

Submission to NSW Department of Planning

NSW Coal and Gas Strategy Terms of Reference and Scoping Paper

April 2011

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SUMMARY OF RECOMMENDATIONS

Recommendation 1:

That the Terms of Reference and Scoping Paper for the NSW Coal and Gas Strategy be revised to reflect the principles outlined in the Association's Framework for Sustainable Development and the NSW Liberals and Nationals Strategic Regional Land Use Policy.

Recommendation 2:

That the Terms of Reference be urgently amended to reflect the objects of the Strategy to minimise adverse food production and land use impacts, and provide a statewide strategy for balancing major future land uses across the state.

Recommendation 3:

That the Terms of Reference be urgently amended to ensure all mining sectors, such as coal, coal seam gas, gold, copper, iron ore etc are included in a statewide Strategy.

Recommendation 4:

That the preamble in the Terms of Reference be urgently amended to clarify that the Strategy is intended to be applicable statewide, and not limited only to those currently experiencing 'mining' activity.

Recommendation 5:

That the preamble in the Terms of Reference be urgently amended to articulate a commitment to enforce the benchmarking and monitoring necessary to measure and minimise adverse health, environment, food production and land use impacts.

Recommendation 6:

That the Terms of Reference be urgently amended to provide a list (or reference to a list) of legislation, regulations and policies that will be audited for their effectiveness and efficiency, along with clear timeframes to conduct this audit.

Recommendation 7:

That the Terms of Reference be expanded to include a clear strategy for immediately strengthening the communication between all stakeholders on mining related matters, which may require a dedicated reference group with communications expertise (applicable to rural settings).

Recommendation 8:

That the NSW Government fund a full-time Mining/CSG Liaison Officer based in the head office of NSW Farmers Association.

Recommendation 9:

That the Terms of Reference include clear definitions of what is meant by 'mining'; 'coal'; 'coal seam gas', 'mining industry', 'non-mining' and 'industry' to provide clarity on the scope of the strategy.

Recommendation 10:

That the Ministerial Subcommittee request the preparation of a detailed paper on the necessary data and criteria for spatial analysis of coal, gas and mineral reserves, and the identification of productive agricultural land and water resources.

Recommendation 11:

That the Ministerial Subcommittee broaden the requested assessment of growth of the mining industry to include an assessment of growth of all major land uses, including agriculture.

Recommendation 12:

That the Ministerial Subcommittee broaden the requested identification of key impacts and constraints associated with coal mining to also include coal exploration; coal seam gas exploration; coal seam gas extraction and production; and the exploration/fossicking and mining of other minerals; and identify solutions and mitigation strategies to address them.

Recommendation 13:

That the Ministerial Subcommittee broaden the requested identification of options for addressing key issues for inclusion in the Strategy to ensure it is applicable to all forms of mining and exploration activities.

Recommendation 14:

That the Ministerial Subcommittee insist on rigorous and comprehensive triple bottom line assessments associated with the Strategy.

Recommendation 15:

That the Strategy take a broader view of infrastructure requirements by focusing on the infrastructure needs of all major land uses, not just those associated with the coalfields.

Recommendation 16:

That the final item of the Terms of Reference be deleted on the grounds that it is inconsistent with its stated objects.

Recommendation 17:

That the Scoping Paper be withdrawn.

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 welcomes the opportunity to respond to Terms of Reference and Scoping Paper for the proposed *NSW Coal and Gas Strategy*. It should be noted that the Association has a long history of involvement in mining, and more recently coal seam gas, issues, culminating in the release of the Association's *Framework for Sustainable Development – Planning for Agriculture and Extractive Industries*, in October 2010. As outlined later in the submission, the Framework represents the Association's preferred strategy for protecting productive agricultural land and water resources from the rapidly expanding mining and coal seam gas industries in NSW. The strategy being advocated in the Terms of Reference and Scoping Paper unfortunately differ markedly from this Framework. As such, the Association is deeply concerned at the current direction of the NSW Coal and Gas Strategy, and trusts that the many concerns articulated in this submission are not only seriously considered, but also favourably addressed.

As an initial comment, the Association seriously questions the merits of continuing with the current NSW Coal and Gas Strategy process given:

- a) the flawed Terms of Reference and Scoping Paper (as discussed in detail in this submission);
- b) submissions on the Terms of Reference and Scoping Paper will be made to the new State Government, on a process and Strategy that was not of its making, nor in respect of which it was consulted; and
- c) the stark inconsistencies between the Terms of Reference and Scoping Paper and the *NSW Liberals and Nationals Strategic Regional Land Use Policy*, the latter of which the Association understands to be current Government policy. As discussed throughout the submission, the Scoping Paper is biased in favour of mining, of the coexistence of mining and agriculture and fails to reflect an understanding of the importance of food security and the protection of productive agricultural land and water resources.

Notwithstanding these serious concerns, the Association has provided a detailed response to both the Terms of Reference and Scoping Paper as indicated, as evidence of the urgent need to halt and comprehensively review the process, recognising that the *NSW Liberals and Nationals Strategic Regional Land Use Policy* now represents current Government policy.

