

1148-3#107: DH:DH

Commonwealth Department of the Environment
Water Trigger Review
GPO Box
Canberra ACT 2601 Australia

18 January 2016

Dear Sir/Madam

Independent Review of the Water Trigger Legislation

Thank you for the opportunity to provide comment on aspects of the Independent Review of the 'Water Trigger' Legislation (the Review). It should be noted however that formal consideration at a meeting of Council was prevented by the absence of any notification regarding the Review. This correspondence is consequently requested to be recorded as an Officer submission.

A significant proportion of the Wollondilly Local Government Area (LGA) is the subject of current coal seam gas (csg) and longwall mining operations. A map showing the location of these operations and status as well as locations of individual gas wells is presented in Map 1 (Attachment 1).

Council has lodged a range of submissions on mining and csg applications as well as aspects of the applicable NSW Government Policy and Legislative Framework. The adequacy of the assessment of potential impacts on water resources by mining and csg projects within the NSW Policy and Legislative framework is a dominant issue raised in these submissions. These impacts are also a dominant item of discussion at meetings of Council's Minerals and Energy Resource Committee which has been established to provide a forum for interested members of the local community. A list of resolutions that define Council's position in regard to mining and csg as well as advocating the expressed broad concerns of the local community is presented in Attachment 2

The introduction of the 'Water Trigger' has been broadly observed to have resulted in a greater scientific scrutiny of the impacts of mining and csg projects on water resources than has occurred at the NSW Government level as well as understanding of these resources. The continuation of its operations under the provisions of the *Environmental Protection and Biodiversity Conservation Act 1999* would therefore be broadly welcomed by Officers.

The necessity for the Department to undertake the Review and to prepare a Regulation Impact Statement as part of this process is acknowledged. However, a review of the

Issues Paper produced by the Department identified a number of concerns consistent with the adopted position of Council for mining and csg projects contained in Attachment 2. Table 1 (presented in Attachment 3) consequently provides\ comments and issues for consideration by the Department as part of the Review in regard to individual Terms of Reference items.

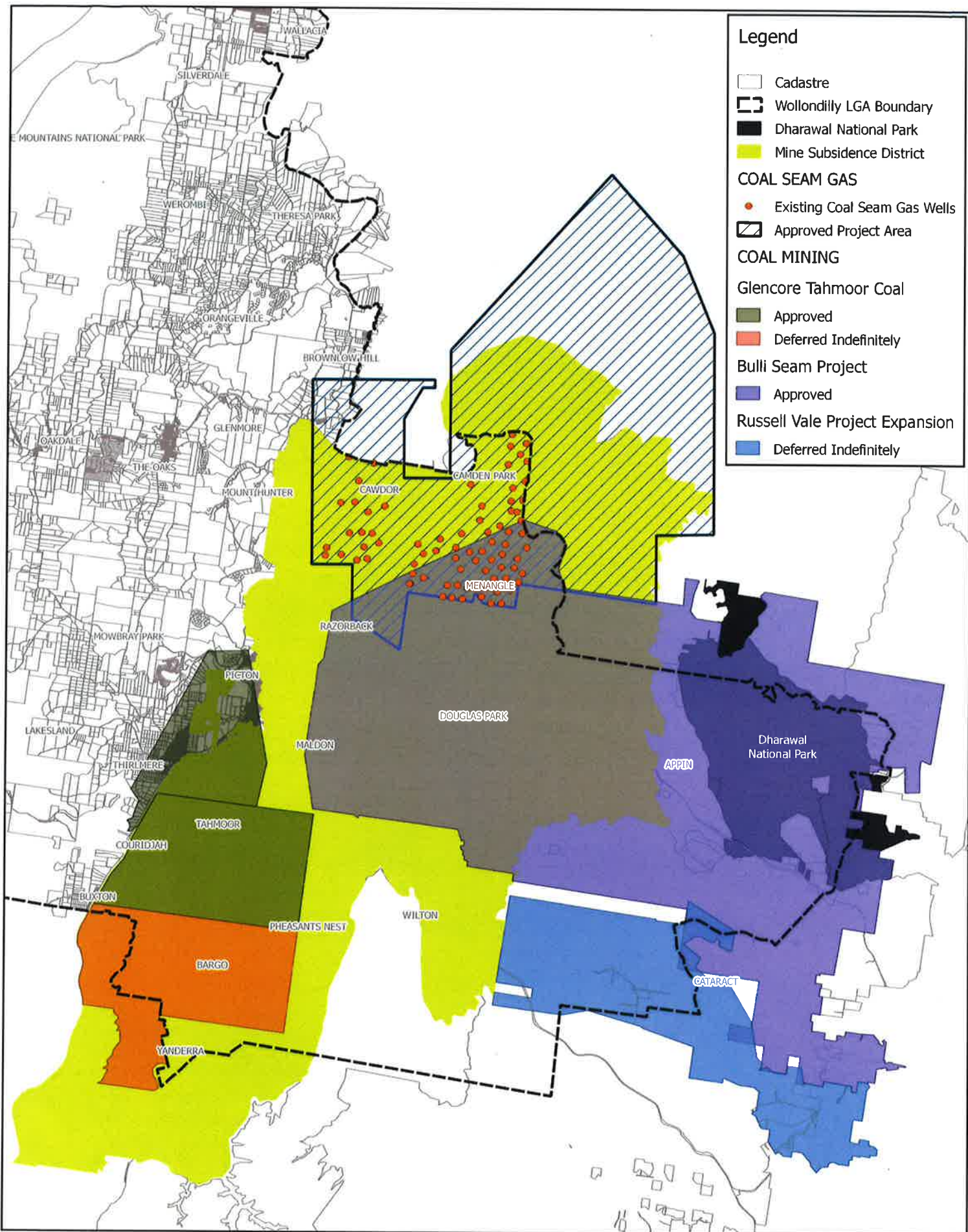
The provision of a response from the Department outlining its consideration of issues and concerns of Council and the local community it represents outlined in this correspondence would be appreciated. The provision of a copy of the Final Report on the Review would also be appreciated if possible.

