

Submission
No 232

INQUIRY INTO COAL SEAM GAS

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6 September 2011

The Hon. Robert Brown MLC
Chair
Legislative Council General Purpose Standing Committee No. 5
Parliament House
Macquarie St
Sydney NSW 2000

By email: gpscno5@parliament.nsw.gov.au

Dear Mr Brown

Inquiry into Coal Seam Gas

Thank you for the opportunity to provide comments to the Committee's Inquiry into Coal Seam Gas. The NSW Minerals Council (NSWMC) represents the State's \$17 billion minerals industry. The coal seam gas (CSG) industry is not represented by NSWMC. However, given that the coal and CSG industries are often discussed as a single industry, the purpose of our submission (attached) is to assist the Committee's inquiry by making clear the differences between coal mining and CSG extraction. While frequently conflated, coal mining and CSG extraction are fundamentally different industries, with different exploration and production processes, governing legislation and history in NSW. NSWMC believes that the recommendations made by the Committee must be cognisant of these differences.

The Inquiry's terms of reference restrict the Committee's consideration to the environmental, economic and social impacts of CSG activities, including exploration and commercial extraction activities, allowable under the NSW Petroleum (Onshore) Act 1991 (the Petroleum Act). Given those terms of reference it would be inappropriate for the Committee to make findings or recommendations that extend beyond the CSG industry and the Petroleum Act.

Should the Standing Committee members require further information or assistance, please contact David Frith, Deputy Director Environment and Community,

Dr Nicole B Williams
CHIEF EXECUTIVE OFFICER



NSW Minerals Council Submission to the Inquiry into Coal Seam Gas

There are some basic common features of the coal mining and coal seam gas (CSG) extraction industries: the industries operate in the same geographic regions - the coal basins, and are focused on the same resource - the coal seams. However, the two industries are fundamentally different industries in terms of their exploration process, production process, governing legislation and history in NSW. These differences must be taken into account when developing policy with regard to each industry. Policy makers have a responsibility to communicate factually about each industry with the community.

The terms of reference of the Inquiry into Coal Seam Gas restrict the Committee to considering the environmental, economic and social impacts of CSG activities, including exploration and commercial extraction activities, allowable under the NSW Petroleum (Onshore) Act 1991 (the Petroleum Act).

Given the terms of reference it would be inappropriate for the Committee to make findings or recommendations that extend beyond the CSG industry and the Petroleum Act. Where the issues identified in the terms of reference overlap between the two industries, NSWMC provides the information below to assist the Committee in understanding the differences between the two industries.

1. Impacts on air quality and the environment

The Committee's terms of reference include *"the relative air quality and environmental impacts [of CSG] compared to alternative fossil fuels"*.

NSWMC does not believe it is useful to compare the impacts of the CSG and coal industries as the impacts of each project within each industry are not consistent. The different circumstances of each project and the different environments in which they operate mean that it is not possible to make general findings about the impacts of each industry. In these circumstances the comparison of the impacts of the two industries is not useful.

The impacts of each mining project are dependent on a variety of different factors, including:

- Proximity to local communities
- The type of mining method used
- The water resources in the area
- The biodiversity values of the area
- The scale of production
- Management measures that are employed.

It is the combination of all the unique characteristics of a particular area and mine footprint that determine the type and level of impacts. For instance Xstrata Coal's Beltana mine in the Hunter Valley successfully mines under vineyards. The mine's low level of impact is the result of a combination of factors, including the type of mining, the method of mining, the natural environment of the area and management measures put in place.

There is value in the Committee inquiring into the impacts of the coal seam gas industry and understanding the variety of different impacts that can occur given different geology, method of extraction, scale of production, water quantity and other factors. This is likely to provide the Committee with a more useful understanding of the impacts of CSG extraction than a comparison with other fossil fuels.

2. Property rights

The Committee's term of reference include consideration of the *"Legal rights of property owners and property values"*.



The State's mineral resources are owned by the people of NSW. The NSW Government undertakes pre-competitive exploration and grants exploration licenses to the private sector. This allows the State's mineral resources to be identified and decisions to be made about whether they can be extracted to generate economic benefits.

