

Submission to the Senate Standing Committees on Rural Affairs and Transport

The Management of the Murray Darling Basin Inquiry into management of the Murray Darling Basin – impact of mining coal seam gas

July 2011

**NSW Farmers' Association
Level 25, 66 Goulburn Street
Sydney NSW 2000**

Contact: Brianna Casey
Senior Policy Advisor
p) 02 8251 1806
e) caseyb@nswfarmers.org.au

TABLE OF CONTENTS

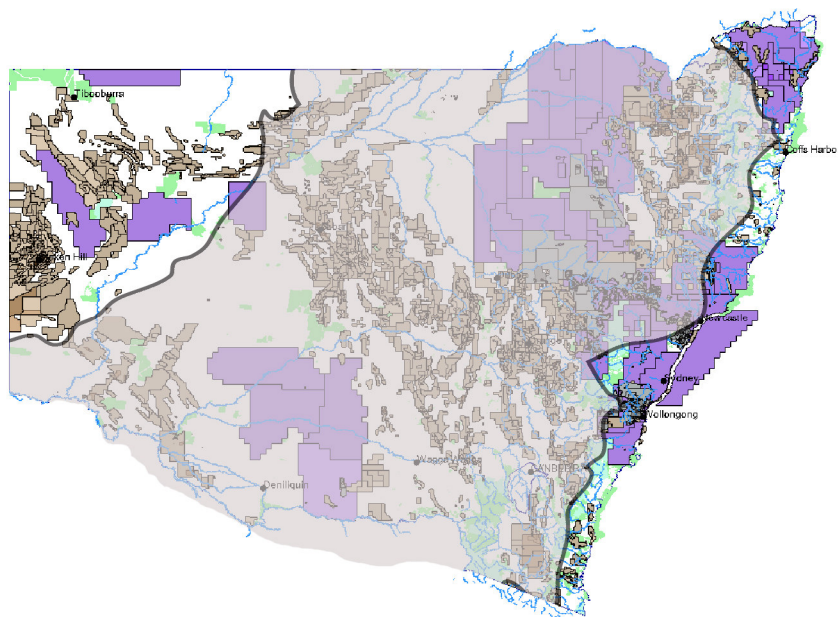
1. INTRODUCTION.....	3
2 FRAMEWORK FOR SUSTAINABLE DEVELOPMENT.....	4
3 STRATEGIC REGIONAL LAND USE POLICY.....	5
4 AQUIFER INTERFERENCE	6
5 BENCHMARKING AND MONITORING.....	7
6 GROUND WATER INFORMATION	9
7 COMMUNITY ENGAGEMENT AND ACCESS AGREEMENTS.....	10
8 INDUSTRY-SPECIFIC ISSUES	13
ATTACHMENT 1	14
ATTACHMENT 2.....	14

1. INTRODUCTION

The NSW Farmers' Association ('the Association') is Australia's largest state farming organisation representing the interests of the majority of commercial farm operations throughout the farming community in NSW. Through its commercial, policy and apolitical lobbying activities it provides a powerful and positive link between farmers, the Government and the general public.

The Association lodged a submission¹ in response to the original terms of reference for the Inquiry in December 2011, which included initial commentary and a recommendation on the implications of mining and gas extraction on the aquifer and its contribution to run-off and water flow. The Association has been deeply concerned by the absence of considered debate in the Murray Darling Basin planning process to date regarding mining and coal seam gas activities, in particular the impact of these industries on the quality and quantity of water within and beyond the Basin. It is therefore pleasing to note the Committee's keen interest in the impacts of coal seam gas exploration and production in the Murray Darling Basin. Whilst pleased to have an opportunity to provide a detailed response to the supplementary terms of reference, it would have been preferable for these supplementary terms of reference to refer to the exploration and extraction/production of both mining (eg coal, gold, copper, iron ore etc) and coal seam gas. As reflected in Figure 1 of this submission, much of the land and waterways within the NSW portion of the Murray Darling Basin are affected by both industries, and in some regions, significantly so. As such, the Association believes consideration of the impacts of mining AND coal seam gas would have been more prudent.

FIGURE 1: Title Map of Current Coal, Mineral and Petroleum Titles and Applications, Declared Wilderness Areas and National Parks in NSW, Showing Boundaries of Murray Darling Basin (June 2011)