Should you have any enquiries regarding aspects of the attached submission, please contact Council's Environment Assessment [REDACTED]
[REDACTED]

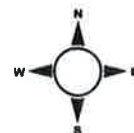
Yours faithfully

[REDACTED]

Manager Environmental Services
ENVIRONMENTAL SERVICES



Mining Operations and Mine Subsidence Areas



ATTACHMENT 2

RESOLUTIONS OF COUNCIL

Coal Seam Gas Exploration and Production

Resolutions of Council at its meeting of November 2011

Wollondilly Shire Council recommends that The NSW Government should:

1. Impose an immediate moratorium on all further Coal Seam Gas development until it can be demonstrated that the industry will not have any unacceptable social and environmental impacts.
2. Implement a robust, transparent and independent assessment of the environmental impacts of Coal Seam Gas extraction
3. Establish an Assessment Commission to undertake this independent assessment.
4. Investigate the impact of the levels of water extraction on the aquifers, surface waters and their connectivity and the security of the water resource for both consumptive and environmental purposes in the short, medium and long term.
5. Investigate concerns about the use and disposal of salt and other materials contained within coal seam gas generated waste and waste water and develop systems to ensure its reduction, treatment and disposal compliance.
6. Develop robust regulations for the Coal Seam Gas industry ensuring parity to Local Government Planning controls and other environmental regulations, including State controls, placed on landholders and the community including water access rights.

Resolution of Council at its meeting of March 2012

1. That the Federal Government are written to regarding a right of an individual to shut the gate on their property in regards to resources and choose whether or not to allow entry to anybody or organisation.

Resolutions of Council at its meeting of April 2012

1. That Council be proactive in its response to CSG exploration and extraction licence applications in the Shire.
2. That council comment on the Draft CSG Exploration guidelines and Draft Aquifer Interference Policy.
3. That council continue to lobby the State and Federal Governments to give communities and Local Government a more appropriate role in the consultation, assessment and possible approvals of CSG operations in their areas.
4. That Council extend an invitation to the surrounding local Councils of Campbelltown, Camden, Wollongong and Wingecarribee to become a regional voice in the advocacy role in understanding and commenting on CSG within the area.

Resolution of Council at its meeting of 18 June 2012

1. That Council write to State Member Mr Jai Rowell MP, requesting that the Minister for Planning develop a strategy for Strategic Regional Land Use Planning for the Wollondilly Local Government Area.

Resolution of Council at its meeting of October 2012

1. That Council propose a special community forum to discuss the impact of CSG on the Shire, especially in the drinking water catchment. That this forum be videotaped.

