



Fw: Response to Terms of Reference for Coal Seam Gas Review 2013

Mary O'Kane to: CSG Review

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Sent by: **Rebecca Radford**

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Cc: "Peter Henderson" <Peter.Henderson@metgasco.com.au>
Date: 26/04/2013 02:16 PM
Subject: Response to Terms of Reference for Coal Seam Gas Review 2013

FAO: Professor O'Kane

Please find correspondence attached from Peter Henderson, Managing Director and CEO of Metgasco to the NSW Chief Scientist & Engineer (Ltr – NSW CSE re CSG Review) plus a copy of comments directed to the Director General regarding the NSW SEPP Amendment.

Kind regards
on behalf of Peter Henderson

Michele Perry | Executive Assistant
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2013.04.12 The Director General NSW DPI - NSW SEPP Amendment CSG Exclusion Zones 2013.pdf



Ltr - NSW CSE re CSG Review - 26Apr'13.pdf



26 April 2013

Professor Mary O'Kane
NSW Chief Scientist and Engineer
Level 47, MLC Centre
19 Martin Place
Sydney NSW 2000

Via Email: nswchiefscientist@chiefscientist.nsw.gov.au

Dear Professor O'Kane

Thank you for the opportunity to comment on the Terms of Reference (ToR) of your review of coal seam gas activities in NSW. I would like to reiterate and expand on the comments I made when we met on Monday, 8 April 2013 (text in *italics* is from the draft ToR).

1. *undertake a comprehensive study of industry compliance involving site visits and well inspections. The Chief Scientist's work will be informed by compliance audits undertaken by regulatory officers, such as the Environment Protection Authority and other government agencies*

Metgasco will obviously give 100% support to the compliance study you propose.

2. *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*
3. *identify best practice in relation to the management of CSG or similar unconventional gas projects in close proximity to residential properties and urban areas and consider appropriate ways to manage the interface between residences and CSG activity*
4. *explain how the characteristics of the NSW coal seam gas industry compare with the industry nationally and internationally*

As far as the above items 2, 3 and 4 are concerned, we think there is an opportunity to add real value to NSW.

We would prefer your work considers not only "gaps" but also "overlaps" and inefficiencies in the current regulatory approach.

Regulations and controls have no merit in themselves. They are only justified as a means of managing risk. If risk (a combination of the likelihood and consequence of an event) is low, then there should be relatively little regulation. Conversely, if a risk is high it should be more heavily regulated. We can provide numerous examples of NSW regulations and policies which have no apparent justification based on risk; the proposed 2km exclusion zone being a prime example.

Regulations that are the “toughest” are not necessarily the best regulations, nor should “world best practice” be a collection of the most extreme regulations that can be identified around the world. If one regulatory regime has an extreme requirement that is seen to be an over-reaction rather than a carefully considered means of managing risk it should not be accepted as world best practice. Regulations that do not recognise or appropriately manage risk are bad because they expose the community to unnecessary risk, but regulations that exceed risk management requirements are bad because they slow development and increase costs unnecessarily, threatening competitively priced energy supplies as a result.

We also recommend that we avoid jargon such as “gateways” and recognise review and regulatory processes that already exist. The award of an exploration licence, the approval of a REF for an exploration well and development approval for a gas field all involve submissions, reviews and approval steps that petroleum companies must “pass through”. They are all “gateways”. We believe that the introduction of last year’s gateway process gives the community the incorrect impression that the industry had not been subject to review and approval processes in the past. We believe that it is possible to improve controls and the efficiency and timeliness of the overall review process if the slate was wiped clean and the process started again with the recognition of all the different gateways that exist. A simpler, re-branded approach that explains all the controls and regulations that are in place would help to provide the general community and the CSG industry with confidence.

Your review can also add value if it can bring some technical and analytical rigour to regulatory approaches. A prime example is the proposed 2 km exclusion zone. As explained in our 12 April submission to the NSW Government (attached), the proposal is arbitrary, with no technical or risk based justification whatsoever. It has done huge damage to the industry in terms of lost reserves and community confidence. We recommend that your review carry out a quantitative risk assessment process, typical of the approach used by the petroleum industry for development planning, and compare the exclusion zone required for the CSG industry with exclusion zones for other industries with similar risk profiles. This could provide the basis for changes to the proposed 2km exclusion zone.