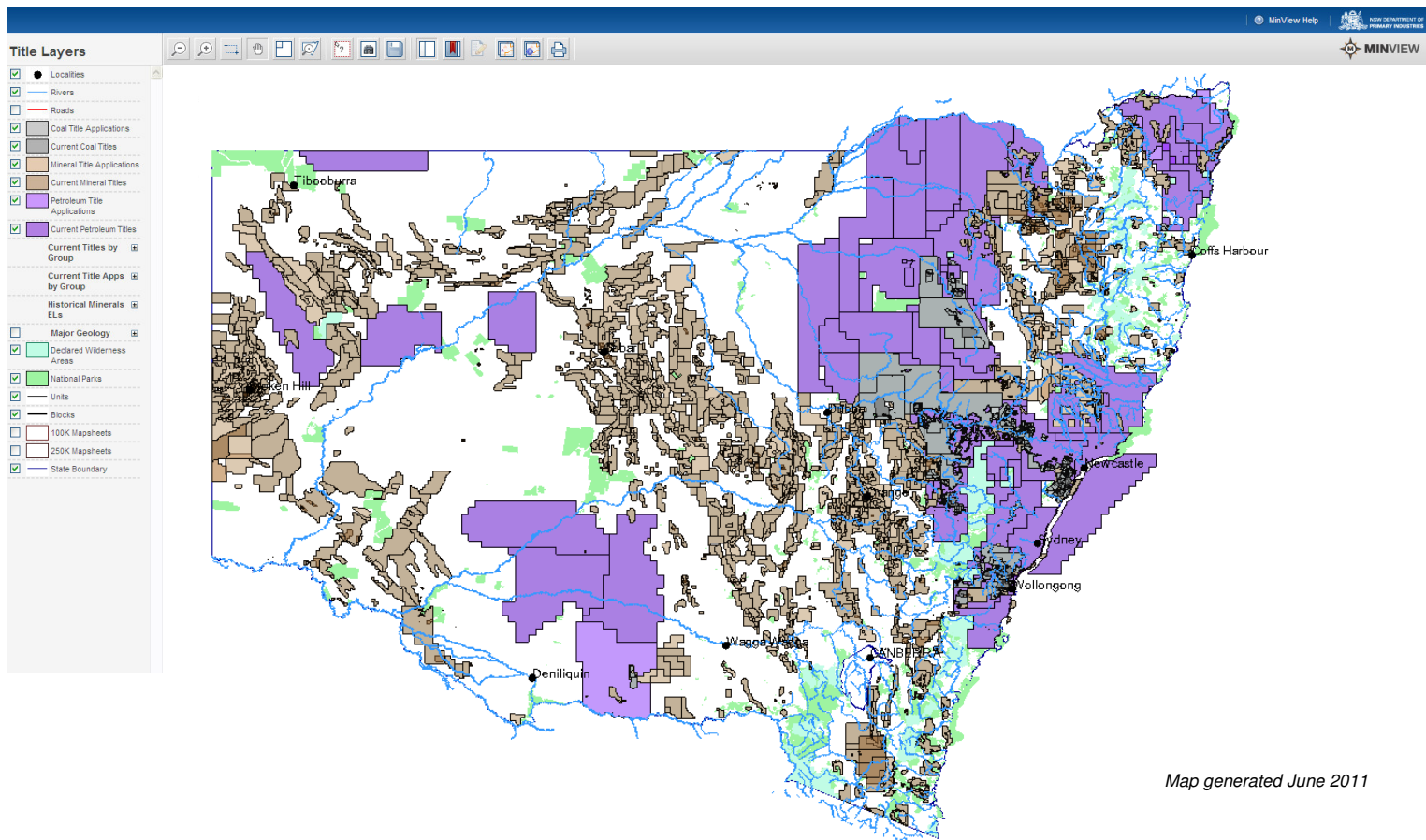


¹ <https://senate.aph.gov.au/submissions/comitees/viewdocument.aspx?id=5f29d194-a80f-4613-9cab-3e77142fe50b>

2 FRAMEWORK FOR SUSTAINABLE DEVELOPMENT

The Association released its *Framework for Sustainable Development: Planning for Agriculture and Extractive Industries* (see Attachment 1) in October 2010. The Framework is the culmination of many months of policy debate and analysis by the Association and promotes statewide, upfront strategic planning as a tool to resolve the current conflict over mining and coal seam gas development in areas of productive agricultural land and water resources noting the scale of current mineral, coal and coal seam gas exploration and extraction/production in NSW (see Figure 2). The Framework recommends a five-step process to deliver adequate protection for agricultural land and water resources and farmers' property rights. It is important to note the overwhelming support of a range of stakeholders (perceived as both supportive of and cautious about current mining and coal seam gas development in NSW) for the principles espoused in the Framework, in particular the focus on upfront strategic planning. In fact, NSW Farmers Association and NSW Minerals Council are in 'furious agreement' about the need for an upfront strategic planning approach to provide planning certainty for all stakeholders.

FIGURE 2: Coal Title Applications, Current Coal Titles, Mineral Title Applications, Current Mineral Titles, Petroleum Title Applications, Current Petroleum Titles, Rivers, Declared Wilderness Areas and National Parks (June 2011).



Map generated June 2011

Whilst the Framework was prepared from a NSW perspective, referencing State-specific policies and legislation, the policy principles are applicable Basin-wide, and the Association argues that a similar Framework should be developed for the Murray Darling Basin, particularly noting the National Water Commission's recent interest in this area (as discussed later in this submission).

The one element of the Framework that generated considerable media commentary and hence public debate was the recommended introduction of a moratorium on new mining exploration and production licences as a transition to the proposed new strategic planning framework (see Attachment 2 for further detail). Following months of debate, this element of the Framework has now been addressed in part by the current 60-day moratorium on the granting of new coal, coal seam gas and petroleum exploration licences in NSW, recently announced by the NSW Government as an element of its *Strategic Regional Land Use Policy*.

3 STRATEGIC REGIONAL LAND USE POLICY

The NSW Liberals and Nationals *Strategic Regional Land Use policy* was launched 16 February 2011 following almost two years of detailed discussions between the then Shadow Minister for Industries, NSW Farmers Association and the NSW Minerals Council. The Association viewed the Policy as a positive and significant step forward in achieving a balance between the State's major land uses, not limited to agriculture and mining. The Policy outlines a clear commitment to statewide strategic planning, which aims to provide a framework for future development right across NSW – not just those regions currently under the most development pressure. The Policy included an ambitious timeframe for delivery of crucial legislative and policy provisions, including a 'period of tougher assessment' by way of formal transitional arrangements.

The NSW Government released details of these transitional arrangements to allow for the staged implementation of its *Strategic Regional Land Use Policy* 21 May 2011. Most significant in this announcement was the immediate 60-day moratorium on the granting of new coal and coal seam gas exploration licences in NSW. This was recognition of the need to 'take a breath' and assess the current levels of mining and coal seam gas activity, and the ways in which these activities are – or are not – regulated and enforced across the state. The transitional arrangements also include a requirement that all applications for coal and coal seam gas exploration licences be exhibited for public comment. This is recognition of the previously appalling levels of community engagement in the process, where landholders and communities more broadly were not aware of an exploration licence until well after it had been granted and an exploration company came knocking at the door. How this process will operate in practice is yet to be determined, recognising that in the case of coal seam gas exploration applications in particular, massive tracts of land are involved, affecting potentially tens of thousands of community members.

The transitional arrangements also include the public notification of Guidelines which will inform the assessment of impacts on strategic agricultural land from proposed development activities; and a requirement that all new coal and coal seam gas extraction applications be accompanied by an Agricultural Impact Statement. This is of extreme importance to the Association, as the new Policy requires that Agricultural Productivity Impact Assessments be undertaken for new mining and coal seam gas activities. Designing a suitably robust methodology that can be readily implemented, independently assessed and has the confidence of the agricultural community is an enormous challenge, but a vitally important one that the Association is working closely with the NSW Department of Primary Industries to address.