2 FRAMEWORK FOR SUSTAINABLE DEVELOPMENT

The Association released its *Framework for Sustainable Development: Planning for Agriculture and Extractive Industries* (see Attachment 1) 26 October 2010. The Framework is the culmination of many months of policy debate and analysis by the Association. 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 (see Attachment 2 for further detail). It should be noted that the *NSW Liberals and Nationals Strategic Regional Land Use Policy* favours a transitional phase with its own set of transitional principles. The proposed Strategy fails to give expression to the Regional Land Use Policy and fails to recognise the deficiencies in the current Terms of Reference and Scoping Paper.

The Framework promotes statewide, upfront strategic planning as a tool to resolve the current conflict over mining in areas of productive agricultural land and water resources. It advocates a planning system that addresses all land uses, not just mining, coal seam gas and agriculture. The Association was pleased to see these principles picked up in the *NSW Liberals and Nationals Strategic Regional Land Use Policy*. It is therefore of enormous concern that the Terms of Reference and Scoping Paper for the proposed NSW Coal and Gas Strategy are not consistent with these principles, as discussed further below.

Recommendation 1:

That the Terms of Reference and Scoping Paper for the NSW Coal and Gas Strategy be revised to reflect the principles outlined in the Association's Framework for Sustainable Development and the NSW Liberals and Nationals Strategic Regional Land Use Policy.

3 TERMS OF REFERENCE

As previously communicated to the former Planning Minister, the Association is extremely concerned that the Terms of Reference fail to adequately charge the Ministerial Subcommittee overseeing the process to consider the impacts of mining and gas development on food security and productive agricultural land and water resources. The Association sees such consideration as being essential for the process if it is to meet its objects, which include to “[f]acilitate sustainable development of the coal mining industry...alongside... agriculture”, and to “[m]inimise adverse... food production and land use impacts”. Without amendment, the Association believes that the strategy will do little to strike a balance in terms of future land use in NSW.

The Association is particularly concerned that the Strategy appears limited to only parts of the state rather than state-wide, and seeks to provide a plan for the coal and coal seam gas industries alone. This contrasts starkly with the planning framework proposed by the Association, and the Association’s understanding of the *NSW Liberals and Nationals Strategic Regional Land Use Policy*, which promote 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’s Framework advocates a planning system that addresses all land uses, not just mining, coal seam gas and agriculture. Without consideration of other significant land uses, such as infrastructure, housing, intensive industry and so on, the Strategy runs the risk of ‘planning in a vacuum’, whereby externalities are effectively ignored.

Recommendation 2:

That the Terms of Reference be urgently amended to reflect the objects of the Strategy to minimise adverse food production and land use impacts, and provide a statewide strategy for balancing major future land uses across the state.

Whilst coal and coal seam gas are currently the most significant ‘mining’ activities in the state, it is vitally important that the Strategy provide a vision for other mining sectors, such as opals, gold, copper, iron ore and so on. For example, as the Association has raised separately with the Director General of the former Department of Industry and Investment over many years, the regulatory framework and operational policy for the opals industry is woefully inadequate, with ongoing conflict regarding regulation of the industry; access

arrangements; and compensation. The NSW Coal and Gas Strategy does nothing to address these important issues for landholders in NSW.

Recommendation 3:

That the Terms of Reference be urgently amended to ensure all mining sectors, such as coal, coal seam gas, gold, copper, iron ore etc are included in a statewide Strategy.

The following comments refer to specific sections of the Terms of Reference document as indicated.

In its preamble, the Terms of Reference document refers to facilitating “sustainable development of the coal mining industry and associated activities in identified mining regions”. Given the limited scope of the interpretation of ‘mining’ reflected in the Scoping Paper, this immediately limits the application of the Strategy to parts of the state. Assuming ‘identified mining regions’ refers to those parts of the state featuring current coal titles and current petroleum titles (as distinct from coal and petroleum applications and as distinct from current mineral titles), the Strategy is clearly not statewide, and nor will it apply to massive tracts of land earmarked for coal and petroleum exploration and perhaps eventual extraction and development.

Recommendation 4:

That the preamble in the Terms of Reference be urgently amended to clarify that the Strategy is intended to be applicable statewide, and not limited only to those currently experiencing ‘mining’ activity.

Still referring to the preamble, whilst the Association welcomes the commitment to minimise adverse health, environmental, food production and land use impacts, and importantly, cumulative impacts, there is no reference to the benchmarking and monitoring of the industry in order to measure – and therefore manage – these impacts.

Recommendation 5:

That the preamble in the Terms of Reference be urgently amended to articulate a commitment to enforce the benchmarking and monitoring necessary to measure and minimise adverse health, environment, food production and land use impacts.

