

INQUIRY INTO COAL SEAM GAS

Organisation: Scenic Hills Association (SHA)

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20th December 2011

General Purpose Standing Committee No. 5
Parliament House
Macquarie Street
SYDNEY NSW 2000

Sent by Email: gpscno5@parliament.nsw.gov.au

Re: Supplementary Submission to the main Submission of the Scenic Hills Association (SHA) No 648 of September 16th 2011 to GPSC5.

Dear Sirs:

Thank you for giving us the opportunity to update our submission of 16th September (No. 648) with information that has come to our attention since then.

As outlined in our main submission, AGL Energy Ltd has an application before the NSW Department of Planning (DoP) to expand Stage 3 of the Camden Gas Project (CGP) into the Scenic Hills of South West Sydney (Campbelltown and Camden) within the Sydney Metropolitan Area. It is awaiting determination under the transitional arrangements for the staged repeal of Part 3A of the *Environment Planning and Assessment Act 1979* (the EP&A Act). In preparation for our response to this application, SHA devoted considerable time to investigating previous stages of the CGP. This has been a very difficult process due to the paucity of publicly available information - a fault that we lay firmly at the feet of previous governments that have either not sought this information or have not verified that information provided was indeed an accurate representation of the true state of the CGP. Our efforts to correct this have also not been easy as AGL Upstream Gas Division (AGL) has either not had the information itself or has been reluctant to provide it, regularly breaching its obligations to provide timely responses to requests from members of the Community Consultative Committee of which we are a recently appointed member.

We are therefore deeply concerned with the too frequent statements by AGL and other government politicians during this Inquiry and in the media that the Camden Gas Project has been “well accepted by the community” and is an example of how “co-existence” can be achieved between coal seam gas mining and other land uses (including residential). This is an assertion that is without evidentiary support and should not be accepted by the Committee without thorough investigation. Our investigations show that where sections of the community have been officially notified of Sydney Gas/AGL’s plans (e.g. directly-affected landowners) and have been in a financial position to make their own objective assessment and take action to defend what few rights they have, this has occurred. However, as noted by representatives of the three Macarthur Area Councils at the Committee Hearing on the 9th December, much of the project has proceeded without the wider community being aware of what was happening in, and to their environment. The apparent complacency that has resulted from this ignorance cannot be construed as community acceptance. It is merely a reflection of the deceptive processes pursued jointly by government and Sydney Gas/AGL (and possibly by landowner-developers where they can avoid adverse impact on themselves).

Specifically our investigations to date suggest that:

1. The CGP has progressed 'by stealth', with a small footprint initially (accompanied by an Environmental Assessment provided by the proponent and therefore not independent), then constantly modified, and expanded by modification, without Council representatives or the community being properly informed – if informed at all.
2. Community consultation has been confined to directly-affected landowners, yet even many of these claim (as in Stage 3, see public submissions) to have only found out after AGL had submitted plans to the DoP; most were unaware of potential adverse consequences and only became aware through recent media coverage (not from government or industry). The rest of the community has been left in ignorance. Our own experience and research suggests that the Community Consultative Committee (CCC) for the CGP has not provided an adequate forum for dissemination of information to the wider community (or vice versa). The CCCs are poorly constructed and have, in any case, not been run fully in accordance with the guidelines laid down by the DoP.
3. Any suggestion that there have been no legal battles between landowners and Sydney Gas/AGL is not supported by the evidence. We refer to the action of the owners of Mount Gilead in taking AGL and Sydney Gas (Camden) Operations Pty Ltd to the Land & Environment Court (decision 16th June 2004) and the landmark Gatenby decision in the Wardens Court of NSW of the 5th August 2005. Information on both cases is publicly available.
4. Much of the CGP appears to have been agreed 'behind closed doors' between the government of the day and Sydney Gas/AGL with extensive usage of publicly owned assets e.g. Elizabeth Macarthur Agricultural Institute (EMAI), Landcom, Mount Annan Botanic Garden, Sydney Catchment Authority land) where community views have not been sought, but where anecdotal evidence suggests that other stakeholders (responsible government bureaucrats, adjoining landowners or other interested parties) have objected privately but not been given the opportunity to publicly air their views.
5. Since much of the land on the urban fringe (where the CGP is operating) is subject to rezoning for residential development, there is a pattern emerging of landowners/developers (public and private) being prepared to accommodate AGL without informing the public, as long as it does not interfere with the profits to be made from these developments. This is resulting in prospective homebuyers being left unaware of AGL's plans for their suburbs. This cannot be construed as 'community acceptance' when the community is unaware of the plans.
6. A full understanding of the CGP is not currently available. AGL has been allowed to get away with making assertions about impacts of the CGP without the scientific evidence to support its statements (see Dr Gavin Mudd's report for the Hunter Valley Protection Alliance quoted in our main submission) and without independent monitoring. This is particularly true for groundwater monitoring and related surface impacts. Further AGL has constantly changed its public statements about the CGP: the number of wells drilled, proportion fraced, proportion abandoned and why abandoned, whether these have been plugged, make-up of fracking fluids and proportion of 'additives'. Other information is not publicly available: results of exploration activities, impacts on private wells, creeks and dams (AGL does not know as it has not tested any at the writing of this submission), number of incidences/accidents (formally reported or otherwise), environmental impacts, breaches of PPLs and PEL 2. We have the impression that AGL does not have a comprehensive understanding of the CGP itself as it seems it has never been required to do this work and there has been no independent comprehensive assessment of the CGP (to our knowledge).

