



# The Strategic Regional Land Use Policy

## Part 4

### The PAC & CCCs

Gloucester, 27 October 2012

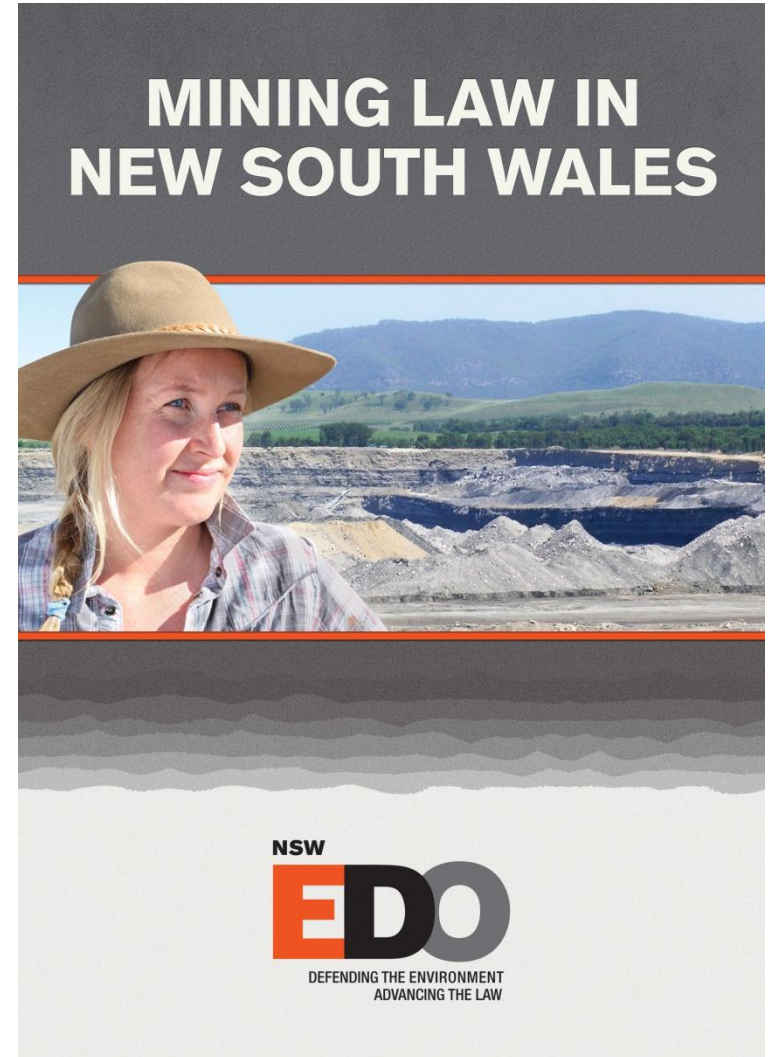


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## Presentation overview

- Strategic Regional Land Use Policy
  - Strategic Regional Land Use Plans
  - Aquifer Interference Policy
  - Codes of Practice for CSG
- Assessing mining and CSG developments under Part 4
- The role of the PAC and Community Consultative Committees



# The Strategic Regional Land Use Policy

# Outline: Strategic Regional Land Use policy package

- Background to the policy package – balancing mining and CSG with protecting agricultural land and water
- The policy package consists of:
  1. Strategic Regional Land Use Plans (SRLUPs)
  2. Aquifer Interference Policy (AIP)
  3. Codes of Practice for Coal Seam Gas
  4. A range of initiatives regarding CSG activities

# Strategic Regional Land Use Plans (SRLUPS)

1

- Government maps 'Strategic Agricultural Land'

2

- Maps are incorporated into Strategic Regional Land Use Plans or Regional Strategies

3

- Mapped land will trigger the 'Gateway Process' for State Significant mining and CSG proposals

## What is the 'Gateway Process'?

- Upfront assessment of the impacts of State significant mining and CSG proposals on Strategic Agricultural Land.
- Assessment undertaken by independent panel of experts in fields such as agricultural science, water and mining.
- Proposal is assessed against set criteria to determine whether it meets the criteria.
- Focus on land and water impacts – not socio-economic impacts (which will be assessed at a later stage).
- Applies to projects that extend an beyond existing mining or petroleum lease areas or where a new lease is required.