Again referring to the preamble, the commitment to ensuring that the industry is 'regulated efficiently and effectively' is a hollow one when made in the absence of detail and, in particular the absence of a comprehensive list of applicable legislation, regulations and policy, and clear timeframes associated with an audit of their effectiveness and efficiency. It is vitally important that this list go beyond the obvious 'mining' legislation (eg *Mining Act 1992*; *Petroleum (Onshore) Act 1991*) and extend to the equally important planning and environment (eg *Environmental Planning and Assessment Act 1979*), water (eg *Water Management Act 2000*), and health (eg *Public Health Act 1991*) legislative frameworks.

Recommendation 6:

That the Terms of Reference be urgently amended to provide a list (or reference to a list) of legislation, regulations and policies that will be audited for their effectiveness and efficiency, along with clear timeframes to conduct this audit.

As a final comment on the preamble, the Association strongly agrees that strengthening the communication between the Government, industry and the community on mining related matters is crucial. As the Association has highlighted on numerous occasions, landholders are generally the last to hear about a proposed mining or coal seam gas exploration activity in their region. The Association continues to be contacted by members who were not aware of an Exploration Licence being granted in their region, only to have an explorer or mining/energy company representative visit the property to obtain the landholder's signature on a draft access agreement. Whilst larger, more established mining/energy companies tend to deliver more meaningful community consultation and engagement to avoid these types of situations, current member feedback indicates that meaningful community engagement is the exception rather than the rule. As such, clear guidelines detailing what community consultation is, and how effective community consultation is achieved, may assist in the mining and energy companies delivering meaningful community results in this area.

Recommendation 7:

That the Terms of Reference be expanded to include a clear strategy for immediately strengthening the communication between all stakeholders on mining related matters, which may require a dedicated reference group with communications expertise (applicable to rural settings).

The Association believes the appointment of a dedicated Mining/CSG Liaison Officer would greatly assist in improving communication and addressing a number of the issues raised throughout this submission. The Association is regularly contacted by members and non-members (not limited to farmers) alike seeking base-level information and/or detailed responses on a range of mining/CSG issues. At times, these people have been referred to the Association by the Department of Industry and Investment, which indicates a lack of publicly available collateral at Government level. As such, the Association believes such a position should be funded by Government. Given the unparalleled access to farmers and rural communities via NSW Farmers Association, it is suggested that this position be based at the head office (Sydney) of NSW Farmers Association. It should be noted that similar arrangements exist in other jurisdictions.

Recommendation 8:

That the NSW Government fund a full-time Mining/CSG Liaison Officer based in the head office of NSW Farmers Association.

Whilst the title refers to a NSW Coal and Gas Strategy, the introductory sentence to the Terms of Reference proper refers to “the preparation of a strategic plan to guide the sustainable development of the coal mining industry over the next 25 years”. Without providing a definition of ‘coal mining’, the following eight points could be interpreted as applying to the coal industry only – not coal seam gas or other minerals (eg opals, gold, copper, iron ore etc). This is at odds with the stated intention to provide a strategy for coal AND gas, and certainly at odds with the Association’s preferred model of proving a statewide strategy applicable to all land uses.

Recommendation 9:

That the Terms of Reference include clear definitions of what is meant by ‘mining’; ‘coal’; ‘coal seam gas’, ‘mining industry’, ‘non-mining’ and ‘industry’ to provide clarity on the scope of the strategy.

TOR 1

The first item of the Terms of Reference is a welcome, albeit long overdue, initiative that will greatly assist future planning of our state. The Association suggests that it be expanded however to include all forms of mining (eg coal, coal seam gas, opals etc) and all exploration and extraction techniques (ie not limited to open cut methods). The Association strongly suggests that a separate paper be prepared, considering the data

and criteria for spatial analysis, ensuring spatial analysis take into account data regarding coal, gas and mineral reserves; currently known quality/development potential of these reserves; existing infrastructure; and 'productive agricultural land and water resources' (as defined in the Association's Framework, see Attachment 1). An analysis of possible reserves of minerals and coal seam gas state-wide and the commercially exploitable extent of those reserves should be undertaken as a matter of urgency. It is surprising that such a study was not undertaken long before the presentation of the Strategy and prior to the granting of mining and coal seam gas tenements throughout the State. Such research could also encompass the likely growth of the industry and of other major land uses, including agriculture, together with an identification of potential impacts and required constraints on that growth to assist future planning.

Recommendation 10:

That the Ministerial Subcommittee request the preparation of a detailed paper on the necessary data and criteria for spatial analysis of coal, gas and mineral reserves, and the identification of productive agricultural land and water resources.

Similarly, the assessment of likely growth of the industry over the next 25 years should also be expanded to include an assessment of likely growth of other major land uses, including agriculture, to ensure the full picture is available to assist future planning.

Recommendation 11:

That the Ministerial Subcommittee broaden the requested assessment of growth of the mining industry to include an assessment of growth of all major land uses, including agriculture.