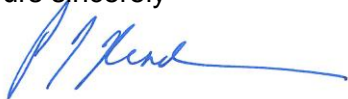
We also encourage regulations that are consistent from one state in Australia to another. This, however, should not be at the cost of having to accept the lowest common denominator in regulations from different states and territories.

We fully support:

- any “independence” that your work can provide the industry and hence assist with public confidence in the industry; and
- the generation of material that will help the general community understand the industry and have confidence in it, as per item 6 of your ToR.

Please advise if we can assist with your program in any way.

Yours sincerely



Peter Henderson
Managing Director
Metgasco Limited



12 April 2013

The Director General
Strategic Regional Policy
NSW Department of Planning and Infrastructure
GPO Box 39, Sydney NSW 2001

Dear Sir,

Re: SEPP Amendment, Coal Seam Gas Exclusion Zones 2013

Metgasco opposes the proposed SEPP amendment. It unjustifiably sterilises large areas of prospective acreage from coal seam gas (CSG) operations without providing any net benefit to the community while damaging NSW CSG companies, including Metgasco. The company therefore strongly recommends that it is not implemented. If it is implemented, it should be done so in a manner that allows the amendment to be repealed easily in response to the expected positive experience of future CSG operations and considered argument and analysis.

Our position is explained in in Attachment 1. In summary:

- there is no scientific basis, nor is there any risk management justification to support the proposed 2 km exclusion zone – it is nothing more than an arbitrary, politically based imposition on the CSG industry and the more than one million NSW gas customers who rely on competitive natural gas supplies;
- it will be difficult to quarantine the impacts of the amendment;
- the amendment damages the state's sovereign risk reputation;
- other similar industries with similar or higher risks are not subject to an exclusion zone as proposed for CSG activities;
- there is no need for additional regulation, let alone the proposed exclusion zone – NSW already has a plethora of planning, environmental and other controls to ensure that CSG and other activities are managed in a way that ensures safety, health and environmental needs are managed;
- the exclusion zone does enormous damage to the industry in two ways;
 - it significantly reduces the gas reserves that have been established through years of hard work and significant expenditure; and
 - it sends a message to the general community that there is something inherently wrong with CSG – a message that is fundamentally incorrect.

The proposed amendment has already damaged the credibility and viability of the NSW industry. If implemented it will result in the loss of significant state royalties, reduce job creation and compromise energy security. Metgasco has already been forced to terminate the employment of the majority of its staff and to suspend its NSW CSG activity indefinitely, directly as a result of the commercial effect of the exclusion zone announcement.

Instead of imposing new constraints, the NSW Government should be reducing the amount of its red and green tape with a view to facilitating an active industry, not responding to anti-fossil fuel and anti-development propaganda. NSW is a state which imports almost all of its natural gas, a lot of it produced from Queensland CSG wells, and it is very dependent on black coal for its primary energy. It needs sensible, consistent and stable policies for its CSG and general energy resources. Major changes in regulation only 6 months after the completion of an 18 month review/ moratorium and the announcement of the “toughest regulations in Australia, if not the world” destroy business confidence.

Regulations should be “smart” (ie; well considered), not “tough”, developed with an objective understanding of risks involved, not set on an arbitrary basis. There is no merit in having the toughest regulations in Australia or the world if they are poorly considered and in practical application they unjustifiably damage the industry, destroying wealth in NSW.

We recommend that the proposed SEPP amendment is not adopted, but if it is that it is repealed on the basis of:

- a review in 12 to 18 months’ time to take into account experience in other Australian states and overseas; and
- a quantitative risk assessment, which is a standard oil and gas industry process, conducted to determine what is acceptable for land use policy for the CSG industry and, in doing so, establishes whether the current Petroleum Onshore Act provisions and other regulations are adequate, providing the basis for removing the exclusion zone.

