

**Submission  
No 21**

**INQUIRY INTO PETROLEUM (ONSHORE) AMENDMENT  
(CANCELLATION OF ZOMBIE PETROLEUM  
EXPLORATION LICENCES) BILL 2021**

**Organisation:** North West Protection Advocacy

**Date Received:** 15 June 2021

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The Hon Mark Banasiak MLC  
Committee Chair,  
The NSW Legislative Council's Portfolio Committee No. 4,  
Email: [portfoliocommittee4@parliament.nsw.gov.au](mailto:portfoliocommittee4@parliament.nsw.gov.au)

**Submission to the NSW Legislative Council Inquiry into the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021.**

Dear Mr Banasiak,

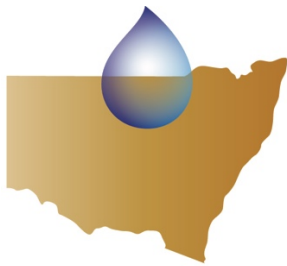
Thank you for the opportunity to contribute to the Inquiry into the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021. Please find attached a submission from North West Protection Advocacy.

We respectfully urge the Honourable Members of the Legislative Council to support Mr Justin Field's Bill.

Yours sincerely,

*Maria Rickert*

Maria Rickert  
Patron  
NWPA



**nwpa**

WATER ● FARMS ● BUSH

# Submission

## Inquiry into the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021

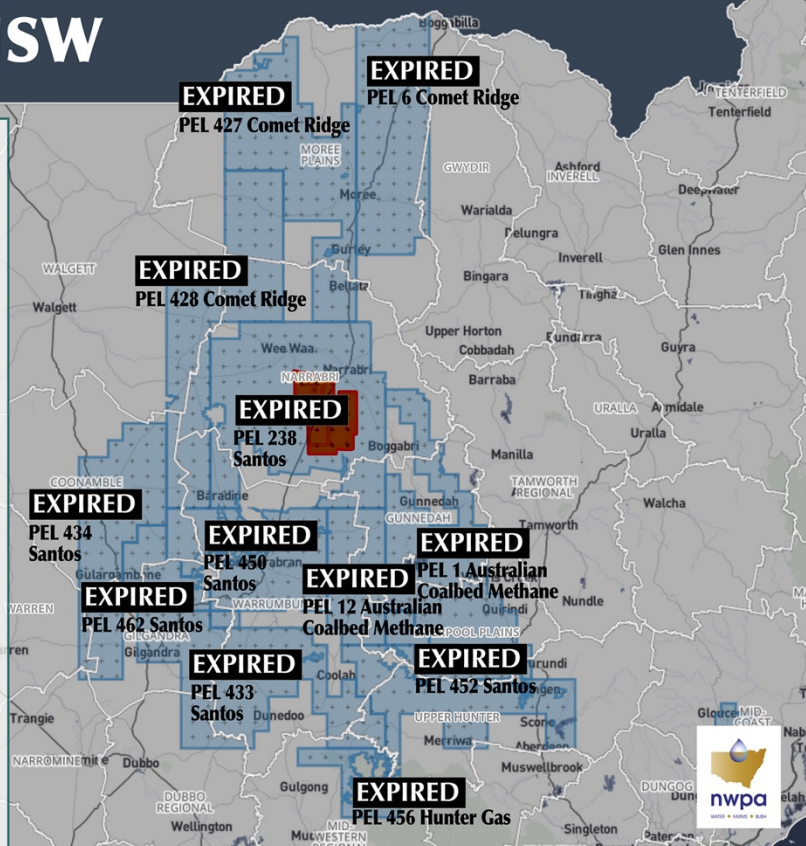
### EXPIRED PETROLEUM TITLES IN NSW

**TITLE EXPIRY**

<b>PAL 2</b>	30.10.13
<b>PEL 1</b>	10.02.15
<b>PEL 6</b>	08.12.11
<b>PEL 12</b>	26.09.16
<b>PEL 238</b>	02.08.16
<b>PEL 427</b>	20.05.16
<b>PEL 428</b>	14.09.12
<b>PEL 433</b>	13.02.15
<b>PEL 434</b>	13.02.16
<b>PEL 450</b>	16.06.06
<b>PEL 452</b>	09.01.13
<b>PEL 456</b>	05.03.18
<b>PEL 462</b>	22.10.11

