

July 2011

## Association Management of Mining/CSG Issues

As members would be aware, the Association's President established a Mining Taskforce in December 2009 in response to the growing number of mining and coal seam gas (CSG) activities affecting members across the state. The Taskforce was instrumental in developing the *Framework for Sustainable Development*, which remains the basis for the Association's policy work in this area. The Taskforce was also responsible for a number of State and Federal submissions, and was closely involved in negotiations pertaining to the O'Farrell Government's *Strategic Regional Land Use Policy* (see below). In recognition of the breadth and depth of issues now being raised right across the state, following Annual Conference, the Taskforce will be replaced with a Reference Group, reporting directly to the Association's Sustainability Taskforce. Branches and District Councils will be contacted in the coming weeks to invite them to nominate members who may wish to sit on the Reference Group, which will utilise email discussion and the odd teleconference rather than face-to-face meetings. We look forward to your contribution in providing essential regional input on an issue affecting us all.

## 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. How this process will operate in practice is yet to be determined. As a member of the Stakeholder Reference Group providing input to and feedback on the implementation of the Policy, the Association will continue to push for the strongest possible protections for members' precious land and water resources, and your property rights more generally.

## 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. Whilst interim measures have now been put in place, 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.

## Access Agreements

Following amendments to mining and petroleum legislation last year, there is an option for template access agreements to be developed, with the concurrence of the Association and the Minerals Council of NSW. Whilst a template agreement may streamline the process, the Association is concerned that a template may represent the 'lowest common denominator', and may not be flexible enough to tailor the individual needs and circumstances of members. As such, whilst the Association is in discussions with the Division of Resources and Energy and the Minerals Council of NSW about the potential for a template for non-ground disturbing activities, it is important to note that there is currently NO template access agreement endorsed by the Association.

## Community Engagement

The Association strongly encourages mining/CSG/exploration companies to adopt meaningful and effective community engagement strategies from the earliest opportunity, rather than confronting landholders individually in pursuit of access, without providing them – or the wide community – with the context of what they are seeking. As such, the Association has co-hosted a number of regional meetings across the state in recent months, offering the company an opportunity to share with the community what its proposed activities are, and preferably, detailed maps (at property scale) to identify those landholders who are likely to be contacted in pursuit of an access agreement. The Association's presentation focuses on landholder rights and obligations regarding access agreements, and examples from other regions of strategies (eg establishing community reference groups) that help promote a dialogue and minimise angst in the community. The Association's [information sheet on negotiating access agreements](#) has been very well received by these communities. Please contact your local Regional Service Manager or the Association's head office (details below) if you would like a meeting in your region, or if you require copies of the information sheet sent to you.

## Legal Forum

Given the increase in exploration, extraction and production activities across the state, it is important that members have access to experienced, local lawyers who can assist them with negotiating access agreements and any other related matters. The Association's newly incorporated legal practice hosted a two-day forum in Sydney 29, 30 July to help build confidence, skills and knowledge amongst legal practitioners in rural areas who will deal with members on these matters. The forum was attended by more than 20 regional and rural based solicitors from over 13 law firms. Whilst the forum covered a range of issues, key areas of focus included access agreements; arbitration and litigation; coal seam gas; compensation; and land transfers. The forum generated enormously positive feedback and the Association is now looking into the possibility of running more legal forums across the state.

## Pipelines

The Association is continuing to push for a more integrated approach to land use planning issues, including the clear need for infrastructure corridors in NSW, to ensure landholders are not faced with potentially multiple proponents seeking infrastructure such as gas pipelines to be located on their properties. In the case of the proposed Eastern Star Gas Wellington-Narrabri gas pipeline, the Association has a number of concerns regarding the proposed route; the hydrological impacts of pipeline development within the region; the status of flora and fauna assessments associated with the project; and decommissioning and rehabilitation issues. These issues have been raised at both a state and Federal level.

## Opals

The Director General of the Department of Trade and Investment, Regional Infrastructure and Services has engaged Justice Murray Wilcox, former Australian Federal Court Judge and Chief Justice of the Industrial Relations Court of Australia, to undertake a review of opal mining issues in the Lightning Ridge district. Association CEO Matt Brand accompanied Justice Wilcox on the landholder component of the tour, held 10 May 2011. Whilst Justice Wilcox's brief was originally limited to compensation issues, the Association was successful in having the review include the regulation of the industry and access arrangements. Please contact the Association if you would like a copy of the briefing note on this issue.

## NFF Mining/CSG Committee

The inaugural meeting of the National Farmers' Federation (NFF) Mining and Coal Seam Gas Taskforce was held in Canberra 7 April 2011. The Taskforce has since met in Dalby (Queensland), taking an in-depth look at coal seam gas issues. The Taskforce is continuing to consider Federal issues relating to the interface between agriculture, mining and coal seam gas, with a particular focus on landuse planning and water issues.

## Senate Submission

The Association has just completed a detailed submission in response to the [Senate Inquiry into Management of the Murray Darling Basin – impact of mining and coal seam gas](#). Whilst the Association had already lodged a submission in December 2010, the supplementary terms of reference announced in May 2011 required a more detailed additional submission focusing on mining and coal seam gas in the Basin.