We also recommend:

- that the Chief Scientist and the new Manager of the Office of CSG within DTIRIS should be asked to review current regulatory processes with the view to making it the “smartest”, not necessarily the “toughest”; and
- that the NSW Government has a leadership role to play in supporting a robust energy supply that includes both fossil fuels and renewables and countering the misleading and dangerous positions of the green and anti-development movements. This is consistent with the November 2012 findings of the Public Accounts Committee.

While other states and communities are benefiting from the oil and gas industry, NSW is foregoing job creation, royalty income, lower cost and secure energy supplies - and for no benefit.

Yours sincerely



Peter J Henderson
Managing Director and CEO

Attachment 1

Proposed Amendment to State Environmental Planning Policy: Metgasco comments

Metgasco has spent more than 8 years and close to \$100m exploring in the Clarence Moreton Basin (Northern Rivers) and has been successful in discovering about 400 BCF of 2P CSG reserves and 2,500 BCF of 3P CSG reserves. Metgasco has over three hundred voluntary access agreements with local farmers and we receive unsolicited calls regularly asking for natural gas wells to be located on farmers' properties. We have strong local council and business support. For example, the Richmond Valley Council recently released a position statement on CSG supporting the development of the industry, with the Council's General Manager recently stating:

"We know there's lots of gas and we know there's lots of coal and if it flows at the rates they (Metgasco) would hope... you'll see enormous economic growth, you'll see great development in the Richmond Valley, lots of jobs, lots of opportunity... and infrastructure improvements as well."

1. There is no basis for the proposed 2km exclusion zone

The proposed exclusion zone has no scientific or safety/environmental basis and has already badly damaged the CSG industry in NSW. The change has no credible scientific justification in terms of either environmental or health outcomes. Apart from the loss of reserves many companies face as a result, it has sent out a signal to the community that there is something fundamentally wrong with the CSG industry. This is clearly not the case. Experience in NSW and elsewhere supports the view that CSG has no more risks than other industries which do not have this arbitrary exclusion zone applied. The announcement also sent a message to say that the NSW Government puts a low priority on resource and energy development in the state.

Environmental regulations and controls are meant to manage risk. They are not justified in the absence of meaningful risk, nor should they unnecessarily hinder development. They should be based on a sound analysis of the risk (a combination of the likelihood and consequence of an event). If risks are low then controls should be minimal or non-existent. Conversely, if risks are high then controls need to be higher. This approach was espoused by the Planning and Infrastructure Minister Brad Hazzard during the Strategic Regional Land Use Policy consultation as the Government establishing a transparency, evidence-based planning system.¹ The current proposed changes to the SEPP in creating exclusion areas do not provide for any transparency in the assessment of risk.

No information has been provided to demonstrate what risks the exclusion zones are managing and why existing regulations are not adequate to manage risks. It is quite clear that the concept of risk management has not been considered in any way. Indeed, the NSW Premier has been quoted as saying "Families in residential areas should not have to worry about their quality of life being affected by the noise, visual impacts and other effects of coal seam gas mining". The existing planning process, which applies to other industries as well as coal seam gas, and the Petroleum Onshore Act already manage health, safety and environmental issues, including noise, visual impacts, traffic, etc. It is not clear why noise from our industry is any different from noise from other industries.

¹ Thompson F, 'Hazzard rejects calls to halt Hunter CSG exploration' Newcastle Herald, 13 April 2012.
SEPP Amendment, Coal Seam Gas Exclusion Zones 2013

We also point out that many other industries are able to operate well within a 2km buffer zone. For your interest, Attachment 2 provides a section from the NSW Environmental Planning and Assessment Regulation 2000, showing the separations required for a range of industries before they even become “Designated Developments” (ie; if not within this separation distance, they are not even considered to be “Designated Developments”). The Protection of Environment Operations ACT lists various industries which are 'politically sensitive' but distance restrictions don't apply. In the case of general blasting there is no prohibited distance, rather ANZECC guidelines provide the limits that apply at certain blast overpressure and ground vibration.