The transitional arrangements also included the exhibition of an Aquifer Interference Regulation for public comment, aimed at introducing a suite of new measures to better regulate activities that impact on aquifers (see below).

4 AQUIFER INTERFERENCE

The Association was successful in having a commitment to the timely introduction of an Aquifer Interference Regulation included in the *Strategic Regional Land Use Policy*. In the past, proponents have benefited from being exempted from what the Association deems critically important aquifer interference approvals under Section 91 of the *Water Management Act 2000* via Part 3A (major project provisions) of the *Environmental Planning and Assessment Act 1979*. This has now been remedied by the removal of Part 3A and the recent introduction of the *Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011*, ensuring that mining and coal seam gas activities are no longer exempt from the requirement to obtain an aquifer interference approval. This is consistent with the Strategic Regional Land Use Policy, which stipulates that:

- “all development applications will be required to adhere to the Regulation” (p3);
- “major projects are subject to greater scrutiny” (p4); and
- “where CSG activities involve interference with groundwater systems, we will require that proponents must obtain an Aquifer Interference Approval under S91 of the Water Management Act 2000” (p5).

Interim aquifer interference measures have been announced by the Government this month as a precursor to the final Aquifer Interference Regulation. As a member of the NSW Government’s Stakeholder Reference Group overseeing implementation of the *Strategic Regional Land Use Policy*, the Association is lobbying for a rigorous and robust Aquifer Interference Policy and Regulation, with a view to having a permanent regulatory solution in place by February 2012 at the latest.

The Association is keen to explore the merits of introducing a Federal Aquifer Interference Regulation for mining and coal seam gas activities via the Federal *Water Act 2007*, which may provide additional protections for groundwater systems within the Murray Darling

Basin. Given the National Water Commission's strong position on both mining² and coal seam gas³, notably the Commission's comments about the relevance of both industries to the National Water Initiative, it would appear that there are grounds for amending the National Water Initiative to include mining and coal seam gas activities as specific items under the Initiative.

5 BENCHMARKING AND MONITORING

The Association is a strong advocate of benchmarking of water quality, air quality, health and other parameters before mining and/or coal seam gas exploration activities take place. From conversations with our counterparts in other states, it appears that there is not a uniform suite of 'values' that are benchmarked from state to state or even region to region for any of these parameters. The Association suggests that a standard set of parameters be developed to enable benchmarking and ongoing monitoring, both beyond the confines of the licence area, and beyond the life of the licence, to enable statewide, Basin-wide and national analysis of health, environmental and community indicators before, during and after mining and coal seam gas development.

Socio-Economic Impacts

Just as the Guide to the Proposed Murray Darling Basin was strongly criticised for its absence of socio-economic analysis as a crucial input to the planning process, the Association remains concerned by the absence of socio-economic analysis pertaining to mining and coal seam gas activities at a local, regional, statewide, Basin-wide and national level. The Association is keen to explore with the Committee the notion of community benchmarking, whereby a set of 'values' are identified by a community, then benchmarked and monitored over the life of a mining/CSG project. For example, a community may identify the number of school teachers, number of school buses, range of health services, number of active local football clubs, participation in community events, number of cafes, etc as important 'measures of community health'. If mining/CSG activity led a family or a number of farming families to leave the district, this may see five or six children lost from a small school, which may see the number of school teachers reduced, and a local bus run dropped. Flow-on effects such as these are currently poorly understood and the Association believes there is a strong argument for this analysis to be undertaken as a matter of urgency. There may indeed be positive community impacts of mining/CSG activities at the local and regional level, and by independently analysing and reporting these benefits, the local community, and communities earmarked for future development, will at least have a point of reference as part of the broader debate.

Water

The Association believes that mining/energy companies should bear the costs of independent water testing, given that mining and coal seam gas developments are

²² http://www.nwc.gov.au/resources/documents/Mining_PS3.pdf

³ http://www.nwc.gov.au/resources/documents/Coal_Seam_Gas.pdf

proponent-driven exercises that landholders have had imposed on them. In the case of CSG, where access agreements are negotiated on the properties where physical infrastructure will be put in place, it is vitally important that neighbouring landholders – who are not privy to an access agreement, but could be seriously affected (for example if horizontal drilling techniques are employed that extend under the neighbour’s property) – also have access to independent water testing. Given the Association’s understanding that the costs of independent, comprehensive water testing (to the satisfaction of hydrogeologists consulted by the Association) is approximately \$5000 over a number of years, it is unreasonable to expect the landholder to be responsible for these costs. Whilst energy companies may conduct their own water testing, the question of independence remains a vexed issue, affecting landholders’ confidence in the data. Similarly, the suite of tests conducted may not mirror those recommended by hydrogeologists engaged by landholders, in which case the veracity of the data may be questioned. The Association is working with the National Farmers’ Federation and our state and Territory counterparts to establish a nationally consistent suite of tests to recommend to members that they request via mining/energy company funded, independent water testing, as part of their negotiations regarding access agreements.

Cumulative Impacts

On a similar issue, the Association is extremely concerned by the absence of considered debate about the cumulative impacts of mining and coal seam gas activities. This issue has also been raised by the National Water Commission. In areas such as the Hunter Valley in NSW, it is clear that there has been scant regard for the cumulative impact of concentrated, intensive mining activities by multiple companies across the region when granting approvals. Without urgent intervention, this could potentially be replicated in other regions, both in terms of mining and coal seam gas. For example, the Association co-hosted a community meeting in Moree recently where there are three energy companies active in the district, all seeking to explore for coal seam gas. Whilst each company publicly committed to anticipating only ‘a handful’ of wells in the exploratory stage, this will increase exponentially if exploration moves to production, and the cumulative impacts in either phase are as of yet unknown. In other areas, such as the Liverpool Plains, both coal and coal seam gas companies are active in the district, further exacerbated by a pipeline proposal that currently traverses private land rather than public land traversing the highway. In this sense, the community feels ‘under siege’, with mining, coal seam gas and pipeliners all competing for the community’s land and water resources. Added to this is the potential for multiple pipelines, owned by different companies, to traverse the one district, rather than taking an ‘infrastructure corridor’ approach. These issues are further evidence of the need for upfront strategic planning and a comprehensive assessment of cumulative impacts.

