feeling of anger that this situation is being allowed to continue by the Government to the detriment of the community and to the benefit of the proponent. This anger is well illustrated by a letter to the Scone Advocate (published after exploration had recommenced) from Nick Posa (whose Lincoln Farm is situated directly across the Pages River from the neighbouring Bickham project site) -

“With common sense having to prevail after the Bickham rejection, I moved my family and thoroughbred breeding business to a new farm just 2 kilometers from the Bulk Sample coal-pit thinking I would be safe here from the encroachment of mining activity. I now see drilling rigs not 1.5 kilometers from my boundary. What choice do we have but to stand up again and confront this ridiculous proposal with everything we’ve got?”²

6. The Bickham SEPP Amendment

The Mining SEPP was amended May 28th 2010 to prohibit open cut coal mining at the Bickham site. This SEPP amendment was solicited by neither the PAC in their Bickham Report, nor by the UHPA, nor indeed by any other opponents of the mine. It was the prudent response of the DoP to the overwhelming rejection of the project by the PAC. The relevant Planning Circular detailed the reasoning behind the amendment -

“The prohibition is intended to prevent impacts on the region’s water supply including the Pages River and groundwater reserves”.

“Both the Somersby Fields extractive industry and Bickham prohibitions will provide greater certainty to the affected communities with respect to any future proposals”³

Less than three years on from that SEPP amendment, BCC, the *same* proponent is targeting the *same* coal in the *same* location, threatening the *same* river, the *same* groundwater reserves and adversely impacting upon the *same* community.

It is clear that those intentions of protecting the region’s water supply and providing certainty to the community are being undermined and rendered futile and obsolete by the actions of the proponent and that there is a clear need for the SEPP to be further amended to add underground mining to the existing prohibition of open cut coal-mining to give full effect to the sound and relevant intentions of the original amendment.

² “Disgruntled reader” Scone Advocate March 22nd 2012

³ Planning Circular PS10-012 31 May 2010

It is also clear that the proposed SEPP amendment currently on exhibition has been put forward to achieve the exact same intentions as the Bickham SEPP; protecting the region's water supply; allaying community and industry concerns and restoring certainty - albeit put forward with less scientific evidence in support of such an amendment than was available and considered when initiating the Bickham amendment. .

It is therefore very apparent that the proposed SEPP amendment on exhibition and the original Bickham SEPP amendment have an inherent, symbiotic consistency with one another, sharing aims, intentions and geographical location. However, it is also very apparent that if the proposed SEPP amendment on exhibition is made without a concurrent extension to the Bickham SEPP to include underground mining, then it will be contradictory, inconsistent and futile.

Extending the current prohibition, in our view, best achieves the first and most important objective of the Environmental Planning and Assessment Act 1979 which is set out in section 5 under Objects.

“The objects of the act are:

- ***(a) to encourage:***
- ***(1) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment”.***

In their report for the UHPA by ERM titled *“Bickham Coal Site - Hypothetical Underground Coal Mine Strategic Assessment”* (resubmitted as Appendix 5) the planning consultants noted -

“The overarching drivers of economics and the efficient use of land are found in the objectives of the Environmental Planning and Assessment Act, 1979.

Objective (a)(ii) of the Act, states:

(ii) the promotion and co-ordination of the orderly economic use and development of land,

Mining is an established land use in large parts of the Hunter Valley and existing projects ensure a continued supply of coal. In existing mining areas there is established mine infrastructure and further expansion of existing facilities provides for increased economies of scale and limits the area of disturbance resulting from mining activities.

The former Bickham Coal 2009 proposal was less than 2% of the total planned coal production increase. A decision which sterilises the Bickham Coal resource would not significantly impact on the overall ability of the Hunter Valley to meet predicted demand for coal. However, it would secure the future of the existing agriculture, equine and tourism industries, which will provide far greater long-term regional economic benefits.

The development of the Bickham Coal site for an underground coal mine would have significant difficulty in addressing this objective of the Act. There is a significant level of uncertainty regarding the economic viability of coal mining on the Bickham site, which was identified in the Enable report of 2009. Critical to this issue is determining whether the use of the Bickham Coal site for underground mining is the most efficient and sustainable use of the site.

In making a balanced decision about optimal land use in the Hunter Valley, the State Government should consider:

- ***The value of existing industries in the Upper Hunter to the regional and NSW economy compared to the value of the Bickham Coal proposal;***

- ***The potential for the Bickham Coal proposal to impact on the Pages River and groundwater and the scenic attributes of the locality;***
- ***The existing and planned coal projects in established mining areas of the Hunter; and***
- ***The relatively small resource available at the Bickham Coal site***

Having regard to these matters underground coal mining at the Bickham Coal site is not considered to be in the best economic interests of the region nor the State.

We believe that the timing of this is of paramount importance, not only because the Minister for Planning has a unique opportunity to act now in concurrence with the CSG SEPP amendment, but also because we understand that BCC is proactively seeking to sell down some or all of its interest in the project to prospective investors. We understand that a document prepared by an investment bank is in circulation which provides an overview of a conceptual BCC underground project and it is of particular concern that the conceptual Mine Plan Design contained therein apparently illustrates designs to mine directly under the Pages River and the neighbouring Trevannah Stud Farm.

7. Others Calling for non-renewal of the BCC ELs and Bickham SEPP extension

- The Upper Hunter Shire Council, by unanimous resolution of Council, 26th March 2012.
- The Hunter Thoroughbred Breeders Association.
- The Pages River and Tributaries Water Users Association.
- The Kingdon Ponds and Tributaries Water Users Association.
- The Upper Hunter Water Keepers Association.
- Over 1600, mostly local, signatories to the UHPA Petition lodged with the NSW Legislative Assembly on 20/06/2012.

8. Other issues for Bickham

Were BCC a proponent that could put forward an economic, realistic, feasible and environmentally acceptable underground proposal that stood even the slightest chance of gaining development approval we might concede that any such proposal should progress through the prescribed process laid down in the 2005 by the DoP, the Gateway and the full rigours of Merit Assessment. However, it is very apparent that this is not the case and that it will be virtually impossible for BCC with any proposal at this site to do this, owing to the unsurmountable issues they face; including the existing Bickham SEPP amendment, the NSW Government's SRLUP and the steadfast and ongoing opposition to their plans. There are other considerable issues -

- **Geology.** That the BCC site is highly complex and unsuitable for underground mining is an accepted fact acknowledged by a plethora of geologists and, until very recently, by BCC.

"The generally complex regional geology and considerable dip in the coal seams do not encourage any type of underground mining". BCC WRA Appendix C Jan 2010

"The project area is structurally complex. The dominant structural features are NW-SE trending regional folds. The folds have variable plunges and limbs dipping at high angles, dips of over 70% have been recorded during exploration. Large scale faults are also thought to exist in the project area". BCC REF 2003 & 2004

"Bickham Coal has never been interested in underground mining . . . We consider underground mining on or near the Bickham open cut site would be technically difficult given the sloping nature of the seams". BCC letter to Scone Advocate 10/03/2010

“Seam correlations in this field are difficult, particularly due to the lack of reliable marker beds. The seams lack lateral continuity of thickness and quality and the raw ash and moisture are high. Intrusions are frequent. The area appears to be subject to significant structural disturbance. It also appears that the seams identified as having underground potential do not sub-crop in the area consequently there is almost no open cut and little underground potential in the area”

Department of Mineral Resources. “Mining and Petroleum Resources Potential NSW WRA 2002”.

“The generally geological complexity of the coal seams, fault thrust, drag folds, fractures, near surface burnt coal and deeper coal sterilised by igneous dolerite sills and dykes are adverse development parameters larger coal companies would scrutinise closely”. David Hawley, Senior Geologist, Geoplan Services [for UHPA]

The full report prepared for the UHPA by David Hawley of Geoplan Services and Gilbert + Sutherland *“Bickham Underground Coal Mine - Increased water-related risks due to complex geological stratigraphy, faulting and intrusions”* (resubmitted as Appendix 6) raises several issues of concern -

“Underground mining will, by necessity, disturb and de-water the aquifers in the locale”.

“Underground mining (as proposed) will remove and/or fracture the hard rock underlying the alluvial aquifer in the vicinity of the site. The near surface groundwater contained in these alluvial deposits are interconnected with surface water resources and thus are inter-dependent in terms of quality, reliability and sustainability, such disturbances will increase the hydraulic conductivity of the underlying hard-rock aquifers and or the transmissivity of the near surface stratigraphy. In short, underground mining at Bickham would increase the likelihood that fresh near-surface groundwater and river flow will be lost or polluted by mining induced mixing with deeper, more saline aquifers”.

“Geoplan has noted that even if only the two largest coal seams (E and G) were exploited, the underground void would be some 30,000,000 cubic meters. This void would cause greater aquifer disturbance and groundwater impacts than the open cut proposal - impacts and risks that the PAC has already determined to be unacceptable”.⁴

It is understood that the BCC conceptual underground mine design initially targets the E seam and then the G seam.

- **Amendments to the Environment Protection and Biodiversity Conservation Act 1999.** A further water issue arrived with the Federal Government’s changes to Australia’s national environment law, the *Environment Protection and Biodiversity Conservation Act 1999* that will require federal assessment and approval of coal mining developments ***“which have a significant impact on a water resource”***⁵.

We believe this will place yet another significant hurdle between Bickham and Development Approval, especially considering the Planning Assessment Commission’s conclusion on Bickham’s open-cut proposal -

⁴ Bickham Underground Coal Mine - Increased water-related risks due to complex geological stratigraphy, faulting and intrusions” David Hawley & Neil Sutherland, May 16 2012

⁵ ‘Greater protection for water resources’ Tony Burke, Minister for the Environment. March 12 2013

“that after 10 years of studies and variations to proposals there remains a considerable level of uncertainty about the nature and extent of some significant water-related risks to the Pages River”.

Experts have already confirmed those water-related risks are equal or greater when going underground.

9. Consequences of a further Bickham SEPP amendment.

i). **Compensation.** The UHPA sought Senior Counsel Opinion on three questions in regard to the renewal of the exploration licences, a further SEPP amendment and compensation, specifically -

A). Are the considerations which the Minister may take into account in the determination of the renewal applications limited to the three matters identified ins.1144(2) of the *Mining Act*?

B). In the event that the Minister determines not to renew the exploration licences, is compensation payable to Bickham for that non-renewal?

C). If the prohibition with respect to open cut mining is extended to prohibit underground mining is compensation payable to Bickham as the holder of an exploration licence?

The full document has previously been submitted, but is resubmitted in Appendix 1. The relevant reply to question C). is -

“In the event such a prohibition was extended to underground mining and that prohibition was effected prior to the approval for the undertaking of any such activity pursuant to the Environmental Planning and Assessment Act, in my opinion there is no basis for the claiming of compensation by Bickham against the Minister for Planning and Infrastructure (on the assumption that it is the Minister who effects the land use planning prohibition) for compensation for creating such a prohibition. . . Accordingly, question C in my opinion is answered in the negative.”⁶ Adrian Galasso SC.

ii). **Closure.** At what point is enough enough? For how much longer will a deeply flawed and unpopular project in an isolated location and highly sensitive environment that straddles two catchments be allowed to cling onto the tenuous lifeline, afforded it by the questionable decision of Ian MacDonald, to the economic and social detriment of the local community? The PAC Bickham Report - from nearly 3 years ago - noted -

“A number of submissions indicated that investment decisions were being deferred in industries that might be impacted by the introduction of coal mining to the Shire. Community frustration at the length of time taken to get to this stage (10 years) and the constant disruption caused by the continued existence of the threat posed by Bickham has been a source of uncertainty for business and the community”.

“It is also evident that the community feels so strongly about this threat that considerable private and industry funds have been expended engaging multiple technical experts and legal advisers to review material produced by the proponent and provide advice to government over a period of years”.

“Responding to the many iterations of the proposal has also been a substantial economic impost on individuals and organisations”.

⁶ Senior Counsel Opinion Adrian Galasso Seven Wentworth November 2 2012

“The Commission concludes that there is strong evidence . . . that the Bickham project proposal has had, and would continue to have, significant adverse effects on other industries and investments that would outweigh any advantages . . .”.

As such an extension of the Bickham SEPP to include underground mining would spare community years of further conflict and frustration whilst yet another proposal is dragged through the process towards an inevitable rejection.

iii). **Certainty.** That the BCC project has been a continued source of economic uncertainty in the community for a considerable length of time is a well established and undeniable fact. Since the reemergence of BCC in February 2012 - via a press release announcing plans to recommence exploration activity with a view to establishing an underground mine - the certainty that the local community thought they had has evaporated.

Within a month the Scone Equine Hospital, the southern hemisphere's largest veterinary practice which employs around 100 people, including 33 veterinarians, put out their own Media Release in response (submitted as Appendix 7). We include a quote from that Release from Dr. Angus Adkins the Managing Partner of the practice because it is indicative of the business community and equine industry's feelings of uncertainty generated by the continuation of the Bickham project -

“I stated at the Bickham PAC meeting: “Our plans for a major development and investment in the region are on hold until we are confident the thoroughbred industry can remain and prosper in the Hunter Valley.”

Since the decision to stop the Bickham Coal Mine was made, we have instigated a major feasibility study to investigate the requirements of the proposed hospital development and we had planned to continue our commitment to this development.

Any further consideration of a coal mine at the Bickham site removes this confidence and ensures financial uncertainty for many years”.⁷

Or as Peter Bennetto, President of the Pages River and Tributaries Water Users Association, stated in a letter to the Scone Advocate published today April 11th 2013 -

“Bickham’s inability to understand and accept the extreme high risk of the project, and their dogged determination to pursue it, resulted in the unacceptably lengthy process. This process continues with Bickham’s opaque plans to mine underground . . .

It is time, in the interests of all, for Bickham Coal Company to drop their reckless plans and move on”.⁸

10. Conclusions

The BCC project is small, geographically isolated from wider mining activity, geologically compromised and technically difficult, immaterial to the greater NSW coal industry and a major risk to water resources, including the Pages River, Kingdon Ponds and associated groundwater reserves.

It poses an ongoing threat to the continued viability of the region's sustainable rural industries, most notably the Equine Industry, that rely on that water and the local amenity. It is condemned by the findings of the NSW Planning Assessment Commission and is contrary to the aims of the

⁷ “SEH responds to Bickham Coal Company’s announcement” March 5 2012

⁸ “Time for Bickham to move on” Scone Advocate April 11 2013

Government's Strategic Regional Land Use Plan, the proposed CSG SEPP amendment currently on exhibition and the existing Bickham SEPP amendment.

The downside risks of this project far outweigh any economic benefits, and the risks ensure a constant and ongoing source of considerable community angst, frustration and uncertainty.

The NSW Government has an opportunity with the proposed SEPP amendment currently on exhibition to expediently make the legally safe and economically justifiable decision to extend the Bickham SEPP and bring to an end over a decade of conflict and uncertainty in our region. This is the only logical decision that can be made after proper consideration of all the mountains of scientific, technical and social evidence and data already produced, collated and gathered on this project.

APPENDIX

1. Senior Counsel Opinion, Adrian Galasso SC. November 2 2012
2. Bickham Timeline
3. 'Water-related risks of underground mining in the Bickham area', Gilbert +Sutherland. March 12 2012
4. Bickham PAC Report Quotes
5. 'Bickham Coal Site - Hypothetical Underground Coal Mine Strategic Assessment', ERM Australia, May 4 2012
6. 'Bickham Underground Coal Mine - Increased water-related risks due to complex geological stratigraphy, faulting and intrusions' David Hawley & Gilbert + Sutherland, May 16 2012
7. 'SEH responds to Bickham Coal Company's announcement', Scone Equine Hospital March 5 2012
8. Department of Planning Map 3 Bickham SEPP
9. Department of Planning Map of Equine CIC in Upper Hunter Shire

srlup - Consideration for inclusion in the Critical Cluster definition

From: Hunterstay <mail@hunterstay.com.au>
To: <srlup@planning.nsw.gov.au>
Date: 4/12/2013 2:03 PM
Subject: Consideration for inclusion in the Critical Cluster definition

RE: Consideration for inclusion in the Viticulture Critical Cluster definition

**The Director Strategic Regional Policy
Sydney**

Dear Sir/Madam

As president of, and on behalf of, the Broke-Fordwich Wine & Tourism Association I am writing in support of the Submission by Wollombi Valley Chamber of Commerce dated 10 April FOR Wollombi Valley to be included in the Viticulture Critical Industry Cluster. Broke-Fordwich and Pokolbin areas are part of the Viticulture Critical Industry Cluster and we believe that it is absolutely appropriate that Wollombi Valley be included for all the reasons outlined in their Submission.