# Passing the Gateway

- Proposals that meet the Gateway criteria receive an unconditional Gateway Certificate.
- Proposals that cannot meet the criteria receive a conditional Gateway Certificate.
- The project is then ready to undergo development assessment (planning system).



Photo: Leonard John Matthews

## Implementation and enforcement

- The gateway process will be included in the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.
  - SEPPs are legally binding.
  - Changes will be publicly exhibited and community can comment.
  - SEPPs are likely to be removed from planning system as part of the ongoing Review.

# Aquifer Interference Policy

- Applies to the whole State.
- 1. Clarifies that all water 'take' needs to be accounted for and licenced.
- 2. Sets out how potential impacts to aquifers should be assessed (minimal impacts)
- 3. Ensures that these impacts are considered upfront as part of the assessment process for mining and CSG proposals either:
  - Through the Gateway Process; or
  - At the development assessment stage.

# Assessing aquifer impacts

1

- Office of Water – scientific assessment of the project against ‘minimal impact considerations’

2

- Minister for Primary Industries provides advice on aquifer impacts during the Gateway or development assessment stages

3

- This advice is made public and must be taken into account by the Gateway Panel or consent authority

## What are the minimal impact considerations?

- Groundwater sources are categorised as either 'highly productive' or 'less productive'.
- Thresholds for minimal impact considerations have been developed for each highly productive and less productive groundwater source.
- The thresholds deal with water table, water pressure and water quality.

## How are the minimal impact considerations applied?

- For each measure – water table, water pressure and water quality – there are two levels of minimal impact considerations (thresholds).
- A proposal is measured against these thresholds in order to determine its impact on the water source and appropriate mitigation, prevention or avoidance strategies.
- An adaptive management approach is taken to proposals that don't meet the thresholds.

## What else will be considered by Office of Water?

- Proponent's ability to demonstrate that they can obtain the necessary licences in order to account for the take of water from the source.
- Proponent's ability to demonstrate that the proposal can prevent the take of water where a licence cannot be obtained.
- Proponent can show that proposed remedial actions are in place for impacts greater than those that are approved.
- Issues relating to acid sulphate soils and water logging or water table rise

## What else will be considered?

- With regards to CSG proposals, the advice will also consider:
  - Whether the design, construction and operation of a bore is likely to modify the existing hydraulic connection between aquifers
  - Whether fracking activities are likely to modify the existing hydraulic connection between aquifers
  - The method of disposal of extracted water

## What happens next?

- The Gateway will consider the Minister's advice before issuing a Gateway Certificate.
- The Gateway Certificate may include conditions relating to water as per the advice.

OR

- The consent authority will consider the advice before determining a development application.
- If consent is granted, the Office of Water will recommend conditions of consent and conditions to be attached to the water access licence.

## Implementation and enforcement

- The Aquifer Interference Policy itself is not legally binding.
- Many of its provisions will be incorporated into the *Water Management Act* and the *Water Management Regulation*.

# Codes of Practice for Coal Seam Gas

- 2 Final Codes of Practice for:
  - Fracture stimulation activities
  - Well integrity
- 1 Draft Code of Practice for:
  - coal seam gas exploration

Photo: Jeremy Buckingham MLC



# Code of Practice for fracture stimulation activities

- Applies to hydraulic fracturing or fraccing activities.
- Covers a range of issues relating to fraccing
  - Principles – what *should* be achieved
  - Mandatory requirements- what *must* be achieved
- Issues:
  - Fracture Stimulation Management Plan
  - Stakeholder consultation
  - Fracture stimulation design
  - Risk assessment
  - Use of chemicals
  - Water resources
  - Monitoring

## Code of Practice for well integrity

- Applies to the design, construction, production, maintenance and abandonment of CSG wells in NSW
- Provide a minimum set of requirements for:
  - Ensuring the health and safety of workers and landholders
  - Identifying and managing risks to the environment
  - Sourcing water
  - Managing waste products
  - Notifying landholders and other stakeholders of specified well operations
  - Implementing regulatory requirements

## Draft Code of Practice for CSG exploration

- Aims to establish a best practice framework for CSG exploration companies when dealing with landholders and the general community.
- Provides guidance on:
  - Approaching landholders
  - Negotiating access arrangements
  - Notifying the community
  - Managing impacts on water resources

## Implementation and enforcement

- The Codes are not legally binding in their own right.
- Compliance with the Codes will be a condition of title.
- Conditions of title are legally binding.

