



7th February 2013

Mining and Industry Projects
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Sent by email to plan_comment@planning.nsw.gov.au

Dear Sir/Madam

Re: Camden Gas Project Stage 3, Project Application 09_0048, from AGL Upstream Gas Investments Pty Limited (AGL)

We write on behalf of the Scenic Hills Association to object to AGL's project application 09_0048 to mine for coal seam gas in Campbelltown and Camden Local Government Areas (LGAs) within the Sydney Metropolitan Area.

Introduction

The Scenic Hills is an Environmental Protection area in South West Sydney that has traditionally been shared between Camden, Campbelltown and Liverpool LGAs. The part that falls within Camden and Campbelltown LGAs stretches from just south of the Australian Botanic Garden at Mount Annan to Denham Court Road in the north and it is this land area (including the Botanic Garden) that AGL has designated as the *surface project area*¹ for the Camden Gas Project Stage 3 (CGP3), even though the Environmental Protection (Scenic) 7 (d1) zoning in the Campbelltown Local Environment Plan (LEP) – District 8, (Central Hills Lands) for this area lists *extractive industries* and *mines* as prohibited land use, and even though Camden has since rezoned part of its scenic protection area for urban development where some of the zoning also prohibits these activities.

The Scenic Hills Association (SHA) was formed on March 17th 2010 from a prior group established in 2007 by local landowners and home owners in, and adjacent to the Scenic Hills of Campbelltown, with the aim of preserving and protecting the Hills from numerous threats to its local environmental status. The need for our group was based on the recognition that the zoning, and Campbelltown City Council's support for it, was not enough to ensure the Hills protection under what had become an apparent 'perversion' of the planning system under the last NSW Government, undermining local communities, and destroying confidence in the planning system primarily for the benefit of private commercial interests. We regard AGL's Camden Gas Project Stage 3 (CGP3) as just the third attempt in as many years to by-pass or overturn the zoning and land use prohibitions in the LEP for a project that will similarly

¹ This is where AGL intends to put its surface infrastructure of wells, pipelines, access roads and as yet unspecified storage tanks, compression units etc., thereby industrialising the scenic protection area and threatening its survival.

privatise the profits, while socialising the costs - notwithstanding AGL's disingenuous attempt to frame its project as a *public utility undertaking* in the original Environmental Assessment (EA), and with various Government Ministers making comments about the safety and economic necessity of the project that do not stand up to scrutiny.

Like many landowners and residents in the area, we were not consulted at all prior to the Public Exhibition of the original EA for the CGP3 in 2010, however in late November 2010, at the invitation of the Chairwoman we (represented by Jacqui Kirkby) joined the Community Consultative Committee (CCC) for the Camden Gas Project in order to participate more fully in the process. Our participation in this committee has confirmed the flawed process of consultation that has resulted in few people in the Macarthur area, other than those immediately affected, being aware of the gradual incursion of this project into the urban area and the damage that might have already been done to water and air in the wider Macarthur area given the poor management of the Camden Gas Project to date.

On the 24th January 2011, after careful evaluation of the project and a number of meetings with AGL, we made a submission to the then NSW Department of Planning objecting to the project as a whole. We note that in its Submissions Report, AGL has not actually responded in a straightforward manner to any of the issues we raised, and this is a common complaint from others we have spoken to, giving serious concerns about the way AGL and the NSW Department of Planning & Infrastructure (DoPI) have handled this application and the integrity of it. We stand by our 2010 submission in its entirety, noting that some of our concerns and comments contained in it were prescient given developments over the two years since - the only changes to it being the modification of our request for a moratorium and of our support for the establishment of a Planning Assessment Commission (PAC) to investigate the project.

We therefore **re-table** our 2010 submission, and make the following **additional** comments in relation to AGL's response to it contained in Appendix A, *Detailed Responses to Submissions* (Response Nos. SHA_01 to SHA_26) and with reference to new information that has come to light over the two years since we made the 2010 submission:

1. Timing of the public exhibition

AGL has not responded to our core concerns about the timing of the public exhibition period in the lead up to Christmas (Response No. SHA_01) merely discussing the length of the period during which submissions continued to be received following submission closure date (not something that anyone could have relied upon at the time).