6 GROUND WATER INFORMATION

Ground water is the new frontier in Australian water management, with increasing acknowledgment by Government, scientists and industry that our understanding of the resource and our ability to manage it is grossly inadequate. Ground water exists within the three dimension matrix of the underlying geology of our catchments. Being largely inaccessible to direct observation, ground water mapping only can be achieved through modelling processes involving bore data, remote sensing and geological study. The most detailed study of hydrogeology is currently undertaken by mining/CSG/exploration companies, but this data is treated as proprietary and is not currently made available to Government for planning and management purposes.

In December 2008, a national groundwater data and information workshop determined that a National Groundwater Information System (NGIS) was required. The National Water Commission has reported that this system will provide readily accessible information on aquifer boundaries and layers, aquifer characteristics, hydrogeological units, groundwater management areas and bore characteristics, and all of their inter-relationships.

The Water Division of the Australia Bureau of Meteorology (BoM) has the lead role in delivering the NGIS project and has been provided with significant funding in this regard. The Association understands that funding of \$80m has been provided to BoM over a period of five years for water information in general. It suggested that the Senate urgently seeks advice regarding the status and timeframe for completion.

It is not clear to the Association whether the NGIS project has considered the immensely valuable hydrogeological information that is generated in association with mining and coal seam gas projects and whether action is being taken to obtain this data as a key input to the database.

The Association believes that reforms to the planning and approval process for extractive industry, in NSW and other jurisdictions, must include a requirement from proponents to submit hydrogeological data collected in relation to their projects for inclusion in the NGIS. This would entail detailed requirements regarding data format and quality.

Requiring proponents to fund or provide detail site specific hydrogeological data is the only way to systematically approach the regulation of aquifer disturbance and to establish a robust planning, monitoring, reporting and verification regime in relation approvals granted to extractive industry.

Proponents will resist such proposals, arguing that such data is commercial in confidence, since the hydrogeology affects the economic viability of projects. For example, underground coal mines must deal at great expense with the water that escapes into mine workings from aquifers damaged by the mining process.

The Association believes that the commercial in confidence argument is tenuous and that interference with a critical strategic national resource demands the highest level of transparency. In short, if a company wishes to enter and damage an aquifer as part of its operations, it must contribute to the public evidence base that demonstrates that its operations are safe and that impacts do not exceed the conditions of approval.

The development an NGIS is an essential element in better planning and regulation of Australia's natural resources and must be progressed at matter of highest priority. In relation to this project, it would be helpful for the Senate Standing Committees to call for:

- A detailed progress report;
- The introduction of a regulatory requirement for mining and coal seam gas proponents to provide data to the NGIS (this could be under the *Water Act 2007*); and
- Confirmation that the NGIS will provide:
 - Ground water mapping suitable for use in strategic planning processes;
 - A framework for collection and analysis of data collected in relation to environmental impact assessment and project approval for mining and coal seam gas development; and
 - Baseline and monitoring data needed for better regulation of aquifer interference resulting from mining and gas development.

7 COMMUNITY ENGAGEMENT AND ACCESS AGREEMENTS

Member inquiries regarding mining and coal seam gas have increased exponentially in the last 12 months, particularly from members in the Murray Darling Basin. In the majority of instances, these inquiries centre around access agreements, and what landholders' rights and obligations are when approached by a mining/energy/exploration company seeking access. This is indicative of two enormously troubling issues: firstly that this information is not readily available from Government sources; and secondly, that landholders' first knowledge of or experience with exploration in their district is when approached via written correspondence (less common) or in person (most common) – indicating poor communication of the granting of exploration licences and poor community engagement on the part of mining/energy/exploration companies.

In the absence of readily-available, easily-understood information for landholders about their rights and obligations when negotiating access agreements, NSW Farmers Association developed an information sheet⁴ in late 2010, which explains in simple terms what the process *should* be and the types of issues that landholders should be including in their access agreements. This document has been very well received by members and the general public alike, as even city-based communities (such as St Peters in Sydney, who have recently – and without any warning – been thrown into the CSG debate) are unaware of the 'basics' when negotiating access agreements, given that the industry is so

new in NSW, and provision of information from a landholder perspective has been so poor.

It is of enormous concern that mining/energy/exploration companies are not legally required to inform landholders of their right to seek legal advice when negotiating access agreements, nor the legislative requirement that companies can be charged for 'initial' legal advice pertaining to the agreement. This is required in other contract law and it is unreasonable to expect landholders – rural or otherwise – who have no experience with this issue, to understand the complexities of current legislation pertaining to mining and coal seam gas, particularly if these properties straddle state/Territory borders. The Association is working closely with the legal profession in NSW to address this issue, amongst many others pertaining to mining and coal seam gas activities in NSW.

Without a fully-informed community (including the legal community) regarding the rights and obligations of landholders when negotiating access agreements, the following types of issues can emerge:

- Confidentiality clauses: An Association member from the south west of the State was in the process of purchasing a neighbouring property in order to expand his business. He was in the final stages of negotiations (following conveyancing etc), when he observed a drill-rig on the property he was intending to purchase. After last-minute negotiations, it emerged there was an access agreement over the property, complete with a confidentiality clause, which had prevented it from being identified via 'standard' searches. The sale did not proceed.
- Term of the Agreement: the Association has reviewed multiple draft access agreements with open-ended terms ie the agreement is proposed to last for the life of the exploration agreement. In the case of coal seam gas, it is generally poorly understood that exploration can include test pilot production, so whilst the landholder may assume the agreement is limited to one or two core samples, it may actually include test pilot production and multiple wells and water storage and treatment facilities, which may include evaporation ponds.
- Biosecurity and OH&S Requirements: the Association has reviewed multiple draft access agreements with scant regard for primary producers' stringent biosecurity and occupational health and safety requirements. Member in the central-west, dealing with a particular mining company engaging international expertise and infrastructure for their exploration activities, were unable to confirm how many explorers to be on the property for exploration purposes would be English-speaking, and thereby how landholders could 'induct' the property visitors from an occupational health and safety perspective (even issues as simple as identifying electric fences), as well as their biosecurity and weeds/pest animals requirements (eg washing down vehicles, wearing protective covered shoes etc).