## Other initiatives regarding CSG activities

- Ban on the use of evaporation ponds.
- Ban on the use of BTEX chemicals in fracking.
- New Community Consultation Guidelines for CSG exploration
- Requirement for an Agricultural Impact Statement at the exploration stage.
- REFs to be published on the Division of Resources and Energy website.
- Allow public comment on exploration licence applications
- New Industry Levy.

## Further commitments

- Commitment to publish median compensation payments.
- Commitment to provide a standardised land access arrangement.
- New Regional Community Funds.
- New land access mediation process.
- New rehabilitation criteria.

# New Land and Water Commissioner

- Appointed by NSW Government to:
  - Provide independent advice to the community regarding exploration activities on Strategic Agricultural Land
  - Facilitate consultation between government, industry and the community
  - Oversee the standard access arrangement
  - Advise landholders on:
    - Exploration licence applications
    - Exploration activities
    - Strategic Regional Land Use Plans
    - Assessment processes relating to mining and CSG
    - Compliance and enforcement matters
    - Landholder rights, access arrangements and compensation

# Assessment under Part 4



# Development assessment process

- The process depends on the type of development
- Mines typically fall within one of two types:
  - State Significant Development
  - Designated Development



## Development consent process - SSD

**Director-General issues Environmental Assessment Requirements**



```
graph TD; A[Director-General issues Environmental Assessment Requirements] --> B[Proponent consults with local council, government agencies and the community in preparing an EIS]; B --> C[Proponent lodges the Application and EIS (including Agricultural Impact Statement)]; C --> D[Department exhibits the Application and EIS for minimum of 30 days];
```