In addition to not answering the question posed in our complaint, this response is entirely without credibility given that, despite our protestations in 2010, the DoPI has once again exhibited the Amended Development Application and EA even closer to Christmas this time and over a shorter time period, with an extension provided only the day before submission closure date and running over the major annual holiday period. We could be forgiven for feeling that the reasons we gave back then (inability to secure professional advice and preoccupation with Christmas celebrations particularly for religious group landholders in the Hills etc.) were used by the DoPI to tip the balance in favour of securing approval of this project for AGL.

2. Provision of false and/or misleading information

A major concern running through AGL's *Detailed Responses to Submissions* is the failure of AGL to address the issues raised, a common complaint not only from members of the community, but from government agencies as well in their written submissions. In our case AGL has alternatively (a) completely ignored issues raised by us, (b) avoided addressing the issue in its response (answering a different question), (c) merely reaffirmed what we had already discredited or had rejected but without any evidence to support its stance, (d) provided incorrect or misleading information, or (e) dismissed the issues on the basis that the DoPI and/or other government agencies were satisfied with AGL's measures (though this is not necessarily true as we subsequently discovered).

We note that this is a common pattern in AGL's and the DoPI's handling of issues raised over the course of the development of this application. Two submissions we have tracked as part of this process are those of Campbelltown City Council and the Heritage Office (HO). Campbelltown Council in its various submissions has criticised AGL and the Department of Planning for ignoring issues it had repeatedly raised in the lead up to the EA's Public Exhibition and once again in the present Amended Development Application. Similarly AGL has dismissed some of our concerns (and those of the owners of Varro Ville House) on the basis that the HO was satisfied and raised no objections. The owners of Varro Ville House sourced prior submissions made by the HO and found that this response of AGL was not quite correct; further that the HO had repeated its requests in two prior submissions on the Preliminary EA, so that by the time of the Public Exhibition in 2010, it apparently merely asked the DoPI to confirm by email that these had been dealt with. The DoPI's response was taken on faith by the HO but we believe that the DoPI may have misled the HO when it claimed these had been addressed since the Varro Ville Estate and Denham Court (as specified by the HO) continued to be ignored (the latter being described as outside the study area) and AGL continued to downplay the risks that the HO had raised in relation to subsidence and visual aspects. AGL then used the HO's acceptance of this false information when it made the comments that the HO had raised no objection² but should have known better. We further note that the NSW Office of Water in its submission in 2010 noted that AGL had made an incorrect claim to hold a 30ML/year water entitlement when it had no such entitlement or water licence. Likewise SHA had documented significant errors and omissions in the EA that went on Public Exhibition (see point 2.3.2, p. 9 in our submission of 24th January 2011) which AGL has failed to address, either completely ignoring them or referencing them only in part in its detailed responses e.g. in Nos. SHA_03, SHA_15, SHA_23, where it has alternatively not answered the question posed, re-iterated what we had rejected or demonstrated the inconsistencies in its prior statements.

This attitude is extremely cavalier. The community could be forgiven for wondering if this is a deliberate game of wearing down the community and other government bodies into accepting what AGL wants and that it is doing so with the acquiescence of the DoPI, which is responsible for overseeing the application process. If there is no penalty for *not responding to the issues* or of *providing false or misleading information* then this is a winning strategy for the proponent of State Significant Developments (in this case AGL) and sets a dangerous precedent. There is no downside for either AGL

² We refer you to the submission of the owners of Varro Ville House for more detail on this as the response of the HO may have been influenced by many factors.

or the DoPI, particularly given that the referral of this project to the PAC for a merits review has wiped out the right of the community to have the merits of the decision reviewed by the Land and Environment Court (LEC) where such behaviour could be exposed with significant detriment to AGL.