It is inevitable that exploration will need to be undertaken on both private and public land to identify the State's mineral assets. It is therefore essential that there are appropriate frameworks in place that facilitate access to private and public land for mineral and petroleum exploration and provide a balance between the legitimate rights of both mining and petroleum titleholders and landholders.

The rights of landholders whose properties overlay mineral and petroleum resources are set out in the *Mining Act 1992* (Mining Act) and the *Petroleum (Onshore) Act 1991* (Petroleum Act). In a number of areas there is consistency between the property rights under the respective pieces of legislation, including:

- Access to property in order to explore for minerals and petroleum requires a written agreement between the explorer and the landholder, which sets out the terms of access and appropriate compensation. If the terms of an agreement cannot be reached, both pieces of legislation provide for an arbitration process. If either party is aggrieved by the decision of the arbitrator, they can apply for a review by the Land and Environment Court.
- Compensation is available to landholders who suffer a loss as the result of the operations of the holders of a mining or petroleum title. Compensation can be negotiated as part of the access agreement, or if an agreement cannot be reached, by application to the Land and Environment Court.
- Exclusion zones apply under both Acts preventing mining or petroleum extraction within 200 metres of a house, 50 metres of a garden, vineyard or orchard or over any improvements to the land without the landholder's consent.
- Rehabilitation is required under both the Petroleum Act and Mining Act.



Agricultural land

Agricultural land is treated differently under the Mining Act and Petroleum Act. This has led to different practices by each industry.

The Mining Act provides that:

- Owners of agricultural land can object to a mining lease covering the surface of the land
- Agricultural land includes both land which is cultivated for cropping and some improved pasture.

The Petroleum Act provides that:

- Cultivated land is protected
- Cultivated land does not include land that has been cultivated for pasture
- The protection of cultivated land is not absolute, but can be overruled by the Minister administering the Petroleum Act, with landholders compensated for any loss.

The right to object to a mining lease on agricultural land, means that mining companies almost always purchase the land on which they intend to develop an open cut mine. As there is no compulsory acquisition of land over which mining titles are granted, the final decision on whether the mine is developed on a particular piece of land lies with the owner of the land.

In contrast, the provisions of the Petroleum Act have not led to the purchase of properties subject to petroleum leases, but rather to compensation arrangements for the area of the property where the CSG wells, related infrastructure and roads are situated.

3. Agriculture and food security

The Committee's term of reference include consideration of "*Food security and agricultural activity*".

It is essential that the Committee, properly define the issue of food security. Although the term appears frequently in public debate, there is little clarity about what specific issues or concerns need to be addressed.

Australia currently has a population of 22 million and the ability to feed 60 million people. We are very significant net exporters of food. The foods we import are dominated by highly processed foods and beverages, luxury foods and fruits and vegetables that are out of season. The Australian Government in an issues paper to inform the *National Food Plan*, recently confirmed that 'there is no foreseeable risk to Australia's food security' and described Australian food security as 'enviable'.¹

Mining accounts for a very small proportion of land use in NSW – 0.1%. This is minimal in comparison to other land uses: agriculture (76%); forestry (3.6%); conservation (7.8%); and urban areas (0.2%)². Although an exploration title may cover a large area of land, only a very small proportion, if any of this land will ever be mined. Current and proposed coal mining operations in NSW occur predominantly on the lower classes of agricultural land only suitable for grazing or on land which is unsuitable for agriculture.

The Prime Minister's Science, Engineering and Innovation Council's *Expert Working Group on Australia and Food Security in a Changing World* reported in December 2010³. The report identified many challenges to the Australia's food production. Amongst these is the decline in agricultural research and development over the last 20 years, a fall which is linked to the growth of productivity in the food sector. The food production sector is also affected by an ageing workforce, declining numbers of specialist graduates, competition for land with other non-food agricultural sectors and development encroaching on food production in the urban fringe. Climate change and degradation of the environment also pose challenges to agriculture and food production in Australia.

Policy makers need to take care that these very real and complex challenges are not obscured by land use conflicts with the resource sector.

**NSW Minerals Council
6 September 2011**



¹ Australian Government, *Issues paper to inform development of a National Food Plan*, June 2011

² NSW State of the Environment Report 2006

³ PMSEIC, *Australian Food Security in a Changing World*, December 2010