Perhaps the identification of Viticulture Critical Industry Cluster areas has relied on outdated information? If so, this would explain why the now well-developed wine growing industry that is the Wollombi Valley has been overlooked.

The strength and importance of Wollombi Valley is such that our Association has formed a strategic partnership with Wollombi Valley Chamber of Commerce and we are working close with them to provide an enhanced experience for visitors to Hunter Wine Country. We have completed a wine trail map linking Wollombi, Broke-Fordwich and Pokolbin, demonstrating the viability of Wollombi Valley as a significant part of the Hunter Wine Country.

Given the impact of non-renewable industries on the environment, the land and the community I am sure you must be receiving many requests to protect regions throughout the State. What makes this plea different? Simply, that there is a seamless connection between Wollombi Valley and the Viticulture Critical Industry Cluster containing the Broke-Fordwich and Pokolbin areas.

I hope you are able to accept our argument and propose that the appropriate existing Viticulture Critical Industry Cluster be expanded to include Wollombi Valley.

I look forward to your reply,

Kind regards

Eden Anthony
President
Broke Fordwich Wine & Tourism Association

Eden Anthony
President
Broke Fordwich Wine & Tourism Association
brokefordwich.com.au



Lock the Gate Alliance Submission to the Draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013

Lock the Gate Alliance supports the protection of zoned residential areas and mapped critical viticulture and thoroughbred industry clusters provided by the proposed SEPP amendments. However, these amendments fall a long way short of addressing the concerns of community groups and residents across New South Wales.

1. These amendments do not provide protection for other important rural industries, sensitive environmental areas and drinking water catchments. In addition they do nothing to protect rural residents living outside zoned residential areas on farms and other rural properties. Lock the Gate Alliance would like to see the amendments in the SEPP broadened to implement exclusion zones prohibiting unconventional gas development as follows:

- 2km exclusion zones around all residential dwellings;
- Exclusion zones with a 2km buffer around all identified food producing lands, important rural industries, drinking water catchments and sensitive environmental areas (including equine and viticulture Critical Industry Clusters).

2. The proposed amendments do not apply to other forms of unconventional gas such as shale gas and tight gas which use similar technologies to coal seam gas and lead to the industrialisation of similarly large areas of land. The production of shale and tight gas is likely to have similar environmental and health impacts to coal seam gas extraction and should therefore be included in the SEPP provisions, particularly as exploration for these types of gas has already commenced in parts of NSW (e.g. tight gas in the Northern Rivers region) and may increase in the future. Any exclusion zones should apply to all forms of unconventional gas as per point one above.

3. The amendments as they currently stand allow local council's to exempt an area from the protections, while failing to give councils the right to include additional areas for protection. Lock the Gate Alliance would like to see the provision for councils to veto the SEPP provisions removed unless it is matched with an equivalent power for councils to list new prohibited areas.

4. The exclusion zones in the proposed SEPP amendments do not apply to coal mining despite the rapid and continuing encroachment of large open cut coal mines on residential areas, high conservation value lands, and agricultural lands and within drinking water catchments in many parts of NSW. Given the well documented health and environmental impacts of coal mining, Lock the Gate Alliance would like to see the amendments in the SEPP broadened to include exclusion zones from coal mine development as follows:

- 2km exclusion zones around all residential dwellings;
- Exclusion zones with a 2km buffer around all identified food producing lands, important rural industries, drinking water catchments and sensitive environmental areas (including equine and viticulture Critical Industry Clusters).

5. As they are currently proposed the SEPP amendments only apply to projects that have not yet been approved. This means that certain high impacts projects that have already been approved will not be subject to these provisions. Lock the Gate Alliance believe that 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.

To: The Director Strategic Regional Policy
Department of Planning and Infrastructure
NSW Government

Date: 11 April 2013

Re: **Submission regarding “Draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013”**

To this Department representing the citizens of NSW

It is very positive news to see No Go Zones for coal seam gas mining included in the these draft amendments to NSW's mining SEPP. There are areas that should be zoned free from mining for social, environmental and industry reasons. For too long it's felt that all the favours lie with the mining industry and its supporters rather than with communities, who at times, it feels are being treated as collateral damage in the rush for short term profit.

I welcome this new 2km no go zone around suburban areas and around vineyards and horse-studs. However, if these no go zones have been introduced because CSG mining is now considered not safe in residential areas or near horses and vineyards surely, by definition, it can't be safe in drinking water catchments, on food producing lands, in environmentally sensitive areas such as the Pilliga State Forest or near **any** residential home.

If CSG mining is not safe near vineyards, how can it be safe on any high yield food producing land like the Liverpool Plains, an area that is a key food bowl for NSW. While man can live without wine, the cities can't live without food. Good government comes from democratic inclusion and consistencies which appear to be absent in selecting only wine producing land as worthy of protection.

Before the 2011 election, Barry O'Farrell, now NSW premier, and representing the Liberal Party, said there would be no mining in water catchments and that *“any mining leases and exploration permits will reflect that common sense. No ifs, no buts, a guarantee.”* As an extension to this it makes sense that Drinking Water Catchment Areas, specifically Sydney's 5 drinking water catchment areas, should be no go zones for all mining, not just CSG but coal as well. Instead there is a submission before NSW government at moment for Gujarat Coal to increase its coal mining from 300,000 tons per year to 3,000,000 tons per year. I can only think that, if the SEPP no go zones covered drinking water catchments as well, Gujarat would not be applying for this extension. Can't eat coal, can't drink gas. Water is life.

The NSW government is currently developing a NSW Renewables action plan. There is no research that shows that methane emissions from coal seam gas are any lower than coal over a 20 year period, yet this has been behind government support for this industry. I believe the mining SEPP should also include an amendment to cover both upstream and downstream Co2 emissions and in this way will link to renewable energy objectives to reduce harmful greenhouse emissions.

If the **risks of air/water/soil contamination and other cumulative impacts of CSG mining** (such as noise, light, reduced security, loss of land value, loss of privacy, increased traffic, loss of land amenity and future income) are deemed not appropriate for five residential zones, why are they deemed appropriate for all other residential zones (all land where residential buildings are permitted)? The 2km buffer should cover all residential dwellings, regardless of their zoning and geographic location. Farms who have already signed agreements with CSG companies may get wells within 2km of their homes and also within 2km of homes on neighbouring farms. I'm asking that there should be a 2km no go zone within any domestic premise, particularly on regional properties that have said no to mining companies entering their land.

Coal

Currently the 2km no go zones only apply to CSG mining however, for the same reasons, it should also apply to coal mining which has a similar detrimental environmental impact on water but also air quality, agricultural land degradation and regional communities. 2km No Go Zones should apply to coal mining in drinking water catchment areas.

Pilliga State Forest

The proposed amendments cover horses and vineyards but not areas of biodiversity including wetlands (an alarming 50 per cent of the world's *wetlands* have been *destroyed* in the last 100 years) and sensitive environmental areas such as Pilliga State Forest with its threatened and unique species as well as being a recharge area for the Great Artesian Basin. Please can you extend no go mining zones to cover sensitive environments such as the Pilliga State Forest. Coal seam gas mining creates permanent, destructive changes to natural systems, contributing to significant levels of vegetation clearing, land degradation, biodiversity fragmentation, loss of groundwater-dependent ecosystems and the breakdown of communities. Aside from the water implications (up to 30,000,000 litres are need per well) and high Co2 emissions, the impact of mining in an area of biodiversity is significant including:

- bush is cleared to create roads for the trucks that go continuously to and from the wells, bisecting habitats and cordoning species into unsustainable islands of land
- the pollution of water tables and rivers leads to the mass death of all types of living creatures and plants
- the installation of full scale industrial machinery scares away wildlife
- the uncontrolled venting of fugitive methane emissions poisons the atmosphere.

In summary, I ask you to:

- extend the SEPP no go zones to include a 2km buffer around all residential dwellings.
- extend the SEPP no go zones to include all identified food producing lands, water catchments and sensitive environmental areas.
- expanded the SEPP amendments to apply to coal mining in drinking water catchment areas and to all forms of unconventional gas extraction including shale gas and tight gas.
- to apply the SEPP amendments to all projects that have been approved but have not yet satisfied their conditions of approval, and have not yet commenced operation.
- to revise option for council's to exempt an area from the protections so that it also includes giving councils the right to include additional areas for protection
- protect the NSW Pilliga State Forest, public land in guardianship of the government for the people of NSW, from all mining.

Thank you for considering these points.

Best Isabel McIntosh
Regional Coordinator, Lock the Gate
Postcode NSW 2015
Ph 0412 407472

Our Ref: FRACG SEPP Submission. 13.04.12

The Secretary
c/- 417 Fullerton Cove Road
Fullerton Cove NSW 2318

12th April 2013

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

Email: srlup@planning.nsw.gov.au

Dear Sir/Madam,

The Fullerton Cove Residents Action Group Inc. represents a diverse group of residents from the Port Stephens Shire in NSW, with reach to over 900 public supporters.

Over the last 2 years the Coal Seam Gas Industry has continued to develop within the Lower Hunter, even though the Lower Hunter was excluded from any public briefing sessions in 2011, is heavily populated and intrinsically linked to the Hunter River Catchment and Ecosystems.

Under PEL 458 Dart Energy now has approval for 2 x CSG exploration (production style) wells at Fullerton Cove, which were opposed in court by the FCRAG Inc. over a complex legal case in the Land and Environment Court NSW, still subject to possible appeal.

Whilst the FCRAG Inc. applaud the NSW Liberal Government for its initial approach to 're-think' previous Labour mandates for free-range Coal Seam Gas mining across NSW, we share strong community concerns about the limitations of the proposed SEPP (Mining) Petroleum Production and Extract ive Industries (Coal Seam Gas Exclusion Zones) 2013 amendments as proposed.

Fullerton Cove is a semi-rural/residential hamlet which is located on the Hunter River 5km, North of Stockton, Newcastle NSW. It is characterised as a:

- Drinking water catchment for the Hunter and for local residents.
- Flood plain RL 1-3m AHD.
- High Water table (1-2m below surface).
- Nationally recognised 'High' Priority Ground Water Dependant Ecosystem by the Federal Water Commission.
- Part of the RAMSAR. Internationally listed Hunter Wetlands.
- Proven breeding and foraging ground for rare and nationally endangered species.
- Breeding ground for International migratory bird communities.
- 2 Freshwater subterranean Aquifers known as the Tomago/Stockton/Tomaree system which provides Newcastle, The Hunter and Central Coast 20% drinking water

Fullerton Cove Residents Action Group, c/- 417 Fullerton Cove Road Fullerton Cove NSW 2318
Ph 0402857888

- Acid Sulphate soils.
- Koala Habitat and bushfire prone lands.

With respect we offer the following points for your consideration prior to arrival of the draft SEPP amendment to better safeguard the State and Nationally Significant Natural groundwater resource which exists at Fullerton Cove and throughout Port Stephens NSW.

1. Prohibiting new CSG activities within 2km 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. Fullerton Cove's drinking water catchment is the land itself as rainwater permeates the ground to charge the Aquifer. Aquifer catchments must be excluded from CSG exploration and mining areas.
2. There is a risk of exploitation of the council "opt out" clause of the amendment. Allowing councils to override the 2km exclusion zone may lead to negative environmental outcomes and exposes councils to lobbying by powerful industry interests and a heightened risk of corruption. This clause should be removed.

Dart Energy's own 'experts' have told us they will mine horizontally 2.5km and with future technology up to 5km. this can cause subsidence, gas leaks, mechanical failures and contamination well outside of any 2km buffer.

3. CSG mining threatens water quality and availability, air quality, health, food production and other industries. The proposed amendment to the SEPP still allows risk to communities such as Fullerton Cove and the surrounding environment from CSG exploration or mining. The government must put in place policies that cumulatively safeguard our land, water, ecosystems and communities from both coal and unconventional gas industries, such as mandatory EIS, independent (not CSG company provided) ground water research and monitoring before any works are approved. Where existing data is available on ground water it should also be used to prevent mining companies falsely suggesting they need to mine or 'explore' to know what exists.
4. Given the risks to water resources and public health from CSG, the government should 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. The FCRAG Inc. has alerted Hunter New England Health to our concerns.
5. In order to protect our critical drinking water, the exclusion zones should be extended to prohibit CSG extraction in or near Lower Hunter water catchments areas, Special Areas and other drinking water catchments such as our local residents who rely on 'immediate catchments' to charge aquifers, which is shared via ground bores, back into domestic tanks for watering stock and vegetable gardens.
6. Exclusion zones should include protections for our public lands, including high conservation value land, land bordering national parks, state conservation areas RAMSAR Wetlands and travelling stock routes.

7. Exclusion zones should also protect our critical farmland including 'Intensive Agriculture' which exists at Fullerton Cove by prohibiting the expansion of coal mining and unconventional gas operations on productive agricultural land including 'Intensive Agriculture' which exists at Fullerton Cove.
8. 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. 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, gas flaring from stagnant exploration wells in bushfire prone lands, and koala habitat areas such as Fullerton Cove.
9. 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 CSG development between individual horse studs, vineyards or major tourism and public transport hubs such as the Newcastle Airport economic development zone in Port Stephens, would limit their ability to operate as a cluster and runs counter to the intent of the amendment to protect these critical rural industries.
10. The SEPP amendment only relates to gas from coal beds. This leaves out tight gas, which is being explored in parts of the Northern Rivers region. All unconventional gas should be included in the SEPP amendment to avoid a patchwork of regulations that leaves parts of the state at risk.

Thank you for your serious consideration of these above mentioned matters. We would welcome an opportunity to support our claims in person to the review panel.

Yours sincerely,



On behalf of the Fullerton Cove Residents Action Group Inc.
Justin Hamilton
Public Officer
Phone: 0413 245 777



Gloucester Environment Group Inc

PO Box 134, Gloucester, NSW, 2422

12 April 2013

The Director Strategic Regional Policy,
Department of Planning and Infrastructure.

Dear Director,

RE: AMENDEMENT TO SEPP RELATING TO COAL SEAM GAS

This is a submission on behalf of the Gloucester Environment Group (GEG) concerning the proposed amendments to the State Environment Planning Policy (SEPP) concerning coal seam gas.

The GEG undertakes regular monitoring of water quality in rivers around Gloucester and undertakes other activities designed to preserve and improve the local environment. It is concerned about the impact of mining on the Gloucester environment.


The GEG welcomes some aspects of the proposed changes to the relevant SEPP however considers that the changes do not go far enough to deal with likely adverse impacts of coal seam gas (CSG) extraction in the Gloucester Shire.

The GEG submits that much more should be done to examine the likely impact of CSG extraction on the quality of river water and underground water before any extraction activity is permitted.

The GEG submits that it is unconscionable for gas extraction activity to be permitted within 2 kilometers of residences in the Gloucester Shire. Such activity will threaten the health and wellbeing of local residents.

The GEG submits that all restrictions imposed upon CSG extraction should also apply to coal mining.

Yours Sincerely,


John Watts

President :
Jeff Kite Tel: 6558 7436
Email : jeffkite@ipstarmail.com.au

Secretary :
Carol Bennett Tel : 6558 4333
Email : carol_bennett@dodo.com.au

Treasurer :
John Watts Tel : 6558 9769
Email : john-watts1@bigpond.com

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

Submitted by the Caroon Coal Action Group

11th April 2013

Dear Sir,

Thank you for the opportunity to make a submission to this policy.

The Caroona Coal Action Group represents some two hundred farming families who live and work on the Liverpool Plains. This area is world famous in agricultural circles for its extremely productive agricultural land. It is the most drought resistant cereal producing area in Australia, producing well above the national average for cereal production. It is also an area well known for its high quality fibre and meat industries.

The Liverpool Plains are made up of self mulching basalt soils underlain by significant water resources. It is part of the Namoi Catchment which feeds into the Murray-Darling Basin. The Liverpool Plains also has a mild climate which enables it to grow two crops per year – unlike many areas in Australia where one crop per year is the norm. Because of its drought resistant qualities, this area is highly desirable country and the land values are the highest in the state for cereal and fibre production.

Farmers on the Liverpool Plains are extremely concerned about the inevitable devaluation in their land values should coal seam gas (CSG) production be allowed to advance in this area. Inquiries to the Queensland Valuer Generals department have done nothing to alleviate this concern. Across gas producing regions, the Queensland Valuer General claims that land values have fallen from between 2% to 30%. They have subsequently accepted an overall decrease in property values of 12%. These values were arrived at approximately three years ago. This was well before the CSG industry advanced into the Darling Downs, a similar area to the Liverpool Plains. Anecdotally, properties close to CSG activities have simply not been selling.