We are further concerned that there is more to this process than just the formality of the Public Exhibition of the EA. AGL's performance in prior stages of the Camden Gas Project is frequently quoted by AGL in its EA and Submissions Report to support its application, and so the presentation of its prior performance through other communication is a critical part of this process. AGL has also engaged in a public relations campaign to convince the community through Open Days, advertising and letter box drops that Stage 3 will be both safe and beneficial to the community. We are deeply concerned that AGL, in its communication with the community, frequently puts out misleading information that has had the potential to affect community response to its project application for CGP3. In July 2012 the Environmental Defenders Office (EDO) lodged a complaint with the ACCC on behalf of SHA in relation to a letter box drop that AGL made to the community regarding the CGP3. The ACCC's response was equivocal saying that it had sourced further information (presumably from AGL which we were not given access to) and stating that the comments in AGL's leaflet *'do not necessarily [our emphasis] amount to conduct which is misleading or deceptive'* but that based on the information provided the ACCC did not intend to further investigate it as it did not *'fall within the ACCC's current Compliance and Enforcement priorities...and that the ACCC considers that there are other appropriate avenues that deal with the issues raised, such as local environmental and planning laws and instruments administered by the NSW Department of Planning and Infrastructure'*. We are not aware of any such legislation that would cover these promotional activities of AGL, leaving it wide open for a perversion of the process that seeks community input to AGL's application to expand the CGP into the Sydney Metropolitan Area. (We would be happy to supply our correspondence with the ACCC on a confidential basis to the PAC if the PAC wishes to view this.)

We documented examples of other potentially misleading and deceptive conduct from AGL in our submission to the NSW Upper House Inquiry on coal seam gas (GPSC5) in 2011. We attach that section of our submission as Appendix A which also includes reference to the EA for the CGP3. In that submission we noted that *'some legal penalties apply for deliberately providing misleading information in the EA but that the onus is on the complainant to prove that it was done deliberately.'* We went on to say, *'Severe penalties should apply where incorrect information or omission could reasonably be held to have a significant impact on the determination.'*

We are deeply disappointed that such an important issue was not taken up by the GPSC5, or since by those responsible for developing the legislation, so we re-table it here. We believe that the combination of AGL's public relations campaign together with the poor quality of the original EA and of AGL's *Detailed Response to Submissions* in its Submissions Report undermines the integrity of the whole application process. We also believe that flaws in the CCCs as a forum for the dissemination of information to and from the community, and the inappropriate and unfounded comments by NSW Government Ministers (Premier O'Farrell, Minister Hazzard and Minister Hartcher) have added to the misleading nature of what has been presented to the public. We may provide further information on both these issues in an addendum to this submission as there is not time to include it all here.

However we also believe that the ongoing nature of AGL's 'offences' in the **formal project application process** alone may constitute a breach of Clause 283 of the *Environmental Planning and Assessment Regulations 2000* which states: "A person is guilty of an offence if the person makes any statement, knowing it to be false or misleading in an important respect, in or in connection with any document lodged with the Director-General or a consent authority or certifying authority for the purposes of the Act or this Regulation."

Clause 283 above requires that AGL (and the DoPI) did this knowingly. We make the following comments in that regard:

Unlike unfunded community groups (such as SHA) and individuals participating in this process, AGL has immense resources to commission professional research and preparation of its documents and has had a far greater time allowance in the preparation of these compared with the very unreasonable time frame (and timing) allotted to the community.

Yet if AGL's response to issues that we raised were in the context of a school or University examination, AGL would have been failed with the further assumption the student had a poor level of literacy since he/she had apparently failed to understand the questions. We regard the DoPI's supervision of this project in a similar light. It would be cause for grave public concern if those responsible for submitting and overseeing a project application for a State Significant Development had these levels of literacy and would be extraordinary given the positions held by those responsible.

