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08 November 2013

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

Santos appreciates the opportunity to provide comments on the amendments to the Mining SEPP proposing additional exclusion zones for critical industry clusters (**CIC**) and residential areas affecting the coal seam gas (**CSG**) industry exclusively. This second stage of amendments follows on from the Premier's announcement of 19 February 2013 – "*Tough new rules for coal seam gas activity*", and the recently gazetted amendments to the SEPP installing exclusion zones for residential areas and buffers.

SANTOS

As noted in previous submissions to the NSW Department of Planning & Infrastructure (**DP&I**), Santos has invested heavily in prospective coal seam natural gas areas in NSW. This investment in NSW reflects Santos' confidence in the quality of these natural gas resources based on the Company's extensive experience in Queensland CSG operations.

However, for this investment to continue with confidence, it is critical NSW establishes a stable, balanced and equitable planning regime in NSW that recognises the importance of sustainable resource development to the State.

The NSW regulatory environment for CSG over the last 2 years has been uncertain, affecting investment confidence in the State. The planning framework in NSW is of critical importance for Santos' existing and proposed activities, providing the necessary assessment and approval architecture necessary to allow investment to proceed.

The development of a viable and sustainable natural gas industry in NSW can 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 maintains that CSG exploration and production operations can be undertaken safely and co-exist with other land-uses. Nonetheless Santos understands the 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. Santos is now keen to go forward with an exploration and development program that demonstrates how we can work with the new regulatory requirements.

PREVIOUS SUBMISSIONS

Santos has lodged a number of submissions to the key steps in the review and development of the CSG regulatory framework in NSW. The content of Santos' submission on the most recent amendments to the Mining SEPP is consistent with issues outlined previously. In particular, many issues raised in its previous submission dated 12 April 2013 relating to the Stage 1 changes are still relevant. A copy of this submission is provided for your reference.

SUBMISSION

Exclusion zones applying to the CSG industry only

The new additional exclusion zones for CICs and residential areas will affect the CSG industry exclusively. As outlined in its previous submission, this raises a number of questions around its equity, and particularly achieving objectives of protecting sensitive areas.

For example, many other uses will be able to occur within the CIC zones that would arguably have a higher level of impact when compared to CSG wells or production facilities. Santos maintains that CSG exploration and production operations can be undertaken safely and co-exist with other land-uses.

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 broadly accepted by industry on the basis decision making processes would rely on science and evidence.

As outlined in its previous submission, it is disappointing the Government 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

Whilst it's recognised and appreciated that consultation and transition arrangements have been put in place for CIC exclusion zones, there is still the ability for landowners to nominate themselves into the exclusion areas. It's critical that any such applications be rigorously tested against the selection criteria, through a transparent process, to avoid spurious claims for exclusion entitlement. Furthermore, there should be a regular review and updating program to ensure mapping is current and accurately reflects landownership and current land-use.

Appropriate time limits and/or transition arrangements should also be put in place to give some level of certainty to the CSG industry as to where facilities can be located. That is, if an application is being developed or has been submitted to the Government for assessment, previously unidentified land should not be able to be used to exclude or adversely affect any part of a project mid-way through its development or assessment.

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 and time limits put in place, for any future expansion of existing, or identification of new CIC areas, particularly given they are now used as blanket exclusion zones for CSG activities.

Extinguishment of CIC areas

The exhibition process provides an opportunity for mining and CSG companies to have land they owned as at 10 September 2012 excluded from the CIC areas. This position is supported and should be extended to allow the removal of properties from the CIC designation where a property owner requests such extinguishment. This approach would be similar in principle to the existing policy arrangement whereby a local council has the ability to nominate areas out of a CSG exclusion zone.

Refinement of definitions – Activities excluded from CIC areas

It's noted that CSG related gathering pipelines are permissible within the 2 kilometre buffer zone for residential areas which is supported. As per its previous submission on the same issue, consideration should be given to allowing similar low impact activities to take place within the CIC zone given the low level of impacts associated with such activities. This is particularly the case for “non-drilling” exploration activities such as gathering lines, access roads and environmental monitoring.

Santos also understands the CIC exclusion zone would not affect licensed pipelines. It should be made explicitly clear that licensed pipelines or other linear infrastructure are not affected by the proposed CIC exclusion zones.

Identification of additional exclusion areas

Santos recognises the current Stage 2 consultation period is for the purposes of further refining and expanding exclusion zones for CSG areas including:

- Future residential growth areas;
- R5 Zoned large lot residential areas where they have “village” characteristics; and
- CIC areas.

The draft exclusion zones, the subject of the consultation period, do not substantially alter the affectation on Santos' CSG assets in NSW. However, the concern remains that CSG exclusion areas will continuously be expanded in the future without sufficient justification or warning. It's critical the identification of these areas continue to be subject to rigorous and transparent process based on sound criteria. There should also be a structured approach to the identification of any future exclusion zones including transitional arrangements, as well as direct consultation with the CSG industry to allow for engagement in the process.

FURTHER ENGAGEMENT WITH THE PROCESS

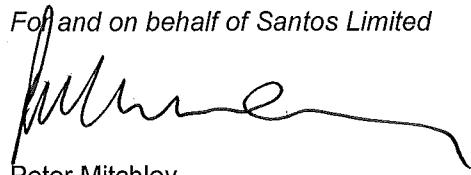
The regulatory reforms affecting the CSG industry need to be finalised as soon as possible to provide investment certainty for this vital industry for NSW, as well as providing certainty for communities and other stakeholders.

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) 9276 1126

number is not valid 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

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12 April 2013

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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

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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.