More immediately on the Liverpool Plains, a property neighbouring the Kahlua Pilot Production site was passed in without a bid. Three registered buyers pulled out because of the Kahlua development.

Most farmers, like many small businessmen, enjoy a healthy relationship with their banks. What bank would continue to finance a property which has lost one third its value? To place formerly prosperous and successful farmers in such a situation is a disastrous outcome and poses serious questions about freehold property rights.

The CSG industry has never operated on such a scale in high quality farming country. It is an industry where impacts to ground and surface water are largely unknown. It is an industry which still has no solution to the disposal of the vast amounts of water which will be extracted or subsequent disposal of quantities of salt if this water was treated. Health impacts, emissions and impacts upon livestock have yet to be examined.

Our community is conducting informal surveys asking a simple question: Do you want your roads to be CSG Free. Currently three communities have completed their surveys with an overwhelming 97% responding Yes to living on a CSG Free road. Current yet uncompleted surveys for the remaining communities suggest that their results will be similar.

As a community, we ask that our area is excluded from CSG development. The future of the Liverpool Plains lies in sustainable agricultural production. The Australian gas industry cannot compete in the international markets because of high costs of production and increasing competition from countries such as Canada and America. Why sacrifice productive agricultural country to a short term industry with an increasingly unviable future?

Yours sincerely

ROSEMARY NANKIVELL
CHAIRMAN OF THE COAL SEAM GAS COMMITTEE
CAROONA COAL ACTION GROUP
Wimboyne
QUIRINDI NSW 2343
02 67474004
0428 643284

srlup - Draft amendment to SEPP(Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013.

From: "ted & jenny finnie" <tjfinnie@skymesh.com.au>
To: <srlup@planning.nsw.gov.au>
Date: 4/12/2013 3:54 PM
Subject: Draft amendment to SEPP(Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013.

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

Dear Sir/Madam,

SUBMISSION TO THE DRAFT AMENDMENT TO SEPP

The Draft Amendments to the above SEPP are welcome as far as they go. In order to provide full protection to the Critical Industry Clusters so far identified, there needs to be proper protection of their water resources. Both the Equine and Viticultural Industries use irrigation water from river and under- ground sources. There is virtually no information available on the connectivity between surface and ground water in the Upper Hunter, so, allowing Coal Seam Gas mining any-where in the Upper Hunter has potential to fatally damage all of the CICs in the area.

Also the Draft Amendment protects residential areas of greater than 1000 people. Are people living in towns with a population of 800 less worthy of protection than people living in a town with a population of 1200? Surely all residential areas should be protected.

Food producing areas are even more critical to the well-being of our Nation than the Equine and Viticultural areas. Arable country in Australia makes up only 4% of our total land-mass. Putting any of this arable land at risk of permanent damage is untenable.

We request that you give further consideration to the above identified inconsistencies.

Yours sincerely,

Ted Finnie
for
Merriwa Healthy Environment Group

Greg Kelso

President

Laguna P&C

12th April 2013

To

The Director Strategic Regional Planning

Department of Planning and Infrastructure

GPO Box 39

Sydney 2001

Dear Sir/Madam,

I write as President of Laguna Parents' and Citizens' Association. Thank you for the opportunity to comment on the proposed CSG Residential Exclusion Zone.

I ask that the village of Laguna have this zone applied; that no mining should be allowed in the water catchment area of Wollombi in which Laguna is situated; and finally that all schools in NSW have the exclusion zone around them.

The village of Laguna is a centre for landholders and tourists. It has a heritage listed school, fire brigade, community hall, church and trading post. The village is situated on World Heritage listed Great North Road. This is not an appropriate area for CSG mining. I therefore ask that the residential exclusion zone be applied to Laguna.

I strongly believe that mining should not be allowed in a water catchment area. The Wollombi Catchment hosts an environment that has diversity of native plants and animals that depend on the supply of water from the Wollombi Brook. To extract CSG, millions of litres of water are pumped from deep beneath the earth, threatening ancient aquifers and producing enormous quantities of contaminated, waste water. To have this happen in a catchment area is deadly.

Finally I ask that all schools, not just Laguna School where my children attend, but all schools in NSW be protected from CSG by having the exclusion zone granted to them for the safety of our next generation. This as leaders is your responsibility – to leave a place better for the next generation not worse.

Yours sincerely,

Greg Kelso

President Laguna P&C.

Gloucester Branch NSW Farmers Association

Submission on State Environment Planning Policy Amendment - CSG Exclusion Zones

The Gloucester Branch of NSW Farmers appreciates the opportunity to provide feedback on proposed amendments to the SEPP (Mining, Petroleum Production and Extractive Industries).

We think it is just common sense that all mining activity should be excluded from areas close to established towns and villages and from land that has high farming value. We appreciated the move to set limits on mining and balance the competing and legitimate interests of different industries. However, we have the following comments on the SEPP Amendment.

1. The SEPP should extend the 2 km buffer to Biophysical Strategic Agricultural Land (BSAL). The amendment does not set a sensible balance between short-term mining wealth and the State's strategic agricultural interests. In particular it does nothing to protect BSAL as defined by the SRLUP Process. We view this as a glaring and inexcusable oversight. We have no faith that other elements of the SRLUP Process will provide any meaningful protection to BSAL.
2. The 2 km buffer should be extended to all rural residences. We have frequently voiced our concern that the State has failed in its duty to protect rural residents and their assets from plunder by powerful mining companies. CSG must be made to fit *fairly* into existing physical, social and economic circumstances. If 2 km is the appropriate separation between residences and CSG then it should apply to all residences. There is a point (in economic terms) where the cost of purchasing residences to allow CSG development is more than outweighed by the profit from CSG production. This should be the mechanism for determining where CSG can proceed.
3. The "opt-out" clause is fraught with problems and should be removed. It could be viewed by cynics as an intentional flaw placed in an apparently iron clad protection. It could be open to exploitation in all manner of ways. Of particular concern is the fact that once a Local Government has opted-out, it will not be in a position to opt back in. Local Councils are sometimes out of step on certain issues with their constituents. The only check on their performance is the ballot box. Community perceptions also change, especially with industries that are in their infancy and where information is rapidly evolving.
4. These changes only address CSG. Given that the SEPP covers mining more broadly, it would have been timely to consider appropriate buffers for other activities, particularly open-cut coal mining. While we appreciate the current attempt to offset CSG from residences, the harmful environmental and health impacts of open-cut coal mining are well researched and documented. There is clearly an even stronger case for a similar offset of open-cut coal mining activities. If it is appropriate to have a 2 km exclusion for windfarms and CSG in NSW then why not the same for open-cut coal mining activities.

Aled Hoggett

Chair

NSW Farmers Gloucester Branch

srlup - FW: Submission re' the Mining SEPP

From: "GREA ." <go_river_@hotmail.com>
To: "srlup@planning.nsw.gov.au" <srlup@planning.nsw.gov.au>
Date: 4/12/2013 11:05 PM
Subject: FW: Submission re' the Mining SEPP

The Georges River Environmental Alliance has a particular interest in the protection of water quality and volumes in the Georges River catchment. Our interest is more generally also in water security 'beyond our own catchment backyard'. We therefore object to the fact that the proposed amendments to the Mining SEPP do not argue for the protection of drinking water catchments in general from the negative impacts of extractive industries. Since we are part of greater Sydney our specific interest is in protecting the Metropolitan Catchments (Woronora, Cataract, Cordeaux, Avon and the Nepean) and the Warragamba Dam catchment.

We urge you to re-write the Mining SEPP amendments to very specifically exclude longwall coal mining and any Coal Seam Gas drilling from drinking water catchments. Water is the highest priority, and its protection more important than income accrued from any extractive fossil fuel industry.

Furthermore we also argue prime food producing land, and the Great Artesian Basin, should also be similarly protected for long term food and water security reasons.

Sharyn Cullis
Secretary, Georges River Environmental Alliance



NATIONAL PARKS ASSOCIATION OF NSW
protecting nature through community action

Coffs Harbour-Bellingen Branch
1/80 Hood Street, COFFS HARBOUR, NSW, 2450
coffs@npansw.org.au

11 April 2013

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

Dear Sir/Madam,

The Coffs Harbour/ Bellingen Branch of the NSW National Parks Association represents interests of members of the Association in the Coffs Harbour and Bellingen areas.

We welcome the opportunity to comment on the proposed policy but note the limited exhibition period has not enabled us to fully compile the interests of local members .

The National Parks Association is the longest established conservation organisation in New South Wales and the only conservation organisation with a network of branches throughout the state .

The National Parks Association and its branches have been working for over fifty years to identify and protect the important natural areas in New South Wales. The existing conservation network throughout the state is the result, at least in part, of the Associations efforts over this time. Unfortunately, the application of any recognised scientific criteria , will clearly demonstrate the network for the protection of biodiversity and natural areas in this state still has a long way to go to be completed.

It is widely acknowledged that over the last fifty years the building a natural areas reserve system in New South Wales has played second fiddle to the protection of areas of mineral, gas and oil resource potential. This has resulted in substantial restraining on the development of the conservation reserve system which should now be reversed by appropriate amendments to the mining SEPP. Areas which are likely to be required to complete the natural area conservation reserve system should be identified and protected against the impacts of mining.

The proposed amendments to the SEPP leave large parts of the state open to Coal seam gas development, as the policy does not apply to projects already through the approval stage, including a massive gas field planned for the Pilliga Forest and more than 100 gas wells near the community of Gloucester.

The SEPP does not take into account any impacts of Coal seam gas mining operations within catchment areas for water supply and for other critical services and industries., including in Sydney Catchment Authority (SCA) Special Areas. The Apex Coal seam gas project in the Illawarra escarpment will be drilling close to three key water catchments including the SCA Woronora Special Area, which provides water for the people of Sydney and Wollongong.

To extract Coal seam gas, millions of litres of water are pumped from deep beneath the earth, threatening ancient aquifers and producing enormous quantities of contaminated waste water.

We strongly support further amendments to the SEPP to protect drinking water catchments from mining and gas development, as promised by Premier O'Farrell in 2009: "The next Liberal-National government ... will ensure that mining can't occur in any water catchment area, and will ensure that mining leases and mining exploration permits reflect that common sense. No ifs, no buts, a guarantee"¹.

The draft SEPP also does not take into account the need to protect state conservation areas and other public lands and important conservation lands from inappropriate mining and gas developments. The government has a responsibility to protect the natural and cultural heritage of state and public lands for the benefit of the people of New South Wales. Coal seam gas extraction is inconsistent with the management principles for state conservation areas and public expectations regarding the management of protected areas and areas of high biodiversity other natural areas and areas of cultural significance .

Clause 9A, sub clauses 2 and 3 of the amendment gives local councils the ability to "opt out" of Coal seam gas mining prohibition in certain areas identified for Coal seam gas exploration and production. While empowering local councils to have a say on development is inherently a good idea, this clause would allow gas companies to circumvent the safeguards by pressuring councils to declare lands exempt that would otherwise be protected by the amendment.

The proposed prohibition of new Coal seam gas activities within 2km of residential areas and critical industry clusters is a positive first step towards protecting urban communities and important industries from the damaging impacts of Coal seam gas. However, The proposed policy will not unfortunately deliver much-needed protection for our drinking water and other important catchments, important agricultural lands and iconic natural areas and areas of biodiversity value .

The inclusion of a council "opt out" clause in the amendment allowing councils to override the 2km exclusion zone is totally unacceptable .It may lead to negative environmental outcomes and exposes councils to lobbying by powerful industry interests and a heightened risk of corruption Our members have direct experience on the NSW North Coast of the vulnerability of local councils to such lobbying campaigns . This clause should be removed in its entirety .

Coal mining and minerals extraction threatens water quality and availability, natural areas and air quality, . The proposed amendment to the SEPP does nothing to protect the natural environment from coal mining. The government should put in place policies that safeguard our land, water and natural areas both minerals extraction, coal and unconventional gas industries.

Given the clearly established and demonstrated risks to water resources and public health from Coal seam gas, the government should place a moratorium on all Coal seam gas drilling until a comprehensive study into the human health impacts of these practices has been conducted. The recommendation of the South Western Sydney Local Health District should be applied to NSW.

In order to protect our critical drinking water, the exclusion zones should be extended to prohibit Coal seam gas extraction in or near Sydney Catchment Authority (SCA) water catchments areas, SCA Special Areas and other drinking water catchments and important catchments across New South Wales.

¹ .

Exclusion zones should include protections for our public lands, including high conservation value land, areas required for a comprehensive adequate and representative reserve system of natural areas , recognized wetlands , recognized wildlife key habitats and corridors, wilderness areas, wild and scenic rivers ,land bordering national parks, state conservation areas and travelling stock routes.

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 Coal seam gas extraction. The policy should be amended to include the development of air pollution standards that are specific to coal seam gas and monitoring of air pollutants at all Coal seam gas fields and associated infrastructure, such as compressor stations.

The SEPP amendment only relates to gas from coal beds. This leaves out tight gas, which is being explored in parts of the Northern Rivers region. All unconventional gas should be included in the SEPP amendment to avoid a patchwork of regulations that leaves parts of the state at risk.

Yours sincerely,

Ashley Love

President

Coffs Harbour /Bellingen Branch

To:

The Director Strategic Regional Policy, Department of Planning and Infrastructure

From:

Nimbin Environment Centre,

54 Cullen St, Nimbin, NSW 2480. Ph 6689 1441

Friday 12 April 2013

Re: Draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013

Someone is proposing amendments that would prohibit coal seam gas 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). Currently, two CICs have been identified - the Upper Hunter equine and viticulture CICs.

Dear Director of Strategic Regional Policy,

By now it ought to be clear to you, your bureaucracy and the government you work for that Coal Seam Gas and the other unconventional gases (tight sands and shale gases) are untenable because:

1. **Global Warming GHGs**, when the life cycle fugitive methane emissions from unconventional gas are accounted the total global warming contribution from burning these unconventional gases is worse than the life cycle emissions from burning coal.
2. **Water Pollution**, even the gas industry virtually guarantees that surface water and aquifers will be polluted, so far it is a regular occurrence, and the National water commission estimates a minimum of 10000 years for aquifers to detoxify.
3. **Volatile Organic Compounds in Air Emissions**, which comes from unconventional gas produced water, compressor stations, condensation tanks and other processing operations that makes the area uninhabitable for animals, including people. Those that remain suffer health effects including skin rashes, eye irritation, bleeding nose and ears, lung irritation including coughing up blood, headaches, nausea and so on.
4. **The industry takes over the land excluding previous industry**, the sheer proportion of land required for gathering lines, water treatment, gas processing etc is so huge that the prior agriculture or environment is no longer viable. Ordinary rural privacy is invaded by the gas industry, amenity is lost where the industry is established.

In case it's not clear to the NSW government and its departments hell bent on mining unconventional gas, just the touted CSG reserves in Eastern Australia would add 2ppm CO_{2-e} to the atmosphere, an atmosphere already overfull of GHG gases, an atmosphere into which is pumped a growing amount of CO₂ annually and the effects of which we also see growing annually. To continue to promote the plunder of unconventional carbon reserves when there is several times too much carbon in conventional reserves is unconscionable.

Also, in case it's not clear to the NSW government and its bureaucracy, it is an insult to the rest of us to exclude enterprises of little consequence (horse studs & vineyards) from the onslaught of unconventional gas and not to exclude areas of far more significance for food, for ecological values, natural beauty and animal (including human) habitat. Note that even if you remove this insult the unconventional gas industry is not environmentally sustainable on this planet because of global warming which will result in an unliveable planet.

A half decent NSW government would drop this fossil fuel assisting legislative nonsense and get busy facilitating renewable energy infrastructure, in particular solar thermal, solar PV and wind turbines. Plenty of satisfying jobs and we all get a liveable planet or what's left of it.

We are happy to provide further information or clarification, please just ask. We are also keen to contribute our expertise to the new NSW policy on replacing fossil energy, especially unconventional fossil energy with renewable energy systems – then everybody wins, including horse studs, vineyards and residential areas. How about it? That would be a **real** policy.