The only other conclusion is that the responses (and their acceptance by the DoPI) were deliberate. That the errors and omissions were pointed out to AGL during the process, sometimes more than once, supports our contention that AGL's handling of these was knowingly false and/or misleading. Further the DoPI appears to have acquiesced in this. This undermines the whole process and we believe that the application should be rejected on this basis alone.

We further believe that false and misleading statements made by, or with the acquiescence of government bureaucrats and government Ministers regarding the Camden Gas Project and the Stage 3 application during the public exhibition period are so crucial that we are prepared to refer this to the Ombudsman should it be necessary.

3. Project not fully specified

AGL has failed to respond to this issue (Point 2.3.4, p. 10 in our 2010 submission, and also in 2.3.1) which is only partially referenced in its Response Nos. SHA_07 and SHA_23. Importantly in AGL's responses no mention has been made of in-field compression. This is a critical issue: AGL's original plans for Stage 3 contained a gas treatment plant for the Scenic Hills. Following community opposition, the then Minister for Planning, Tony Kelly vetoed the gas treatment plant on local planning grounds (Media Release tabled as Appendix B). Subsequently AGL admitted to SHA that it did not know how it would get its gas back under pressure from its northern well sites and possibly its mid-range wells sites (refer our 2010 submission for details) to its gas treatment plant at Rosalind Park. This is still the case and now affects between 27- 45% (possibly more) of the wells planned for Stage 3. Combining this with other important 'ancillary' infrastructure (central water storage points, storage yards etc.) for Stage 3 which,

to our knowledge, has still not been specified, we do not know what the footprint of the project will look like³. We also do not accept AGL's assumption that it can transfer its experience with, and sub reports for other stages of the CGP to Stage 3, particularly given the poor environmental monitoring in prior stages (see below). The community cannot comment on a project that has not been fully researched or specified. For this to be decided at some future date between AGL and the DoPI, following approval of Stage 3, is unacceptable.

4. Permissibility of the project and conduct not in keeping with the spirit of the new State Significant Development (SSD) regime

In our original submission we questioned the permissibility of the project on planning grounds (see point 2.1 *Planning and Legal Permissibility of the Project*, p.6 of our 2010 submission), with particular reference to *extractive industries* and *mines* being prohibited land use under the Environmental Protection (Scenic) 7 (d1) zoning in the Scenic Hills. At the time the project was being assessed under Part 3A of the *Environmental Planning and Assessment Act 1979* (Part 3A). We note in AGL's Submissions Report (section 3.2.3, p27), that it references our objection and makes the further following comment:

'The characterisation of development and the interpretation of environmental planning instruments is a matter on which reasonable minds may differ. Further, section 89E of the EP&A Act provides that development consent for State Significant Development may be granted if the development is partly prohibited by the environmental planning instrument so long as it is not wholly prohibited.'

We wish to highlight that this last statement did not apply under Part 3A when this application was originally lodged. Further, since then Camden Council has rezoned part of the land that falls within the *surface project area* and the activity of the CGP3 would also have been prohibited under some of those new zonings. It is only by transitioning this project from Part 3A to the O'Farrell Government's regime for SSD under Part 4 of the *Environmental Planning & Assessment Act 1979* that has allowed AGL to progress its whole project even in areas where it might otherwise have been prohibited. This puts back on the agenda the possibility that AGL's gas treatment plant that was vetoed under Part 3A could now be allowed as part of this project at a later date. We are deeply concerned that the NSW Department of Planning has been complicit in allowing AGL to transition the CGP3 to SSD with these issues in mind.

We wish to table in this regard the following evidence:

AGL announced that it had applied to transition the CGP3 to SSD in the CCC of the 28th June 2012 (though we now know that the application was made on the 9th March 2012). In response to our request in that meeting for a reason, it was explained that this allowed for better community participation. This was a curious response given that AGL then confirmed that there would be no further community consultation on the EA and the amended application.