⁴ http://www.nswfarmers.org.au/__data/assets/pdf_file/0020/68042/mining_flyer_25_Nov_2010.pdf

- Exploration vs Production: given the nature of coal seam gas exploration activities, a far-reaching underground gas reserve may be identified without having to physically explore all of the properties above it. This may mean that landholders are approached for access for CSG production without having ever signed an access agreement for exploration. The legal consequences of this scenario are not yet well understood.

These are some of the many, many issues that have arisen in recent months alone, indicating the strong need for a targeted campaign aimed at educating landholders and communities more broadly about their rights and obligations.

The Association has been attempting to fill this gap by co-hosting community meetings with mining/energy/gas companies in regions where companies are new to the area, in an attempt to educate communities from the earliest opportunity about the company's intentions in the region (via a presentation from the company), and what landholders should be aware of and asking for (via a presentation from NSW Farmers Association). This approach has been extremely well received by communities where meetings have taken place and often minimises a great deal of the angst so often experienced by communities who feel they are 'playing catch-up' after a handful of landholders communicate that they have been individually contacted by companies seeking access.

The 'negotiation' tactics employed by some mining/CSG/exploration companies are highly questionable at best, and at worst, misleading. The Association has had a number of landholders report explorers arriving at their property unannounced, at times of extreme inconvenience (eg when trying to get children up to the main road to catch the school bus), who downplay the exploration methods and intensity of exploration (eg indicating that there will be 'a few' core holes, which later emerges to be several hundred core holes), and downplay the significance of the access agreement, and do not communicate that legal advice can be sought (and the costs of 'initial' advice recovered). Whilst the Act allows prior written advice, the Association believes that this should be mandatory and should include advice to the landholder to receive legal advice on the proposed access agreement.

One of the primary reasons that the Association has expended so much capital (both financial and human resources), is that currently in NSW, this is the only point at which landholders have any potential influence in a process that has been imposed upon them. Given that they have historically had no opportunity to provide feedback on a proposed exploration activity, nor an opportunity to influence the bounds of restrictions on a mining/CSG/exploration company, the access agreement has been the only opportunity for landholders to negotiate what should be an as-of-right.

One of the issues that comes up at every meeting that the Association hosts, no matter how large the community, and regardless of its location, is the feeling of community

disempowerment. Communities feel that mining and coal seam gas activities are being imposed upon the community regardless of the community's concerns or otherwise. Landholders and town-based community members within the broader Petroleum Exploration Licence or Exploration Licence area, but outside of the properties targeted for access agreements, feel that they have no right to negotiate (eg because they are not negotiating an access agreement); that their concerns (eg about potential impacts on town drinking water or impacts on the local rate base, impacts on local road and rail infrastructure etc) are not heard or understood; and that they are 'innocent bystanders' in a hostile situation. Whilst some communities have established community reference groups to regularly meet with mining/CSG/exploration companies and inform develop a community response to the proposed activities, they are still – legally – left in limbo. Given the uncertainty facing Basin communities arising from the impending Basin Plan, an added layer of uncertainty and disempowerment is exacerbating an already difficult period for these communities. All levels of Government must work together on this issue.

8 INDUSTRY-SPECIFIC ISSUES

Noting the Committee's focus on coal seam gas, the Association has a number of concerns specific to the industry that must be addressed by industry, Government or both.

Fracking

Community awareness of 'fracking' (hydraulic fracturing) has increased to a level that many landholders in regions earmarked for CSG exploration and/or production understand the basics of the technique. However, what continues to be poorly understood – and rightly so – is the chemicals used in fracking, and whether they have been subject to the same level of analysis and restriction as agricultural and veterinary chemicals. The recent National Toxic Network's report on fracking chemicals⁵, which suggested that only 2 of the 23 most commonly used fracking chemicals had been tested by the National Industrial Chemicals Notification and Assessment Scheme (NICNAS), neither of which had been tested in-situ for the purposes of fracking, does little to address these concerns. Whilst CSG companies are required to list on their websites the chemicals intended to be used in fracking, this is meaningless if these chemicals have not been tested by the national regulator, nor the cumulative effect when they are mixed together. This is extremely concerning for those primary producers involved in food production, as – for example – cattle producers are required to list on their National Vendor Declaration any chemicals that the cattle may have come in contact with. If there is a leak and fracking chemicals leak into water that stock drinking water, the industry implications could be dire. In addition, the Association is concerned that current regulatory provisions pertaining to fracking are both inadequate, and incapable of being effectively policed given the inadequate levels of enforcement staff across the state. If the 'injection of water' is considered to be an aquifer interference activity, it is difficult to understand how the injection of sand and a myriad of chemicals (dependent on the

⁵ <http://ntn.org.au/wp-content/uploads/2011/07/NTN-CSG-Report-July-2011.pdf>

geology and geomorphology) cannot be more effectively and efficiently regulated. In NSW, these issues are managed via the assessment and approval processes under either the Environmental Planning and Assessment Act 1979, the Mining Act 1992, the Petroleum (Onshore) Act 1991 or the Protection of the Environment Operations Act 1997. However, the Association is concerned that the lack of enforcement personnel statewide is resulting in less than acceptable policing of this legislation.

Drilling Standards

The Association understands that there is currently no national drilling standard for coal seam gas drilling, despite national industry standards being in place for bore drilling for example. Whilst some CSG companies have advised the Association that they operate to international standards (eg Canadian standards), there appears to be a variety of standards employed from company to company. In order to build community confidence, particularly in sensitive environments straddling state/Territory borders (such as the Murray Darling Basin and Great Artesian Basin), it is difficult to understand how national drilling standards have not been mandated.