**Narrabri Gas Project = 850 wells**

Mapping taken from Common Ground Tottenham  
<http://commonground.nsw.gov.au/#/>  
 Info: <https://resourcesandgeoscience.nsw.gov.au/miners-and-explorers/applications-and-approvals/current-titles-reports-applications-and-services/title-status-reports/Petroleum-TitlesCurrent-2018-05.pdf>



## Recommendation

We recommend to the Honourable Members of the NSW Legislative Council that the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021 be passed into law to extinguish once and for all the expired Petroleum Exploration Licences which form part of Santos and its joint venture partners “Staged” roll out of gas fields throughout New South Wales.

## Reasons

Since Santos lodged its environmental impact assessment in February 2017, the company insisted that Narrabri Gas Project was a “boutique” gas field and it did not have intentions of expanding into the expired Petroleum Exploration Licence areas with JV partners Australian Coal Bed Methane, Comet Ridge and Carbon Minerals.

Obviously the assertion that Narrabri Gas was a standalone project that could support a gas pipeline development to market was a fiction and a fraud, as the same project was described elsewhere as Stage 1 of a much larger plan to subjugate 14 Shires to hosting the unconventional gas industry.

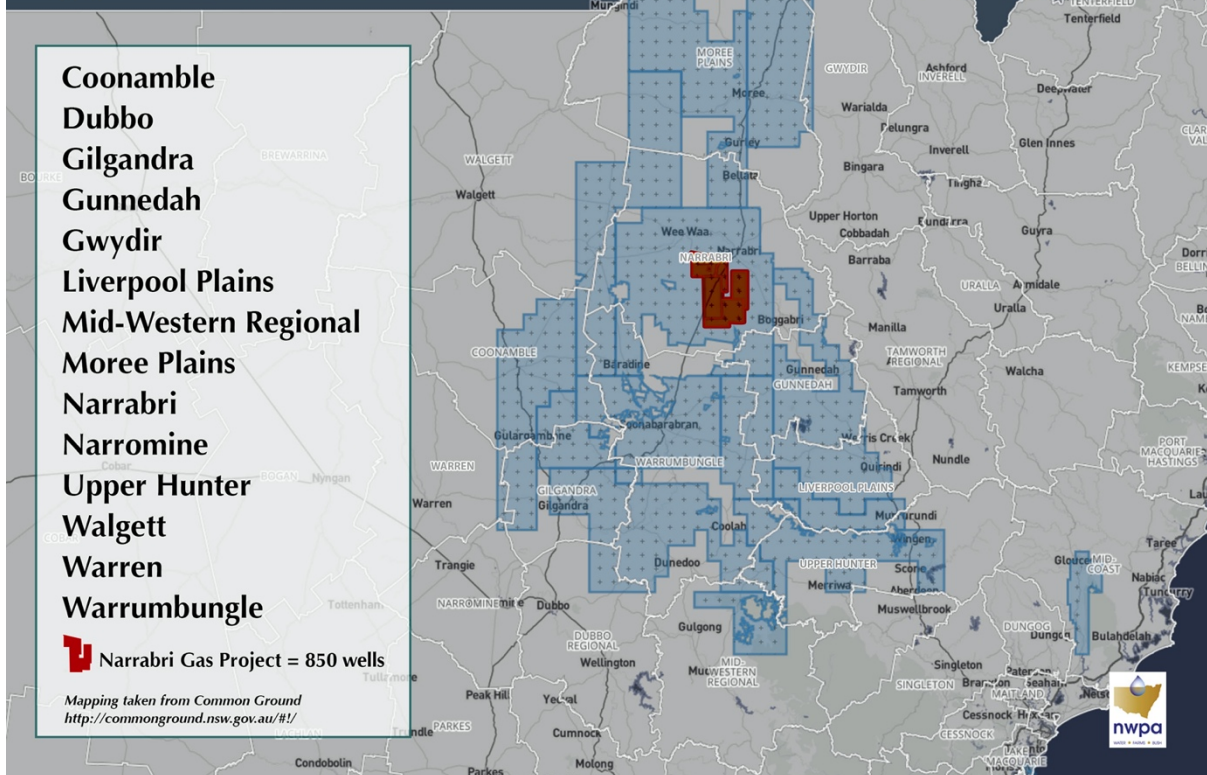
By doing so, Santos has avoided the scrutiny of an environmental impact assessment that would have exposed the full cumulative impacts of the full-scale gas exploitation. Whatever the decision of the lawful consent authority, the NSW Independent Planning Commission, doubts persist as to the economic case in support of the Narrabri Gas project being that it is widely predicted to be extremely costly to produce.

