

SUBMISSION TO THE NSW COAL AND GAS STRATEGY SCOPING PAPER

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Introduction

The Bylong Valley Protection Alliance

- The Bylong Valley Protection Alliance Inc (BVPA) is a community group, incorporated as an association, based in Bylong, NSW.
- Members of the group include local residents and landholders, former residents and landholders and others from the Mid-Western Regional Council area and beyond.

Scope

- Our submission focuses primarily on:
 - a. Issues pertaining to the immediate area (“the Greater Bylong Valley”) and extended local area (northern section of the Western Coalfields), insofar as they relate to issues canvassed in the Coal and Gas Strategy Scoping Paper (“the Scoping Paper”).
 - b. Comments endorsing or elaborating on stated policy positions of the former Labor Government and the incoming Coalition Government and others, again insofar as they relate to the Scoping paper
- Our submission also restricts itself to issues surrounding coal mining, mostly avoiding those associated with Coal Seam Gas (CSG) – not because the latter aren’t important but because (a) so far, these have impacted us little, and (b) we feel others will have more to useful things to say on these matters.
- Generally speaking, our submission also refrains from comments on more “global” concerns such as global warming and greenhouse gas emissions, alternative energy and so on.

Some Comments Regarding Terms Of Reference Of the Scoping Paper

- We concur with views expressed at community forums and elsewhere that the terms of reference for the strategy – as written – are too narrow and seem to focus on *facilitating* ongoing development of the coal and gas industries (while minimising “impacts” of various sorts), rather than providing a more overarching, strategic framework related to land use planning and the balanced, integrated, sustainable development of a *range* of industries, including agriculture.
- This said, we take at face value comments by the (then) Minister for Planning and others that we need not limit ourselves in our responses strictly to the terms of reference as given and that comments regarding overall strategy are welcome.

The Greater Bylong Valley Area

Core Issue

- As we see it, issues in the Greater Bylong Valley focus primarily around conflicts in land use planning and whether mining should be allowed at all.
- Our position is that the Greater Bylong Valley Area should be a “no go” zone on the basis that it is quality agricultural land (with a high proportion of Class 1 and Class 2 land where mining activities are proposed), with good water resources (readily recharged aquifers) and a suitable climate.

(The remaining comments in this section follow, more or less, the flow of the section of the Scoping Paper entitled “Future Growth Areas And Issues – Western coal resource area”)

Prime Agricultural Land

- The Strategy Paper makes the following comment regarding land in the area: “While the land is not considered to be prime agricultural land (...)”
- While this may be true at a macro level – and may also be especially true of some of the existing developments (e.g. Ulan) and proposed expansions - we note that the claim is simply not true with respect to the Greater Bylong Valley Area (including Coggan).
- The Greater Bylong Valley Area contains a high proportion of Class 1 and Class 2 land, particularly within EL 7406 (proposed Mt Penny Development) and Authorities 287 and 342 (proposed Bylong development).
- We note that under earlier proposed amendments by the Greens to the Mining Act (defeated by a single vote in the Upper House with the aid of the Shooters) that “prime agricultural land” would have been defined as Classes 1 and 2 and thus, had these amendments gotten up, the proposed Mt Penny and Bylong developments would simply not be possible.
- Our view is that “prime agricultural land” should be defined based on the *intrinsic quality* of the land as regards agricultural purposes, emphasising:
 - a. Soil types/qualities PLUS
 - b. Local water/aquifers and their robustness/“rechargeability” PLUS
 - c. Climate amenity
- Note that this definition effectively decouples the capacity/quality of the land from its current use. In other words, whether such land is currently used “intensively” or currently has high production is – in our view - a separate matter.

