



Growing
the Business
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NSW
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ASSOCIATION

Mining and Coal Seam Gas Update

April 2011

Background

The Association's President established a Mining Taskforce in December 2009 in response to the growing number of mining and coal seam gas activities affecting members across the state. The Taskforce is chaired by our Vice President Fiona Simson and has been extremely active in recent months, with a great deal of activity at a policy and legislation level, as well as the regional level. The NSW Election has been a catalyst in terms of the reform agenda and with a newly elected Government, the next few months will be crucial to achieving tangible change at a grassroots level.

Framework for Sustainable Development

The Association released its [Framework for Sustainable Development: Planning for Agriculture and Extractive Industries](#) 26 October 2010. The Framework is the culmination of many months of policy debate and analysis by the Taskforce. The Framework recommends a five-step process to deliver adequate protection for agricultural land and water resources and farmers' property rights. The Framework also advocates the introduction of a pause on new mining exploration and production licences as a transition to the proposed new strategic planning framework. This would only apply to new applications for mineral and gas tenements; renewal applications; and extension of work programmes. It would not affect current coal mining or exploration programmes. The Association briefed key Ministerial advisors and Members of Parliament on the Framework in the lead-up to the NSW Election (held 26 March 2011). The Framework was well received by all parties and cross-benchers (in particular the Greens). However, some Members of Parliament had concerns regarding the proposed moratorium on new applications and work programmes (see [moratorium briefing note](#)). The Framework remains the basis of the Association's policy position on mining and coal seam gas in NSW.

Strategic Regional Land Use Policy

The NSW Liberals and Nationals [Strategic Regional Land Use policy](#) was launched 16 February 2011, and will now be Government policy. The policy is a positive step forward in achieving a balance between the State's major land uses and comes after more than 12 months of discussions between the Shadow Industry Minister, the Association and the NSW Minerals Council. 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. Following the launch of the policy, the Association wrote to the then Opposition Leader and a number of National Party Members of Parliament outlining in detail how the Association sees the policy working in practice, and sought written confirmation that this will be the case. The Association was successful in having an ambitious timeline included in the policy, and hence expects the 'period of tougher assessment' to come into effect within the next month, closely followed by the introduction of an Aquifer Interference Regulation and a range of other important measures.

Opals

The Association believes that the NSW Government has failed to adequately protect the interests of private landholders affected by mineral claims in the Lightning Ridge district. The Association is concerned that fundamental flaws exist in the entire opal mining administrative process, including licensing, compensation, compliance, enforcement, access arrangements, public liability insurance, occupational health and safety, rehabilitation and a fair process to determine disputes. Following years of lobbying, the issue is finally coming under scrutiny, with former Australian Federal Court Judge Justice Murray Wilcox AO, QC commissioned to investigate compensation issues. The Association has recommended that the brief be extended to include regulation; access; and compensation issues and is meeting with Justice Wilcox to discuss these concerns.



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NSW Coal and Gas Strategy

The Kennelly Government released a scoping paper in February 2011 seeking input from the public and key stakeholder groups to guide the preparation of a [NSW Coal and Gas Strategy](#). The scoping paper states that most growth in the coal and coal seam gas industry is expected in the northern part of the State, particularly in the Hunter Valley, the northern part of the Western Basin and the Gunnedah Basin. The Association is a member of the Stakeholder Reference Group to assist in developing the Strategy, and is represented by our Vice President, Fiona Simson, and our Chief Executive Officer, Matt Brand. The Association has serious concerns about the Terms of Reference for the Strategy, and sections of the associated scoping paper. Specifically, the Terms of Reference fail to adequately charge the Cabinet Subcommittee overseeing the process to consider the impacts of mining and gas development on agriculture. The Association is also concerned that the Strategy appears limited to only parts of the State and seeks to provide a plan for the mining and coal seam gas industries alone. This contrasts starkly with the planning framework proposed by the Association, which promotes statewide, upfront strategic planning as a tool to resolve the current conflict over mining in areas of productive agricultural land and water resources. The Association is currently finalising its submission in response to the Terms of Reference and Scoping Paper, as the O'Farrell Government has committed to taking 'any useful outcomes from this process which are consistent with our policy'.

Access Agreements

The Association has prepared a [briefing note](#) for Members to assist them in negotiating access agreements with mining/gas companies. As a result of the inadequate application and approvals process, particularly in terms of community consultation, many landholders are not aware when an exploration licence has been granted in their area. As such, most landholders do not expect to be contacted by mining/gas companies, nor are they familiar with the ideal terms of an access agreement pertaining to their property. The briefing note provides information on exploration licences; what happens during initial contact from a mining/gas company; what should be included in access agreements (including information on the requirement for the explorer to pay the reasonable legal costs of the landholder in obtaining initial legal advice); what happens if negotiations break down; and some suggested communication strategies. Following legislative amendments last year, the Director General of the Department of Industry and Investment "may, with the concurrence of the NSW Farmers Association and the NSW Minerals Council, publish templates for use for standard access arrangements. The use of any such template is not mandatory.". Whilst there are advantages to having a template agreement, the Association is concerned that it may represent the 'lowest common denominator' and given the unique exploration and extraction activities (eg coal vs coal seam gas vs iron ore vs gold), it would be extremely difficult to achieve a 'one size fits all' agreement. The Association is however, canvassing the potential for a template agreement to be developed for non-ground disturbing activities.

Interactions Between the Mining/CSG and Water Debates

The National Water Commission (NWC) issued a formal position statement on the Coal Seam Gas (CSG) industry in Australia 3 December 2010. The Commission has called for industry, governments and planners to adopt a precautionary and more integrated approach to managing water-related impacts of CSG developments. In its formal position statement, available from the [NWC website](#), the Commission states that "if not adequately managed and regulated, the CSG industry risks having significant, long-term and adverse impacts on adjacent surface and groundwater systems". This is consistent with the Association's concerns and is further evidence of the need for the NSW Government to implement the Association's *Framework for Sustainable Development*. The NWC advises the Council of Australian Governments (CoAG) and the Australian Government on national water issues and the progress of the National Water Initiative. Under the *Water Act 2007*, the Commission is also charged with auditing the effectiveness of implementation of the Murray Darling Basin Plan and associated water resource plans. As such, the Association made reference to the Commission's concerns with the impact of CSG on connected surface and groundwater systems in the Murray Darling Basin in its [three submissions](#) on the Murray Darling Basin Plan, all submitted in December 2011, and is continuing to call for a Federal Aquifer Interference Regulation.