Evaporation Ponds

The Association has grave reservations about the employment of evaporation ponds by some CSG companies. Whilst some companies have ruled them out altogether, and utilise 'turkey's nests' instead, the failure to take the lead of these companies and ban them altogether is of significant concern.

====//====

NSW
Farmers
ASSOCIATION

Growing the Business
of Farming

*Valuing Agriculture,
Growing NSW*

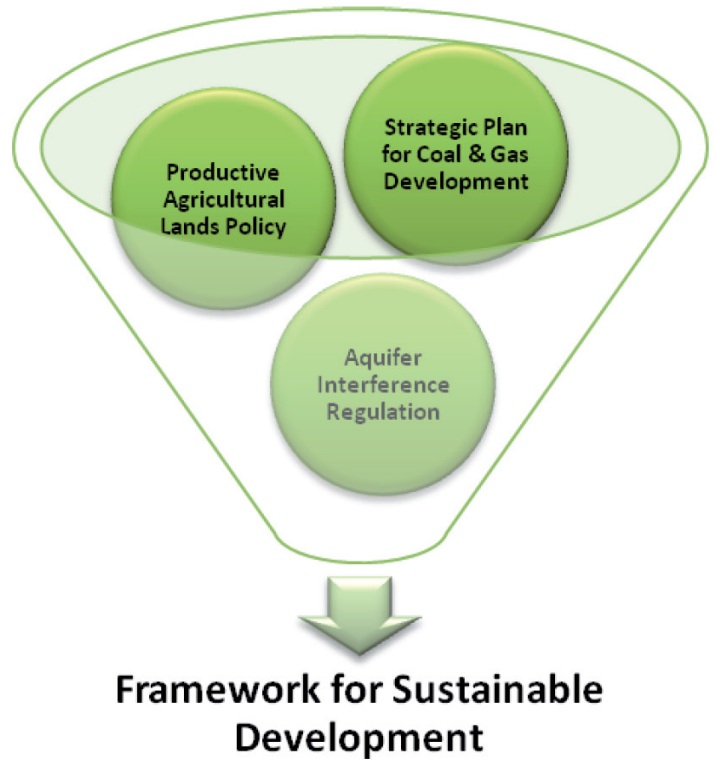


**A Framework for Sustainable Development
Planning for Agriculture and Extractive Industries**

VALUING AGRICULTURE, GROWING NSW

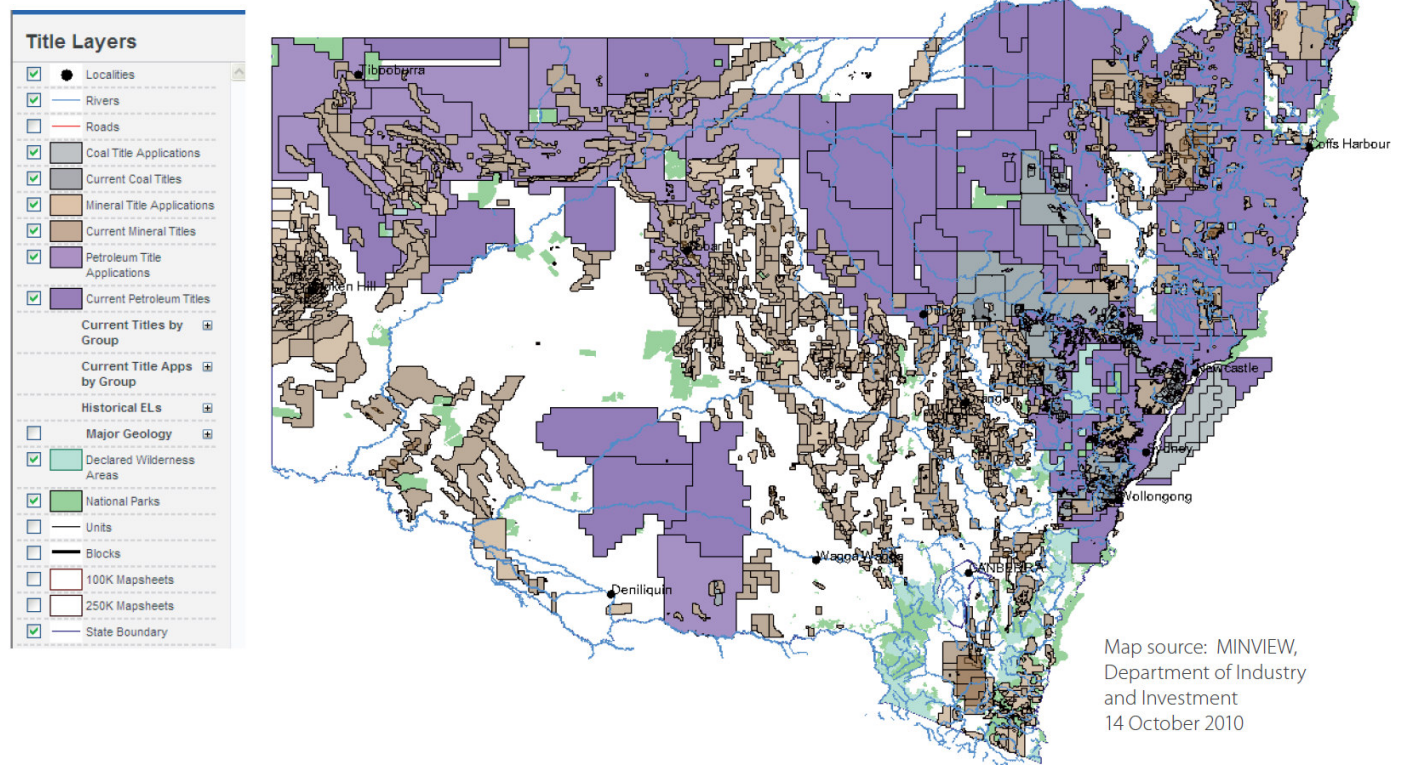
Protecting productive agricultural land and water resources from the rapidly expanding extractive industries in NSW requires:

1. State-wide Strategic Planning
2. A Transparent, Balanced Exploration and Development Approval Process
3. Protection of Aquifers
4. Robust, Independent Monitoring of Extractive Industries
5. Just Terms Compensation For All Landholders Affected by Extractive Industries



More than 70% of NSW is currently under mineral and petroleum title and application

The map below indicates coal title applications, current coal titles, mineral title applications, current mineral titles, petroleum title applications, current petroleum titles, rivers, declared wilderness areas and National Parks.