Yours Sincerely,
Alan Roberts (Secretary Nimbin Environment Centre)
Boundary Creek Road,
Bentley, NSW 2480
Ph 02 666 35 224
Eml: alan_roberts@ozemail.com.au



Josephite Justice Office

PO Box 1508 North Sydney NSW 2059

SUBMISSION

AMENDMENTS TO MINING SEPP

Re: proposed amendments to State Environmental Planning Policy (The Department of Planning and Infrastructure)

This submission is presented on behalf of the Josephite Justice Office, a ministry established by the Sisters of St Joseph. The congregations of the Sisters of St Joseph (numbering over two thousand religious women and their associates) were founded in the mid-nineteenth century by Mary MacKillop and Julian Tenison Woods, to work with those suffering from poverty and social disadvantage in our society. The congregations have a long history of involvement with both city and rural communities in the areas of health, education, community work and welfare.

We wish to express our serious concern about the rapid growth of coal seam gas exploration. In this, we support the anxiety of community members, scientists and environmentalists, who have described the unexplored, as well as the demonstrable consequences of coal seam gas exploration.

- Coal seam gas is not “clean” energy source – merely somewhat cleaner than brown coal, as it produces less greenhouse gas.
- The “clean” promise of CSG has been thrown into doubt by inquiries into the overall emissions created by this industry,
- Data regarding its outcomes have been largely moderated by Mining companies. Even with the questionable claims, the industry itself admits that its carbon footprint – to drill the gas and turn it into liquid for export – is very emissions-intensive.

In particular it is our conviction that the proposed amendments fail demonstrably to protect those in rural areas.

- They do not take into consideration the need to safeguard food-growing areas.
- They do not shield water catchments and sensitive environmental areas.
- They do not cover coal-mining or other types of unconventional gas.

We believe that any decisions regarding coal seam gas exploration need to protect the rights of individuals and communities to a safe environment, one which protects their land and the future of their children and their communities. For these reasons, we recommend a number of changes to the SEPP Amendments:

- To include a system of comprehensive assessment, including the full range of potential health risks, and risks associated with air pollution, ground and surface water contamination and noise;
- To broaden the buffer zone to include at least a 2-kilometre safeguard around residential dwellings.
- To provide exclusions for all identified food-producing land, water catchment areas

and sensitive environmental areas.

- To include in the regulations all forms of unconventional gas extraction, including shale gas and tight gas.

Water is a central issue in this debate. Australia as a country is dependent on water for its current and future needs. The evidence of climate change indicates that this will be exacerbated in the future. At this time in our history, there appears to be overwhelming evidence of the serious impact of fracking on both the quality and the quantity of our water. It appears that it is impossible to rebuild aquifers and undo water contamination.

Clearly, we don't yet know enough about the potential health and environmental impacts of coal seam gas mining - particularly fracking - to move ahead at the speed with which governments are currently accepting development proposals. The Josephite Justice Office urges the Government to take a precautionary approach to this industry and protect those areas that are most at-risk, including urban areas, agricultural land, water catchments and high conservation value natural areas.

Contact: ☐

Jan Barnett rsj

Josephite Justice Coordinator

0403 634 534

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The Josephite Justice Office(JJO) is a ministry of the Congregations of the Sisters of St Joseph. We educate, advocate and work for justice, for earth and people, especially those pushed to the edges.



12 April 2013

The Director Strategic Regional Policy
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001
E: srlup@planning.nsw.gov.au

Dear Sir/Madam

RE: Submission - Draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013

On behalf of NSW Farmers Association Gunnedah District Council, I would like to have this letter acknowledged as a submission to the above draft amendment.

Our members are very concerned about the draft amendments with particular reference to the 2km exclusion zone for residential/urban areas. If there is a need to exclude residential/urban areas due to concerns of the impact of CSG exploration and development on residents water, health and air quality, why are these same concerns not relevant to rural residents? Our members expect the same considerations to apply to all residential dwellings not just those in urban areas, such that rural residences are captured by any further amendments.

Furthermore our members are concerned regarding the right of local government areas (LGA's) to override the exclusion zones. Whilst our members believe that more decision making needs to be decentralised, it doesn't make sense to allow LGA's the right to override exclusion zones, yet give them no voice or power in terms of approvals or conditions. If the government seeks to give LGA's power to override the exclusion zones, then they should also divest power from state government to the LGA's in terms of approval of state significant projects as well.

Recommendations

1. Productive agricultural land is excluded from CSG and mining activities.
2. Land where any residential activity is occurring is excluded from CSG and mining activities.
3. Failing (1) and (2) that rural residences are protected similarly to their urban counterparts and have a 2km exclusion zone around them.
4. That LGA councils are not able to override any exclusion zones.

Thankyou for your consideration of our members' concerns.

Kind regards

Judi Sheedy
Chair
NSWFA Gunnedah District Council

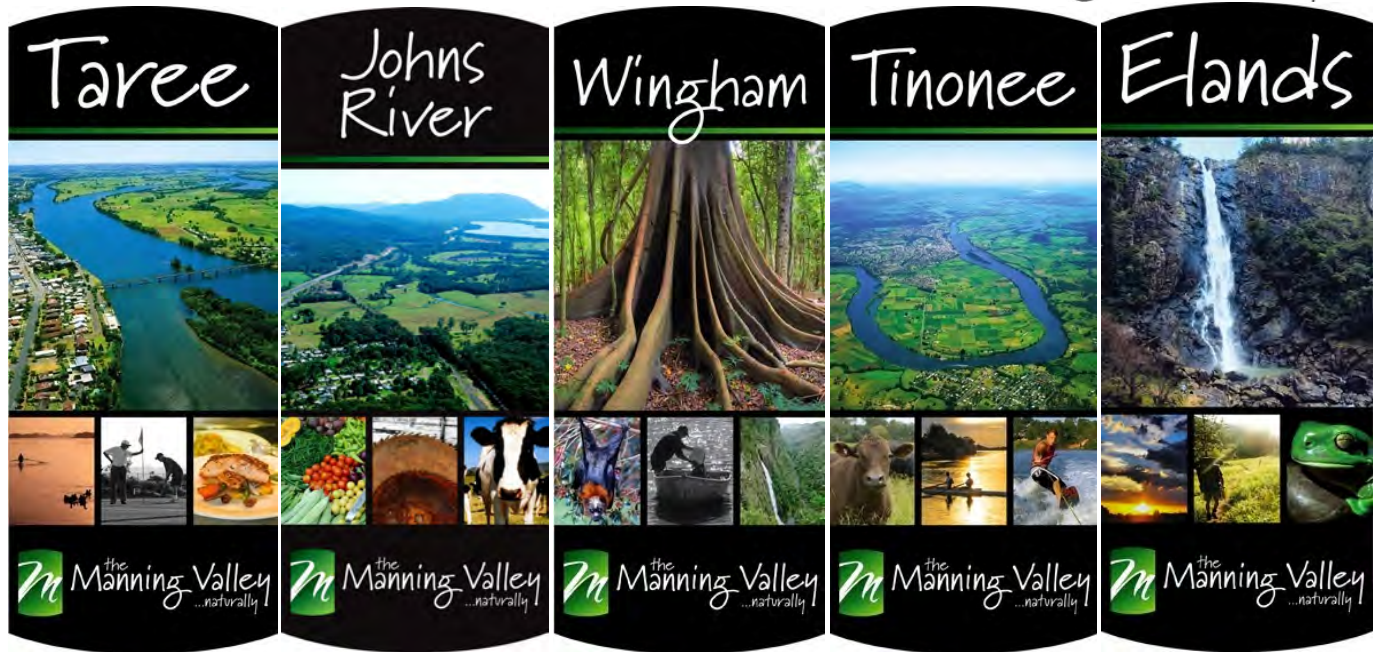
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THE
MANNING ALLIANCE INC.

It's Time to Care!

*the
Manning Valley
...naturally*



SUBMISSION

To the NSW Government

In response to Draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones)

12 April, 2013

Our Goal is to Preserve the Agrarian Amenity of the Manning Valley for Future Generations!

1.0 Preamble

The Manning Alliance welcomes and congratulates the NSW Government on the initiative to review and amend the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones), we extend our appreciation for the opportunity to make a submission to the Review.

2.0 The Manning Alliance Inc

The Manning Alliance was formed in 2011 as a result of a series of public meetings and information nights held in the Manning Valley, for Landholders, Farmers and Members of the Community. *“Our Goal is to preserve the Agrarian Amenity of the Manning Valley for Future Generations!”*

The Alliance is a non-profit, volunteer based, community service, incorporated association, **which is not affiliated to any political party.**

The Alliance enjoys the support of a significant section of the Manning Valley Community.

The comments and views expressed in this document reflect the clear and unreserved opinion of The Manning Alliance Inc., and the thousands of community members of the Manning Valley who have attended Public Meetings and Information nights and Forums and the 7000+ community members who have signed our petitions.

In recent times the Manning Alliance has worked diligently to demonstrate that Transgrid's proposed 100km long 330,000 volt transmission line project from Stroud to Lansdowne was totally unnecessary: economically unjustified and clearly an exercise in gold plating.

Transgrid has subsequently abandoned this \$160m project.

3.0 Submission

3.1 Definitions of **“Critical Industry Cluster”**.

We note that the NSW Government has identified and indeed defined that in the NSW Upper Hunter the equine and viticulture industries are “critical industry clusters”.

Given this determination the scope is now clearly available to the NSW Government to unmistakably identify other “critical industry clusters” such as and including Agriculture, Tourism and Oyster Farming which are both vitally import industries that are relevant to the present and future economic growth of this State and industries which should not be compromised by Coal Seam Gas Extraction.

3.2 The Manning Valley

With the completion of the Bulahdelah segment of the Pacific Highway, the Sydney to the Manning Valley leg will be a very short 3-hour car trip, making the region very popular for tourism and ultimately for migration from Sydney and for various agricultural and commercial enterprises.

The proximity to Sydney, the attractive climatic conditions around the Manning Valley and the lifestyle opportunities in the region clearly define the Manning Valley as a significantly important perhaps the even a strategically critical region to the future growth and expansion of this State.

The Manning Valley is situated in the Manning River Catchment:

- a. The Manning River is the only double delta river in the Southern Hemisphere and the only permanent multiple entrance river in the world other than the Nile River. At Taree, the river splits and becomes a double delta.
- b. The Manning River is one of Australia's few large river systems that have not been dammed for water supply purposes anywhere along its catchment. The local water supply is fed by Bootawa Dam, which is an offsite dam, water is pumped from the river to the dam whenever river turbidity and flow levels can allow.
- c. The Manning River has over 350 tributaries, which feed into the River.
- d. The Manning runs in drought times, which suggests a sophisticated network of underground springs and a complex hydrogeology which feeds into the River.
- e. Headwaters of the Manning River start in Gloucester:
Mount Barrington, North eastern slopes of Great Dividing Range.
 - Location Barrington Tops National Park, near Ellerston
 - the Manning flows south east descending 1500m
 - Elevation: 1,500 m (4,921 ft.)
 - Coordinates: 31°54'S 151°28'E
 - Length 261 km (162 mi)
 - Depth 3 m (10 ft.)
 - Volume 96,259 m³ (3,399,355 cu ft.)
 - Basin 8,125 km² (3,137 sq mi)

There are 11 main tributaries that run into the Manning River:

Left Tributaries:

Backwater Creek,
Pigna Barney River,
Barnard River,
Nowendoc River,
Dingo Creek,
Dawson River,
Lansdowne River

Right Tributaries:

Gloucester River,
Bakers Creek,
Burrell Creek
Scotts Creek

- f. Ecology

The Manning River is a large producer of Australian oysters and is home to many fish, the most common being the Dusky Flathead (*Platycephalus fuscus*), a common Australian estuary fish. The Manning River is frequented by dolphins and sharks, with some venturing as far up the river to Wingham.

Whales also frequent the river, mainly at the larger Harrington Inlet, although some do enter the Farquar Inlet and generally do not venture far up river. However, on 16

September 1994 a rare tropical Bryde's whale measuring 9-metre (30 ft.) long, nicknamed "Free Willy" by locals, ventured much further up river to Taree.

After becoming a tourist attraction, and repeatedly evading attempts by conservationists to free him "Free Willy" finally left the Manning River 92 days later of his own free will.

- g. Over 100,000 people rely on water supply from the Manning River Catchment. The Manning is currently a healthy and vibrant river that should not be compromised by risky and unproven Coal Seam Gas Extraction. "Adaptive management" will not secure the water supply for 100,000 people should an industrial accident occur with Coal Seam Gas Extraction proposed for Gloucester.

3.3 Regional Development and Decentralisation.

In reviewing the State Environmental Planning Policy including: Mining, Petroleum Production and Extractive Industries and the introduction of Coal Seam Gas Exclusion Zones, consideration needs to be given to the future decentralisation of Sydney and the future population migration to regional centres such as the Manning Valley.

As previously identified, the completion of the Bulahdelah segment of the Pacific Highway, makes the proximity of the Manning Valley to Sydney a very attractive location for resettlement from Sydney.

To some degree this resettlement has already started to take shape, the critical issue being the availability of jobs. However, this may rapidly change with the introduction of other key national infrastructure projects such as the rollout of a National Broadband Network and the ultimate introduction of a "Fast Train Service" from Sydney to Brisbane, as has been recently proposed by the Commonwealth Government.

Further, if climate change continues at a similar pace and level, the Mid North Coast of NSW will continue to grow as an attractive location for resettlement.

3.3.1 A National Broadband Network

The rollout of a high-speed national broadband network will see the consolidation of the "virtual office" in Australia. It will also establish the platform for economically viable cutting edge technology industries to effectively operate in regional centres. Locations such as the Manning Valley will rapidly open up as very attractive lifestyle areas for re-settlement from Sydney. This is currently the pattern that has effectively taken hold in the United States.

It will be business and industry that will be driving the change for decentralisation in further efforts to reduce costs and remain competitive. The proximity of the Manning Valley to will make the region very attractive for migration and resettlement.

3.3.2 "Fast Train Service"

Whilst this is a subject that is up for notional discussion the reality is that such a project will eventually come to fruition and perhaps much sooner and on a faster timeframe and indeed at a lower cost than that which is currently being proposed by the Commonwealth Government.

The Manning Valley has been identified as a location for a Station (at Taree) in the current Commonwealth Plan.

From a range of factors too many to discuss in this document, mass ground transportation is far more efficient and far more economically viable (safe and secure) than air transport.

The construction of a “Fast Train Service” would dramatically aid with the decentralisation of Sydney as people could relocate to and live in the Manning Valley and still be less than one hour from Sydney.

From a business perspective, a “Fast Train Service” completes the loop in the virtual office concept where proximity to a ‘head office’ is less than one (1) hour away.

It would also dramatically grow tourism opportunities, which would intern significantly grow tourism employment on the NSW Mid North Coast.

A “Fast Train Service” would potentially bring tens of thousands of ‘frozen’ Victorians to holiday on the NSW Mid North Coast and particularly the Manning Valley.

The decentralisation of Sydney would significantly take the pressure off the NSW Government to construct infrastructure in Sydney that is not of a productive value.

The climate, the lifestyle conditions and its proximity to Sydney will make the Manning Valley a very attractive location for tourism and resettlement.

It should be noted that the Beijing to Shanghai High Speed Railway spanning 1318km was constructed between 18 April 2008 and 15 November 2010 at a cost of \$32 billion dollars, and it was open to commercial service on 30 June 2011. The train has a maximum “approved” operating speed of 300km.

Whilst we acknowledge that we are living in Australia and standards are different, the opportunity and proposition for a high speed railway is a great deal closer than what is actually currently perceived, what is required is the political will!

3.3.3 Food Production and Food Security

The proximity of the Manning Valley to Sydney also suggests that in future the Manning and Gloucester Valleys are economically viable regions for future food production.

The time and cost of transport to market have been thoroughly examined as key factors in the supply of fresh fruit, vegetables and seafood (such as Oysters).

The Manning and Gloucester Valleys fed by the Manning River have rich alluvial soils, the region enjoys a high rain fall and excellent climatic conditions for the growth of fruit and vegetables which could be supplied to the Sydney Market. Rather than resorting to mass scale industrial solutions, in the future Sydney could be supplied with “*clean*” naturally grown food, which would be of high quality and nutritious, from a region that is only a few hours away.

As Sydney continues to expand and grow, food production areas close to market will be become more essential. Grows will be forced out of the Sydney Basin.

Food Security, that is our future ability to feed ourselves, our children and our grandchildren is already a major issue, and it will exponentially magnify in the future. This is why we are so determined to protect the Gloucester and Manning Valleys. We are in close proximity to Sydney, and we have the opportunity to become a major food production source for the future.

And, a further reason why we desperately need to protect our healthy rivers and our good quality healthy soils and land. This is why we should not be putting the Gloucester or the Manning Valley at risk for a fistful of dollars, which could ultimately lead to hundreds of years of irreparable damage.