As further evidence of our assertions, the following has come to our attention since making our main submission which corrects and enhances information provided in that submission:

Attempts to correct breaches ahead of official investigation.

On November 30th 2011 SHA attended an Open Day for the CGP (the first since joining the CCC a year before) along with representatives from local Councils, NSW Government departments and agencies. In that meeting, along with other new information, AGL informed the group that its fracking fluids contain 1.5% additives. This new information triples the quantity of chemicals being injected into groundwater as outlined in the submission to this Inquiry by Justin Field (No. 667). Previously AGL had maintained that fracking fluids either did not contain additives or that additives made up only 0.5% of the fluid. The change was not explained but we wonder if adjustments are now being made in anticipation of the information being subjected to independent verification. Likewise AGL is scrambling to meet the requirements of its CCC by advertising for new representatives, putting the Minutes of the CCC on its website and getting its Independent Audits up to date (the last two audits for 2008 and 2010 were not available until SHA requested them mid this year).

On-going unsubstantiated assertions.

On the Open Day, AGL made claims about the relatively low water usage of the CGP relative to other areas where it operates, particularly Queensland. The comparison was statistically unreliable as AGL did not qualify the data with reference to the number and age of the wells in the respective gasfields. Since most water is extracted when new wells are brought into production and the CGP is an old field that appears to have been poorly developed (noting AGL's admission to the Committee that many wells have been abandoned due to poor location and low production), such qualification is required. On questioning, AGL was not able to elaborate on the day. This gives little confidence that AGL truly understands either its business or the CGP, or perhaps does not want to say.

Progression of the CGP by stealth.

In our previous submission we voiced our concern that AGL had placed 14 wells on the EMAI – the NSW Department of Primary Industries' Centre for Animal and Plant Health and historic property of pioneers John and Elizabeth Macarthur. This information was taken from AGL's website and confirmed by the Department of Planning's website that lists all previous applications relating to the CGP showing that only 14 wells had been approved and drilled. The Macarthur family, owners of the adjoining historic Camden Park property, subsequently advised us that they understood there to be about 20 wells on this property. On the Open Day, since we were visiting the EMAI, we asked for confirmation and to our dismay we were advised that 36 wells are now operating on the EMAI.

Further investigation has revealed the following:

1. Originally 20 wells had been approved and drilled, but since this was pre-Part 3A it did not appear on the DoP website. This is because (as explained to us last week) only Part 3A applications are listed, i.e. there is no comprehensive listing of the progression of the CGP, though the wording on this site suggests otherwise. These original 20 wells correlate with the Macarthur family's understanding.
2. Subsequently a further two wells were added (as a modification under pre-Part 3A legislation), then another 14 were applied for and granted under Part 3A. The latter application is the one that appears on DoP website. AGL's own website only refers to 14 wells on the EMAI and is therefore highly misleading to the public, including to the Macarthur family who seemed unaware of the subsequent expansion even though AGL may be running lateral wells under their property.

Further evidence of critical ‘incidents’ not made widely known to the public.

In the process of examining prior applications to establish what had happened at the EMAI, we discovered an application by AGL on the 7th September 2009 to re-route a damaged section of pipeline at Glenlee. AGL noted in its application that “[a] landslide occurred along the route of the Glenlee-06 gas gathering line, which resulted in the gas gathering line rupturing” (page 1, *Assessment Report, Stage 2 Camden Gas Project Section 96 AA Modification*). This appears to us to be a critical incident. Yet at the Inquiry hearing on 9th December this year, Campbelltown City Council staff seemed unaware of it (in responding to a question about incidents). We were also unaware of it even though we had accessed incidences officially reported to the Office of Environment (then DECCW).

