

**INQUIRY INTO THE IMPLEMENTATION OF THE
RECOMMENDATIONS CONTAINED IN THE NSW CHIEF
SCIENTIST'S INDEPENDENT REVIEW OF COAL SEAM
GAS ACTIVITIES IN NEW SOUTH WALES**

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SUBMISSION of the Wando Conservation and Cultural Centre Inc.

INQUIRY INTO THE IMPLEMENTATION OF THE RECOMMENDATIONS CONTAINED IN THE NSW CHIEF SCIENTIST'S INDEPENDENT REVIEW OF COAL SEAM GAS ACTIVITIES IN NEW SOUTH WALES

1. Introduction

The Wando Conservation and Cultural Centre Inc, of Maules Creek, NSW wishes to thank the Parliamentary Committee for Industry for the opportunity to provide this submission to the Inquiry This subject is immensely important to the locality of Maules Creek, as it is threatened by a Petroleum Exploration Licence which is considered part of the Santos gas portfolio and is considered a further stage following approval of the Narrabri Gas Project.

Opponents of the unconventional gas industry, whether it involves fracking or not, are regularly accused of being “anti-science”. This could not be further from the truth. On the contrary, it is the gas industry which is attempting to obscure the known science. We have many examples where science is being deliberately ignored and avoided, including:

- the refusal of the NSW Department of Health to take responsibility for health Impact Assessment of the coal seam gas industry despite known, documented, peer-reviewed evidence of serious epidemiological risks;
- reliance on the Gas Industry Social and Environmental Research Alliance (GISERA) as the source of knowledge that governments rely;

- the very limited scope of GISERA's research, as established by the NSW Research Priorities Committee which is populated by individuals unskilled, uneducated and completely unsuited to the task of setting public health research priorities

In 2013 The Chief Scientist of NSW was charged with undertaking an independent review into CSG activities in NSW. The terms of reference for that review included specifically to:

"Identify and assess any gaps in the identification and management of risk arising from coal seam gas exploration, assessment and production, particularly as they relate to human health, the environment and water catchments;"

We believe that this review was given the wrong task because it assumed the unconventional gas industry can be regulated.

We disagree. Like many in the community and a host of community groups, including the Country Womens Association of NSW to name just one, we support a ban on the exploration and production of coal seam gas.

We do not believe it can be regulated even with the highest levels of probity and adherence to environmental law – which in practice are not realistic to expect, based on our direct knowledge of the regulation of mining projects in the Namoi Valley region.

2. Responses to the Terms of Reference

1. That Portfolio Committee No.4 – Industry inquire into and report on the implementation of the recommendations contained in the NSW Chief Scientist's Independent Review of Coal Seam Gas Activities in New South Wales, and in particular:

- (a) the status of the implementation of the recommendations,
- (b) the effectiveness of the implementation of the recommendations and whether or not there are gaps in implementation,
- (c) whether any other inquiry findings or other major reports relating to unconventional gas in Australia or the east coast gas market published since the release of the Chief Scientists are relevant to the suitability or effectiveness of the Chief Scientists recommendations, and
- (d) any other related matters.

2. That the committee report by Friday 20 December 2019.

(a) the status of the implementation of the recommendations

The status of the implementation is parlous. Statements made by such senior politicians as the Deputy Premier Barilaro indicating he did not even know about the recommendations are proof of this.

Five years after the Chief Scientists report it is clear that the Chief Scientist's recommendations have substantially not been implemented.

As is evidenced by answers to supplementary questions on Hansard to the Deputy Premier with answers received on 9th October 2019, the regulatory framework proposed by the Chief Scientist in recommendation 4 is not in place, no report has yet been submitted to the government and nowhere in the Budget Papers is the 'annual statement' provided for in recommendation 4.

The NSW government has not implemented Recommendation 9 for a robust and comprehensive policy of appropriate insurance for the CSG industry.

The deputy premier was unable to provide answers on notice to: where documentation for recommendation 9 could be read, terms of relevant insurance policy or policies, whether insurance is underwritten by the private market or by government, how many policies of insurance are now in place, what premiums are charged, what was the scheme of security deposits, or any information on the terms of the rehabilitation fund or even when recommendation 9 will be delivered.

Five years after the Chief Scientist's report the Deputy Premier was unable to provide answers on notice to the status of the Whole-of-Environment Data Repository (recommendation 10). Since recommendations 2,8,10, 11,12, and 13 are all dependent on the Whole-of-Environment Data Repository this is a critical omission.

The Deputy Premier was also unable to provide answers on notice to the status of Recommendation 11, the centralised Risk Management and Prediction Tool for all extractive industries in NSW, with the risk register, database of event histories and the archive of Trigger Action Response Plans.

The Deputy Premier confirmed that Recommendation 12 has not been enacted. The Government has not used its planning powers and capability to designate those areas of the State in which CSG activity is permitted to occur (recommendation 5).