3.2 Corridor Width

We note that the Draft Policy proposes a corridor width of two kilometres or 2000 metres.

The Manning Alliance recommends that the corridor width should be at least 5 kilometres.

Given that coal seam gas extraction is carried out hundreds of metres below the surface in situations of complicated and not entirely known hydrogeology, a two kilometre corridor on the surface is insufficient protection underground, and particularly for built up areas.

3.3 Map Amendments

The Manning Alliance recommends that any and all Map amendments be made by a suitably qualified panel which includes representatives of the community.

3.4 Catchments

The cradle and history of human civilisation has revolved around man's need to live and survive in and around river catchments. Now, it appears that there is a very direct and deliberate approach towards risking and compromising our river catchments. As a very minimum, "the precautionary principle" needs to be applied when considering coal seam gas extraction in our river catchments.

Catchments have been and are critical to the future of this State. We have health river systems such as the Manning River, which should not be needlessly compromised. We are currently spending hundreds of millions of dollars on compromised river systems as a result of poor and politically motivated planning decisions. Surely we are now mature enough to learn from these mistakes.

Politics should not enter this equation. History will brutally judge those in power who have deliberately ignored the advice to protect our environment and our way of life.

The Manning Alliance urges the NSW Government to treat all coastal catchments in the same manner as "Critical Industry Clusters".

Our Catchments are critical to the future survival of human beings on this planet. It is essential that we do not deliberately compromise nor harm our river catchments.

This is clearly an area that should not be tinkered with for short term projects of dubious commercial gain and questionable value to the residents of this State.

Before the last state election, then NSW opposition leader Barry O'Farrell made a promise to reverse mining development in our water catchments. He said:

"The next Liberal/National Government will ensure that mining cannot occur ... in any water catchment area, and will ensure that mining leases and mining exploration permits reflect that common sense; no ifs, no buts, a guarantee."

3.5 Corruption

In a Submission to the NSW Upper House Inquiry into Coal Seam Gas Mining in 2011, the Manning Alliance highlighted its concerns regarding the scope for corruption in an industry such as CSG extraction, where billions of dollars were at stake and millions available for corruption and seduction.

History has shown, throughout the world that in both first world countries and third world countries the scope for the growth in political corruption is significantly magnified when “new” or emerging industries are rapidly introduced into a country and it’s economy.

Examples of this can be seen in the petroleum industry throughout the world, in the United States, Africa, South America, and the “new” Russia. Situations where a natural resource having a significant dollar value is exploited in a rapid and dynamic fashion leaving the lawmakers and regulators well behind in its overview, supervision and control.

This industry, given the projected levels of investment proposed in Australia, can potentially develop into one of the richest and most “influential” in this country and possibly throughout the world.

The most widely used definition of corruption is the World Bank's working definition: **"abuse of public power for private benefit"**.

Political corruption takes place at the highest levels of the political system, and can thus be distinguished from administrative or bureaucratic corruption.

Political corruption takes place at the formulation end of politics, where decisions **on the distribution of the nation's wealth and the rules of the game are made**.

Bureaucratic corruption takes place at the implementation end of politics, for instance in government services, **overview and regulation of an industry** (such as CSG).

With the rapid evolution of the CSG industry in the world, and particularly in Australia, the scope for both political and bureaucratic corruption at all levels is substantial.

Governments can deliberately or indeed naively and innocently introduce what are described as **“rent-seeking schemes”** or **“rent collecting schemes”**.

Within the current mining framework in NSW there is every opportunity for **“politically created rent-seeking schemes”**.

On the demand side, there is an industry, which is aching for these schemes. An industry that:

1. Is always looking for less government regulation and control.
2. Faster approvals.
3. The availability of more sites on which to mine.
4. Lower taxes and royalties.

And thus an industry that is prepared to put forward inducements, pay bribes and/or incentives, and participate in politically created rent-seeking schemes, and reward politicians and bureaucrats **for “past or future services”**.

It is now interesting after our Submission to the NSW Upper House on this subject, that one year later, we now see Chapter 1 being played out in the current ICAC Inquiries.

There is no doubt that there will be more Chapters to follow and others will be exposed.

Regrettably, it appears that the NSW Government is deliberately ignoring all the key symptoms that are currently present to encourage and incite corruption.

Symptoms such as a cashed up, highly inexperienced industry that is dependant on overseas technology (and highly questionable practices and standards), to secure control and market share over a natural resource at any cost, with a minimum of regulation, control or government oversight.

An industry that has fuelled an artificial urgency (and demand) for a resource that is already domestically available from LNG offshore sources such as that from BHP.

An industry, which by creating a sense of urgency wishes to capitalise of planning errors and loopholes in the regulatory framework.

An industry, that is recruiting former government ministers, policy advisors, and departmental officers; as directors, consultants and or employees.

Clearly, through poor legislation and regulation, the ingredients are at highly toxic levels for corruption, and now we have a proposal to allow for Local Councils to approve CSG extraction.

This is a rather deplorable state of affairs, particularly in the circumstances where we have a range of cash strapped regional councils desperate to address massive backlogs of vital and or essential local infrastructure, that are now going to be exposed to the seduction of mining executives and their cheque book diplomacy. Isn't this really taking capitalism just a little bit too far? And in the process deliberately placing Local Councils and Councillors into the path of temptation, subsequently to be ruled and controlled by mining companies.

For decades various State Governments have been trying to stamp out corruption from local government, this proposed new measure now opens up an entire Pandora's box for the corruption of Local Councillors. The policy deliberately exposes Local Government Councillors to bribes and inducements, not from developers but from mining companies.

If Councils are not given powers to decline mining activity in their LGA, why should they be permitted to approve mining in their LGA, this is a **“rent collecting scheme”**, designed for corruption.

The community is very concerned at what appears to be the excessive haste in both the introduction of CSG throughout the Country, and that politicians all over the place are practically falling over themselves in a rush to smooth over the way forward for the CSG Industry, and in the process ignoring all reasonable caution and risk assessment in the process.

The community is also viewing this indecent and desperate haste by government to fast track approvals and reduced regulatory controls for this industry, as the cynical charade that it is, and they are closely monitoring the decisions that are being made for the benefit of the industry and not the people of NSW.

Conclusion

As previously acknowledged, the Manning Alliance applauds the NSW Government's decision to introduce exclusion zones and corridors. This is a constructive action. We believe that the corridors should be at least 5km wide.

Having accepted the principle that there should be exclusion zones to protect "critical industry clusters" from the consequences of Coal Seam Gas Extraction, the NSW Government needs to ensure that all appropriate industries are clearly protected.

Further having accepted the principle that there are consequences from CSG Extraction on critical industry clusters, the Government has acknowledged that consequence can and do exist, therefore there is an obligation on government, to ensure that at all relevant areas throughout the State should be protected by exclusion zones, including those regions which already have some elements of CSG exploration and or production.

Clearly, the residents of those regions are not second-class citizens and they are entitled to the same benefits and to be afforded the same protections that are available to all other residents of NSW including those of South Western Sydney.

Therefore the residents of Gloucester should be afford similar protection by the introduction of exclusions zones and corridors on the same basis as those for South Western Sydney.

Peter Epov
Chairman
Manning Alliance Inc.

3.6 Conreadiction compromises the integrity and intentof exclusion zones and the argument for these zones retrospectivity to Gloucester

3.7 Hydrogeology - Gloucester

Submission from Upper Mooki Landcare Group

(Incorporated under Liverpool plains Land Management)

Background: Upper Mooki Landcare Group covers the area at the top of the Namoi Catchment from Willow Tree to Blackville. The group has a long history of active involvement in improved management of soil, water and vegetation for the past 20 years. Water has been a critical issue for the group. The Warrah sub-catchment has been of particular concern with an identified shallow groundwater aquifer.

Members note the "critical industry clusters".

Members are calling for an exclusion zone on the total area of the 1912 Warrah subdivision.

Farmers are not second class citizens. Potential health impacts, water impacts and impacts on livestock from CSG exploitation are yet to be determined, and at the very least, exclusion zones should apply to agricultural land and farming enterprises. There is no way that this industry should interfere with farmer's enterprises which include livestock, cropping and intensive poultry in our sub-catchments.

Our members request:

1. Members are calling for an exclusion zone/critical cluster on the total area of the 1912 Warrah subdivision.
2. The SEPP amendments should be broadened to include a 2km buffer around all residential dwellings.
3. 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.
4. The provisions should include exclusions for all identified food producing lands, water catchments and sensitive environmental areas.
5. The SEPP amendments should be expanded to apply to coal mining and to all forms of unconventional gas extraction including shale gas and tight gas.
6. 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.
7. We call for a Health Impact Assessment to be completed for the Gunnedah Basin.
8. We call for significant investment in renewable energy, and in particular, investment in storage for wind and solar energy generation.

Our members do not support co-existence of extractive mining/CSG and agriculture.

Protection of productive soil, water and vegetation is vital for our community.

Yours sincerely

Heather Ranclaud

12 April 2013



GE

Kirby Anderson
Government Affairs, Finance & Policy Director
(Australia & New Zealand)

General Electric
Level 18
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+61 7 3001 4339
kirby.anderson@ge.com

April 12, 2013

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

Email srlup@planning.nsw.gov.au

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

In responding to the Standing Council on Energy and Resources' draft National Harmonised Regulatory Framework for Coal Seam Gas in February this year, General Electric (GE) commended all Australian governments on the co-operative effort to develop the Framework *"to guide regulators in the management of coal seam gas to ensure regulatory regimes are robust, consistent and transparent"*.

The following month - in March 2013 - the New South Wales Government released the draft amendment to the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013*. At that time, NSW Minister for Planning and Infrastructure The Honourable Brad Hazzard MP said the amendments, which would establish exclusion zones for CSG exploration and production activity, would *"build on the NSW Government's Strategic Regional Land Use Policy, which provides the toughest set of CSG regulations in Australia"*.

SCER's work program has also included the development of the Multiple Land Use Framework (MLUF) at and the December 2012 SCER meeting:

"Ministers endorsed the draft MLUF, which will provide jurisdictions with a framework to address land access and use issues and apply multiple and

sequential land use approaches to land use planning, policy and development across the minerals and energy resources sectors. The MLUF will support better outcomes by providing a mechanism for increased transparency and consistency in land use decision-making, more effective engagement with communities and help retain options for current and future land use to maximise the net benefits to present and future generations."

Despite the NSW Government's contention that the draft Mining SEPP would "provide certainty for the community while ensuring that the industry can continue to meet the State's energy needs", there has been widespread concern that these changes will undermine the State's energy security and the sustainable development of CSG resources in NSW.

GE has an extensive involvement in the development and delivery of unconventional gas around the world, including from well-head to LNG compression trains for projects in Queensland.

This involvement along the production chain, includes the treatment of CSG-produced water and the management of associated brine. Through this involvement, our global experience in unconventional gas industries and broad technology offerings, GE is well-placed to provide comment on the draft Mining SEPP.

GE does not believe the arbitrary setting of exclusion zones is more desirable in fostering community and industry certainty than rigorous, transparent, and project-specific assessments and condition-setting processes under existing State and Commonwealth development assessment and approval regulations.

GE believes the States and Commonwealth should reaffirm their commitment to the SCER work program and seek to co-operatively harmonise the regulatory framework for CSG development, in consultation with all stakeholders. GE has also expressed concerns at the Commonwealth's proposed *Environmental Protection and Biodiversity Conservation Amendment Bill 2013*. This Bill, like the draft amendments to the Mining SEPP, pre-empts the finalisation of SCER's work program. The NSW Government has also yet the findings of an independent review of all CSG activities, including the potential impact on rural residences and potential impacts of water catchments, conducted by the NSW Chief Scientist and Engineer.

GE also believes regulatory approaches need to be inclusive of best available technology to further reduce environmental impacts of CSG production. The use of advanced technologies can reduce the size of the drilling footprint, reduce fugitive methane emissions, reduce greenhouse gas emissions from drilling sites, and improve the sustainable treatment of CSG produced water and management of associated brine.

For further information or clarification, please contact me on (07) 3001 4339 or kirby.anderson@ge.com.

A handwritten signature in blue ink, consisting of a stylized 'K' followed by a horizontal line.

Kirby Anderson

Government Affairs, Finance and Policy Director
General Electric Australia & New Zealand

srlup - Draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013

From: <nah@westnet.com.au>

To: <srlup@planning.nsw.gov.au>

Date: 4/11/2013 10:43 PM

Subject: Draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013

Dear Sir/Madam,

I am writing this submission on behalf of Stop CSG Sydney Water Catchment. We welcome the proposed changes as an important step in protecting critical regions of NSW. It is only right to protect NSW residents from the risks CSG mining may pose for them.

However this amendment does nothing to protect the fresh drinking water of those same residents. 2% of the state provides drinking water for 60% of the residents. Within these catchments all activities are regulated by the Catchment Authority, and rightly so. Water Catchment regulations state that any activity, whether it be recreational or commercial, is only permitted if it is deemed to be either neutral or beneficial to the catchment. No one can argue that coal seam gas mining is neutral or beneficial to the catchment.

The SEPP amendments should be altered to include a 2 km buffer around ALL residential dwellings. Why should some who lives in a small rural village not be offered the same protection as large town or city dwellers?

The "opt out" right offered to councils may have been included for all the right reasons but is fraught with problems. It encourages intense lobbying of councils who increasingly are cash strapped and carries a real risk of corruption. We ask that this be removed from the amendment, an "opt in" clause could be considered.

The identification of critical regions of the state is very welcome but what is more critical then food producing regions, farmers need the security that their properties, including their water supply, are not threatened by coal seam gas mining.

Why would you exempt viticulture but not tourism.

We ask that the amendment include all forms of unconventional gas including shale and tight gas, it should also apply to all coal seam gas projects that have not yet commenced operation.

Yours Faithfully,

Will D'Arcy

President

Stop CSG Sydney Water Catchment.

srlup - Submission to the proposed amendments to the Mining State Environmental Planning Policy (Mining SEPP)

From: Pottsville Community Association <pottsville2011@gmail.com>
To: <srlup@planning.nsw.gov.au>
Date: 4/11/2013 10:19 PM
Subject: Submission to the proposed amendments to the Mining State Environmental Planning Policy (Mining SEPP)

Dear Department of Planning,

We object to the current wording of the planned changes to the Mining SEPP as it does not go far enough to protect rural communities.

We believe that the SEPP should include the exclusion of CSG Mining and Exploration from any identified water catchments, food producing agricultural lands and sensitive environmental areas.

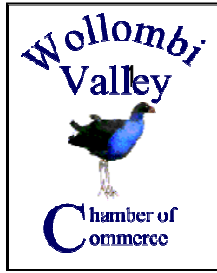
The potential to have a damaging effect on the water table and water supply for these areas is too great to risk.

The SEPP also needs to include exclusion zones for this type of mining around any residential buildings, whether they be urban or rural. How can one choose to protect those in the city and yet not do the same for those communities outside urban areas?

Please recognise our community's concerns on this issue and protect our water sources for our future generations.

Regards

Chris Cherry
President
Pottsville Community Association



Wollombi Valley Chamber of Commerce Inc.
ABN: 62694397131
www.visitwollombi.com.au

c/o Wollombi General Store
WOLLOMBI 2325
secretary@wollombivalleytourism.com.au
10 April 2013

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

Dear Sir/Madam

Re: Changes to the Mining SEPP – Coal Seam Gas Exclusion Zones

This Submission by the Wollombi Valley Chamber of Commerce is in respect to the proposed amendments that will prohibit coal seam gas production and exploration activities in certain areas and specifically in the Upper Hunter viticulture Critical Industry Cluster. We define the Wollombi Valley as broadly the area centred on Wollombi village and being from Bucketty to Paynes Crossing and to Millfield.

The region is mainly within the Cessnock LGA. It is the southern gateway to the Hunter Valley wine and tourism areas and enjoys a unique combination of factors such as location, tranquillity, colonial and convict history, art and culture, topography, indigenous heritage and natural resources.

Whilst we strongly support the proposed changes we submit that the Wollombi Valley should also be included in the Viticulture Critical Industry Cluster (VCIC) as shown on the Critical Industry Cluster Land Map – Sheet CIC_003 (003 Map). 003 Map shows that the Broke-Fordwich and Pokolbin areas are included in the VCIC but not the well known viticulture critical industry cluster within the Wollombi Valley. On 003 Map Wollombi village is the area of development immediately adjacent to the letter “D” in Paynes Crossing Road. The reasons for inclusion in the VCIC are now outlined.

