

Dear Minister,

Re: State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment 2012 – Public consultation draft.

This [SEPP Public Consultation Draft](#) is a much watered down version of the Draft Policies released by your Government in March, 2012.

Overall there is still no protection of Strategic Agricultural Land, and there is no certainty for landholders or business operators within those areas. Their land is not protected in any way from CSG exploration or mining and, as a result, there is no incentive for sustainable growth of the agricultural industry within SAL. The SEPP must be expanded to enable the Panel to take into account impacts of proposed CSG development on the commercial operations, productivity, value, reputation and growth potential of critical industry clusters.

Further, the Gateway process is not initiated until after exploration.

Exploration for unconventional coal seam methane gas involves drilling through fresh water aquifers to the contaminated coal seam aquifers beneath. Not only is there the risk of contamination or reduction of the fresh water aquifers, the exploration process also involves the hydraulic fracturing (fracking) of coal seams with its many attendant environmental risks. These risks are particularly “significant” when undertaken in proximity to underground long wall coal mining.

The draft SEPP:

1. Fails to reflect the Policy of March, 2012 wherein it was stated that *“Proposals that do not pass the gateway cannot proceed to DA lodgement.”* The draft SEPP does not provide for any proposal to not pass the Gateway. It provides that all proposals must pass the Gateway either with conditions or without conditions. This renders the Gateway ineffectual at best. At worst it is mere window dressing promulgated by the Government so it appears that there is a hurdle, when in fact there is no hurdle (or gate) at all.

The Gateway Panel must be able to assess, if it is the case, that there is a circumstance where no reasonable conditions could be attached to a Certificate which would enable relevant criteria to be met or to overcome risks to Strategic Agricultural Land or to groundwater or fresh water aquifers, and to be able to therefore refuse to issue a Certificate resulting in the application going no further.

In this regard it is at odds with the recommendations of the Stakeholders Reference Group and requires amendment so that the scientific Gateway Panel can determine that a proposal not go any further.

2. Additionally there is no provision to include on the Panel a member with expertise in the socio-economic effects of any application. In relation to Critical Industry Clusters, this is of paramount importance in order that all impacts on all industries and businesses within that cluster are assessed.

The SEPP should be expanded (in Clause 17H) to make provision for the Panel to assess the effect of the proposed development on the existing operations within the Cluster, including sustained growth, productivity, value and reputation. The Panel should also be required to assess the effect of the proposal on towns, villages, landholders and businesses within the cluster. And finally, the Panel must receive sufficient information so that it can assess the cumulative effect of the proposal.

3. Clause 17J makes provision for the Gateway Panel to make “one” request for further information from the applicant. This is seen as being far too restrictive. Any further information supplied may give rise to further concerns for the Panel and the Panel should not be restricted in its ability to ensure that all necessary information is before it.

4. Clause 17B only requires the consent authority to “consider” the recommendations or conditions in a Gateway Certificate. This is not strong enough. The consent authority should be required to incorporate any recommendations or conditions in any consent, or to refuse consent in the event that the recommendations or conditions are such that the development could not go ahead if bound by the conditions.

Clause 17B does not require the consent authority to consider an Agricultural Impact Statement, and it should be amended to do so.

5. Lastly the default provision in Clause 17I(3) is unacceptable. This could result in a development bypassing the Gateway process when, if the proposal had been properly considered by the Panel, could well have resulted in stringent conditions. It puts at risk the environment of the State. It compounds the risks the Gateway process is being established to prevent.

The prompt determinations of the Gateway Panel should be enforced in some other way.

6. The provisions of the SEPP in relation to “Site verification certificates – critical industry cluster land” result in there being absolutely no protection to any such Strategic Agricultural Land. It is open for any land within the mapped Strategic Agricultural Lands areas to be excised upon application.

There is no provision under this Clause 17D or 17E for consultation with the industry stakeholder groups. It is submitted that this an essential requirement. Applications for site verification certificates should not just be advertised in a local newspaper, but widely advised to all properties within the cluster, particularly neighbouring properties.

The vineyard critical industry cluster exists as a whole, as it not only supports the wine industry but the existing and burgeoning wine tourism industry. A tourism industry which the Minister for Tourism has announced is planned to grow significantly. To selectively excise sites within this critical industry cluster must have a profound effect on the wine tourism industry as a whole. The critical industry cluster must be left as a complete cluster. To excise parts for the purpose of eg establishing a gas mining industry, would not just affect that excised piece of land, but the cluster as a whole.

This provision cannot stay. Critical industry clusters remain in their respective totality.

7. The SEPP needs considerable amendment if it is to result in having any meaningful protection of Strategic Agricultural Land and if it is to address competing land uses.

8. The Government is called upon to honour its pre-election commitments and excise declared Strategic Agricultural Land from any Mining Leases or Petroleum Exploration or Production Licences.