

INQUIRY INTO COAL SEAM GAS

Organisation: Wybong Action Group

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Submission (Number 2) of Wybong Action Group to the Legislative Council
General Purpose Standing Committee No. 5 Inquiry into Coal Seam Gas

Wybong Action Group has significant concerns with the Submission of the NSW Farmers to the Legislative Council General Purpose Standing Committee No. 5 Inquiry into Coal Seam Gas regarding:

- 1 The proposition that it is only NSW Farmers that have primarily held or expressed concerns regarding environment, air & water quality, interference with aquifers, Coal and Coal Seam Gas etc as suggested in 1 & 2,
- 2 Confusion that arises between the terms landholder and farmer which appear to be used interchangeably in some instances (3.1.3 Access to Legal Advice, 3.1.4 Compensable loss, 3.2 Property values) whilst in other instances there are significant differences in the rights to be afforded one class or other of land title holder, for example the suggestion (3.1.2) of amending the Act to give farmers the ability to refuse access creates a stratification or classes land tenure where one tenure is superior to another by virtue of transient use. Definitions of farmer and farming land in legislation have tended to be restrictive and unrealistic. Further no account is taken of future need or use and without regular review (eg 3 yearly) or the ability of the legislature to engage in fortune telling potentially productive land could have that potential destroyed by arbitrary and pre-emptive determinations permitting extraction or destruction of soil/water qualities.
- 3 Simply amending the Act (3.1.2) to give farmers the ability to refuse access while it may be an initially prudent step toward relieving the tension around land access does nothing to eliminate tensions around land access for other landholders who by virtue of the stratification of title right become second class title holders who properties will suffer all the detriments (loss of value, loss of the *superannuation element contained in the ownership of Land by any person*) sought to be avoided for the farming class. The creation of classes of title where hitherto none existed is un-egalitarian, socially undesirable and Wybong Action Group would maintain such enactments would be socially divisive and **wholly un-Australian**. Surely this is not the intention of NSW Farmers.

- 4 3.1.4 Compensable loss does not include any recompense for solatium ie the intangible and non-pecuniary disadvantages resulting from the acquisition, compensation for emotional as distinct from physical or financial loss, compensation or damages given for the injury to feelings, reputation, pain, suffering and loss of expectations of life, as opposed to, say, loss of earnings..
- 5 Concerns in relation to 3,1,5 Community engagement, Recommendation 23 arise as the suggestion of the appointment of a Departmental Mining and Coal Seam Gas Liaison Officer within NSW Farmers implies that (as with the NSW Farmers Access Agreement Template) advice will not be available to any member of the public but will be restricted to members of NSW Farmers only.
- 6 In relation to 3.3.1 The food security landscape, concerns are that any legislative instrument is trapped in its time, technology and way of thinking and cannot account for future needs, agricultural technologies etc. For example, the non-basalt soils of large portions of the Hunter only require application of some standard soil improvement and supplementation techniques to assume the grazing productivity of the basalt soils. Area of land potentially productive for agriculture (food production) is much larger than existing agricultural areas and usage is wholly dependent on economics, demand and technology.
- 7 The claims of the Coal Industry (in all and any of its forms) for bestowing benefits of 3.4 Regional development and investment needs be examined against the facts identified in the NSW Parliamentary e-brief Mining and the Economy and the Australia Institute Issue Paper No 7 Sept 2011 "Mining the Truth – The rhetoric and the reality".
- 8 Concerning (3.6) Considerations for local government and planning Wybong Action Group demands (as we believe every citizen is rightfully entitled in a democratic society) that the decision making power on land use be devolved and returned to local communities through their Local Government Area Local Environment Plans. Councils in preparing and exhibiting LEP's for the citizens public authorization should be able to rely on information from a properly resourced Department of Primary Industries with in depth spatial mapping information overlays on a common base from ALL the departments/sections involved in final decision making eg.

- Mineral Resources overlays, NOW overlays, OEH overlays, NPWS overlays, Planning overlays etc and should be resourced in this way.
- 9 With regard to 3.6.2 Wybong Action Group is wholly opposed to the arbitrary determination of land use by other than the citizen as described above, via their LEP. Strategic Regional Land Use Plans should be restricted legally in application to advisory instruments subject to incorporation into law via the LGA LEP and DCP. Wybong Action Group is wholly opposed to arbitrarily determined 'Traffic Light Zones' being provided force of legal effect by any means other than incorporation into LGA LEP and DCP. The NSW Government's Stakeholder Reference Group overseeing implementation of the Strategic Regional Land Use Policy is an unelected body that is deficient for determining land uses at the local level or in any binding capacity. It is non-representative of the majority of rural landowners and represents the historical vested colonial interest of exploitation of the land, water and biota. It has no legitimacy or acceptance within the community insofar as being the determinant body for land use. "Lines on maps are controversial and the method used would need to bring objectivity and transparency to the process of deciding where such lines will fall." The ONLY objective and transparent method is the LGA LEP & DCP informed by Strategic Regional Land Use Concept Plans and State Government Departmental Resources. State Planning Authorities, Local Governments and the Citizen must have freely available access to the best available spatial data for a range of criteria THAT MUST BE TAKEN INTO ACCOUNT including: • soil quality; • water (quantity, quality, reliability and vulnerability to disturbance); • agricultural land use (current and possible future); • value of production (with scenarios for a range of future value projections); • farm entities and ancillary entities (using cluster analysis); • biodiversity and environmental values; • infrastructure (transport, storage, processing); • Aboriginal Heritage and Cultural regions; • Australian Cultural and Heritage entities; • Population growth regions etc collected under standardised methodology which allows various data sets to be easily integrated and freely viewed using the Internet.

Given that NSW Farmers are a significant body and one of few Stakeholders represented on The NSW Government's Stakeholder Reference Group overseeing

implementation of the Strategic Regional Land Use Policy it is important that the Submission of this Government selected Stakeholder be reviewed on behalf of the wider community who are NOT directly represented on the Stakeholder Reference Group so as to incorporate the concerns of the citizens, occupiers and landholders of NSW in general. Wybong Action Group recommends to the Inquiry that the NSW Farmers Submission be considered subject to the above comments and/or as a Submission predominantly concerned with promoting the interests of the NSW Farmer community as distinct from the Rural Residents of NSW in specific and the wider NSW Rural Community in general.

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And as
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