- Importantly, we believe that “prime agricultural land” cannot be rehabilitated, post-mining, to being “prime agricultural land” again post-mining within any reasonable timeframe. In other words, once mined, you don’t get it back. It’s “non-recoverable”.
- From these starting points (definition plus non-recoverability), we see there is a need to not only protect prime agricultural land that is *currently* being used at or near capacity but to protect what is *intrinsically* prime agricultural land that is currently being used at less than capacity – such as the Greater Bylong Valley Area. Moving to make only “currently high-producing” prime agricultural land (e.g. the Liverpool Plains) a “no go zone” for mining does little to help “future proof” food security.
- In this sense, we see the definition of “prime agricultural land” as being fairly objective, based on the land itself and its suitability, while the definition of “strategic agricultural land” overlays that definition with consideration of importance as to a food security

Managing Cumulative Impacts

- We agree with the assertion that managing cumulative impacts at the Ulan-Wilpinjong-Moolarben mining complex will be a key issue, especially given the already approved and/or applied for expansions within this complex.
- We are not confident that existing environmental protections are adequate (e.g. given the need to exempt these mines from certain environmental obligations during the first calendar quarter of this year after heavy – but not extraordinarily unusual – rainfall). The failure of the mines to cope in these circumstances points to:
 - a. flaws in (or incomplete) initial planning,
 - b. deficiencies in processes for managing these “exception” conditions and, potentially,
 - c. inadequate processes for learning from these issues and implementing new requirements and/or modifications to prevent their recurrence

If problems with *current* management of such issues exist, this does not bode well for planning/management of similar issues in any developments in new areas such as the Greater Bylong Valley.

- We are particularly concerned about cumulative impacts on the Upper Goulburn River catchment, the groundwater dependent ecosystems therein and, consequently, for the “health” of the Goulburn River and Wollemi National Parks.

Managing The Expansion Of Mining Into New Areas

- In the case of the Greater Bylong Valley in particular, our view – consistent with the comments made earlier regarding prime agricultural land – is that “management” in this context should be the declaration of the Greater Bylong Valley Area as a “no go” zone for mining.

- Improvement of the coordination of the release of any new exploration areas is, in our particular case, somewhat less relevant, given the greater part of the area is already covered by ELs, Authorities and PELs of one sort or another. (This is not to say, of course, that there couldn't be even more or that ELs and Authorities in the area, currently held by I&I, won't be "parcelled off" and made available for licence applications.)
- In this context, focus for us is on the need for clearer requirements, applicable to both I&I and proponents, to provide regular, transparent updates regarding developments in this regard (applications, stage of processing, and so on) *well beyond* what is currently practised. The current regime is inadequate insofar as most locals can largely remain inadvertently ignorant of current and planned exploration. Required advertisements are not prominent enough, for example, and there is no requirement to contact landholders directly when applications are made, etc.
- We endorse the view that there is a need to provide (far) greater certainty to people living in the small villages in the region.

Biodiversity/Aboriginal Heritage

- As already mentioned, we are particularly concerned about impacts of mining on the Upper Goulburn River catchment, the groundwater dependent ecosystems therein and, consequently, for the "health" of the Goulburn River and Wollemi National Parks.
- We agree that there would be value in developing a strategic plan for these issues, similar to that proposed for the Hunter Valley, although we see the required timeframe for this as closer than "medium to long term".

Water

- We see water as a critical issue, and have called for a comprehensive study – perhaps similar to the Namoi Water Study.
- We see this study as absolutely necessary for the establishment of comprehensive water planning in the Upper Goulburn River Catchment, in line with principles well established within the National Water Initiative. Such planning requires a proper understanding of ground and surface water connectivity and sustainable extraction limits within a consistent, robust water accounting framework.
- Furthermore, we believe guidelines such as those previously established by DIPNR for management of streams etc in and near mining developments should be:
 - a. Reviewed, revised/updated and "finalised", and
 - b. Made mandatory for mining developments, rather than merely existing as guidelines ("overridable" by Part 3A in any event).

Rail

- We will leave commentary regarding rail to others more likely to be affected, particularly by any potential commencement of movements west through Mudgee.

Roads

- We agree that mining growth – particularly beyond that already approved or pending approval in the Ulan-Wilpinjong-Moolarben complex – will require significant upgrades to the regional road network. The Wollar Road is a particular case in point. The Bylong Valley Way would also require widening in key sections, predominantly between Bylong and Baerami.