LAYING THE FOUNDATIONS – BUILDING THE POLICY FRAMEWORK

Current mining and petroleum legislation and policy in NSW does not provide adequate protection for agricultural land and water resources and farmers' property rights. Through an expedient reform process, the *Framework for Sustainable Development* will:

- ***Deliver state-wide strategic planning***
The process will deliver a blueprint for all future development in NSW, making explicit upfront provisions for cumulative impacts, including legislated limits to total possible regional extraction and development. This new approach will include the identification of strategically productive agricultural land and water resources, based on triple bottom line sustainability principles, and provisions to afford them protection, utilising a multi-layered mapping tool. This will result in these areas being unavailable for mining and coal seam gas activities.
- ***Introduce balanced and transparent approval processes***
For land not captured in the above category, independent, peer-reviewed, scientific analysis will be undertaken by the applicant prior to the granting of exploration and development licences to assess potential impacts of the proposed activity on the productivity of the land and its surface and underground water. This recognises that no licences will be granted in areas where a measurable detrimental effect on the agricultural productivity of the land and/or water resources is indicated. The review will be conducted by an independent Office of Agricultural Sustainability and Food Security, reporting directly to the Premier, within a re-established Department of Agriculture.
- ***Enforce aquifer protection***
Where extractive industries may involve interference with groundwater systems, proponents must obtain an Aquifer Interference Approval under S91 of the *Water Act 2000*. This will require the introduction of an Aquifer Interference Regulation under the *Water Act 2000*.
- ***Introduce robust, independent monitoring of extractive industries***
Independent benchmarking of air and water quality and other health and environmental data will be conducted prior to exploration and development licences being granted, with robust, comprehensive data collection to be maintained, both beyond the confines of the licence area, and beyond the life of the licence.
- ***Compensate landholders affected by extractive industries***
Legislation will be introduced to provide 'just terms' compensation for the effect of exploration and extraction of minerals and gas upon landholders, including development that will permanently alienate or temporarily diminish productivity of agricultural land and water resources, or adversely affect the marketability of the land.

What are 'productive agricultural land and water resources' and why are they important?

Productive agricultural land and water resources are finite national and state resources that must be conserved and managed for the longer term. Identified using triple bottom line sustainability principles, these resources are uniquely suitable for and capable of sustainable agricultural use; and important for agricultural activities of state or regional significance. These resources are important to global food security. Global agricultural production must grow by 70% by 2050 to feed an additional 2.6 billion people, with 90% of production growth expected to come from increased yields and cropping intensity, and the remaining 10% from expanding arable land. Enhancing the food producing capacity and logistical efficiency of NSW is paramount to the state's contribution to alleviating any future food crisis.

THE FRAMEWORK IN ACTION

Implementing the policy will resolve the current conflict over mining in areas of productive agricultural land and water resources. However, it will require significant reform, which can be achieved following the three-step plan below.

STEP 1: A PAUSE ON MINING EXPLORATION AND PRODUCTION LICENCES

With more than 70% of NSW under mineral and petroleum title and application (see MINVIEW map overleaf) the present system is unable to deliver adequate planning and impact assessment. A pause, therefore, will be implemented immediately on the granting of applications for mineral or gas tenements, or, upon any renewal applications, or, for extension of work programmes. The pause will be delivered by way of a Moratorium Act, with strict parameters addressing 'sleeper' licences as well as proposed exploration activities. In the short term, projects in the Gunnedah basin should respect the science of the Namoi Catchment Water Study and 'pause' whilst this study is being completed.

STEP 2: DEVELOPMENT OF THE SUSTAINABLE DEVELOPMENT FRAMEWORK

STAKEHOLDER AND INTER-AGENCY ENGAGEMENT

In order to fundamentally reform the policy and legislative environment underpinning planning and development approval processes in NSW, a suite of policies will be developed, with input from all key stakeholders and across key Agencies. Peak stakeholder bodies representing existing productive land users will be involved from the outset, and afforded the opportunity to have input to the new framework.

THE REFORM AGENDA

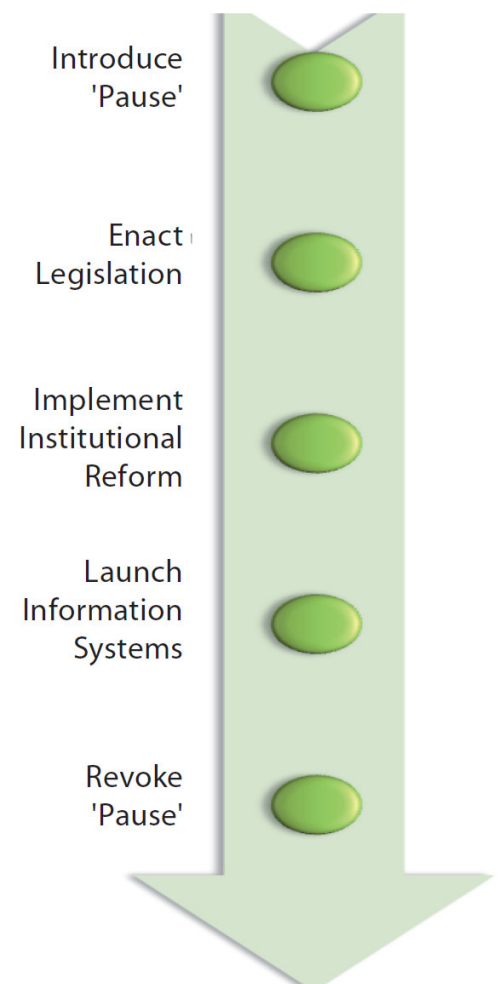
A dual process will be conducted involving both amendments to existing legislation (including, but not limited to the *Environmental Planning and Assessment Act 1979* (EP&A Act), *Mining Act 1992*, *Petroleum (Onshore) Act 1991* and *Water Management Act 2000*), and development of new legislation and legislative instruments. This is expected to include the development of State Environmental Planning Policies and will also necessarily include the removal of Part 3A of the EP&A Act. Inter-recognition will be ensured between the *Mining Act 1992* and the *Water Management Act 2000*, recognising water as a compensable loss in the Mining Act and mining as a diversion under the Water Management Act.