Resolutions of Council at its meeting of October 2013

1. Wollondilly Shire Council write to the Mayor of Wollongong City Council and pledge support in his endeavour to get Sydney's drinking water supply protected from Coal Seam Gas exploration and extraction.
2. Wollondilly Shire Council representatives join with Mayor Bradbury, or as an individual council, meet with The Premier to request a ban on CSG mining and exploration in the Catchment.

Resolution of Council at its meeting of June 2014

1. Wollondilly Shire Council joins with Griffith and Wollongong Councils in their action to lobby Federal Government to ban CSG in our drinking water areas and if unable to attend a letter of support be sent to both Councils and the Executive.

Resolutions of Council at its meeting of 17 November 2014

1. That Council reaffirm its six resolutions of its meeting on 21 November 2011 defining its position on the CSG industry in response to the findings and recommendations of the Final Report produced by the Chief Scientist that includes a request:

That the NSW Government impose an immediate moratorium on all further Coal Seam Gas development until it can be demonstrated that the industry will not have any unacceptable social and environmental impacts".

2. That the State Government review and alter its NSW Gas Plan to accommodate Wollondilly's concerns.
3. That pursuant to Recommendations 1 and 2, Council send correspondence to the NSW Premier that:
 - Welcomes the release of the Final Report and provides broad support to the findings and conclusions of the Review.
 - Advises the Government of its reaffirmation of its adopted position regarding the CSG industry in response to the findings and Recommendations of the Review.
 - Requests that the NSW Government support all recommendations of the Review subject to these recommendations being considered and implemented in conjunction with Council's adopted position and issues raised in its submissions.
 - Opposes the implementation of Recommendation 5 of the Review regarding the designation of low risk areas in NSW where CSG is permitted until

Council is in receipt of independent advice that demonstrates applicable Council resolutions as well as findings of the Review have been adequately addressed.

Resolutions of Council associated with Mining Exploration and Production

Resolutions of Council at its meeting of 16 March 2009

1. That Council write to the Minister and Shadow Minister for Mining requesting that Councils be compensated through mining royalties and the Mine Subsidence Board for the additional cost of infrastructure projects.
2. That Council support the Association of Mining Related Councils in their endeavour to get a percentage of the mining royalties for such instances.

Resolution of Council at its meeting of 14 August 2009

1. That Wollondilly Shire Council write to the Minister for Primary Industries and Shadow Minister for Climate Change and Environmental Sustainability expressing its concerns over the recent cracking of Myrtle Creek.

Resolution of Council at its meeting of 19 October 2009

1. That Wollondilly Shire Council write to the Minister for Planning and Shadow Minister for Planning calling for third-party appeals to be allowed for Part 3A processes or that Part 3A be removed from NSW Government Policy.

Resolution of Council at its meeting of 15 November 2010

1. That Council send correspondence to the Minister for Planning requesting that a new Part 3A application be lodged for the Bulli Seam Project, given the significant changes to the original application by the proponent and the flaws in the original exhibition process.

Resolution of Council at its meeting of March 2013

1. That Wollondilly Council write to the Minister of Regional Infrastructure and Services requesting a review of the methodology used to classify the 'tiers' of Mining Affected Communities and expressing its concern at the relegation of Wollondilly's Community to Tier 3, excluding it from any support from the Resources for Regions Programs.

Resolution of Council at its meeting of 11 December 2014

1. That Council write to the Minister for Primary Industries and the Minister for Planning requesting that the impacts on communities and infrastructure from coal mine gas drainage be included in the criteria for Local Government assistance through the Resources to Regions Program.

Resolution of Council at its meeting of 16 March 2015

1. Council convene a meeting with invited community members of Douglas Park and representatives of Illawarra Coal to facilitate a consultation between the parties regarding Illawarra Coal's proposed gas extraction and power plant development in the Douglas Park area.

Resolution of Council at its meeting of 20 July 2015

1. That Council write to the Federal Minister for Environment, the Federal Minister for Agriculture, the NSW Minister for Planning, the NSW Minister for Primary Industries and the NSW Minister for Industry Resources and Energy in regard to the approval of the Shenhua Watermark mine on the Liverpool Plains to:
 - Express dismay regarding the approval of the mine on the Liverpool Plains by the Federal Government given the region's major role in Australia's food production balanced with a vulnerable environment and the unacceptable risk to this balance that the mine may cause.
 - Express its concerns that in a local context, the productive peri-urban areas of Sydney are also being threatened by unsympathetic land uses.