The coal extraction industry is perhaps the best example of an industry carrying with it recognised levels of risk that, some would argue, are greater than those posed by any CSG development. The Government has been party to the air quality monitoring regimes put in place to assess the concentration of dust in the Upper Hunter airshed to provide health alerts to the residential communities within the region. Yet approvals for this industry continue as before, under an evidence-based planning system - with apparently no thought to developing any exclusion zones such as that proposed for the CSG industry. It is difficult if not impossible to reconcile the treatment of the CSG industry with the regulations and controls placed on coal and other industries.

We also note that the NSW Government is proposing to allow local councils to opt out of the new exclusion zones. Local councils do not have the technical resources the State Government has to evaluate CSG projects. The proposed amendments are therefore clearly not driven by health, safety or environmental risk management but by political factors and short term expediency.

2. It will be difficult to quarantine the 2km exclusion zone for CSG or other industries

Metgasco is very concerned that it will be difficult to prevent the spread of the exclusion zone beyond the areas intended. Given that there is no risk or technical basis for the exclusion zone, many parties, particularly those with an anti-fossil fuel or anti-development agenda will seek to extend the exclusion zones. The government's own “Frequently Asked Questions” document devotes a lot of attention to trying to define the differences between rural residential areas, villages and other areas. We have already noted interest groups are arguing that the exclusion zones be extended well beyond what the NSW Government has intended. This creates a critical area of uncertainty for CSG companies.

Given that other industries carry risks as high or higher than coal seam gas, there is a concern that special interest groups will successfully target these industries and result in unwarranted restrictions on these industries as well.

3. Concern over sovereign risk created

Given that the government has announced the exclusion zone without any technical or risk based analysis, without any consultation with industry and despite announcing the “toughest regulations” in Australia only last September, how can any CSG company risk investing shareholder funds exploring for CSG in NSW? The government has created a significant sovereign risk component that has not existed before and a risk that does not exist in other states and countries that are competing for investment dollars.

4. No information has been supplied on the exclusion zone in Metgasco's exploration licences

Because the relevant maps referred to in the draft SEPP amendment are not yet available, the draft SEPP does not define the exclusion zones for our exploration licence areas in the Northern Rivers Region. This creates more uncertainty for Metgasco than those companies with interests around Sydney, where the exclusion zones have been mapped.

We also note with concern that the exclusion zone might apply to future residential growth areas. The Department of Planning and Infrastructure is apparently compiling information on all future growth areas across the state to include in a final map prior to finalisation of the SEPP amendment. Without this information it is unreasonable to expect Metgasco to comment on the amendment as it applies to its exploration licences.

Metgasco requests that there should be no further land exclusions for future residential growth areas and that this is confirmed at the earliest possible time.

5. The importance of the CSG industry and the need for communication and education has been acknowledged by the Public Accounts Committee (November 2012)

In November 2012 the Public Accounts Committee of the NSW Parliament (PAC) released its report 6/55 titled "The Economics of Energy Generation".

The PAC commented on the subject of CSG as part of its consideration of energy policy at paragraphs 7.21 and 7.21 as follows:

7.20 – The Committee considers that there will be an increased demand for gas-fired generation in the future as the State transitions to lower carbon emissions. This increased demand, along with other factors such as dwindling supply of conventional gas and moves towards international price parity, are expected to put pressure on conventional gas prices and, as a result, the cost of electricity.

7.21 – The development of New South Wales' significant coal seam gas resources has potential to ease some of these pressures. Coal seam gas has the potential to increase energy security and affordability in New South Wales, as well as providing other economic benefits to the State associated with the development of a new industry.

Whilst the Committee noted there were residual public concerns even after the imposition of the Strategic Agricultural Land protection measures and the new Aquifer Interference Policy in September 2012, the PAC concluded as its Recommendation 9.

7.25 – While the protective measures recently introduced by the NSW Government mean that New South Wales now has the strongest regulation of coal seam gas exploration and activity in Australia, the Committee believes that greater publicly available information and education about coal seam gas are required before CSG activity will be widely accepted in the community.