TOR 2

The Association notes the commitment to identify key impacts and constraints associated with coal mining. Whilst this would be a welcome exercise, it is essential that it be broadened beyond coal mining to also include coal exploration; coal seam gas exploration; coal seam gas extraction and production; and the exploration/fossicking and mining of other minerals (eg opals, gold, copper, iron ore etc). It is also important that this process go beyond simply identifying key impacts and constraints and actually identify solutions and mitigation strategies. This could also include analysis of techniques used in

exploration and extraction such as long wall mining vs open cut mining, and coal seam gas extraction vs hydraulic fracturing ('fracking').

Recommendation 12:

That the Ministerial Subcommittee broaden the requested identification of key impacts and constraints associated with coal mining to also include coal exploration; coal seam gas exploration; coal seam gas extraction and production; and the exploration/fossicking and mining of other minerals; and identify solutions and mitigation strategies to address them.

TOR 3

As stated previously with reference to the preamble, the Association strongly welcomes the commitment to assess government's existing regulatory, legislative and facilitation activities, but suggests that further detail is required (see Recommendation 6). The Association also questions what the "the issues that have been identified" are, and what process has been undertaken to identify those issues.

TOR 4

The Association notes that the Strategy will "identify options for addressing key issues for inclusion in the Strategy". Whilst pleasing to note a solutions-focused item within the Terms of Reference, as is the case with most items of the Terms of Reference, it appears focused only on coal mining and must be amended to ensure it is applicable to all forms of mining and exploration activities.

Recommendation 13:

That the Ministerial Subcommittee broaden the requested identification of options for addressing key issues for inclusion in the Strategy to ensure it is applicable to all forms of mining and exploration activities.

TOR 5

The Association strongly welcomes the commitment to taking a triple bottom line approach to assessing the various options identified. However, the Association firmly believes that this must be rigorous and comprehensive, rather than 'broad based', to ensure an accurate assessment is conducted.

Recommendation 14:

That the Ministerial Subcommittee insist on rigorous and comprehensive triple bottom line assessments associated with the Strategy.

TOR 6

The Association is a strong advocate of statewide, upfront strategic planning, including for critically important soft and hard infrastructure. Rather than limiting the sixth Term of Reference to “infrastructure required to support the effective and efficient operation of the coalfields”, the Association strongly recommends that it be broadened to include a ‘helicopter view’ of the infrastructure needs of major land uses statewide. By planning road, rail, pipeline etc infrastructure to encourage ‘best bang for buck’ ie where there may be complementary uses of the same infrastructure, or a collaborative approach to avoid, for example, two gas pipelines owned by separate energy companies running side by side under private landholdings, the benefits will be substantial.

Recommendation 15:

That the Strategy take a broader view of infrastructure requirements by focusing on the infrastructure needs of all major land uses, not just those associated with the coalfields.

TOR 7

As mentioned previously (see Recommendation 7), it is vitally important that improved communications between all stakeholders associated with all forms of mining and coal seam gas activities be implemented as a matter of urgency. Despite more than 70% of the state being under mineral and petroleum title and application, a disproportionate amount of NSW residents, many of them farmers, are unaware of the implications of these licences and titles for their family and/or business. This would be a straightforward exercise that would go a long way towards better engaging the community.

TOR 8

The final Term of Reference refers to recommending to Cabinet “a short-term and a medium to long term Coal Mining Strategy that assists the coal industry to continue to develop”. This item demonstrates more clearly than any other the crux of the Association’s concerns with the Terms of Reference and proposed Strategy itself, as it focuses on coal mining alone, without any regard for other forms of mining and/or coal seam gas exploration and/or extraction. It also articulates the former Government’s

intention to develop a vision and strategy for mining – not a vision and strategy for all major land uses.

Recommendation 16:

That the final item of the Terms of Reference be deleted on the grounds that it is inconsistent with its stated objects.

4 SCOPING PAPER

As stated previously, the Association is extremely concerned that the Scoping Paper is biased in favour of mining, of the coexistence of mining and agriculture and is weak in terms of food security and the protection of productive agricultural land and water resources. Given the many and substantial weaknesses of the Scoping Paper (as outlined below), the Association strongly recommends that it be withdrawn.

Recommendation 16:

That the Scoping Paper be withdrawn.

Given the Association's recommendation that the Scoping Paper be withdrawn, rather than listing recommendations in terms of how it could be amended, the following comments highlight the rationale for calling for it to be withdrawn.

Introduction

The Association notes the stated objectives of the Scoping Paper, including to “[p]rovide a brief overview of the coal and coal seam gas industry”. As stated previously in this submission, without consideration of food security, scarce water resources, other significant land uses, such as agriculture, infrastructure, housing, intensive industry and so on, the Strategy runs the risk of ‘planning in a vacuum’, whereby externalities are effectively ignored. Simply defining the coal and coal seam gas industry’s “place in the State and regional economies” ignores those externalities and highlights a major weakness in the process. The stated objectives also assume strong growth in the industry, suggesting that the overarching purpose of the Strategy is to facilitate a prosperous and buoyant future for the coal mining and coal seam gas sectors.