This event has enormous implications for AGL’s proposed Stage 3 which seeks to locate wells and pipelines through the Scenic Hills. In the *Campbelltown, Camden and Appin Structure Plan* (State Planning authority of New South Wales, 1973) the authors warned about on-going mining in the Macarthur area (potential for subsidence, p.48) and the instability of areas “subject to landslip and ‘soil creep’ while other land could become unstable when developed” (p. 42). The authors went on to say, “The instability of substantial parts of the Razorback Range and the Central Hill Lands [Scenic Hills] strengthens the case for conserving these areas.” SHA has a report (*Landslip and the Central Hills Campbelltown*, by Arthur Jones) with numerous photos taken by a former Campbelltown Councillor illustrating these problems in the Scenic Hills between 1982 and 2000. Had we been aware of this incident at Glenlee we would have made much more of this issue in our submission to the DoP on Stage 3. The full extent of ‘incidences’, breaches and accidents on the CGP does not appear to be documented anywhere and we question (as outlined in our main submission) whether all events have been reported to the appropriate authorities.

Selling of residential land packages to the public without informing about AGL’s expansion plans

On 22nd November this year, members of SHA visited the sales office of the Gregory Hills Endeavor Release (Dart West Developments Pty Ltd) where AGL plans to put three well sites of up to 6 wells each, in and adjoining this release area as part of Stage 3. We asked the sales assistant to explain the development to us, and specifically asked about the potential for adverse impacts from infrastructure overriding the residential zoning (on land values, lifestyle and health). We were assured that no such developments would occur in this release area. On specific prompting about AGL, we were advised that because the developer had said ‘no’ to AGL’s plans then it was not necessary to inform prospective purchasers of AGL’s plans to put wells in or adjoining the release area. We were further informed that the proposed wells would go on the adjoining land release area instead. We recognise the extremely difficult position that AGL’s proposal and the long delay in determining this proposal (already 12 months since the Public Exhibition) must place on landowners and developers in these release areas. We also do not know what assurances Dart West and the landowner may have received from AGL about its plans or what agreements may have been reached with the adjoining release area. Indeed AGL’s Group General Manager for Upstream Gas, Mr Mike Moraza, informed SHA representatives in a meeting in July this year that if any landowner says ‘no’ then AGL will not proceed to put wells on that land. However since AGL has made no official response to any of the public submissions as at the writing of this submission, and no decision has been made by the DoP we question both the morality and the legality of this position.

On the same day, we also visited the adjoining land release site (The Hermitage) to where we had been told the well sites would be relocated and where AGL plans another well site (on the edge of this release area). Again no information about these plans was provided, but since the land packages were not yet being sold (the office was not yet operating) it seemed pointless to pursue this further.

Within three days of our visit, three late submissions on Stage 3 were lodged with the DoP from the land release areas adjoining Gregory Hills, with landowners and/or their representatives claiming to have only “recently” become aware of AGL’s plans (a year after the closing date of the Public Exhibition). This contradicts AGL’s claims to have been in constant contact with affected landowners. Clearly this is an untenable situation for all parties and raises many questions concerning the current arrangements in place to sell land/house packages to the public in these new release areas under threat of coal seam gas mining. It also has implications for the rest of Sydney where Petroleum Exploration Licences remain in place.

We further question the role in this of the NSW State Government and Camden Council (noting the dual role of local Liberal MP for Camden and former Camden Mayor, Chris Patterson). Camden Council’s submission on Stage 3 to the DoP, when Mr Patterson was Mayor, was a half-page giving the project its approval subject to consultation with Council about the exact location of the wells in these release areas. It is hard to see how either Camden Council, the NSW Government or AGL could claim this as an example of the project being ‘well accepted’ by the community when the community apparently remains ignorant of the plans. The whole incident is deeply concerning, and follows media coverage of a similar deception at Spring Farm by Landcom this year (refer our main submission).

Conclusion and Recommendations

We stand by our previous submission and statements to the Committee that, even with today’s limited information about potential impacts of coal seam gas mining, the NSW Government would be abandoning its duty of care to the people of South West Sydney in allowing the Camden Gas Project to proceed further into the Sydney Metropolitan Area (Stage 3).

With regard to other areas of the state including other parts of the Macarthur area, it greatly disturbs us that the Camden Gas Project is being touted as an example of coexistence of coal seam gas with a diverse range of land uses. Far from being coexistence and acceptance by the community, the Camden Gas Project seems to us to be nothing more than collusion between government and big business to deceive the community about issues that are likely to affect them deeply.

We therefore implore the Committee to not accept mere assertions about the Camden Gas Project and to launch a full investigation into what has transpired to date. The CGP is the longest running coal seam gas mining project, and apparently the only production field, in NSW. We believe it requires its own inquiry before any decision about the expansion of coal seam gas in NSW is permitted.

Yours sincerely

Jacqui Kirkby and Greg Burke OCD
Scenic Hills Association