7.26 – The Committee therefore finds that coal seam gas should not be ruled out as a source of energy in New South Wales, where development meets the stringent government controls that have been recently implemented. The Committee recommends increased public education to provide accurate information about coal seam gas.

RECOMMENDATION 9

That the NSW Government conduct a public education campaign providing up-to-date and accurate information about the economic and environmental risks, relevant government regulations, and benefits of coal seam gas production in New South Wales.

6. 2012 Federal Energy White Paper

The Federal Government's Energy White Paper of 2012 was supportive of measures to promote the safe development of the nation's CSG resources, whilst acknowledging the need to work towards a best practice multiple land use solution and at page 77:

Multiple land use involves using land for different purposes simultaneously or sequentially, and accommodating those different uses efficiently and sustainably to retain the widest options for current and future use. The aim is to maximize the net benefits to present and future generations.

Multiple and sequential land use are considered the two key components of the Multiple Land Use Framework currently under development by the National Land Access Working Group of the Standing Council on Energy and Resources.

By way of contrast this SEPP Amendment proposes a blanket exclusive use restriction, applied indiscriminately of risk or demonstrated incompatibility of land uses.

The White Paper went on to recommend, with specific application to unconventional gas resources that in order to achieve the objectives of the White Paper, state and Federal governments would need to – (from page 83)

work with states and territories to help ensure that shale and tight gas resources are developed sustainably and with appropriate community consultation.

The proposed SEPP amendment departs from the planning objectives of the White Paper by proposing state wide exclusions. This is inconsistent with the views of committees which have had access to expert opinion and investigations. It is a reaction to short term political pressure, as opposed to implementing considered medium to long term planning objectives set out in the PAC report and the White Paper we have referred to.

7. Council right to opt out is unwise and an abrogation of the State Government's responsibilities

Metgasco believes that the state government should retain the responsibility for resource development, rather than abrogate its responsibilities to local councils. As such, we believe that not only is the exclusion zone amendment bad policy, the opt-out proposal is flawed. It is the NSW State Government's role to manage energy supplies to NSW and development of NSW's mineral and petroleum resources, it is a local council responsibility. The NSW Government has the technical and administrative staff resource, the legislative power to manage energy supplies, and resource development in the interest of all NSW citizens. Local councils do not have the technical and administrative resources to make decisions about CSG development, nor do they have the mandate to manage energy supply and NSW's resource development. NSW will find a series of parochial, local interest decisions overriding the welfare of NSW citizens in general if it abdicates its responsibilities to local councils.

It is important that the NSW Government confirms that the exclusion zones have no scientific or risk management basis and are nothing more than an arbitrary decision, so that local councils can make use of the opt-out provision.

8. Impact on Metgasco and the industry

The announced changes have had a devastating impact on Metgasco's share price. We suffered a 30% reduction in share price the day the announcement was made. We have had to suspend our exploration activities and terminate the employment of 21 of our 27 staff. Our share price is now trading at its lowest point, effectively at the level of its cash backing.

9. The exclusion amendment removes Metgasco's rights and significantly reduces our CSG reserves

As per the introduction, Metgasco has spent considerable time and money exploring in its exploration licences. We have done so with the expectation that our existing rights to explore and develop would be respected.

As an example, Metgasco went to the share market for additional capital last September based on the policies announced by the government at the time. The new regulations were announced as being the toughest in the nation. The announcements, along with the renewal of exploration licences, approval of our first production licence and general NSW Government actions made it clear that the NSW Government was supportive of the industry. Metgasco not only raised the additional capital but commenced its exploration and appraisal program in good faith. A seismic program and two wells were completed in the period between September and the time our suspension of field activities was announced. The rights and expectations which we and our shareholders believed we had when exploration licences were approved and then renewed are effectively being acquired and the value in them destroyed.

The 2km residential no-go zone could sterilise a significant amount of the State's productive gas resources and in Metgasco's case will potentially reduce our 2P reserves by between 20% and 30% and our 3P reserves by between 40% and 60%, depending on how residential areas are ultimately defined.