The diagram below, titled *NSW Local Government Areas Covered By Unconventional Export Gas Tenements*, shows graphically how the Narrabri Gas Project is a very small area and its 850 gas wells constitute a small fraction of Santos and its JV partners’ ambitions.

We believe that the proponents in concert with the approval of the DPIE have deliberately deployed a “project splitting” strategy to gain approval for a smaller project when they had in mind all the time a project of many times more impacts that would have been judged differently by the NSW Independent Planning Commission.

In other words, by project splitting, Santos was able to convince the IPC that, for example, the groundwater impacts are able to be adequately conditioned without resulting in irreversible or catastrophic impacts.

# NSW LOCAL GOVERNMENT AREAS COVERED BY UNCONVENTIONAL EXPORT GAS TENEMENTS



Insofar as methane gas was ever believed to be the “transitional fuel” that will help global economies transition from fossil fuels to a carbon emissions free future, those days are now over and will never return. Australia is at the mercy of global forces it cannot influence, and our overseas markets for coal and gas are disappearing rapidly.

We, and hundreds of other groups and individuals who addressed the IPC during the Public Hearing in July-August 2020, provided ample evidence of every level of expertise, lived experience, academic knowledge and public advocacy, covering risks ranging from groundwater drawdown, leakage from coal seams and resulting contamination with drilling fluid, methane gas or radioactive substances, air pollution, and not to mention climate impacts, to name a few.

The IPC decided that by placing conditions on Santos that the worst impacts could be averted by the practice of “adaptive management”.

Adaptive management is a system described by one scholar :

“Adaptive management is natural resource management conducted in a manner that purposely and explicitly increases knowledge (enhances learning) and decreases uncertainty (Holling, 1978; Walters, 1986; Williams et al., 2009) while allowing management to proceed despite the uncertainty present. Adaptive management uses management actions as experiments to provide data supporting, or failing to support, competing hypotheses when there is uncertainty regarding the response of ecological

systems to management activities, to better meet management objectives over time.” (“Pathology and failure in the design and implementation of adaptive management”, *Journal of Environmental Management* Allen and Gunderson, 26 November 2010).

However, not only is adaptive management used in natural resource management it is specifically mentioned in management plans throughout the mining industry too, as a means of justifying confidence in decisions made when there is a high degree of uncertainty.

The Chief Justice of the NSW Land and Environment Court, the Hon Brian Preston, is known for his statement of the law on adaptive management, which is that it is “not a suck it and see” approach.

However, there is a severe regulatory dysfunction at play when the top bureaucrat in NSW DPIE Resource Assessments David Kitto himself does not understand the meaning of adaptive management.

All of this is in the transcripts of the IPC Public Hearing and on the public record, and makes for astonishing listening to hear David Kitto respond to the Commissioners on the question of how adaptive management when asked what would happen if groundwater drawdown exceeded that modelled. His answer “dig a deeper hole” smacks of “suck it and see” and suggest that potentially irreversible groundwater impacts are not being taken as seriously as they ought to by the regulator.

Even more astonishing is the fact that the Commissioners did not quiz Mr Kitto or question his “dig a deeper hole” response, or whether a deeper hole is always possible.

We have yet to see how well or how poorly the Narrabri Gas conditions will protect groundwater or any other determinant of human or environmental health, but respectfully urge the Honourable Members that the expired exploration licences should not be allowed to persist in circumstances such as the present when global markets for coal and gas will decline steeply with a view to a non carbon emissions global economy.

## **The proposed NSW Gas Strategy**

It is appropriate that the “zombie” PELs are dealt with by the legislature at this juncture when the NSW Government is developing its Gas Strategy. We understand that this new Gas Strategy for NSW is due to be published in July 2021.