Planning For Jobs And Housing

- We will leave key commentary regarding jobs and housing primarily to Mid-Western Regional Council.
- We wish to note, however, the effective “decimation” of villages such as Wollar (in recent years) and Ulan (over a longer period) through the impact of mining, with dislocation / relocation of the original populations. This community deterioration has flow-on impacts of many kinds. We note, as a particular example, the impact on Rural Fire Service brigades and the resulting increase in risks associated with bushfires through lack of adequate manpower and equipment. A strategy is required – most particularly in the case of fire fighting – to maintain or improve capacity, rather than see it eroded.

Economic Issues

- We support Council’s raising of the need for community enhancement packages on individual projects.
- We believe, however, that such a “per project” mechanism alone is potentially inadequate and should be complemented by a “royalties for regions” arrangement (or similar) that provides clearer, more certain support (in a sufficient quantum) as to allow proper advanced planning and ongoing management.

Other Important Issues For Our Area Not Raised Directly In The Scoping Paper

- We wish to emphasise the importance of the Greater Bylong Valley Area as contributing to the “tourism utility” (“utility” in an economic sense) of the Mudgee Region, given its:
 - a. Scenic beauty
 - b. The quality (and quantity) of its National Parks “resource”
 - c. The importance of the Bylong Valley Way as a traffic route between the Hunter and the Central West

- To use an ecological analogy, we see the Bylong Valley as, itself, a kind of “threatened species” worthy of protection and as an important type of “green corridor” or “aesthetic corridor” contributing significantly to the experience of tourists and others as they travel along and through it.

Comments Relating To Labor And Coalition Policies

- In this section we summarise responses to key points raised in Coalition and Labor policies – as communicated prior to the recent State Election - in the context of their relevance to the Scoping Paper.
- Note that failure to include certain policy points in these summaries should not be taken in any way as implying of lack of support - or otherwise - for the point in question.

Coalition Policy: “Strategic Regional Land Use”

Strategic land use planning	<ul style="list-style-type: none"> • We agree with the fundamental “architecture” of the policy that this is – at its core – an issue of strategic land use planning. • We much prefer this framework to the more narrow scope and framework of the Coal and Gas Scoping Paper (where the emphasis appears to be on facilitating the sustainable development of the Coal and Gas industry <i>rather than</i> establishing an overall approach to land use planning).
A triple bottom line approach	<ul style="list-style-type: none"> • We endorse the application of an explicitly triple bottom line approach to development.
Providing greater certainty to local communities and regions	<ul style="list-style-type: none"> • We support the general process for land use planning as outlined, particularly insofar as it serves to provide greater certainty about how a region can be expected to change over time. (Such certainty is utterly lacking at present and planning for its provision is not a feature of the Scoping Paper.)
Protection of strategic agricultural land and associated resources	<ul style="list-style-type: none"> • We support the need for legislative reform to protect strategic agricultural land, including a requirement for proponents to provide an agricultural productivity impact assessment. • As outlined earlier, we believe a very significant proportion of the Greater Bylong Valley Area is classifiable as strategic agricultural land and should be declared a “no go” zone for mining/gas exploration/development on this basis. • More generally, we believe that far greater emphasis on food security (and, in particular, its “future proofing”) is required when considering issues around protection of agricultural land than is currently the case.
Improvements to monitoring and compliance	<ul style="list-style-type: none"> • We concur that there is a need to improve monitoring and compliance. • Furthermore, we believe more should be required of mining operators in terms of data disclosure/sharing (and standardised data formats) so as to facilitate comprehensive analysis on a region-wide basis.