INFORMATION SYSTEMS

Multi-layered analysis will be undertaken to support the Framework for Sustainable Development, including the development of real-time, publicly-accessible mapping systems based on:

- On-ground assessment;
- Detailed mapping and data collection and analysis
 - data regarding coal and gas reserves;
 - currently known quality/development potential of these reserves;
 - existing infrastructure;
 - existing industry;
 - biophysical attributes; and
 - strategic agricultural land and water resources;
- Consultation with landholders and Departmental staff;
- Identifying general locations for exploration and development, within spatial boundaries; and
- Explicit mechanisms for controlling cumulative impacts.

STEP 3: IMPLEMENTATION OF THE SUSTAINABLE DEVELOPMENT FRAMEWORK



For more information please visit:

NSW Farmers' Association
www.nswfarmers.org.au

Member Service Centre
 T: 1300 794 000

NSW
Farmers
ASSOCIATION

Growing the Business
 of Farming

ATTACHMENT 2

A Pause on New Mining Exploration and Production Licences

Issue

In its *Framework for Sustainable Development – Planning for Agriculture and Extractive Industries*, NSW Farmers Association called for a pause on mining exploration and production licences. Since releasing the framework on Tuesday 26 October 2010, there appears to have been some confusion regarding the scope of the proposed moratorium.

Where the Moratorium Would Apply

The moratorium would apply only to:

- New applications for mineral and gas tenements;
- Renewal applications; and
- Extension of work programmes.

It would not affect current coal mining or exploration programs. For example, it would not affect current coal exploration for BHP in Carooona, Shenhua in Watermark, current mines at Cadia and North Parkes or any other existing mine. Similarly, it would not affect current exploration for Coal Seam Gas by Santos.

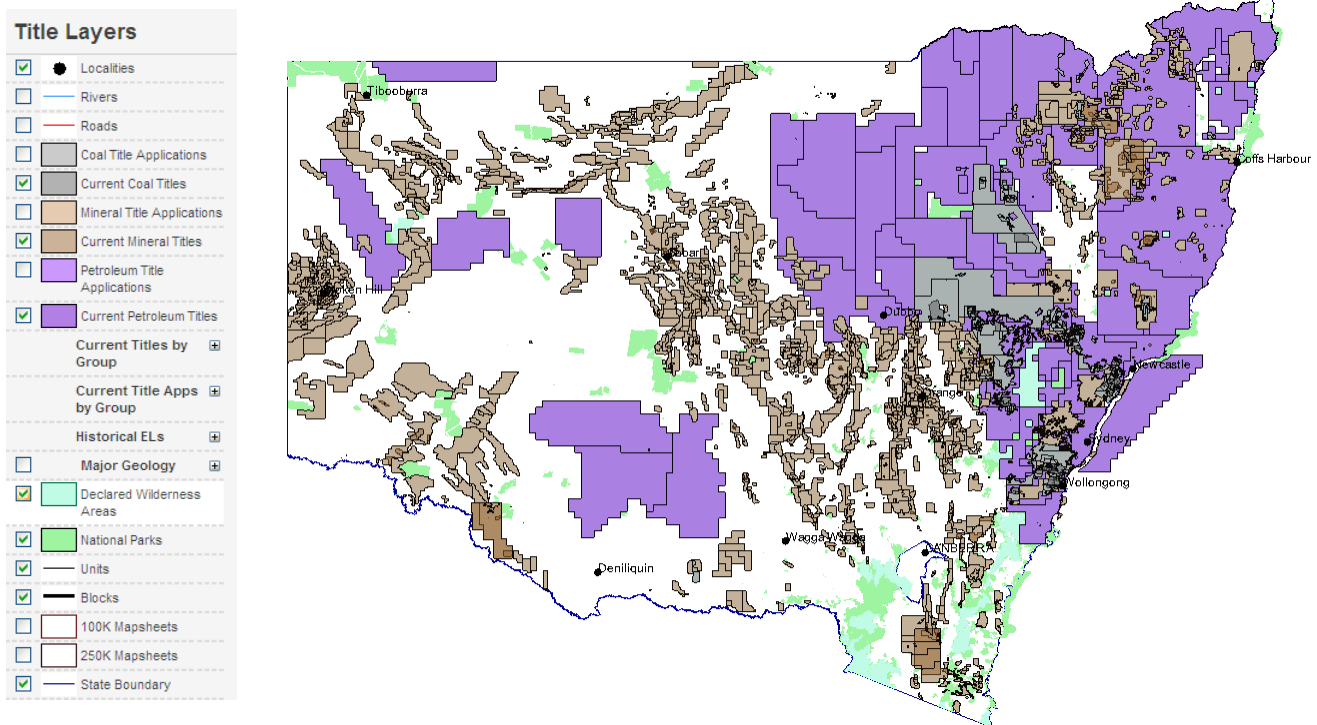
The moratorium would only be in place until such time as the Sustainable Development Framework is developed. Given that it will be utilising information that is already available, it is anticipated that this would take only 18-24 months.

Where the Moratorium Would Not Apply

The moratorium would not apply to:

- Current coal titles;
- Current mineral titles;
- Current petroleum titles; or
- Current exploration licences.

The map below provides a visual representation of these current titles.



Anticipated Impact on Royalties

In the case of coal seam gas, it should be recognised that there is a five-year holiday on production from petroleum discoveries in NSW. In the case of coal, royalties could continue to be collected for existing mineral and gas tenements. As such, there should be no impact on current royalties for the State, which are projected to be some \$1.768 billion in 2010/11 (NSW State Budget, 2010/11).