There are at least 9 separate vineyards within the Wollombi Valley including vineyards at Mt View Road Millfield, Wollombi Road Cedar Creek, Wollombi Road Wollombi, Paynes Crossing Road Wollombi, Yango Creek Wollombi, Milsons Arm Wollombi, Great North Road Laguna, Blaxlands Arm Laguna. There are also 2 commercial wineries at Wollombi and Millfield.

The Wollombi Valley Wine Trail (<http://www.wollombivalleywinetrail.com.au>) with many Award winning wines is an integral component of Hunter Valley wine tourism and is often the introduction of visitors to the Hunter Valley wine industry. There are 6 cellar doors on this Wollombi Valley Wine Trail being

1. Undercliff Winery and Gallery in Yango Creek Road Wollombi
2. Wollombi Village Vineyard in Paynes Crossing Road Wollombi
3. Noyce Brothers Wines in Wollombi village
4. Wollombi Wines in Wollombi Road Wollombi
5. Stonehurst Wines in Wollombi Road Cedar Creek
6. Millbrook Estate Winery and Gallery in Mt View Road Millfield.

Sculpture in the Vineyard is an annual exhibition of outdoor sculpture in the vineyards around the Wollombi Valley and is now in its 11th year. Sculpture in the Vineyard is strongly supported by Hunter Valley Wine Country Tourism and receives funding from Destination NSW. It is a Flagship Event for regional NSW.

Wine tourism within the Wollombi Valley is the main economic driver of the area and generates important economic benefits including employment and multiplier benefits. It also contributes significantly to the identity of the area and Hunter Valley wine country generally. The viticulture cluster around Wollombi Valley helps to provide clear marketing advantages and differentiators for wine tourism .

Broke-Fordwich and Pokolbin wine areas (already protected by the VCIC) recognise the importance of the Wollombi Valley. The Broke-Fordwich Wine & Tourism Association is working with the Chamber to produce a loop map linking Wollombi, Broke-Fordwich and Pokolbin. This map will greatly assist visitors to travel throughout wine country and to enjoy its many attractions.

The Wollombi Valley Wine Trail is recognised by the peak wine tourism body Hunter Valley Wine Country Tourism (HVVCT) as a very important part of Hunter Valley wine country. With the pending merger of HVVCT and the Hunter Valley Wine Industry Association to form the Hunter Valley Wine and Tourism Association the new Association acknowledges on page 7 of its Prospectus that Wollombi is part of the Hunter Valley wine.

The Wollombi Valley, the wine trail and the unique combination of factors within the area considerably enhance the visitor experience to Hunter wine country. The Chamber's website <http://www.visitwollombi.com.au/things-to-do/> clearly shows the many options for the visitor to enjoy including cafes and restaurants, historic accommodation options, the Wollombi Endeavour Museum displaying early colonial, convict and indigenous history, unique bush walks, indigenous history and sites, arts, crafts and galleries, tours and scenic drives.

A number of very important and historic roads traverse the Wollombi Valley. The Great North Road as part of the Convict Trail runs right through the Valley. This is an historic road of National importance as can be seen on the website convicttrail.org and parts of the road received World Heritage Listing in May 2010. Tourist Route 33 starts at Calga on the F3 and takes tourists through the Wollombi Valley, wine country and onto the Upper Hunter region.

Much of the Wollombi Valley, particularly Yengo National Park is within the Blue Mountains World Heritage Area.

Cessnock City Council supports the Chamber's position. By a Resolution on 4 April 2012 the Council resolved to write to the Minister seeking exclusion from the issuing of extraction licences for certain areas including the Vineyards district and the Wollombi Valley.

The Chamber also submits that the early-mid 19th century historic village of Laguna on The Great North Road within the Wollombi valley be protected by being included within a residential zone, as defined in the Act. This unique village comprises a thriving school, Rural Bush Fire Centre, historic church, community hall, cricket ground, private race course, commercial vineyards, a general store and residential houses and is about 8kms south of Wollombi village which is protected under its residential RU5 zoning. This would bring consistency and uniformity into residential zoning with both Wollombi and Laguna villages on the Great North Road being then protected. The zoning of Laguna would simply need to be changed from RU2 to RU5.

Furthermore, the Chamber believes that coal seam gas production and exploration activities are absolutely inappropriate for the Wollombi Valley for many reasons including the :

1. unsettled science on health and safety aspects of CSG,
2. impact on water catchment in the Valley and the pollution of water required for viticulture in the Valley,
3. topography of the Valley being quite hilly with many narrow and winding valleys,
4. degradation of the unique landscape and character of the Valley that CSG activities would inevitably create,
5. lack of infrastructure to support CSG activities such as proper roads, bridges etc,
6. negative impact on the significant indigenous and World Heritage Listed sites within the Valley
7. regular significant flooding of Wollombi Brook creating huge environmental issues for any CSG in the Valley

8. negative impacts on the local economy, tourism and visitors to the Hunter wine country,
9. impact of bush fires due to the heavily timbered valleys and hills.

Generally, the Chamber also submits that the

1. SEPP amendments be broadened to include a 2km buffer around all residential dwellings,
2. right to veto for local Councils be removed,
3. provisions should include exclusions for all identified food producing lands, water catchments and sensitive environmental areas,
4. SEPP amendments should be expanded to apply to coal, shale gas and tight gas extraction,
5. SEPP amendments should apply to approved projects that have not yet satisfied their conditions of approval, and are yet to commenced operation.

It is noted that the Denman wine growing area was also not included in the original VCIC. Following a submission by Muswellbrook Shire Council in May 2012 the Denman area was subsequently included as is shown on 003 Map.

For the above reasons and given that the precedent has already been set with the later inclusion of Denman we believe that the Wollombi Valley should also be included in the Hunter Viticulture Critical Industry Cluster. The Critical Industry Cluster Land Map – Sheet CIC_003 should be amended to reflect this. As with Wollombi village, Laguna village should also be afforded the protection of being within a residential zone, as defined.

The Chamber would be pleased to expand on any points raised in this Submission.

Yours sincerely

Wollombi Valley Chamber of Commerce Inc



Michael Noyce
President
0416 245655
sales@noycebros.com.au

The Director Strategic Regional Policy
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001
Sent by email to srlup@planning.nsw.gov.au

Re: Draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones)

Background:

Stop CSG Sydney is an incorporated organisation that formed in 2010 in response to the threat of CSG mining in St Peters by Dart Energy. The group works to inform its members about CSG and its related risks, as well as to campaign, and support others campaigning, against CSG mining projects which show little regard for human health, land, air, water, biodiversity, nor which demonstrate any sustainable practices.

Stop CSG Sydney welcomes the opportunity to provide comments on the proposed amendments to the SEPP.

Stop CSG Sydney's position regarding these amendments:

These amendments, as they currently stand, do not provide protection for communities and agricultural industries, and need to be altered to ensure this outcome. All industries (including agriculture) should be protected from coal seam gas mining; other mining industries should be prohibited from access to coal seam gas mining; all drinking water catchments and biologically diverse wilderness areas should be protected; local councils should not be given an opportunity to overturn the 2km buffer zone; and this legislation should be made retrospective to include all licences granted prior to these proposed changes to the SEPP.

Stop CSG Sydney's comments for specific amendments:

1. Regarding amendments that:

prohibit coal seam gas development on or under land in the following exclusion zones:

** in and within 2km of a residential zone,*

**in and within 2km of a future residential growth area, within critical industry clusters (CICs)*

Stop CSG Sydney cautions that this distance of 2km is not enough, and that in fact CSG mining should not occur anywhere near a residential zone, if at all. No scientific evidence has been provided to suggest that 2km is a reasonable distance to mine for CSG from residences. Without this evidence, this distance seems arbitrary, if not token. If it is not based on evidence, then there can be no claim that is a safe and responsible practice. It is strikingly inconsistent that mining of any sort is allowed next to a residence, but coal seam gas mining is not. This calls into question the Government's understanding of the risks involved to human health, land, water, air and biodiversity of any form of mining, and suggests that if such risks have been presented to the government, they are being selectively ignored.

Furthermore, because these proposed amendments only apply to newly approved projects, it means projects that have already been approved, where mines are located or proposed within residential areas (such as in Gloucester and Fullerton Cove) will not benefit from the protection these amendments are meant to offer. This makes no sense, and presents gaping holes in the NSW Government's logic – i.e., how can mining within one residential zone be unlawful, but in another be lawful? The same environmental and health risks apply, and all communities deserve the same right to safety.

Furthermore, this amendment does not clarify whether mining can occur right up to the border of a critical industry cluster, where it appears that the 2km buffer zone does not apply. Again this is flawed logic, as the risks to the water and air that would apply in a residential area, apply next to a horse stud and vineyard. The logic is also flawed because industries, other than equine and wine industries, are not afforded *any* protection (even if that supposed protection is weak). All forms of food production and agriculture deserve protection from the effects of mining and CSG mining.

These amendments lack transparency and logic, and only create suspicion that the Government is pandering to certain industries with whom they have a political or economic interest.

2. Regarding amendments that:

define coal seam gas development as *“development for the purposes of petroleum exploration, but only in relation to prospecting for coal seam gas, and petroleum production, but only in relation to the recovery, obtaining or removal of coal seam gas, and not including: the recovery, obtaining or removal of coal seam gas in the course of mining, exempt development identified under clause 10 or 10A of the Mining SEPP (which includes development such as monitoring equipment, geological mapping and surveying and geophysical surveying that is of minimal environmental impact)”*.

Stop CSG Sydney would like to see stronger legislation around this, so that mining companies cannot apply for a licence, then amend it to start a full-scale CSG mining operation, i.e. one that the SEPP would define as CSG development. Stop CSG Sydney would also like clarification as to whether this amendment would apply to extant mining projects. For example, in Darkes Forrest in the Illawarra region, 14 wells have been proposed in old mining sites. Would this be considered to be a part of the “course of mining?” or is this considered CSG development only?

Stop CSG Sydney is concerned that these amendments only relate to gas from coal beds, and do not include gas from shale or tight sands. This is concerning as tight sand projects, projected for the Northern Rivers, would not be included in the exclusions zone. Again, the risks to human health, the air, land and water, and biodiversity apply in one community as the next. All communities deserve protection. Other unconventional gas extraction methods like gas from shale or tight sands needs to be regulated by the *Petroleum Onshore Act*.

3. Regarding amendments that:

“prohibit coal seam gas development on land zoned R5 Large Lot Residential that meets criteria of land of a village character (these criteria are to be published separately during the exhibition of the proposed SEPP). Councils will be asked to nominate particular areas zoned R5 within their LGA for listing in the SEPP as an R5 village. Nominations will be evaluated by

the Department of Planning and Infrastructure and Local Government NSW and recommendations will be made to the Minister for Planning and Infrastructure for inclusion in the finalised SEPP”.

Stop CSG Sydney would like to see this more tightly regulated so areas zoned R5 will be guaranteed protection. There is no indication within these amendments as to what “evaluation” means. However to ensure local councils are not pressured by mining companies and the State Government does not bias the decision, this evaluation must be carried out by an independent body, not the Department of Planning and Infrastructure or Local Government NSW.

4. Regarding amendments which allow

“a local council to request that the Minister recommend to the Governor that this Policy be amended to list an area of land in Schedule 2”.

Stop CSG Sydney agrees that local councils should have more say in the decisions that will affect their communities. However, Stop CSG Sydney is very concerned that local councils could be placed in a vulnerable position at the behest of powerful mining companies, a situation not unlike that which we are currently seeing with the Queensland government and Santos/QGC. There need to be safeguards in place to prevent this from happening. The State Government has the responsibility to ensure public health standards are met rather than undermined, and that the environment is not put at risk.

Conclusion

Stop CSG Sydney is concerned that no mention has been made to protect water catchment areas in these amendments. Safe drinking water is crucial to human life, and there are currently projects proposed or active in or near water catchment areas. The threats that CSG mining pose to ground water are numerous. The Government must act to ensure that access to clean water, which is a human right, is secured.

Stop CSG Sydney request a Royal Commission into the health and environmental impacts of CSG mining before any more exploration and production licences are approved and we call for a moratorium on current CSG mining projects until the outcomes of the Royal Commission have been determined.

We look forward to your response to our submission.

Yours sincerely

Sarah Gaskin on behalf of

Stop CSG Sydney Inc.

12 April 2013

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

12 April 2013

Dear Director,

Submission regarding the draft amendment to the SEPP (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013.

Submitted on behalf of 'Tourism Advancing Gloucester'

Background

I represent a group of tourism operators in the Gloucester valley region called *Tourism Advancing Gloucester*. We are working together to grow the visitor economy in Gloucester, including the State Government's goal of doubling domestic visitor overnight expenditure by 2020. This submission addresses the draft amendments from the perspective of their impact on two sustainable industries that are inextricably linked in Gloucester: tourism and agriculture.

Our scenic value = \$30 million tourism spend

Domestic overnight expenditure is now worth over \$30 million annually to Gloucester¹. The same research shows our region has a strong skew to nature-based holidays: 3 times the NSW state average for camping, 3 times the state average of picnics and 2.5 times the state average for bushwalking/rainforest walks.

Why is this? Gloucester's unique selling proposition is its location near World Heritage listed Barrington Tops. In addition, the Vale of Gloucester has been listed by the National Trust since 1975 and was upgraded in 2011 to *The Stroud Gloucester Valley, incorporating the Vale of Gloucester*. So our beautiful region is a declared 'significant heritage landscape' and this scenic value is what drives our visitor economy.

We believe that our region's scenic beauty, its productive farming valleys and high-value environmental areas are an essential component of Gloucester's visitor economy. Any development or activity that threatens these key components of our region also threatens the visitor economy and therefore the economic sustainability of our town and its businesses.

¹ Source: Destination NSW: Travel to Gloucester Local Government Area, 4 year average annual to Sep 2011
http://www.destinationnsw.com.au/data/assets/pdf_file/0013/74101/Gloucester-LGA-profile.pdf

Our comments about the Draft SEPP Amendments

We are pleased that the NSW Government has seen fit to protect some residents and some critical industries with a proposed 2km exclusion zone. However, the amendments fall short in several places:

1. Productive farming valleys are essential to Gloucester's visitor economy. Where is the protection for our productive agricultural land? Why are only horse studs and vineyards considered worth saving from the effects of mining and coal seam gas extraction? Surely producing food is the most critical industry in our state. Why is productive agricultural land still available for the extractive industries to ruin?
2. Clean rivers and healthy aquifers are essential to Gloucester's visitor economy and the health of our community. Where is the protection for our water catchments and our drinking water, which Barry O'Farrell promised would be protected prior to election in 2011?
3. Scenic regions of high conservation value are essential to Gloucester's visitor economy. Tourism is a sustainable industry that will provide benefits beyond the short life of any dusty coal pit or smoking coal seam gas field. Scenic land essential to the visitor economy should also have an exclusion zone.
4. Where is the ability of local councils to decide their future? Councils can only "opt out" of the protection exclusion zones. Where is the ability of local councils to "opt in" to such protection? Why is this just a one-way decision turnstile? A turnstile that will be assaulted by pressure from powerful mining interests as they seek to bend local councils to opt out of protection. Well, Gloucester would like to opt in, please.

Our recommendations

We believe the following should be incorporated into the Draft Amendments:

1. Prohibit mining and coal seam gas activities within 2km of all homes.
2. The "local council opt out" clause should be removed.
3. Prohibit mining and coal seam gas activities in drinking water catchments across NSW.
4. Exclusion zones should include protections for public lands, including high conservation value land, land bordering national parks, state conservation areas and travelling stock routes.
5. Implement clauses and new policies that safeguard our land, water and communities from both coal and coal seam gas industries.

Sincerely,

Thomas Davey

Thomas Davey
Chairperson – Tourism Advancing Gloucester
c-/ Visitor Information Centre
Denison Street, Gloucester 2422
12 April 2013

BARRINGTON...
TOPS!



Mission Statement for Tourism Advancing Gloucester:
*Harnessing the strength of the visitor economy to
sustainably grow all small businesses in Gloucester.*

The Director,
Strategic Regional Policy,
Department of Planning and Infrastructure,
GPO Box 39, SYDNEY NSW 2001
Email to: srlup@planning.nsw.gov.au

We, the undersigned, welcome and support the proposed changes to the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013* under the *Environmental Planning and Assessment Act 1979*.

We represent MGUAG (Macadamia Growers United Against Gas) which comprises a number of individual macadamia producers operating our commercial enterprises within the Northern Rivers region. Our macadamia plantations are currently subject to Petroleum Exploration Licence 445 and we are extremely concerned that any exploration and subsequent coal seam gas mining will adversely impact upon the economic viability of our businesses.