Under the government's own guidelines, the application to transition from Part 3A to SSD should have been placed on the DoPI's website within five days of the application. The government breached its own

³ In an email with attachment (point 7 in the attachment) from AGL to Jacqui Kirkby of the 18th April 2012 (copied to the Camden Gas Project CCC) AGL stated that it was uncertain whether landowners in the Liverpool LGA would fall into the sub-surface area. See Appendix F. Liverpool Council and Liverpool landowners were not consulted as part of this process.

guidelines in not doing this. On the 9th August 2012 the EDO wrote to the Minister for Planning on SHA's behalf seeking this information and other information about the application. The Minister's response of the 13th September was unsatisfactory, merely re-stating what we already knew, i.e. that an application had been made, was under consideration, that the project would be determined by the PAC, and that information on the project was on the DoPI's website (**the application to transition to SSD was not on the website**). SHA also wrote to the Minister on the 23rd August expressing our concerns at the reasons behind the transition and the lack of transparency in the process (the letter is tabled as Appendix C). Despite several requests for an answer to this letter, none has yet been received.

Therefore on the 8th October 2012 the EDO made a request on SHA's behalf for documents relating to the transition application under s41 of the *Government Information (Public Access) Act 2009 (NSW) (GIPA)*. The Department of Planning delayed providing these to us by ten days while it conducted '*third party consultations*'. The information was apparently authorised for release on the 21st November, however we did not receive it until mid-December (just prior to the original submission closure date) with the DoPI presuming that it '*went astray in the post*'.

Crucially six papers in this collection of documents were withheld on the apparent valid ground of '*legal professional privilege*'. Since the key information we were seeking related to the whether the transition to SSD would allow AGL to avoid any issues relating to the permissibility of the whole project, these documents may well have contained that information. However the documents received do suggest that in its discussions with the DoPI the issue of permissibility was a key concern in considering transitioning the project to SSD. We draw particular attention to a document "Camden Stage 3 - Approvals Pathway" that appears to have been part of a meeting between AGL and the DoPI on the 9th December 2011, and a letter from AGL of the 9th March 2012 (Point 3d on p.3) when it made its formal application to transition to SSD. These documents are presented in Appendix D.

In considering this project application, we ask that any prohibitions on CSG mining that apply under the respective Local Environment Plans (LEPs) be taken into account. We note that under the SSD regime, s79C of the *Environmental Planning and Assessment Act 1979* applies (s89H), which lists a number of matters that the PAC must consider when deciding whether to approve the project. The s79C matters include consideration of the provision of any environmental planning instrument which includes LEPs and State Environmental Planning Policies (SEPPs). In this regard we note that a substantial part of the project is prohibited under the relevant LEPs as set out in Table 3 at p.28 of AGL's Submissions Report. We would also draw the PAC's attention to the fact that *extractive industries* is classified as prohibited development under the 7 (d1) zoning and would apply were it not for clause 7 of the *Mining SEPP*.

We also ask that the lack of transparency and apparent lack of integrity in the process of transitioning to SSD be considered as *not being in the spirit of the SSD regime*.

5. Dismissing SHA objections due to these not being raised by government departments or agencies

In its *Detailed Responses* Nos. SHA_04, _14, _15, _16, _22, _23, AGL has dismissed (in part or wholly) SHA's issues on the basis that other government departments or agencies such as the Aboriginal Land Council (ALC) were satisfied with AGL's response. If AGL had only been interested in what government

departments and agencies had to say then why are we, the public, being asked to participate in this lengthy and complex process? AGL's responses are contemptuous and make a mockery of the concept of 'public consultation'. Further while many in the community would welcome public servants doing the job they are paid to do, unfortunately there is an understandable lack of confidence in the process of government and the perception of a too 'cosy' relationship between government and business. AGL's attitude and the DoPI's acquiescence in this do nothing to help dispel these concerns.

