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Dear Mr Ross

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

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

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

1. Background

The *Environmental Planning Policy (Mining Petroleum Production and Extractive Industries) 2007 (Mining SEPP)* was amended on 4 October 2013 by the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment 2013 (Stage 1 Amendments)*. The Stage 1 Amendments relevantly inserted new provisions into the Mining SEPP which provide that “coal seam gas development” is prohibited on or under land within a “coal seam gas exclusion zone” or a “buffer zone”.

The Current Draft SEPP represents stage 2 of the amendments made to the Mining SEPP. It will, if made in the form exhibited, extend the definitions of “coal seam gas exclusion zone” and “buffer zone” so as to prohibit “coal seam gas development” over a much larger area of NSW.

APPEA previously provided a detailed submission, dated 12 April 2013, on the original amendments proposed to the Mining SEPP via the exhibited draft *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013 (Original Draft SEPP)*.

As stated in APPEA’s previous submission, APPEA strongly opposes the introduction of **CSG** exclusion zones which:

- represent a clear and unacceptable risk to the NSW CSG industry;
- are completely unsupported by any scientific research into, or risk analysis of, the impacts of CSG on other land uses; and

- will unnecessarily sterilise significant proved and probable reserves, resulting in a heavy financial impact on:
 1. the people of NSW in the form of lost royalty revenue and increased gas prices to consumers and industry; and
 2. the CSG industry, in the form of reduced asset values.

The current NSW energy policy is threatening state investment, damaging energy security and is set to cost jobs and drive up energy costs, according to a new report written by ACIL Allen Consulting. The report, which can be found at <http://www.appea.com.au/wp-content/uploads/2013/06/27303-NSW-CSG-Report-20130529.pdf>, finds that if NSW does not expand beyond current production levels:

- Wholesale gas prices in Sydney projected to be 24 per cent higher (on average) relative to the Base Scenario over the period 2025 to 2035;
- A reduction of around \$4.0 billion (in real 2012-13 dollars) in direct capital investment in NSW upstream CSG development and a loss of around \$2.9 billion of associated recurrent operating expenditure foregone over the period to 2035. These losses would result in investment moving to other jurisdictions and the net result sees a total reduction in real NSW Gross State Product of \$14.2 billion over the period to 2034-35;
- NSW real income \$24.6 billion lower over the period to 2035 (\$7.9 billion lower in net present value terms which equates to \$1100 per NSW resident);
- NSW employment falling noticeably by a cumulative total of 34,287 employee years compared to the Base Scenario – equivalent to an average loss of 1,441 full time equivalent (FTE) jobs each year;
- Loss of royalty and tax revenues. CSG royalties and payroll tax over the period to 2035 reduced by about \$1.9 billion aggregate; and
- A loss in average NSW household real income of \$290 per household per year and an increase in average NSW household electricity bills of \$31 per household per year and an increase in gas bills of around \$22 per household.

APPEA is extremely concerned that the submissions made by it in relation to the Original Draft SEPP have not been adopted, addressed or even acknowledged in either the final drafting of the Stage 1 Amendments or the preparation of the Current Draft SEPP.

Natural gas is critical for energy security and economic growth in NSW.

Although NSW has abundant natural gas resources, most remain undeveloped. The state relies on other states for more than 95 per cent of its gas, which imposes significant pipeline transmission costs.

Demand for natural gas is forecast to grow over the next two decades, but most existing long-term contracts for gas supply in NSW are due to expire between 2015 and 2017. At the same time, eastern Australian gas prices are expected to rise as large Queensland LNG projects begin producing and exporting gas.

Gas explorers in NSW have indicated that they aim to produce gas for the NSW domestic market. Bringing local natural gas into production would enhance the state's energy security, create jobs, put downward pressure on energy costs, and provide a significant boost to economic and regional development in NSW.

Most natural gas in NSW is held in coal formations.