Reforms to the planning assessment process	<ul style="list-style-type: none"> • We applaud the proposed removal Part 3A of the Planning Act. We view Part 3A and how it works in practice as facilitating poor decision making by concentrating too much discretion and power in the hands of the Minister. • As a minimum, planning decisions around mining and gas developments should not be allowed to ride “roughshod” over key provisions of environmental and other legislation in arriving at determinations.
Improvement of cumulative impact assessments	<ul style="list-style-type: none"> • We feel there is a clear need for improvements to cumulative impact assessments.
Removal of major cash payments at the Exploration Stage	<ul style="list-style-type: none"> • We agree that payment of large sums to the Government at the exploration stage puts fair process (or the perception of fair process) at risk. • We agree with the measures outlined to ensure transparency (adoption of a pre-determined “Schedule of Fees” and granting of ELs based on predetermined criteria). • We believe, however, that consideration should also be given to how trading of ELs after “purchase” from the Government – often at a very handsome profit - might be prevented or constrained. One possibility may be stopping the “on-sell” of ELs altogether (allowing them only to be “surrendered” to the Government and made available for “re-sell” only by the Government).
Community input prior to EL tenders	<ul style="list-style-type: none"> • We welcome the proposed approach of community consultation prior to EL tenders. • We believe the current process is woefully inadequate in this regard.
Tougher planning assessment during transition	<ul style="list-style-type: none"> • We support the need for a clear approach to transition management and that a “precautionary approach” is required during this period (entailing potentially more stringent assessments than may ultimately be in place when the process of policy development and implementation is completed).
Introduction of an Aquifer Interference Regulation	<ul style="list-style-type: none"> • We believe the introduction of such a regulation will be an indispensable part of a more effective regime for protecting precious water resources in the context of mining and gas extraction activity.

Labor Policy: “10 Point Coal And Coal Seam Gas Plan”

<p>Ban exploration activities in waterways adjoining national parks and remove exploration licences on waterways in close proximity to national parks.</p>	<ul style="list-style-type: none"> • We view this approach as eminently sensible and support it. • We note that such an approach would effectively prevent mining in much of the Greater Bylong Valley Area, independent of any separate move to declare it a “no go” zone because of its high proportion of high quality agricultural land. • We believe that such protections should be incorporated as part of a broader, mandatory approach to the management of waterways and aquifers in (or in the vicinity of) mining developments.
<p>Introduce exclusion zones to assist strategic land use planning</p>	<ul style="list-style-type: none"> • As already mentioned, we believe the Greater Bylong Valley Area should be one such exclusion zone, for reasons including its strategic importance as land of high quality for agricultural purposes. • Again we make the point that <i>current</i> productivity is – in the context of “future proofing” food security – not as important as <i>innate</i> productive capacity
<p>Appoint three additional regional planning compliance officers</p>	<ul style="list-style-type: none"> • The issue of improved “policing” and management of compliance is, in our view, extremely important. • Even with Labor’s proposed increase, the total number of officers would remain inadequate. More staff are required, in our view, to lift actual compliance levels.
<p>Introduce new exploration protocols with increased minimum payments</p>	<ul style="list-style-type: none"> • We believe this issue applies across both coal and gas. • We suggest the setting by Government of <i>minimum</i> payment amounts for various kinds of exploration activities (and for production wells in the case of gas). • We also suggest the development and adoption of a more standardised Land Access Agreement for use in the exploration phase. While clauses could be modified or added, the principle to be applied is that such modifications should, overall, leave the landholder no worse off than the “standard” agreement. • We suggest that clauses designed to maintain confidentiality regarding the amounts paid to the Landholder should NOT be allowed as part of such agreements. • We also recommend the establishment of some suitable information service/education campaign to better inform landholders (of all kinds) as to their rights and responsibilities in relation to exploration.
<p>Provide State guidelines to assist Councils to negotiate contributions from mining companies.</p>	<ul style="list-style-type: none"> • We believe the measures proposed here (developing of guidelines) do not go far enough in meeting the needs of local Councils for secure, reliable, proportionate funding for infrastructure and other purposes. Consideration should be given to the development of <i>complementary</i> mechanisms to provide ongoing funds (e.g. related to production or royalties paid).
<p>Appoint a Coal and Gas Ombudsman</p>	<ul style="list-style-type: none"> • We agree there is a need for an Ombudsman.

Comments Relating To Submission By Mid-Western Regional Council

- We fully support the submission made by Mid-Western Regional Council to the Scoping Paper and thank Council for its interest in these matters.
- In particular, we note Council's call for the Bylong Valley to be a "no go" zone for mining.