10. The CSG industry is safe, acceptable and important to NSW – positions that have previously been accepted by the NSW Government

- The CSG industry is not new. It has operated in Australia now for 17 years and the broader oil and gas industry has operated in Australia for over 60 years.
- There are close to 4000 CSG wells in Queensland.
- The Queensland CSG industry produces more than 35% of the gas currently consumed in the eastern states of Australia.
- The industry is already heavily regulated and has been for many years, before the current coalition government came to office in 2011.
- There are no health problems associated with the industry. The rumours related to health problems in the Tara Estate areas have been answered by a detailed Queensland Government health report issued in March this year. As another example, during the last 40 years the petroleum industry has been supporting an independent survey of the health outcomes of people working in the petroleum industry. There is nothing in the results from these surveys that would give any

support whatsoever to the claims of health problems related to natural gas production. There is absolutely no basis for any claims of health problems.

- Despite the number of wells drilled, both NSW and Queensland governments have stated publically that there is no evidence of any ground water contamination. The NSW Parliamentary Inquiry into CSG noted in 2012:

4.15 The Committee notes an hydrogeologist and other experts who appeared before the Committee were, despite their extensive experience over many years, unaware of any instance of cross-contamination of aquifers in Australia due to coal seam gas drilling for exploration or production. Page 44

To highlight NSW's needs for the CSG industry, we provide the following comments from the NSW Minister for Resources and Energy, Chris Hartcher (The Telegraph, January 27, 2013) – some sections highlighted in bold font by Metgasco:

THE state government will push ahead with the expansion of the state's Coal Seam Gas industry despite increasingly organised opposition from green groups, home owners and farmers.

Resources and Energy Minister Chris Hartcher told The Sunday Telegraph there would be "catastrophic consequences" if NSW did not develop its own supply of secure and cheap gas.

Gas supplies would begin to run dry as early as 2014 and prices are already set to soar, he said, with predictions they could double within five years without further development.

Mr Hartcher said for too long green groups with an anti-mining agenda had been allowed to spread misinformation and stir up fear in the community without being properly held to account by the government or industry.

The Minister said the state was already losing manufacturing businesses that were concerned about gas prices and supply. Australian company Incitec Pivot has decided to build an ammonia plant in Louisiana, US, rather than Newcastle, because of concerns over the prospect of the soaring price of gas. This has cost the city hundreds of jobs.

"The real problem is going to be the customers who are dependent on gas. One-third of all the state's energy needs come from gas," he said.

"It really is fundamental to not only the economy but the lifestyle of the whole state."

Mr Hartcher said the Greens had been allowed to "just stand up with great confidence and assert things as facts".

"They are determined to change our energy to solar and wind and destroy gas as an alternative," he said. "Well, people can have these forms of energy, but they will have to be prepared to pay more than ten times what they do now."

The recently released Infrastructure NSW report said exploitation of the state's vast coal seam gas deposits would be "game changing" allowing the state to re-energise its manufacturing industry.

"There are two million gas extraction wells throughout the world now, and it's difficult for the anti-gas protesters to point to one that is causing problems," he said.

"The challenge for them is to find a single example where the water has been tainted or the ground has been damaged. But they don't have a single example - anywhere in the world."

Attachment 2

NSW Environmental Planning and Assessment Regulation 2000

Designated Development Requirements

	Must be within	Of to be DD
Helicopter facilities	1000m	Dwelling
Bitumen pre-mix and hot-mix industries	250m	Residential Zone
Cement Works	250	Residential Zone
Coal mines - blasting	1000	Residential Zone
Composting facilities	500	Residential Zone
Concrete works	100	Dwelling
Crushing, grinding or separating works	250	Residential Zone
Extractive Industries - blasting	1000	Residential Zone
Limestone mine - blasting	1000	Residential Zone
Limestone Works	250	Residential Zone
Poultry Farms	500	Residential Zone
Mineral processing facilities	500	Residential Zone
Mines	1000	Residential Zone
Railway freight works	500	Residential Zone
Waste management facilities	500	Residential Zone
Timber processing works	500	Dwelling
Wood preservation works	250	Dwelling