Coal and Coal Seam Gas in NSW

As was emphasised with respect to the Terms of Reference, the Association is concerned that the Scoping Paper is limited to coal and coal seam gas only, is not state-wide, does not address any of the other mining activities in NSW, the fundamental issue of food security, nor other major land uses.

The Association questions the reference to the coal seam gas industry being “small” given the scale of proposed coal seam gas activity in NSW (as indicated in the map in the Framework document at Attachment 1), and the potential of these coal seams.

The Association notes that the Hunter, Newcastle, Gunnedah, Gloucester, Western and Southern coal resource regions are highlighted in the Scoping Paper, and notes the suggestion that both the coal and coal seam gas industries will have to operate in close proximity to each other, or within the same regions. As indicated in the map at Attachment 1, the area of the state affected by petroleum (coal seam gas) exploration licences and/or applications extends far beyond these highlighted coal resource regions. Similarly, other mineral extraction extends far beyond these regions. As such, it is clear that a statewide strategy – not limited to coal and coal seam gas – is required.

Given the significance of infrastructure to the industry – not to mention the rest of the state – it is disappointing that the only reference to coal infrastructure is a single sentence referencing railways and port facilities at Newcastle and Port Kembla. Detailed mapping, with a status update on current condition and future needs, would greatly assist in understanding the connectivity between the industry and its infrastructure needs. The absence of detail on related infrastructure is again highlighted in the section on coal seam gas, where there is a vague reference to ‘existing regional pipeline network’, but no detail on current pipeline applications (such as the Eastern Star Gas Narrabri- Wellington pipeline) or future pipeline intentions. Without a transparent, comprehensive discussion of future infrastructure needs, landholders run the risk of a ‘spaghetti junction’ of pipelines and the like without upfront strategic planning. A system of ‘infrastructure corridors’ where there are multiple infrastructure uses within the one route would be a preferred solution, for example.

The Association questions the inference that coal seam gas is the “only conventional energy source that can underpin this transition [to a low carbon economy] in the timeframes envisaged under State initiatives for the reduction of greenhouse gas

emissions". The Association would welcome an opportunity to review the policy statement or research paper that has led to this conclusion.

On a related matter, the Association notes only one sourced reference (noting the source of the Forecast sources of energy to 2030 on p5 as IEA, World Energy Outlook 2009) in the entire Scoping Paper, despite many statistics and projections being listed. This is very disappointing given the breadth of the stated objectives of the Scoping Paper.

The Scoping Paper lists the (unreferenced) economic significance of the coal mining industry, along with its associated employment. These figures have no context given the absence of similar figures on other forms of mining and other major land uses in NSW.

Emerging Community Concerns

Whilst the 'buoyancy of the industry' has served as a catalyst in terms of highlighting the growing community concerns about the amenity, health, environmental and land and water use impacts associated with coal mining and coal seam gas activities, it is misleading to suggest these concerns have been brought about by industry 'buoyancy' alone. The inadequate legislative framework; limited benchmarking and monitoring requirements; lack of consideration of cumulative impacts; and a myriad of other issues have all contributed to community concerns.

Government Initiatives to Address Community Concerns

The Association notes the reference to the commitment to reduce greenhouse gas emissions, including a target of 20% renewable energy consumption by 2020, and has difficulty reconciling this against the reference on the same page to gas being the only conventional energy source that can underpin a transition to a 'low carbon economy' in the 'timeframes envisaged'.

The Association questions how the introduction of the Part 3A project assessment process under the *Environmental Planning and Assessment Act 1979* can be listed as an initiative to address community concerns given that one of the primary community concerns regarding coal and coal seam gas has been the ability of the Planning Minister to override normal planning approval processes, thereby excluding (or ignoring) community feedback.

The Association notes the reference to the introduction of ‘tough new rules for coal seam gas exploration licenses’ and would welcome detailed information on what these ‘tough new rules’ entail, particularly in light of the recent change of Government.

Coal and Gas Industry Prospects

As with other sections of the Scoping Paper, the absence of references makes it difficult to understand the context of the quoted figures and assertions made on the basis of these figures.

The suggestion that coal exports from NSW could increase substantially again emphasises the need for a detailed section of the Scoping Paper on infrastructure. However, the Association is pleased to note in this section the commitment to use utility corridors preferentially for gas pipelines. This is a critically important issue for our members, as highlighted in recent discussions regarding the proposed Eastern Star Gas Narrabri-Wellington pipeline.

Future Growth Areas and Issues

The Association notes the reference to ‘preliminary assessments’ indicating the regions where most of the growth in the coal and coal seam gas industries is expected to occur in the next 25 years, and would welcome an opportunity to review these assessments, regardless of the fate of the Strategy.

The suggestion that the Hunter has the ‘capacity’ to contribute additional potential coal output may be accurate, but does not consider whether it is appropriate, given the investigations referred to in the Terms of Reference for the Strategy, including the request for triple bottom line assessments.