For more than a decade, the Queensland gas industry has been safely producing gas from coal seams. This industry co-exists with agriculture and other industries. CSG developments have directly created more than 27,000 jobs in Queensland and have also had a provided a range of direct and indirect economic and social benefits to several towns and districts, significantly boosting regional prosperity.

NSW has extensive gas resources that are similar to those in Queensland. By developing its own gas resources, NSW can enjoy similar benefits to Queensland.

One of the answers to the NSW's Government's agenda is development of its onshore gas industry.

The NSW Government has an ambitious reform agenda that is set out in the strategic plan *NSW 2021 – A Plan to Make NSW Number One*. A priority action of the Plan says:

Increasing business investment by an average of 4% per year will provide the foundation for securing jobs and long-term economic activity in NSW. We will achieve this target by making NSW the first choice for local and international investors and by supporting our existing businesses to grow.

In addition to developing our opportunities in Sydney, Western Sydney, the Hunter, the Illawarra, regional NSW will be supported to play a key role in our future economic growth.

The Plan includes specific goals to create an additional 100,000 jobs in NSW, including 40,000 in regional NSW. It also targets a 20 per cent reduction in red tape for businesses and the community by June 2015.

Yet, the government is adopting policies that are slowing development of an onshore gas industry in NSW.

Benefits to NSW from natural gas production include more jobs and additional payments for contractors, many in the state's disadvantaged regional areas. The natural gas industry would also provide additional government revenue to support NSW community services.

The Centre for International Economics has analysed available data about the benefits to NSW from CSG. Their study, available at <http://www.appea.com.au/wp-content/uploads/2013/10/Benefits-of-Natural-Gas-for-NSW.pdf>, highlights the industry could provide the state:

- 5,300 new jobs in NSW;
- more jobs and higher incomes in many disadvantaged regional areas;
- billions of dollars of additional payments for contractors, many in regional areas;
- \$135 million land access payments to landholders in NSW;
- stable source of income for farmers; and
- \$1.6 billion additional government revenue to support services to the NSW community.

If NSW is serious about its plan to become the nation's number one state, it is time for the Government to confront the very real imminent threat of gas shortages that will seriously erode the competitive environment of the State. APPEA's submission on the Current Draft SEPP is set out below.

2. Detailed Comments on the Current Draft SEPP

For the reasons outlined above and in APPEA's submission on the Original Draft SEPP, APPEA is strongly opposed to any CSG exclusion zones and strongly submits that:

- the prohibition in clause 9A of the Mining SEPP on “coal seam gas development” on or under land within a “coal seam gas exclusion zone” or a “buffer zone”:
 1. is unjustified and inappropriate; and
 2. should be repealed; and
- the Current Draft SEPP should not be made.

However, if this primary submission is not accepted, APPEA’s submits that the Current Draft SEPP should be amended as outlined below.