As a matter of importance to the cultural heritage of the Scenic Hills, we particularly note AGL's dismissal of our concern about the importance of the Yandel'ora and the role of the Hills as an important surviving remnant. AGL has referenced its consultation with the Tharawal Local Aboriginal Land Council in support of this. We do not wish to cast any aspersions on this Council and its relationship with traditional owners of the land as we have no evidence to suggest there are any issues here. We also do not wish to take AGL's word for the views of this ALC given the unreliability of information supplied by AGL in the EA and its Submissions Report. We merely wish to draw attention to concerns raised elsewhere about the reliance of government on ALCs over traditional land owners generally and the views of traditional landowners elsewhere on coal seam gas mining. In particular we reference witness statements made at the NSW Upper House Inquiry into coal seam gas on the 21st September 2011 in Alstonville NSW, pp. 21-25, and on the 16th November 2011 at Narrabri by traditional landowners of the Gomeroi Nation, pp. 12-17. We also reference views expressed by other ALCs and recent disputes between ALCs, traditional landowners and the peak NSW ALC over coal seam gas mining.⁴ Given the complex nature of these views and the sensitivities around representation, we believe that this issue warrants further investigation. Should we access further information we will send this in as an addendum.

6. Risk identification and management

In its Detailed Response to our 2010 submission, AGL has dismissed our concerns about risks to air quality, ground and surface water, and impacts on sensitive land use (Responses Nos. SHA_05, _09, _17, _18, _20) while ignoring other issues such as cumulative impacts, subsidence, land instability and risk issues that have been identified over the last two years such as vandalism and potential for terrorism in highly populated areas (urban environment), increase in air traffic (potential second Sydney Airport), fugitive emissions (including those due to underlying changes to the geology as well as faulty infrastructure), property values, water and air effects from permanent distortion or damage to the geology (due to depressurising of the coal seams, fracking and/or well collapse), and the related health and economic impacts on the community and environment, noting that this project requires assessment under s70 of the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**). Our letter to the Federal Minister, the Hon. Tony Burke is attached as Appendix E.

In support of its risk assessment and management AGL references the following:

- Prior ten years of safely extracting coal seam gas in the CGP Stages 1 & 2

⁴ <http://www.abc.net.au/local/stories/2012/12/15/3655717.htm>
<http://coalseamgasnews.org/news/world/australia/nsw/elder-slams-back-room-deal>
<http://www.smh.com.au/nsw/plan-to-explore-for-gas-under-40-of-state-20121207-2b11e.html>

- Knowledge and experience of the prior ten years, especially with regard to the geology of the Sydney Basin
- Use and extension of sub-plans used in prior stages of the CGP
- Groundwater studies
- Dismissal of any connectivity between development envelopes at the surface and the rest of the environment
- Regulation and monitoring.

In response to these we reference the following:

- Lack of scientifically valid monitoring of air, noise and groundwater in prior stages of the CGP
- Lack of knowledge repeatedly demonstrated in operations
- Invalid comparison between rural and urban environments
- The evolving nature of the technology of coal seam gas (CSG) mining creating a highly ‘experimental’ environment
- The uselessness of baseline studies in protecting the environment in high risk situations
- Complying with the minimum (and out-of-date) requirements (NSW DoPI’s Locational Guidelines⁵)
- Missing data about fracking, well bore failure and land instability
- Repeated failure of monitoring bodies to ensure compliance
- Expert opinion on risk management

6.1. Lack of scientifically valid monitoring of air, noise and groundwater in prior stages of the CGP

AGL frequently claims, in support of its ability to manage the risks of the CGP3, that the Camden Gas Project (CGP) has been operating safely for ten years and is ‘*well understood by AGL and regulatory authorities*’ (Response No. SHA_04). AGL (and the regulatory authorities) are without credibility in this, as follows:

- While AGL was apparently involved with the CGP prior to its purchase in 2009 from Sydney Gas, and we understand that around 80% of the staff of the AGL Upstream Gas Division formerly worked for Sydney Gas, AGL management can only effectively claim four years’ experience with the CGP.⁶
- AGL cannot claim that the CGP has been operating safely during the previous ten years because no evidence has been presented to show that scientifically-valid monitoring of groundwater, air or the health of the human population or wildlife has been carried out, including valid baseline studies:
 - Dr Gavin Mudd of the Department of Engineering at Monash University in his report for the Hunter Valley Protection Alliance reviewed the environmental performance of the

⁵ *Locational Guidelines: Development in the Vicinity of Coal Seam Methane Wells*, NSW Department of Infrastructure, Planning and Natural Resources, May 2004.