**Proponent consults with local council, government agencies and the community in preparing an EIS**

**Proponent lodges the Application and EIS (including Agricultural Impact Statement)**

**Department exhibits the Application and EIS for minimum of 30 days**

## Development consent process - SSD (continued)

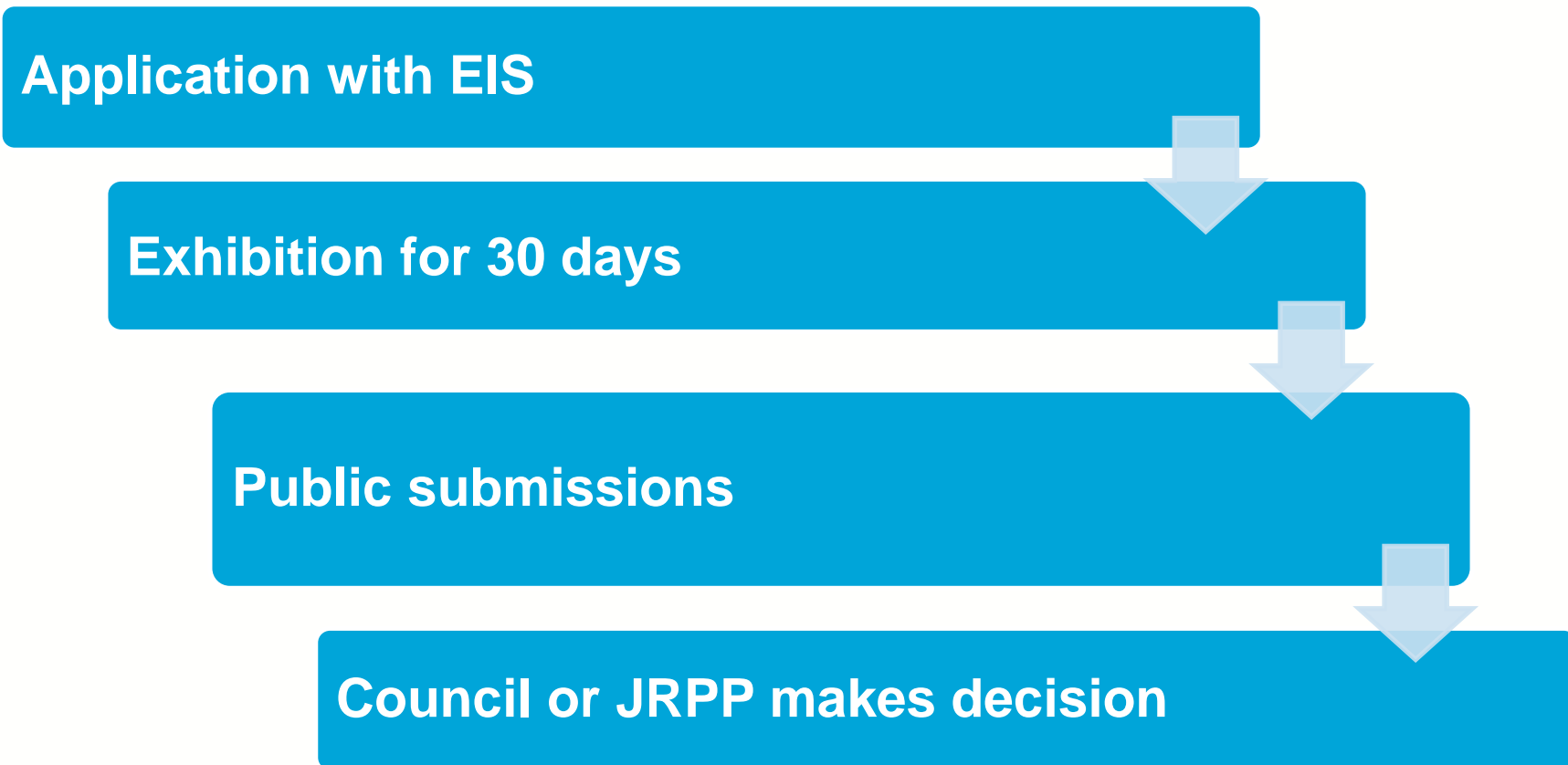
**Submissions**

**Proponent receives submissions (may lodge a response)**

**Department finalises assessment and consults local council and agencies on draft conditions of consent (if any)**

**Minister (or PAC) makes the decision**

## Development Consent Process - Designated Development



## Matters to be considered by decision-maker

- Any environmental planning instrument (such as a LEP).
- The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.
- The suitability of the site for the development.
- Public submissions.
- The public interest.

## Other environmental approvals



- All new mining applications that will interfere with an aquifer will need an aquifer interference approval from the Office of Water
- Some extra approvals may be required for designated development which will not be required for SSD

# Application of local zones

- SSD and designated development cannot be approved where such development is wholly prohibited in the zone.
- For SSD, consent can be granted where the development is only partially prohibited.
- Spot rezonings to facilitate development where prohibited in the zone.

# The PAC and CCCs



# Planning Assessment Commission (PAC)

- Planning body.
- Consists of a Chair and between 3 and 8 members appointed by the Minister for Planning.
- The PAC can has been delegated approval functions for some SSD applications.
- <http://www.pac.nsw.gov.au/>

# Community Consultative Committees

- These are a way for the mining or CSG company to engage with local communities, share information and manage community inquiries and concerns
- Establishing a CCC can be a condition of consent
- CCCs consist of:
  - An independent Chair appointed by D-G of Planning
  - Representatives from local community
  - A local government representative
  - Representatives from the company
- The Government has produced CCCC Guidelines

## More information

- Strategic Regional Land Use Policy
  - <http://www.nsw.gov.au/strategicregionallanduse>
- Community Consultation Guidelines for CSG exploration
  - <http://www.resources.nsw.gov.au/community-information/community-consultation-guidelines>
- Agricultural Impact Statements
  - <http://www.haveyoursay.nsw.gov.au/document/show/195>
- Commenting on Coal and CSG exploration applications
  - [www.resources.nsw.gov.au/community-information/comment](http://www.resources.nsw.gov.au/community-information/comment)

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