We support the proposal to prohibit coal seam gas development on or under land:

- in and within 2km of a residential zone,
- in and within 2km of a future residential growth area,
- within critical industry clusters (CICs)

We do not support the proposal that local councils be permitted to identify areas for removal from all or part of an exclusion zone to enable coal seam gas development to occur. This would not provide certainty for long term commercial production purposes.

Northern Rivers Macadamia Industry as a Critical Industry Cluster (CIC)

The aim of our submission is to identify the Northern Rivers Macadamia Industry as an industry that should be granted CIC status by NSW Trade and Investment and therefore all land identified as within that cluster should be within an exclusion zone for coal seam gas mining.

The Northern Rivers region of New South Wales has some of the most fertile soils in Australia. The ancient volcanic activity of the region has created the rare krasnozem¹ soil type that macadamias need for optimum growth. Macadamias are native to our region. With our high and reliable annual rainfall and frost-free climate, this is the perfect location for the commercial macadamia industry.

The Department of Infrastructure, Planning and Natural Resources, within the Dept of Primary Industries, has identified our region as prime macadamia country, mainly

¹ Krasnozems are classified as Ferrosols in the Australian soil classification due to their high free iron oxide content

within identified areas of State significant land.² It has been shown that macadamias grown only a short distance from our identified areas, such as the nearby Hogarth Range, have a “vertical growth” problem due to the climate being hotter and too dry and for good production. The use of other soil types or establishment within frost-prone areas also sees a huge production decline.

The Northern Rivers Macadamia Industry facts and figures³;

Commercial production of macadamias began in the Northern Rivers and it remains the largest production area for macadamias in Australia, with nearly 500 growers and an estimated 50% of total industry production.

Trees planted: 2,279,000

Total area under canopy: 8,420 hectares

Number of growers: 500 (approx.)

Number of processors: 5

Tonnage: 20,143 tonnes nut-in-shell (2012)

Farm gate value: \$64.5 million (2012)

Factory gate value: \$129 million

Economic value to the Northern Rivers: \$193.5 million⁴

The macadamia industry is one of the major horticultural economic contributors to the villages and towns of the Northern Rivers with the hub being Lismore, a city of 45,000 people.

Employment on farm, with processors and indirectly through the range of support services provided is complemented by the economic benefits created by purchase of farm machinery, fertilisers and other goods to maintain and expand production.

Industry Cluster economic benefits

Given the clustering of our macadamia industry, we have at least seven processing plants, including Agrimac Macadamias, Macadamia Oils of Australia and Macaz International at Alstonville; Macadamias International Australia Pty Ltd at Dunoon; MPC (Macadamia Processing Company) at Alphadale; Pacific Farm Services at Brooklet and Patons Pty Ltd at Numulgi.

These plants process nuts from growing regions around Australia. They provide direct employment for factory staff as well as engaging in extensive commercial activity with a significant number of local suppliers.

The industry also requires the professional services of accountants, administrators and farm managers.

² Northern Rivers Farmland Protection Project Methodology Report February 2005-DPI

³ Information in this submission contains extensive quotes from the Australian Macadamia Society's Australian Macadamia Industry Regional profile – Northern Rivers, New South Wales factsheet

⁴ Economic Figures in the latter three values have been calculated using data collected through the On Farm Economic Analysis HAL project MC03023

Local business

The macadamia industry injects many millions of dollars directly into the economy of the Northern Rivers. Servicing the macadamia industry provides employment and revenue across a wide range of support businesses, such as that of Ongmac, NORCO and Landmark which supply tractors and other agricultural machinery and products. Other agricultural industries also benefit from the waste products from macadamia production such as pulverised nut husks and shells which are used for mulch and fertiliser.

Contractors

The industry also requires the services of contractors throughout the course of the year for orchard maintenance such as weed control, pest management, pruning, fertilizer spreading, harvesting and apiarists for nut set. Plant nurseries are also contracted to supply the industry with seedlings and replacement trees.

Clearly, any reduction of macadamia production through incompatible land use by coal seam gas mining would adversely impact upon many dependent industries and risk closure of processing plants and secondary industries, causing unemployment and loss of investment in the region.

Value adding and tourism

There are many local, value adding enterprises that use macadamia nuts for biscuits, nut butter, ice cream, chocolate coating and muesli. In addition a number of tourist ventures rely on publicity surrounding locally produced nuts to generate a significant part of their income, such as Macadamia Castle at Knockrow. Dunoon village calls itself the “Macadamia Capital of Australia”.

Exports

There is also a significant export industry associated with our locally produced and processed nuts. Nuts and nut products from this district are sent to more than 40 countries around the world.

The Macadamia Industry is not compatible with Coal Seam Gas Mining

Density of people and farms

The Northern Rivers is a densely populated region with numerous villages located amidst intensive agriculture. Many of our macadamia plantations are located close to village residential zones. The industrial nature of coal seam gas mining makes it incompatible with such intensive land use and high populations.

Macadamias are a clean, green, sustainable industry

There is also a commitment among many macadamia growers to the natural environment, through good environmental practice and recognition, protection and regeneration of rainforest remnants which used to form part of the vast sub-tropical rainforest known as the “Big Scrub”. The presence of coal seam gas wellhead flares and contaminated water settlement ponds are not compatible with the clean, green,

sustainable image promoted by these growers and the region. There are a number of organic farms, and many others, that rely on biological technology that could be put at risk by mining.

Aquifer interference

We also hold grave concerns that coal seam gas mining would deplete aquifers. The macadamia industry is a significant drawer of water from the aquifer in the cleaning and processing of nuts. Macadamia trees are shallow rooted and we may see the water table lowered to beyond the range of macadamia tree roots. Some macadamia farmers are also reliant upon bore water for cleaning agricultural equipment and for staff use; once again we know nothing about the impact on aquifers and the safety of bore water for human consumption as a result of aquifer interference.

There are also significant concerns about the safety of contaminated water settlement ponds in our high rainfall, hill country. There are few places where ponds could be situated without the potential for massive water runoff during our regular flooding rain season. It is not unusual for us to experience inundations of up to 400mm within a 24 hour rain event. The risk of runoff into macadamia orchards is significant, and would cause significant soil erosion and contamination. The contaminated water would also end up in our many stream and creeks that feed into the region's water catchment.

Roads, transport, pipelines and environmental disturbance

Coal seam gas industry practices such as bull-dozing for drilling pads, roads and pipelines will risk erosion and loss of top-soil in our high rainfall areas which are prone to torrential rain and floods. Macadamias are particularly sensitive to root exposure through soil erosion. Drilling is also likely to disturb and reduce the number of pollinators and potentially reduce nut yields.

Mining vehicles and activity would compact the ferrosol soil leading to a degradation of soil structure which in turn would lead to reduced infiltration resulting in 'increased runoff and erosion, reduced porosity, aeration and water storage, poor drainage and reduced trafficability, increased root impedance due to greater soil strength, increased cloddiness and declining yields.'⁵

Mining would cause an enormous increase in large trucks and other vehicles on our already substandard local roads. Many of our roads are single lane bitumen or gravel lanes, and are often steep and winding. Mining trucks would be competing for road space with heavy and wide-load macadamia machinery towed or driven between orchards.

Our roads are also very prone to pot-holing during our sub-tropical wet season. An increase in heavy vehicles will risk breakaways of the bitumen along the road edges,

⁵ Paraphrased from <http://www.dpiw.tas.gov.au/inter.nsf/WebPages/EGIL-53C8LR>

caused by vehicles passing each other. Many roads are perched adjacent to precipitous slopes on steep hills, posing extreme danger for both vehicles and pedestrians, when they are traversed by large trucks.

In fact, a number of local roads cannot carry large vehicles at all due to overhanging trees. In the event of mining, this would greatly increase the truck pressure on the remaining more accessible, single-lane roads. Road quality and safety are very sensitive political issues in our local council areas.

Weed growth is rampant in our warm wet climate. Clearing land for drilling pads, roads and easements will create the potential for excessive weed growth, and also the possibility of introducing new weeds from other areas, brought in by mining vehicles. This would add further economic costs of weed control in macadamia plantations.

Climatic events

The recent storms caused the loss of many trees in local macadamia plantations. The building of roads and pipeline easements could lead to the fragmentation of windbreaks and the creation of wind tunnels, exposing plantation trees to even greater potential for damage during extreme wind events.

Conclusion

We the undersigned, feel very strongly that the Macadamia Industry should be granted CIC status. Our local communities overwhelmingly support the exclusion of the coal seam gas industry from our region, with 97% of surveyed residents stating that they would “lock the gate” against coal seam gas mining companies.

To quote Jolyon Burnett, CEO of the Australian Macadamia Society (AMS):
“The Macadamia Industry is the largest rural activity in the Northern Rivers, adding significant value to our local economy, and the AMS has concerns about the impact of coal seam gas mining on the sustainability of the macadamia industry”.

| | |
|---------------------------------|-------------|
| George and Georgina Whaley | Dorrroughby |
| Toby and Daniella Raeth | Dorrroughby |
| Dennis and Sonja Cassidy | Dorrroughby |
| Peter Harrison | Dorrroughby |
| Christos and Christina Nicolaou | Dorrroughby |
| Barbara Swan | Dorrroughby |
| Gavin Arthur | Dorrroughby |
| A P (Ben) Goodman | Rosebank |

| | |
|----------------------------|---|
| David Anderson | Rosebank |
| Lesley Bayliss | Rosebank |
| Cath and Chris Ford | Rosebank |
| Allan Bingham | Rosebank |
| Dianne Horton | Rosebank |
| Lydia and Greg Byrne | Rosebank |
| Shaun and Carmel Warnock | Rosebank |
| Robyn Gough | Rosebank |
| Philip Shand | Rosebank |
| Andrew and Susan Kay | Rosebank |
| Martin Novak | Whian Whian |
| Will Kent | Whian Whian |
| Gordon and Roderick Balle | Whian Whian |
| Nick Petross | Whian Whian |
| Steve Starkey | Whian Whian |
| Nick and Jacqueline Drew | Whian Whian |
| Bruno Bertolo | Whian Whian |
| Frank Hathaway | Whian Whian |
| Paul and Melanie Wells | Dunoon |
| Greg Woods | Dunoon |
| Darrell and Doreen Skinner | Dunoon |
| Ronald Harris | Dunoon |
| Tony Savins | Farm 1 at Newrybar, farm 2 at Whian Whian |
| Susan Benson | Farm 1 at Eureka, farm 2 at Clunes |
| Paul and Sue Scott | Farm 1 at Clunes, farm 2 at Dunoon |

PROPOSED AMENDMENTS TO MINING SEPP – CSG EXCLUSION ZONES
SUBMISSION BY THE
BARRINGTON-GLOUCESTER-STROUD PRESERVATION ALLIANCE

BACKGROUND

1.1 Under present mining and petroleum legislation, no rural landholder has certainty of title over his/her property. With the rampant expansion of the extractive industries over recent years, many landholders and communities throughout the state are virtually under siege.

1.2 Landholders cannot plan for the future or make capital investments in their properties without wondering whether they are wasting their time, money and effort because the extractive industries are on the move and their property(s) may be the next to fall. This is an intolerable situation that is seriously damaging people's health and the fabric of many rural communities.

1.3 In recognition of this the Barrington-Gloucester-Stroud Preservation Alliance (BGSPA), along with many other community groups, has been calling for certain areas to be declared exempt from mining because they have greater economic, environmental or social value. Such a move would immediately provide certainty for both landholders and industry and neutralize the current conflicts over competing land use.

1.4 Prior to the last state election, the coalition parties indicated that they were receptive to these arguments and promised to at least protect prime agricultural land and water catchments from mining. Sadly, these expressions of support proved to be hollow. Instead, the government has proposed a Strategic Regional Land Use Policy that does nothing to quarantine one square centimetre of land from mining.

1.5 Not surprisingly, communities have refused to accept this and are continuing to push for genuine protection.

1.6 BGSPA therefore welcomes this important first step by the government to protect residential areas and defined "critical industry clusters" from the negative impacts of coal seam gas extraction. However, the proposed SEPP is woefully inadequate and needs further amendment if it is to be effective and just.

1.7 BGSPA also notes the concerns of the Deputy Premier about coal seam gas development as stated on 7:30 NSW on Friday 22 February 2013. In response to questions about the introduction of CSG exclusion zones, the Deputy Premier acknowledged that he wouldn't want a CSG well close to his property because "it would negatively impact his property value" and "there was always the risk that something might go wrong".

INADEQUACIES OF THE PROPOSED SEPP AMENDMENTS

2.1 The proposed SEPP does not cover the impacts of CSG development on the state's key water supplies, productive agricultural land, state conservation areas and sensitive environmental areas.

2.2 The proposed SEPP does nothing to protect those living on farms and rural properties and fails to provide protection for rural industries other than viticulture and horse breeding.

2.3 The proposed SEPP also leaves large parts of the state open to CSG development, as it does not apply to conditionally approved projects, including AGL's 330 well Gloucester Gas Project and the massive gas field planned for the Pilliga Forest.

2.4 The proposed SEPP only relates to gas from coal seams and does not include other forms of unconventional gas.

2.5 The proposed SEPP does not address the damaging impacts of other extractive industries, particularly coal mining. It beggars belief that the government can, on the one hand take action to buffer the impact of CSG extraction on neighbouring residents and industries because of perceived health and environmental risks, but on the other refuse to buffer those same impacts arising from coal mining. In terms of noise, dust and health impacts on neighbouring residents, coal mining undoubtedly has a far greater footprint than CSG. It is nothing less than a denial of the government's 'duty of care' to fail to apply the amended SEPP to other extractive industries.

2.6 There has been no comprehensive investigation by the NSW Health Department into the health effects of CSG extraction and therefore its effects in residential areas are unknown. Allowing CSG development to occur within areas that may not be zoned as 'residential', but nevertheless where families live within two kilometres of proposed drilling, is extremely risky.

2.7 The SEPP does not take into account any impacts of CSG mining operations within water catchment areas, including in Sydney Catchment Authority (SCA) Special Areas. This despite the fact that Premier O'Farrell promised to protect drinking water catchments from mining and gas development in 2009: "The next Liberal-National government ... will ensure that mining can't occur in any water catchment area, and will ensure that mining leases and mining exploration permits reflect that common sense. No ifs, no buts, a guarantee". CSG projects in the Illawarra escarpment will be drilling close to three key water catchments including the SCA Woronora Special Area, which provides water for the people of Sydney and Wollongong.

2.8 The SEPP does not take into account the need to protect state conservation areas and other public lands from inappropriate mining and gas developments. The government has a responsibility to protect the natural and cultural heritage of state and public lands for the benefit of the people of New South Wales. CSG extraction is inconsistent with the management principles for state conservation areas and public expectations regarding the management of protected areas.

2.9 The SEPP amendment would also give local councils the ability to "opt out" of CSG mining prohibition in certain areas identified for CSG exploration and production. While empowering local councils to have a say on development is inherently a good idea, this clause would allow gas companies to circumvent the safeguards by

pressuring councils to declare lands exempt that would otherwise be protected by the amendment.

RECOMMENDATIONS

3.1 The SEPP amendments should be broadened to include a two-kilometre exclusion zone around all residential dwellings.

3.2 The exclusion zones should be extended to cover all identified food producing lands, water catchments and sensitive environmental areas including high conservation value public and private land, state conservation areas, land bordering national parks and travelling stock routes.

3.3 The SEPP amendments should apply to projects that have been conditionally approved but have not yet satisfied those conditions of approval, and have not yet commenced operation.

3.4 The SEPP amendments should be expanded to apply to coal mining and to all forms of unconventional gas extraction including shale gas and tight gas.

3.5 In order to protect our critical drinking water, the exclusion zones should be extended to prohibit CSG extraction in or near SCA water catchment areas SCA Special Areas and other drinking water catchments across New South Wales.

3.6 The government should 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.

3.7 The SEPP 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.

3.8 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.

3.9 The people of the Gloucester Valley assert their right to receive the same protections from the NSW Government as other citizens of the state and demand that the provisions of the SEPP be extended to cover AGL's Gloucester Gas Project.

srlup - csg submission, surfrider foundation yuraygir branch

From: nigel mc kee <nmckee@live.com>
To: <information@planning.nsw.gov.au>
Date: 4/12/2013 4:28 PM
Subject: csg submission, surfrider foundation yuraygir branch
CC: <office@hartcher.minister.nsw.gov.au>

Yuraygir Branch of Surfrider Foundation
 PO Box 731
 GRAFTON
 NSW 2460.