The forthcoming Gas Strategy follows the failed “NSW Gas Plan”, which was underpinned by the promise of the Chief Scientist being able to recommend a suitable framework that the unconventional gas industry could operate under. However, the Chief Scientist made recommendations that have never been able to be satisfied by the gas industry. Nevertheless, despite promises that coal seam gas would only be allowed to proceed in NSW as an industry if the recommendations were all fulfilled, this assurance has been forgotten and now we find ourselves in a situation where the recommendation of the Chief Scientist about ensuring insurance is available is by-passed, and a Queensland-style compensation approach is being floated which bears no resemblance to insurance, and is in fact exactly what constituents of NSW reject.

The failed NSW Gas Plan was also underpinned by a Memorandum of Understanding (24 March 2014) to which the NSW Resources Minister, Santos, and other organisations are signatories to, called the “Agreed Principles of Land Access”. This MOU was a response to the overwhelmingly negative opinion held by the NSW community about the coal seam gas industry in Queensland.

In a [media release announcing the MOU](#), then Resources Minister Anthony Roberts stated: “These principles are based on the values of respect, integrity and trust and ensure landholders can deal with these companies with confidence” (“these companies” being a reference to the gas industry).

One of the terms of the Agreed Principles of Land Access is:

*“Gas companies confirm that they will respect the Landholder’s wishes and not enter onto a Landholder’s property to conduct drilling operations where that Landholder has clearly expressed the view that operations on their property would be unwelcome.”*

However, in November 2017, this condition was tested when APA Pipeline Group, being engaged as a contractor to Santos, attempted to enter into properties along the pipeline route without due regard to the Agreed Principles of Land Access. The Coonamble community successfully blockaded the company and its contractor Biosis, the latter having been tasked with conducting a biodiversity assessment along the proposed gas pipeline corridor.

[This video](#) shows one encounter between community members and Santos’ contractors which clearly shows how the industry flouted the MOU.

## APA Coonamble Gas Pipeline Blockade – Nov 2017

Contrary to the Agreed Principles of Land Access, Santos contractors entered properties without approval of landowners, falsely claimed to Coonamble Police that they had a “court order” to enter land, statements about the purpose of their trespass (actually this was a purported Authority to Survey which was subsequently challenged by affected landowners). The APA staff targeted families in distress to obtain access, in effect breaching in word and principle the MOU.



### **Lack of protections for landowners and communities**

A recent article published by the advocacy group Property Rights Australia outlines the issues associated with deviated drilling, which entails drilling at angles underground, beyond the bore entry point and potentially onto and owned by unwilling 3<sup>rd</sup> parties. In the 11<sup>th</sup> June 2021 article [“Tearing through property rights”](#),

“Deviated drilling is a deeply complicated issue that is silently sneaking up on landowners, literally. The intrusion of deviated drilling on unsuspecting landowners is coming to a head, silently. Although PRA previously foreshadowed this issue in posts on the subject since last December. PRA is providing this update to ensure that this issue is handled openly and that landowners do not remain isolated.

Recently some landowners have received unwelcome and confronting news in the mail from Arrow Energy. The letters advise that previously without the consent or knowledge of the farmers that Arrow have in the past drilled gas wells under their property from a point on the neighboring property. Further, they will be providing post-dated entry notices for the wells. Arrow also note in the letter that “Arrow reasonably expects [the deviated wells] to have no impact or only minor impact”.

Again landowners are the last to know that this has occurred. Again, individual landowners are left out of pocket (time-wise and financially) scrambling to understand the legal and practical implications. The data provided by Arrow raises more questions



than it answers. When pressed, Arrow cites commercial in confidence or limply suggests the landowner contacts the departments.

The Departments and Gasfields Commission complete the circle of silence. They have not been proactive in advising and supporting landowners, there has been no transparent attempt by the government bodies to allay landowners' concerns or questions.

The Gasfields Commission is merely a clearinghouse for complaints. The letter from Arrow indicates that there has been a failure to meet legislative obligations with regard to Entry Notices. How is the government handling Arrow's failure to comply? Which only raises more questions about just how deviated drilling is handled by the legislation and permitting. What risk assessments have been done?

A development such as this that has far-reaching impacts for the landowner, warrants more than a bold letter from Arrow. It warrants all hands on deck, an all of government response, total transparency for the individual and collective landowners from the government regarding the way the issue has failed to be addressed previously and how it will be addressed now, and open doors inviting landowner concerns and overt efforts to ensure confidence and justice for the landowner.

Instead, the landowner gets Arrow with their fingers in their ears pushing through their preferred outcome – writing their own adventure and calling the shots from a position of information, power, and influence.