It is disappointing to note that the Scoping Paper only considers areas ‘likely to expand significantly’. Given the acknowledgement of ‘emerging community concerns’ with the status quo, surely it is important to address all areas, regardless of whether there will be further growth?

There are a range of important key concerns listed in the brief sections on the Hunter Valley, Western Coal resource Area, Gunnedah Basin and Illawarra, the most glaring example of policy inconsistency is the suggestion in the Gunnedah Basin section (p7) that “The areas on and adjacent to the black soil plains north west of Quirindi, where the Caroon and Watermark exploration licence areas are located”. This flies in the face of

the commitment by the former Minister for Primary Industries and Mineral Resources, the Hon Ian Macdonald, who stated that the “floodplains within the Caroonia Exploration Licence will be quarantined from long wall and open-cut mining” and that the black soil plains would be protected from “Long wall mining underneath the deep alluvial irrigation aquifers; long wall mining underneath the floodplain; and open cut mining underneath the floodplain” (Media Release: *Landmark agreement to protect floodplains*, 1 September 2009). Such obvious disregard in the Scoping Paper for former Government policy does not inspire confidence in the remainder of the document.

For consistency, the Association suggests that the term ‘coal seam gas’ be used throughout the document. The section on page 8 introduces a new term of ‘Coal Seam Methane Gas’ without explanation of whether this is different to ‘coal seam gas’ (as referred to throughout other sections of the document). This section also provides another example of the need for a detailed discussion on future infrastructure requirements, given the suggestion that there may be a requirement for an export gas terminal at Newcastle.

Key Initiatives of the Strategy

As stated numerous times throughout the submission, the Association argues that the Strategy should not be limited to the coal mining and coal seam gas industries.

Independently of the Strategy, the Association has advocated mapping of the location of potential mining and gas extraction areas; potential resource deposit size and annual yield or output; and expected timing of commencement and extraction period. However, as outlined in Attachment 1, the Association is seeking implementation of multi-layered analysis of major land uses, 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;

- identification of general locations for exploration and development, within spatial boundaries; and
- explicit mechanisms for controlling cumulative impacts, including the establishment of an Office of Food Security to peer reviews of applications involving productive agricultural land.

Whilst welcoming the suggested move towards triple bottom line assessments, the suggestion that this should only be carried out in certain parts of the state defeats the purpose of taking a triple bottom line approach, noting the inference in the Scoping Paper that the assessments would help grow the industry whilst ensuring the 'continued existence' (as distinct from growth) of 'other valuable industries'.

The Association notes a recognition in the Scoping Paper to 'world's best practice dust and air quality management', and the glaring omission of a need to also be striving for world's best practice water quality management, including robust benchmarking and monitoring requirements, along with world's best practice in terms of drilling (eg core holes and coal seam gas wells).

The Association would welcome an opportunity to review the rehabilitation guidelines currently being developed, as referred to in the Scoping Paper.

As stated numerous times throughout the submission, the commitment to conducting an assessment of the supply of public services and facilities and benchmarks against comparable settlements in non-mining regions must be broadened to include all mining and coal seam gas related activities, not just coal mining.

As mentioned previously, whilst pleasing to note a heading on infrastructure planning in this section of the Scoping Paper, two sentences does not constitute detailed discussion.

Similarly, three paragraphs on water resource management is woefully inadequate, not only from the perspective of the farm businesses, but also the community and the environment. The Association was delighted by the commitment in the *NSW Liberals and Nationals Strategic Regional Land Use Policy* to implement an Aquifer Interference Regulation, which must certainly take precedent over the vague reference in the Scoping Paper to a policy on surface and groundwater management that 'could be prepared'. It is important to note in this section that investigations must not be limited to mining, and

should also apply to exploration. This is particularly important in the case of coal seam gas.

Please refer to earlier sections of the submission regarding the Association's position on regulation and standards and improving communication.