⁶ Meeting between AGL Upstream Gas (Group General Manager Mike Moraza and Land & Approvals Manager Adam Lollback) and representatives from the Scenic Hills Association, 28th July 2011.

CGP in Stages 1 & 2 with reference to AGL's Annual Environmental Performance Reports (AEPRs) for 2006/07 and 2007/08 raising many concerns. With regard to groundwater he referenced the following claim by AGL: *"A previous technical assessment of the groundwater regime found that as the entire casing of each well is cemented from top to bottom, connection between the Illawarra coal measures and overlying aquifers is not possible. The potential for cross contamination between aquifers during the production life of a well is therefore extremely unlikely."* (AGL pp. 4-14 and 37 of AGL's AEPRs, 2007 and 2008, respectively).

Dr Mudd commented on this: *"Ignoring the issue of the 'technical assessment' not being cited at all (making it impossible to check this study), the fact that there is (apparently) no actual monitoring data to validate this claim is **very concerning**. If the assessment is correct, then it should be easy to obtain ongoing groundwater monitoring data over time to continually prove that this claim is valid. Sound data is critical, as cements and bore casings can fail over time, especially since issues such as corrosion have long lag times."*⁷

- Under AGL's management, AGL did not move to correct ongoing breaches of the conditions of its Petroleum Exploration Licence (PEL2) and Petroleum Production Leases (1, 2 & 4) to ensure that ground and connected surface water were not polluted.⁸ In its Response No. SHA_20, we believe AGL's statement that it *'currently undertakes groundwater monitoring of operations at the CGP via a network of dedicated monitoring bores in accordance with the requirement of its water licences, planning approvals and Environment Protection Licence'* to be possibly false at the time it was made on 29th October 2012⁹, and at the very least misleading in response to the issues raised. We note that this statement also conflicts with statements made in its *Groundwater Management Plan for the Camden Gas Project* of 16th July 2012, p.31, point 5.2.2 Stage 1/2 'Existing Camden CSG Area': *'currently no dedicated monitoring bores have been installed within deeper strata or the older fields of the CGP wellfield..'*
- On the 15th August 2012 AGL released a media statement confirming that it had been in breach of its Environment Protection Licence (EPL 12003) by not conducting continuous air monitoring at the Rosalind Park Gas Treatment Plant (RPGTP), later admitting this was from 2008. The breach was apparently picked up after the EPA changed some of its reporting requirements for the Camden Gas Project to monthly reporting, requiring separate reporting of quarterly and continuous monitoring (as per its conditions of planning consent and its EPL). We understand that this situation has not yet been corrected and the EPA has not yet published the findings of its investigation or its

⁷ Dr. Gavin M. Mudd, *Environmental and Groundwater Issues and AGL's Hunter Coal Seam Gas Project*, Final Report to the Hunter Valley Protection Alliance, February 2010, p. 6.

⁸ Submission on CGP3 from solicitor Marylou Potts, *Concerning protection of groundwater in the Project areas constituting AGL Camden Gas Project Stages 1, 2 and its implications for the proposed expansion in Stage 3*, 18th May 2011. We note that Ms Potts has also criticised AGL for not satisfactorily addressing in its Submissions Report the issues she raised.

⁹ There was no mention of monitoring in prior stages of the CGP at the CCC of 15th November 2012 when an update on groundwater monitoring was presented.

regulatory response. The EPA admits there can be unacceptable levels of ozone and heavy particles associated with respiratory disease in the Campbelltown area. The treatment plant emits nitrogen oxides (NOx) which can contribute to ozone levels of particular concern in summer. We therefore do not know what contribution AGL may have made to this problem in the past or on-going.