The *robust regulation* and the fanciful *adaptive management* approach again have been demonstrated to breathtakingly fail the landowner. He has no seat at the table, begging for scraps.

The legislation has been written to enable the gas industry by a government that has a conflict of interest as owner of the gas, beneficiary and regulator of the gas industry. The legislation has been edited at a place far, far away from the site of the impacts and those expected to live with it. It has also been edited in isolation considering only the gas industry and neglects consequences for landowners and their rights that are otherwise considered as substantive unless of course, it involves getting the gas.

PRA is calling all concerned individuals, advisors, and rural advocacy groups to reach out and work together and provide a united front on this issue which so clearly encompasses all that is wrong with the approach to the gas industry. Enough of being dictated to, and working in isolation, it is time to drag our own chair up to the table and demand consideration, consultation, and prioritisation. PRA is working hard on this issue and welcomes collaboration.”

We have quoted the article in full due to the direct relevance of the matters raised to NSW, where we understand the Gas Strategy Branch is proposing a similar model to the Queensland Gas Fields Commission be introduced here in NSW.

The GasFields commission, established in 2013 has done nothing to alleviate the conflict, injustice and unbalanced relationship between gas companies and community members who find themselves in the path of gas mining.

Co-existence has not worked in Queensland and there is no evidence to suggest that conditions in NSW would make co-existence possible between farming and the gas industry, without severe detriment to the agricultural sector.

Our group has conducted tours of the Darling Downs and viewed the situation in Queensland close-up. From our interviews with farmers, landowners and community members we can confirm that the disadvantage suffered by victims of the gas industry are further exacerbated by the GasFields Commission because of the false premise it pushes of a mythical coexistence between gas companies.

The locality of Hopeland, in the Darling Downs is the current frontline of gas expansion in Queensland, home of the Late George Bender who tragically suicided after stock losses, bore damage and severe nuisance caused by two gas companies on either side of his property, although not on his property. The George Bender case is an example of how a property owner who is neighbour to a gas industry host can be impacted.

The Queensland GasFields Commission has not provided any comfort that those problems and their legal ramifications are being dealt with. The Queensland GasFields Commission is a virtual black hole for landowners who have issues with gas companies that cannot be resolved.

The ABC TV story [“Coal Seam Gas company drills wells under private property under without notifying farmers”](#) encapsulates what is going on at present at the Surat Basin front line and the disadvantage faced by people trying to run their farm businesses and live their lives safely, with peaceful enjoyment of land.

The GasFields Commission has failed to deliver one iota of confidence that the gas industry has addressed the problems of deviated drilling, such as underground trespass, methane migration, vibrations, damage to bores, or subsidence. These are the risks faced by NSW if the zombie PELs are allowed to be enlivened.

We respectfully call upon the Honourable Members of the Legislative Council to support the Bill to cancel the expired PELs.

## **Current petroleum licence regulation and state of play**

Overall it appears that the NSW Government leaves much to be desired in the regulation of companies that have Exploration Permits and Licences in NSW, including but not restricted to gas exploration.