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**NSW
Farmers
ASSOCIATION**

Growing the Business
of Farming

*Valuing Agriculture,
Growing NSW*

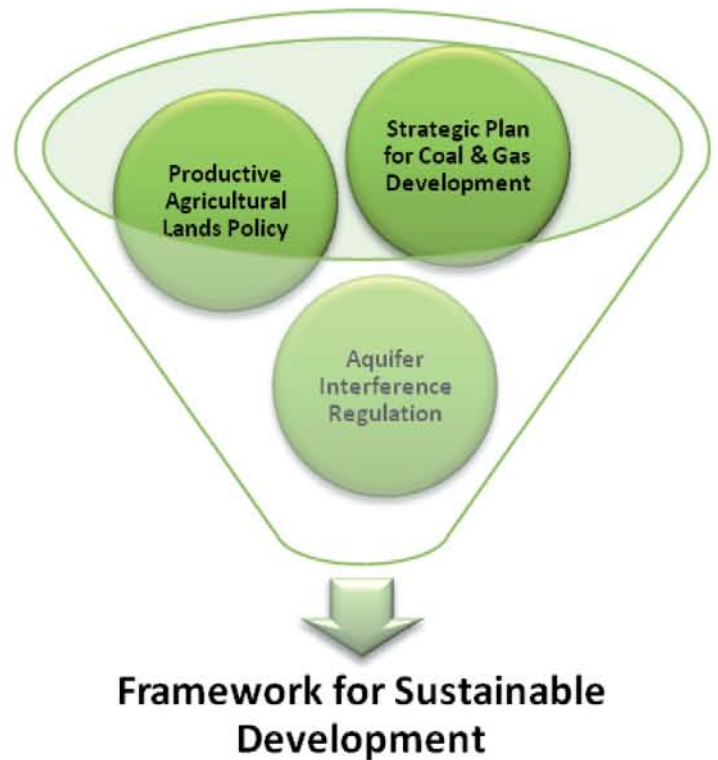


**A Framework for Sustainable Development
Planning for Agriculture and Extractive Industries**

VALUING AGRICULTURE, GROWING NSW

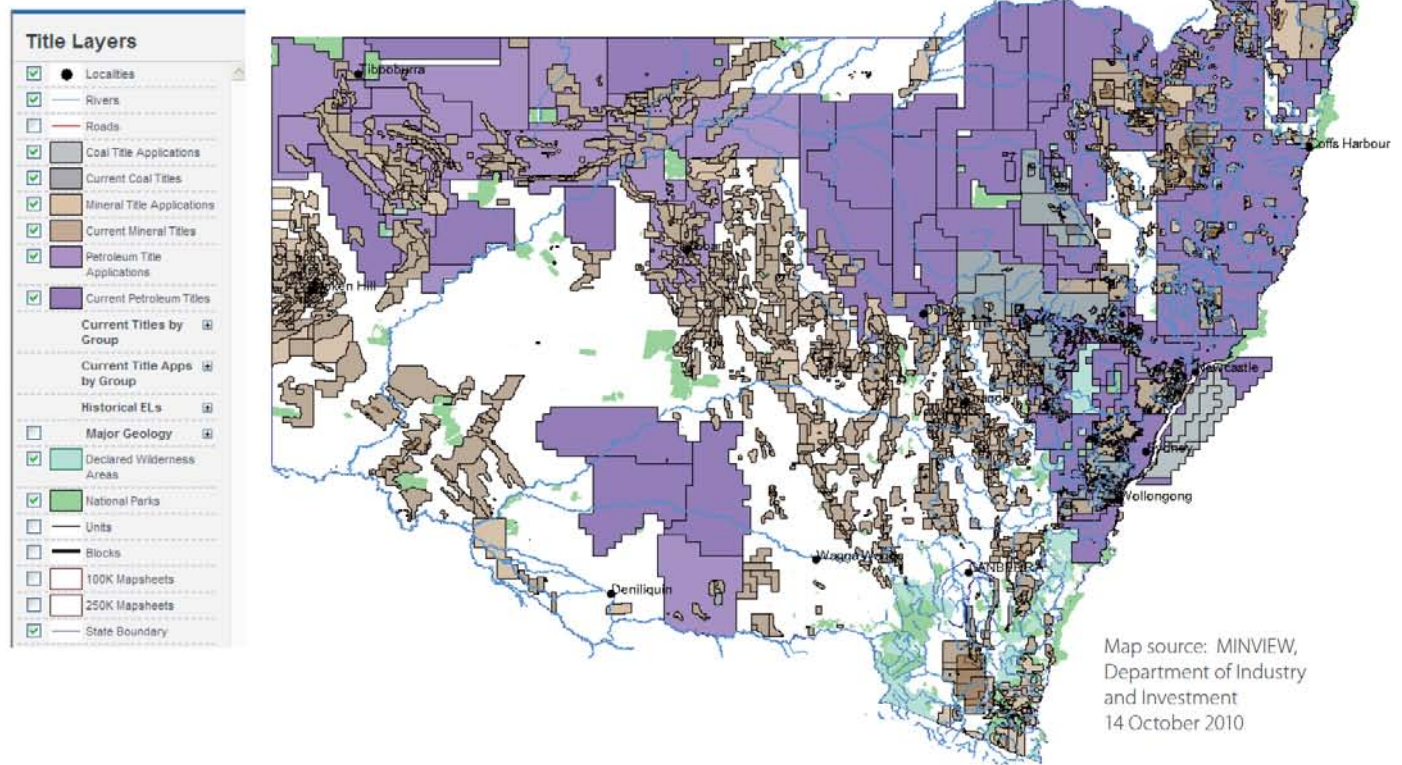
Protecting productive agricultural land and water resources from the rapidly expanding extractive industries in NSW requires:

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

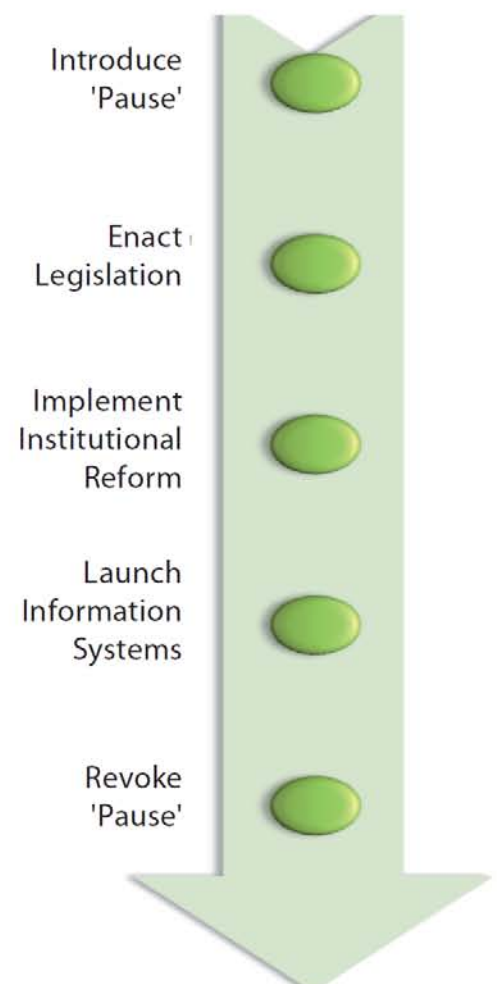
A dual process will be conducted involving both amendments to existing legislation (including, but not limited to the *Environmental Planning and Assessment Act 1979* (EP&A Act), *Mining Act 1992*, *Petroleum (Onshore) Act 1991* and *Water Management Act 2000*), and development of new legislation and 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

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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 Caroona, 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.

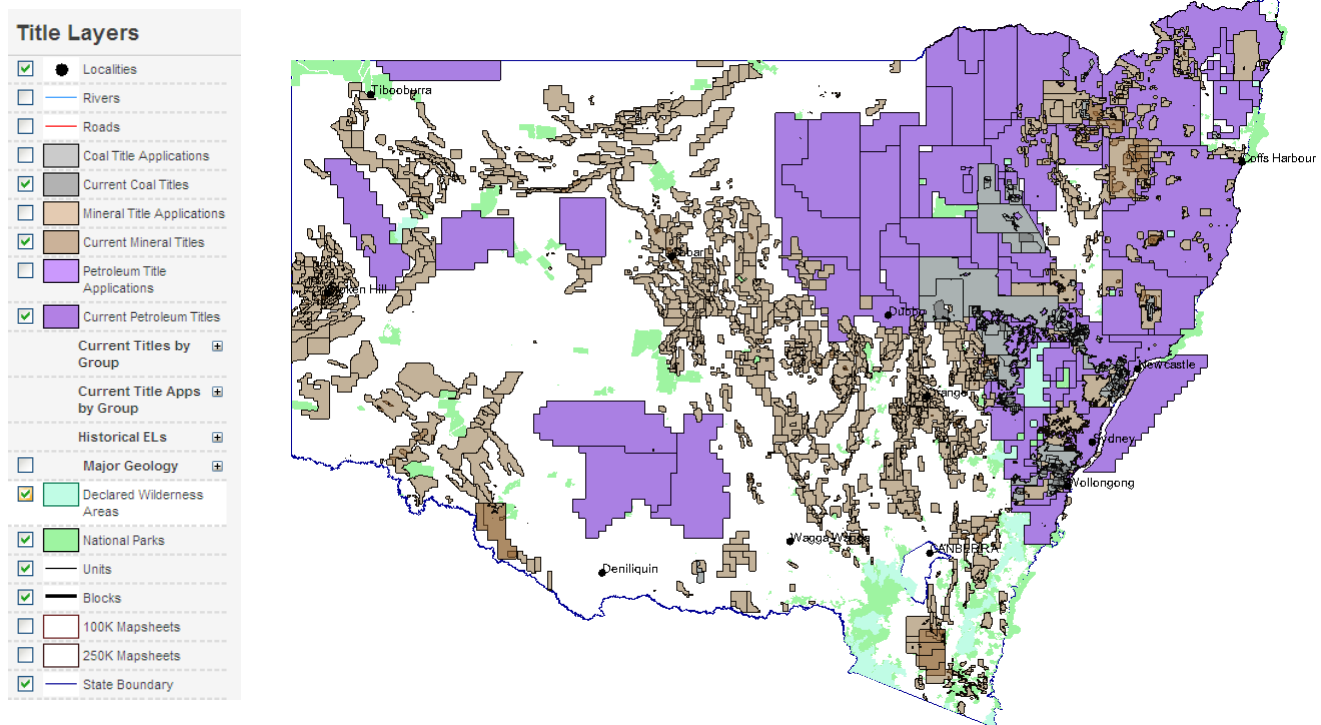
The moratorium would only be in place until such time as the Sustainable Development Framework is developed. Given that it will be utilising information that is already available, it is anticipated that this would take only 18-24 months.

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).