It's clear that those dodging the science are not the objectors to the Narrabri CSG Project, but Santos itself, and NSW regulators along with it. Take, for example, the following exchange between The Hon Adam Searle (Lab) with Mr Gifford, the CEO, and Ms Levy the Chairperson, of the NSW EPA the lead regulatory agency for the coal seam gas industry. Extracted below, it shows a parlous state of knowledge state of knowledge on the part of the top environmental bureaucrats about the Chief Scientist's recommendations.

This situation completely undermines confidence in the ability of the NSW Government to properly regulate the coal seam gas industry.

The Hon. ADAM SEARLE: Could you please do that because my understanding is, looking at recommendation 10, it has not been delivered in full. I would like to understand where that is up to and what the process is from here. In relation to recommendation 11, where is the centralised risk management and prediction tool for all extractive industries in New South Wales up to?

Mr GIFFORD: I do not know the answer to that. My recollection is that that was one for Resources and Geoscience.

The Hon. ADAM SEARLE: Okay. Is there any central agency responsible for coordinating all of this? I would have thought that it would have been DPIE.

Ms LEVY: Not as far as I know. I know that we are responsible for certain recommendations. If there is someone coordinating, I am not aware of it.

The Hon. ADAM SEARLE: This is not a criticism of anyone in this room, but it does seem to be a pretty disjointed effort in that case.

Mr GIFFORD: Those recommendations predate machinery of government changes that have created the department.

The Hon. ADAM SEARLE: I understand that. Has the standing Expert Panel or advisory body on CSG been established?

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Mr GIFFORD: I cannot answer that; I am not aware.

The Hon. ADAM SEARLE: Where is the outcome-based target focused regulatory system up to—the three key elements as outlined by the Chief Scientist?

Ms LEVY: I do not know about that one.

Mr GIFFORD: No.

The Hon. CATHERINE CUSACK: Can I just clarify who these questions are being directed to?

The Hon. ADAM SEARLE: I am starting with Ms Levy, as the most senior public servant here. And, of course, if anybody else is the appropriate person I am happy to take the answer from them—the usual approach. I am happy for you to take these on notice and at least come back to me and steer me in the right direction.

Ms LEVY: We can tell you who the lead agency for all recommendations are.

The Hon. ADAM SEARLE: Okay. There was also a recommendation to develop a plan to manage all legacy matters associated with CSG—about capping wells, making sure that they are properly rehabilitated, compliance, data collection, all that type of stuff. Do you have any sense of where that is up to?

Mr GIFFORD: I cannot answer the question absolutely, but certainly there are codes in place in New South Wales for well integrity.

The Hon. ADAM SEARLE: The Chief Scientist's report, as I understand it, made it pretty clear she felt that was lacking and so she was proposing—she then was Mary O'Kane—something significantly bigger and more rigorous and robust, having read her report a number of times.

Ms LEVY: It may be with the NSW Resources Regulator, who is responsible for mining.

Mr GIFFORD: Most likely with Resources and Geoscience.

Ms LEVY: We will come back to you on who is responsible for that one.

(b) the effectiveness of the implementation of the recommendations and whether or not there are gaps in implementation

The inaction of NSW Health is major gap.

The inaction of the New South Wales Department of Health in relation to the introduction of widespread mining in the State is a scandal.

NSW Health had made a 1 ½ page submission on the 7,000 page Environmental Impact Assessment despite the industry being linked with a host of public health concerns since it was introduced to Queensland in 2008.

The only Australian-specific Human Health Risk Assessment (QH, Queensland Government, 2013)² quoted in the Chief Scientist's report has subsequently been comprehensively discredited in the peer review process. Independent analysis of the Queensland Government 2013 health study by Claudio, de Rijke & Page, 2018³ indicates that far from being a comprehensive health study, the Queensland Government report failed to meet Health Impact Assessment international best practice because 7 of 9 key steps were omitted:

"The Darling Downs study here reviewed is characterized by poor methodology and should alert health professionals to the paucity of CSG health-related environmental and health data. The study illustrates the lack of regulatory initiative to enforce best-practice collection of baseline data."

(c) Major gap: insurance

There is a saying: "If it can't be insured for, it is a certainty".

To date, there is no known insurer who will provide environmental insurance, which could cover damage caused to the insured by off-site damage. Santos repeatedly tells questioners that none of the owners of properties with gas wells have had any difficulty obtaining insurance. With respect, this is a furphy. It is the neighbours of the people with gas wells who are in danger, not just the land owners themselves.

To exacerbate the fears about the insurance gap, the very same agency mentioned above – whose Chairperson and CEO did not know, upon questioning by The Hon. Adam Searle that the Recommendations had not been implemented, are responsible for coming up with an insurance solution, the NSW EPA.

Monthly we wait to hear news of the EPA's report, which has been foreshadowed at repeated meetings of the Narrabri Gas project Community Consultative Committee. Vainly we wait, with NO updates, and NO consultation with stakeholders.

3. Conclusion

The NSW Gas Plan is a failure. The touted regulatory scheme of the industry is elusive. The Chief Scientist's Final Report is utterly unable to provide comfort to the people of NSW that a framework is possible to regulate the coal seam gas industry.