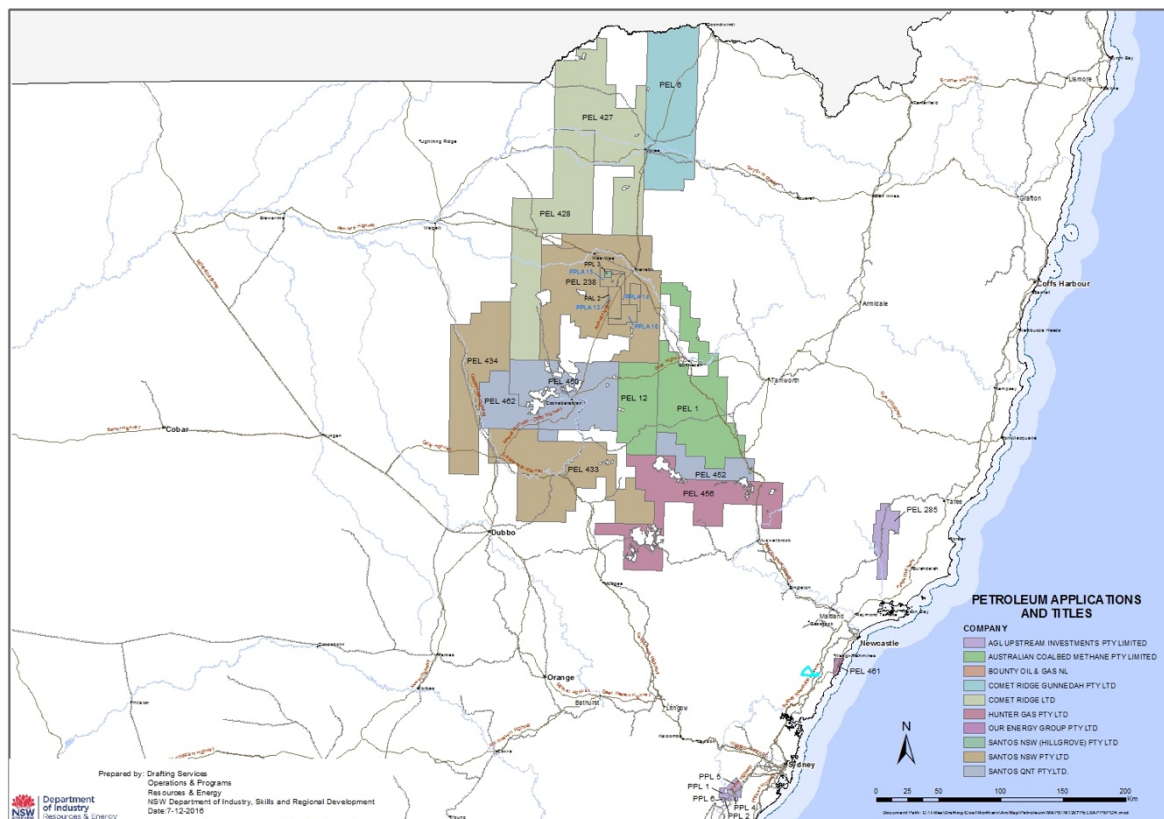
Community have repeatedly been told by Ministers and regulatory bodies that NSW has World’s Best Standards but looking at the information available to the public it is clear that the department has not kept up. Exploration appears to have been secretive, and not publicly available as required.

It is next to impossible for the public to assess which licences are still current unless significant knowledge is held about where to and how to search for that information.

One of the concerns we have is that “minnows”, small speculator companies without financial backing are involved in gas exploration.

In terms of record keeping and public disclosure, a look at the publicly available information reveals broken links, deleted regulatory conditions (POA) and out of date literature and mapping.

**EXAMPLE.** This map is 5 years old.



<https://www.resourcesandgeoscience.nsw.gov.au/data/assets/image/0007/537514/161207PELSAPPSPGH.jpg>

It references a company called Our Energy Group Pty Ltd – this company does not have a website nor are they referenced on

<http://www.commonground.nsw.gov.au/#!/search/OUR%20ENERGY%20GROUP%20PTY%20LIMITED>

<http://www.ourenergygroup.com.au/>

The office of this company is located at Double Bay in NSW and is closed. The Key Principal is ANDREW GERARD MAYO who was also involved with exploration of the Far West via Paradigm Resources (also listed address at Double Bay).

[https://www.dnb.com/business-directory/company-profiles.our\\_energy\\_group\\_pty\\_limited.b9f630b50644f2c69e72033009f98ca6.html](https://www.dnb.com/business-directory/company-profiles.our_energy_group_pty_limited.b9f630b50644f2c69e72033009f98ca6.html)

## Minimum Standards and Merit Assessment Procedure

The Department of Resources and Energy *Minimum Standards and Merit Assessment Procedure* governs the obligations of holders of gas exploration rights.

It states:

“The NSW Gas Plan is the Government’s public statement of intent to deliver a high performing petroleum industry, with reasonable and consistent regulation that is rigorously enforced.”

However, the Gas Plan is in disarray and about to be replaced by the “Gas Strategy”.

The *Minimum Standards and Merit Assessment Procedure* further states:

“Through the NSW Gas Plan, the Government is committed to implementing and enforcing a ‘Use It or Lose It’ Policy requiring title holders to commit to developing the State’s resources or risk losing their prospecting title.”

And

“To ensure the optimum discovery and development of the State’s potential petroleum resources, title areas must be **actively explored**.”