Yours sincerely



Paul Fennelly
Chief Operating Officer - Eastern Region
APPEA

Transitional Provisions	<p>APPEA understands that the exclusion zone provisions are not intended to have any retrospective operation to any approved natural gas from coal seams exploration or production projects. In this regard, APPEA notes that the document prepared by the Department of Planning and Infrastructure entitled “Frequently Asked Questions – Coal seam gas exclusion zones now in force” states the provisions will only prohibit “new CSG exploration and development”.</p> <p>However, APPEA is concerned that the current drafting of clauses 9A and 20 do not make it sufficiently clear to members of the public that the exclusion zone provisions are not intended to apply retrospectively. In order to prevent any unnecessary disputes, and to give the industry greater certainty, APPEA strongly submits that this apparent drafting oversight should be corrected by amending the Current Draft SEPP to inserting the following provisions into clause 20:</p> <p><i>Clause 9A does not apply to coal seam gas development for which:</i></p> <p><i>(i) development consent; or</i></p> <p><i>project approval under section 75J (as modified from time to time), has been granted.</i></p> <p><i>Clause 9A does not apply to coal seam gas development for the purposes of prospecting for coal seam gas:</i></p> <p><i>which is a “Category 1” and “Category 2” activity under the conditions of a petroleum exploration licence; or</i></p> <p><i>for which an assessment under Part 5 of the Act had been completed prior to the land becoming part of a “coal seam gas exclusion zone” or a “buffer zone”.</i></p> <p>APPEA submits, that if clause 9A of the Mining SEPP is to remain, it is imperative that the Current Draft SEPP amend the transitional provisions contained in clause 20 in the manner outlined above.</p>
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<p>Definition of “Coal Seam Gas Development” should be amended</p>	<p>The Current Draft SEPP does not propose any amendments to the definition of “coal seam gas development”. The definition of “coal seam gas development” contained in the Mining SEPP is very broad and will capture all CSG exploration and production activities which are not exempt development.</p> <p>This fails to recognise that many CSG exploration and production activities are extremely low impact and no different from many other land uses which are carried out across all parts of NSW. For example:</p> <p>CSG exploration and production both use low pressure water and gas pipelines. These low pressure pipelines are no different from the low pressure gas and water pipelines which are used to deliver essential services safely to homes across NSW.</p> <p>CSG exploration and production both necessitate the creation and use of access roads. These access roads are no different to access roads created for any other land use (for example, an agricultural land use).</p> <p>Water monitoring bores are typically installed in and around CSG exploration and production projects. These enable the ground water impacts of CSG activities to be monitored to verify that no unacceptable impacts are occurring, and activity which local communities have demanded. Apart from the fact that these water monitoring bores are only used to monitor, and not to extract, ground water, they do not vary significantly from the water bores constructed and used by landholders for stock and domestic or irrigation use.</p> <p>Geological surveys (including 2D and 3D seismic surveys) are carried out by the CSG industry to obtain a better understanding of the underlying geology and hydrology (for example, to identify any geological fractures). Such surveys are temporary, low impact activities which can be safely carried out on any land. When the survey is complete, nothing is left behind.</p> <p>CSG production projects typically include high pressure gas pipelines which are licenced under the <i>Pipelines Act 1967</i> (NSW). These high pressure gas pipelines:</p> <ul style="list-style-type: none"> are identical to those which form part of the NSW gas distribution network and which safely operate alongside a wide range of land uses; and are designed, constructed and maintained in accordance with stringent requirements and conditions. <p>APPEA strongly submits that, if clause 9A of the Mining SEPP is to remain, the Current Draft SEPP should amend the definition of “coal seam gas development” to exclude all:</p> <ul style="list-style-type: none"> gas and water pipelines (including, but not limited to, any pipelines licenced under the <i>Pipelines Act 1967</i> (NSW)); access tracks and roads; water monitoring bores; and seismic and other surveys.
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<p>Clause 9A(4) and Ancillary Pipelines</p>	<p>Clause 9A(4) of the Mining SEPP states that nothing in clause 9A “prevents the carrying out of development on land within a buffer zone for the purpose of a pipeline that is ancillary to coal seam gas development”. The document prepared by the Department of Planning and Infrastructure entitled “Frequently Asked Questions - Coal seam gas exclusion zones now in force” states that “pipelines associated with CSG development will also be prohibited within [the exclusion zone] but are permitted within the two kilometre buffer zone, subject to development approval.”</p> <p>APPEA notes that:</p> <p>CSG production necessitates the construction of high pressure main gas pipelines to transport CSG to the existing NSW gas distribution network; the entire NSW gas distribution network is arguably “ancillary” to “coal seam gas development” to the extent that it distributes coal seam gas; and as noted above, CSG exploration and production both use low pressure water and gas pipelines. These low pressure pipelines are no different from the low pressure gas and water pipelines which are used to deliver essential services safely to homes across NSW.</p> <p>APPEA submits that there is absolutely no public policy reason why gas or water pipelines should be excluded from either the buffer zone or the CSG exclusion zone.</p> <p>Primary Submission: If APPEA’s submission that the definition of “coal seam gas development” should be amended to exclude all gas and water pipelines is accepted, then APPEA submits that clause 9A(4) should be repealed.</p> <p>Secondary Submission: If APPEA’s primary submission is not accepted then APPEA submits that clause 9A(4) should be amended to make it clear that nothing in clause 9A “prevents the carrying out of development on land within a coal seam gas exclusion zone or a buffer zone for the purpose of a pipeline that is ancillary to coal seam gas development”.</p>
<p>Exemption for CSG Company Owned Land from the CIC Mapping</p>	<p>The document prepared by the Department of Planning and Infrastructure entitled “Frequently Asked Questions - Critical Industry Clusters Upper Hunter Exhibition” states that:</p> <p><i>The NSW Government is also providing mining and CSG companies with an opportunity to identify horse or viticulture properties that they owned as at 10 September 2012, which they may wish to exclude from the cluster ...</i></p> <p><i>If the property is owned by a CSG company and it meets the criteria, it will be exempt from the CSG exclusion zone</i></p> <p>Given that the mapped CICs include areas of land owned by the CSG industry, this measure is a very necessary safeguard which is supported by APPEA.</p>