The Director Strategic Regional Policy,
 Department of Planning and Infrastructure,
[GPO Box 39, SYDNEY NSW 2001](#)

srlup@planning.nsw.gov.au
 Cc: office@hartcher.minister.nsw.gov.au

Draft NSW Government SEPP Amendment on CSG Exclusion Zones

Surfrider Foundation Australia is a non-profit organisation dedicated to the protection of waves and beaches. We do this through Conservation, Activism, Research and Education (CARE). Surfrider Foundation aims to increase awareness of many issues impacting on our enjoyment of the coast, and to ensure that our children have similar opportunities to enjoy it as we have today.

Surfers want to surf in clean water free from harmful chemicals. There are documented reports of surface and ground water and air pollution from coal seam gas (CSG) exploration and production from North America and Queensland. (attached)

The *Draft NSW Government SEPP Amendment on CSG Exclusion Zones* fails to give adequate protection to the health of rural Australians and to protect the surface and ground and ocean water of all Australians.

The proposed changes does provide welcome protection for zoned residential areas and mapped critical viticulture and thoroughbred industry clusters.

However *Draft NSW Government SEPP Amendment on CSG Exclusion Zones* do nothing to protect those living on farms and rural properties and fail to provide protection for other vital food growing lands, water catchments and sensitive environmental areas.

Other shortcomings of these amendments are that they allow council's to exempt an area from the protections, while failing to give councils the right to include additional areas for protection; they don't cover other types of unconventional gas; and they don't cover coal mining.

Yuraygir Branch of Surfrider Foundation request that the SEPP be amended to protect rural communities where 70 % of the population is opposed to CSG mining.

Further we demand our government to require legislation requiring rigorous base line monitoring for the potential pollutants from CSG mining, prior to any CSG exploration occurring. Further more we demand legislation requiring rigorous independent sampling of rivers and groundwater by our government.

Yours sincerely

Nigel McKee
 President *Yuraygir Branch of Surfrider Foundation*
 0415 743916

ATTACHMENT 1**COMPREHENSIVE MANDATORY BASELINE TESTING OF WATERS**

***Yuraygir branch of Surfrider Foundation* requests comprehensive mandatory baseline testing of surface and ground waters within 7 km of a proposed well site before any drilling commences.**

Baseline testing of waters must include at least the following;

1. volatile organic compounds including BTEX,
2. surfactant based chemical like nonylphenols (and their metabolites),
3. Hydrocarbons* Phenol compounds
4. Polycyclic aromatic hydrocarbons (PAH)

5. Total petroleum hydrocarbons
6. radioactivity (gross alpha and beta radioactivity)
7. Metals including metals eg. **lead** cadmium, chromium, copper barium, strontium, arsenic, iron, manganese, zinc
8. MBAS (detergents
9. methane (baseline isotope (a type of fingerprint identification) testing of methane)
10. unionized hydrogen sulphide
11. pH,
12. ethane and propane
13. total suspended solids, total dissolved solids, chemical oxygen demand
14. All drilling and fracking chemicals used on this particular site
15. Visual and gas meter assessment of free bubbling methane in all surface waters with in 7 km of a proposed well site.

Further we request truly independent testing of waters by the NSW government after mining has commenced.

C/- Wollombi General Store
Wollombi NSW 2325

The Director Strategic Regional Policy
Dept. of Planning & Infrastructure
GPO Box 39
Sydney 2001

Dear Sir/Madam

On behalf of the Wollombi Valley Progress Association (WVPA), Wollombi

At our most recent meeting of the 6th April 2013 32 members were united in their opposition to Coal Seam Gas mining in the Wollombi to Bucketty region as cited in the NSW Government publication "The Lower Hunter over the next 20 years: A Discussion Paper" Energy Resources (page 33).

A unanimously supported motion was passed opposing Coal Seam Gas exploration and extraction in the Wollombi Valley region including Laguna and Bucketty.

Whilst the amendment to the proposed Schedule 3 (14th April) is commendable it does not address all of the concerns of our members for the following reasons:

1. The village of Wollombi (RU5 Zone under Cessnock LEP 2011) in the Lower Hunter with it's natural and cultural heritage should be protected from inappropriate mining and gas development.
2. The neighbouring village of Laguna (although not currently classified with a RU5 Zoning) exhibits all the aspects that a reasonable person would consider comprises a 'village'. This includes a heritage classified Public School with a current enrolment of approximately 50 students, a Church, volunteer Bush Fire Brigade, Community Hall, General Store and Wine Bar, a playing field and cricket oval. It also has a minimum of 15 residences within walking distance of this infrastructure. As a result of the village character of Laguna, it should also be included in Schedule 3 'Exclusion Zone' for coal seam gas mining.
3. The Wollombi Valley Progress Association agree that there are potential short and long term health and environmental concerns associated with the Coal Seam Gas industry. WVPA consequently requests that the valuable cultural and heritage assets of the Wollombi Valley and surrounds be protected from future CSG exploration and mining.
4. Wollombi Valley and surrounds also comprise part of the region nationally recognised as "Hunter Valley Wine Country" and "Hunter Valley Tourism", exhibiting commercial agricultural interests and values consistent with other 'critical industry clusters' afforded exempt status under Section 3 of the amended SEPP. Accordingly we submit that the Wollombi Valley and surrounds should also be afforded exempt status under the amended SEPP.

Yours Sincerely,

Simone Smith
President
Wollombi Valley Progress Association

"Milverton"

242 Kirkton Road

Lower Belford NSW 2335

9 April 2013

The Director

Strategic Regional Policy

NSW DP&I

Objection to Amendments to Mining SEPP

Dear Sir,

On behalf of the Belford Lower Belford Residents Alliance we wish to object to the proposed amendments to the Mining SEPP, our objections are;

1. The policy should include the community of Belford/Lower Belford as one of the "villages" to be excluded from CSG exploration.
2. The policy should include the community of Millbrodale as one of the "villages" to be excluded from CSG exploration.
3. There should be a 5km exclusion zone surrounding these "villages"
4. CSG extraction should not be permitted within a 2km limit from a residential dwelling.
5. All CSG operations must comply with Draft NSW Aquifer Interference Policy- this policy must become operational and no longer be a draft; it must be made a law and be enforced with suitable penalties in excess of the cost of non-compliance.
6. Councils should have the power to list new areas that they wish to remain CSG free.
7. All agricultural food producing land should be excluded from CSG activity
8. Viticulture tourism-all tourism activities associated with the viticulture industry that form part of the local tourism industry should be included along with the Viticulture CIC. Activities such as tourism accommodation, shopping villages/shops, concert venues and restaurants/cafes.
9. Land within 2km of waterways, National Parks, public land (Crown reserves, Travelling Stock Reserves), water storages and community water resources e.g. Tomago sand beds must be excluded from CSG activity
10. A buffer zone of 5km around educational institutions should be established
11. The SEPP amendments should apply to all gas extraction processes and coal mining operations.
12. The SEPP amendments should also apply to current approved project that have not been commenced such as Gloucester coal mining and CSG wells.
13. The Branxton/Lower Belford/Belford and surrounding rural areas should be considered in conjunction with the new F3 freeway extension, the extension finishes at Black Creek, Lower Belford, it brings the area much closer to Sydney and should be considered as a "future residential growth area".

14. The Village area definition/criteria need to be redrafted to include such areas as Belford/Lower Belford. They need to be rezoned R5.
15. Councils should have the right to determine R5 areas within their LGA.
16. There should be a 5km buffer zone around CICs.
17. To say "Other relevant measures that would still apply to CSG proposals within two kilometres of a CIC include:

- The Aquifer Interference Policy; "

is not honest, it is only a draft policy and CSG operators are not legally required to conform with the draft policy and penalties for non-compliance are non-existent. See point 5.

Yours sincerely



Christopher Robertson

Vice President

Belford Lower Belford Residents Alliance

srlup - SEPP Submission

From: Northern Wollemi Communities Association Inc <northernwollemi@gmail.com>
To: <srlup@planning.nsw.gov.au>
Date: 4/9/2013 11:14 PM
Subject: SEPP Submission

The Director Strategic Regional Policy

Department of Planning and Infrastructure

GPO Box 39

SYDNEY NSW 2001

srlup@planning.nsw.gov.au

9th April 2013

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

The Northern Wollemi Communities Association Inc applauds the prohibition of Coal Seam Gas exploration and production within Critical Industry Clusters. We also applaud the fact that exploration activities in these areas will NOT be able to transfer or transition to the production stage.

What we cannot support is the uncertainty and possible changes to the Equine and Viticulture Clusters' defined areas.

We are informed that NSW Trade & Investment will be conducting a review following the completion of a regional CIC verification, currently being undertaken and will be revised as necessary.

It is impossible to fully respond to Government proposals on the SEPP without knowing the exact areas of the CIC's.

The cart is well and truly travelling in front of the horse.

The current maps for Equine & Viticulture CIC's are encouraging, but by no means complete. The upper reaches of several tributaries of the Goulburn River fail to qualify for CIC equine status. While some of these areas may not have direct involvement in the equine industry they are part of the rain and water catchment for the equine clusters downstream. For completeness sake and to guarantee the integrity of the surface and underground water flowing to the now defined equine cluster these areas should become part of that same cluster.

We also fail to see any mention in this review process catering for future expansion or recognising areas that once were equine involved but currently aren't.

One example of this is in the Bylong area where a mining company bought the one major horse stud. The equine enterprise has been closed down even though the area is very well suited to horse stud activities – breeding, husbandry sales and fodder production.

The property "Murrumbo" likewise had a rich history of breeding and selling Quarter Horses under previous owners.

No mention has been made in the Government's proposal about CSG pipelines. Are the CIC's still going to be subject to fugitive emissions from the pipelines and their associated compressor stations?

Those landowners who fall in the CIC after the review will be comforted by the new protection the Government is introducing. For those who don't, the battle against CSG will probably intensify given the smaller area available to the miners.

This brings us to one of the key points in the CSG debate.

If the equine & viticulture industries can be afforded special protection what about other local industries – dairying, beef cattle, wool and lamb production, orchards and the vast areas of land already identified as Strategic Agricultural Land (SAL). All contributing to essential food or fibre production.

Why aren't these areas being protected?

The Government may have placated sections of the equine & viticulture industry with these latest announcements, BUT the vast majority of community will still regard the Governments position on CSG as totally inadequate.

If the Government sees fit to protect the equine & viticulture industry from the potential ravages of CSG mining, then what about the horrific impact coal mining is also having within these clusters.

Look at the Denman to Muswellbrook Road - from just east of the Hunter River crossing at the Denman end to the outskirts of Muswellbrook. This land which is immediately adjacent to the Hunter River is mostly prime irrigated agricultural land. A few years ago, this area was a hive of agricultural activity – horse studs, vineyards, dairies, lucerne and fodder production – now, mostly gone. An agricultural stretch of land nearly 20km's long which could have been used to showcase the agricultural capability of the Muswellbrook Shire is anything but that now. Paddocks are becoming untidy and weeds are beginning to dominate areas.

Mining companies are now the dominant owners of this stretch of land.

The situation outlined above is by no means a reflection on the few agricultural holdings remaining. These owners must certainly be looking over their shoulders at the ever encroaching mining juggernaut.

Air quality is appalling in the Upper Hunter. How anyone can grow award winning wines or raise super equine athletes when subjected to inferior air quality is very contentious. An essential basic commodity is being seriously compromised. Obviously what is in the air will eventually end up in the water and be part of the end product. Coal mines are already having a direct negative impact on water quality.

The cumulative impact of all the mines within the CIC's has not been fully addressed.

The international horse stud "Darley" has threatened to close its Upper Hunter Valley operations due to encroaching proposed coal mines.

How the Government can contemplate approving expansion to existing mines or establishment of new ones is beyond comprehension for local people. These decisions are being made by people removed from the area, people who aren't directly impacted upon. BUT they will be held accountable.

Submission

- Adopt the Governments proposal banning exploration and production of CSG in Equine & Viticulture Clusters.
- Included in this ban should be CSG pipelines, associated compressor stations and infrasture necessary to support CSG activities outside the CIC's.
- Expand all current mapping areas of CIC's to protect existing clusters and adequately cater for future expansion.
- In the mapping review avoid "swiss cheesing" the clusters. To have CSG operating within a cluster would place in jeopardy all the safety measures being put in place to protect them.
- Once mapping is complete then call for public submissions regarding the cluster areas and how SEPP will affect them.

In the meantime

- Identify other industries, such as dairying, beef cattle production, olives, pecans, wool and lamb production and afford them the same CIC status of protection. Included in this protection should be all land identified as SAL.
- Recognise the cumulative impact coal mining is having within those communities being affected by current production

and future expansion.

- Limit future expansion of coal mining to only match – not exceed current production levels.
- Enough is enough!

Northern Wollemi Communities Association Inc

Rowan Smith

Interim President

northernwollemi@gmail.com

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| | |
|---|---|
| Northern Wollemi Communities Association Inc Protecting the communities and landscape of the Northern Wollemi region | Kerrabee Widden Baerami Baerami Creek Yarrowa Martindale |
|---|---|

From: Stop CSG Blue Mtns <info@stopcsgbm.net.au>
To: <srlup@planning.nsw.gov.au>
CC: <office@premier.nsw.gov.au>, <office@hazzard.minister.nsw.gov.au>
Date: 4/8/2013 8:35 pm
Subject: Submission on draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013.

Jan O'Leary for
Stop Coal Seam Gas Blue Mountains,
100 Burns Rd.,
Springwood, NSW, 2777

8 April, 2013

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

Dear Sir/Madam,

Submission on draft amendment to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013.

Stop Coal Seam Gas Blue Mountains is a group based in the Blue Mountains but concerned about the effects of CSG mining much more broadly. We welcome the opportunity to make this submission on this important policy issue.

We approve the measures to protect urban areas that are zoned as residential and critical rural industries. However, there are major omissions: the impacts of CSG development on aquifers in non-urban areas, state conservation areas, high conservation value land, critical agricultural land and, importantly, water catchment areas, one of which supplies drinking water to Sydney and Wollongong. On the latter, it should be noted that Barry O'Farrell in 2009 promised: "The next Liberal-National government ... will ensure that mining can't occur in any water catchment area, and will ensure that mining leases and mining exploration permits reflect that common sense. No ifs, no buts, a guarantee". That common sense and all omissions mentioned above need to be addressed in the final document if it is to have credibility as more than a placatory measure.

These amendments make no provision for projects which have already passed the approval stage. This leaves vast areas of NSW unprotected. These projects need to be reassessed.

The approval process occurs without a comprehensive investigation by the NSW Health Department into the health effects of CSG mining. Its effects in residential areas are unknown but evidence emerging out of Tara in Queensland suggests such an investigation is needed. Yet CSG development will still be permitted within built-up areas that may not be zoned as 'residential' but where a significant number of people live within a 2 k. radius of drilling. This also needs to be rectified in the final document.

Allowing councils to opt out of the CSG mining prohibition is highly problematic due to the possibility of CSG mining companies influencing the decision of councils. Clause 9A, sub clauses 2 and 3 of the amendment need to be removed.

Members of Stop CSG Blue Mountains, like many Australians, see through the arguments that CSG is a good and clean transition fuel between fossil fuels and renewable technologies. When fugitive emissions are taken into account, some assessments rate it very much more environmentally destructive than coal. Given that renewables are now at cost parity with coal produced power, both coal and CSG have been rendered redundant.

Nor do we accept the argument that we will run out of gas. South Eastern Australia has adequate supplies of conventional gas available from the Cooper Basin and from Gippsland. The vast majority

of the CSG output from Queensland is exported, and the same is true for the planned CSG output in NSW. We recognise that it is about export dollars for the mining companies, 83% of which are foreign owned. We are seeing the privatisation of profits while costs are socialised.

Stop CSG BM also find it galling that this privatisation and export of profits is enhanced and encouraged by government subsidies. These subsidies should be removed immediately. If these subsidies were to be redirected to renewable energy. this would very quickly ensure that coal and CSG operations would no longer be cost competitive and would simply cease to be.

The potential destruction to be wrought by the existing and planned CSG and coal mining ventures are on a scale like nothing experienced before in Australia. Despite the rhetoric, we are aware the approval process provides scant protection for the people of NSW or their environment. We hope that the final amendments to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (Coal Seam Gas Exclusion Zones) 2013 will be the first of other measures to provide adequate protection.

Yours sincerely,

Jan O'Leary
for Stop Coal Seam Gas Blue Mountains

PLEASE NOTE A HARD COPY OF THIS SUBMISSION IS IN THE MAIL