NWPA would argue that if active exploration has taken place, it has not been disclosed. The operator Santos has moved on its commitment to be the “lowest cost gas operator” in Australia and as such has not seen fit to spend shareholder dollars in the Gunnedah Basin and further afield for several years.

Santos closed the Gunnedah shopfront in 2018 choosing not to renew the lease effectively removing a public face within the Gunnedah community  
[https://narrabrigasproject.com.au/wp-content/uploads/2018/09/2018-August Santos-Monthly-Activities-Update.pdf](https://narrabrigasproject.com.au/wp-content/uploads/2018/09/2018-August-Santos-Monthly-Activities-Update.pdf)

The *Minimum Standards and Merit Assessment Procedure* states:

“1.3 Public disclosure Prospecting title decisions will be publicly disclosed consistent with the Government Information (Public Access) Act 2009 and the NSW Government Open Data Policy.”

However, NWPA have consistently requested information on current Petroleum Titles held on the NSW Resources website be updated and have never received any response and the page today shows a 404 error.

<https://www.resourcesandgeoscience.nsw.gov.au/landholders-and-community/coal-seam-gas/facts-maps-links/petroleum-titles-in-new-south-wales>

[http://www.resourcesandenergy.nsw.gov.au/data/assets/pdf\\_file/0017/561401/D15-016-minimum-standards-final.pdf](http://www.resourcesandenergy.nsw.gov.au/data/assets/pdf_file/0017/561401/D15-016-minimum-standards-final.pdf)

First published in 2015 – 6 years old. The NSW Government has not kept up with ensuring companies with Exploration Licences are committed to development. Little activity has occurred in any PELS other than PEL 238.

**From the Departments website:**

**“Title status reports**

[Title Status Reports](#) are published online to assist title holders, investors, potential explorers and the community in monitoring exploration and mining title/tenement activity in NSW. These reports are made available to the public in the [Miners & Explorers section](#) of this website.”

<https://www.resourcesandgeoscience.nsw.gov.au/landholders-and-community/coal-seam-gas/facts-maps-links?a=283827>

The Guardian reported:

“If the government does not approve or deny a renewal application, a tenement can remain in effect without being subject to the safeguards and reporting requirements built into the renewal process.”

<https://www.theguardian.com/environment/2019/mar/15/coal-seam-gas-nsw-communities-in-limbo-due-to-expired-licences>

The link in the Guardian article that leads to the Government website allowing perusal of the licences is also broken and has been since this article was published.

Minimum Standards and Merit Assessment Procedure refers to Section 21 of POA which has since been repealed

It is uncertain what works have been undertaken.

Comet Ridge Expenditure and Works Program in Pel 6, 427 & 428

<https://www.cometridge.com.au/projects-nsw/>

“Unfortunately since 2011, no operational activities have been able to be completed on the ground primarily due to external factors including government restrictions and policy decisions including a period of moratorium on CSG activities in NSW and land access issues.”

“The current approved work program is focussed on community engagement, environmental studies, groundwater monitoring and geological desktop studies.”

<http://www.cometridge.com.au/wp/wp-content/uploads/2021/01/COI-Quarterly-Activities-and-Cashflow-Report-December-2020.pdf>

[“Comet Ridge’s equity position in three large regional NSW exploration blocks is shown in Table 2 below. Technical work continues to relinquish part of the area of the three Comet Ridge PELs and to extend the permit terms.”](#)

And,

“Operationally, little has happened with these permits during the year. The Company continues to await approval of the renewals for PEL 6, PEL 427 and PEL 428. For this reason, Comet Ridge continues to expense any exploration expenditure in

relation to these tenements and no value is included in Exploration and Evaluation Assets relating to the Gunnedah Basin.”

In conclusion NWPA note that it is next to impossible for the public to assess whether or not “Use it or Lose it” has been adhered to. In truth the gas industry in NSW was kept in a holding pattern for a period of 6 years between the Santos MOU and the approval for the Narrabri Gas Project. A lot has changed in 6 years, we’ve seen the worst drought in memory for many people and severe conflict over water usage. We’ve seen coal mining further develop in the Gunnedah Basin and no cumulative impact studies.

It’s time now for common sense and the logic stream to direct good regulation that sees communities thrive and prosper not wither and die under threat from extractive industry. We recommend all existing expired licences for Petroleum Titles in NSW be cancelled as per the Justin Field Bill.