	APPEA supports the exemption and submits that it be given full effect by the NSW Government in finalising the CIC maps.
Additional Rural Village Land Mapping	<p>APPEA submits that land within:</p> <ul style="list-style-type: none"> the Broke area shown on map RVL_007; the Bulga area shown on map RVL_005; and the Camberwell area shown on map RVL_006, <p>should not be included in the Additional Rural Village Land Map as each of these areas fail to meet the “village” criteria because they do not contain a mix of land uses.</p> <p>APPEA submits that parts of Broke, Bulga and Camberwell do not meet the “village” criteria and so should be removed from the Additional Rural Village Land Map.</p>
Future Residential Growth Area Land Mapping	<p>APPEA submits that the Future Residential Growth Area Land Maps incorrectly map significant areas as being “future residential growth land” and should be revised and updated to ensure that they map only land which is:</p> <ul style="list-style-type: none"> identified as an Urban Release Area under the relevant Local Environmental Plan; currently zoned in a manner which is consistent with future residential growth; currently used for residential purposes; and not already within the “buffer zone”. <p>APPEA submits that the Future Residential Growth Area Land Maps should be revised and updated to ensure they only identify land which is truly intended for future residential growth.</p>
Review by the Chief Scientist and Engineer	<p>In February 2013, the Premier directed the NSW Chief Scientist & Engineer to conduct an independent review of the state's coal seam gas activities.</p> <p>On 30 July 2-13, Professor O'Kane released publicly an initial report from the independent review. Importantly, this initial report <u>did not</u> recommend the introduction of exclusion zones. Rather, it noted that:</p> <p><i>Further work is being undertaken in the next stages of the Review to understand better the effectiveness of such policies.</i></p> <p>APPEA submits that, if clause 9A of the Mining SEPP is to remain and the Current Draft SEPP is made, the NSW Government should commit to reviewing exclusion zone provisions as soon as the Chief Scientist and Engineer's review is complete so as to take into account the findings and recommendations made in that review.</p>

3. Conclusion

APPEA opposes unscientific “no go” zones in any Australian jurisdiction and considers that the values of any particular area are best protected by specifying the desired outcomes, based on appropriate scientific data, and subjecting all projects to rigorous merits assessment to ensure they can achieve these outcomes.

APPEA asks that the matters set out in this submission be considered by the NSW Government in finalising the Current Draft SEPP so as:

- to enable NSW to achieve a secure, reliable indigenous gas supply; and
- to remove the ongoing regulatory uncertainty which is negatively impacting in the ability of the industry to invest in NSW.