Resolutions of Council at its meeting of 20 July 2015

1. That Council endorse the submission on exhibited components of the draft Integrated Mining Policy.
2. That Council send correspondence to the NSW Minister for Planning that:
 - (a) Acknowledges the benefits in introducing the Integrated Mining Policy.
 - (b) Expresses disappointment that the exhibited Policy has not addressed issues raised in previous Council submissions.
 - (c) Advises that Council is not able to finalise its position until all documents associated with the Policy have been publicly exhibited and submissions received.
 - (d) Stresses the importance of the inclusion of all stakeholders in the notification process.

Resolutions of Council at its meeting of 8 September 2015

1. That Council continue to monitor the Douglas Park Mine Gas Drainage and Power Plant Proposal by South 32 and that Council continue to engage with residents of Douglas Park regarding their concerns about the proposal.
2. That Council throughout the process, advocate on behalf of the community, communicating their concerns to the consent authority, our state member, mining authority, and any other applicable minister/authority.

Resolutions of Council at its meeting of 21 December 2015

1. That Council send correspondence to South 32 requesting that:
 - That air quality monitoring to collect baseline data include measurements collected at the Douglas Park Public School (subject to receipt of the necessary approval) or at an appropriate nearby location within the Douglas Park Village.
 - That the air quality monitoring employs demonstrated world's best practice.
 - That greenhouse gas emissions from the Vent Shaft on the Mountbatten property reported to the Commonwealth Department of Environment as well as predicted greenhouse gas emissions associated with proposed modifications to the Mine Safety Gas Management Project at Douglas Park be provided to Council.
2. That the correspondence also be sent to the State Member for Wollondilly and the NSW Department of Planning and Environment.

ATTACHMENT 3

Table 1: Comments and issues for consideration in regard to individual Terms of Reference

Terms of Reference Item	Issues for consideration by the Department as part of the Review
<i>Examination of the appropriateness of the regulation including whether it is necessary and well-targeted</i>	The need for an additional level of scientific scrutiny through the Water Trigger Legislation is highlighted by a recent experience in regard to the proposed expansion of the Russell Vale project south of Sydney. The IESC identified a wide variety of shortcomings in baseline data and the assessment process despite a draft Determination having been issued by the NSW Department of Planning. The Water Trigger legislation is also viewed as being beneficial in improving transparency and responding to the expressed concerns of the local community.
<i>Effectiveness of the regulation in protecting water resources from the impacts of coal seam gas and large coal mining projects, including the role and scope of work ascribed to the Independent Expert Scientific Committee</i>	<p>The Issues Paper is noted to state that the “Review will consider the number and nature of projects approved under the EPBC Act”. There are concerns that this interpretation of the ToR item may result in the effectiveness of the ‘Water Trigger’ not being reviewed for those projects which have received advice from the IESC but are approved under legislation at the State level.</p> <p>The Issues Paper is also noted to state that the Review will consider “evidence of whether the water trigger legislation has been effective in protecting water resources potentially and actually affected by relevant developments”. Officers consider that the increased scientific scrutiny of mining and csg applications achieved through the Water Trigger is sufficient grounds for its continuation.</p>
<i>Examine the efficiency of the regulation in protecting water resources from the impacts of coal seam gas and large coal mining projects.</i>	The Issues Paper is noted to state that the Review will consider whether “the Regulation has delivered an overall benefit when regulatory costs are compared to the environmental and other benefits”. The Department should note in this regard that Council recently lodged a submission on the NSW draft Guidelines for the Economic Assessment of Mining and Coal Seam Gas Proposals . This submission expressed strong concerns over the adopted Cost Benefit Analysis in adequately identifying environmental and social impacts. Any reduction in the level of environmental scrutiny as a consequence of this Review would consequently be viewed with strong concern.
<i>Identify any opportunities to improve the effectiveness of the regulation</i>	The current Regulation has been observed to be effective in achieving an enhanced scientific scrutiny of mining and csg projects. It is suggested however that this effectiveness could be enhanced by the inclusion of an appropriate provision within the Regulation that requires the consent authority provide a report that details the response to the Project Advice from the IESC. It is further suggested that the public availability of such a report would be beneficial in enhancing transparency and responding to community concerns.