- In the last two years concerns have been raised about the level of fugitive emissions, i.e. methane and co-emitted substances such as the more reactive volatile organic compounds that contribute to the local formation of ozone, as well as air toxics such as benzene, carbon tetrachloride and chloroform.¹⁰ Preliminary research by Southern Cross University in Queensland recently found levels of methane (CO4) and carbon dioxide (CO2) on or near the Tara Estate coal seam gas field at 3.5 times those outside the gas field, saying *'We suspect that depressurisation (fracking, groundwater pumping) of the coal seams during gas extraction changes the soil structure (i.e. cracks, fissures) that enhance the release of greenhouse gases such as methane and carbon dioxide.'*¹¹ The measurement of these gases may serve as a proxy for other toxic gases that could explain health problems reported on the Tara Estate. One of the authors, Dr Isaac Santos, a bio-geochemist at the university was later quoted as saying about the findings, *'Methane and carbon dioxide are being used here as tracers, so that their presence indicates the likely presence of other gases from within coal seams.'*¹²

Fugitive emissions have not previously been formally measured in the Camden Gas Project and we are not aware of any baseline studies taken prior to the commencement of its operations or since. Our searches have also not revealed any associated health data specifically in the affected region that could have served as a baseline study. We note that the Environment Protection Authority (EPA) has only recently altered the conditions of AGL's EPL 12003 to incorporate the measurement of fugitive emissions, but measurement has not yet commenced and it will initially only focus on those that can be fixed, i.e. faulty infrastructure. We understand that there are currently no plans to monitor fugitive emissions that might occur as a result of alterations to the geology, and we are not aware of any evidence to show that should such alterations occur (as suggested by the Southern Cross University scientists) that these problems can ever be fixed. This is an unacceptable risk factor that cannot be managed under the current NSW Government's *adaptive management* approach to coal seam gas mining and alone should be reason to decline AGL's application to expand coal seam gas mining into the Sydney Metropolitan Area (South West Sydney growth corridor) with the CGP3.

- Finally, as will be discussed below we regard any data that **has** been provided on the CGP to be compromised by the current system that allows the industry (in this case AGL) to take

¹⁰ We are unsure whether all these co-emitted substance are associated with sources in the CGP. See p.6. of <http://globalinvestorcoalition.org/wp-content/uploads/2012/11/Controlling-methane-emissions-in-the-oil-and-gas-sector.pdf>,

¹¹ *Submission to the Department of Climate Change & Energy on National Greenhouse and Energy Reporting (Measurement) Determination 2012 – Fugitive Emissions from Coal Seam Gas*, 19th October 2012, Southern Cross University, p.2.

¹² Sydney Morning Herald 17th November 2012 : <http://www.smh.com.au/national/health/doctors-raise-alarm-over-toxic-coal-seam-gas-leaks-20121116-29hbp.html>

its own base line measurements, self-monitor, self-investigate accidents or incidents and self-report when it has a vested interest in the outcome. The community can have no confidence in the collected data.

6.2. Lack of knowledge repeatedly demonstrated in operations

AGL frequently claims that *the geology of the Sydney Basin is well understood* as reason to not conduct a more comprehensive hydro-geology study that we requested and to pursue an *adaptive management* approach to CSG mining where it self-monitors and manages any problems that it might identify. Since this is critical to AGL's risk management approach the claim deserves further scrutiny. AGL's claim is contradicted by AGL itself in the reasons it has given in the Camden Gas Project CCC for (a) various accidents or incidents, (b) constantly modifying the project when new wells prove unproductive, and (c) its inability to predict exactly how much gas it will extract from Stage 3, all of which have been linked to unforeseen variations in the geology¹³. It is also contradicted by AGL's statements to SHA's CCC representative Jacqui Kirkby (by AGL's hydro-geologist) that AGL does not know where the aquifers here run to but '*probably Sydney Harbour*'.

In an email to SHA from AGL's community relations office of the 31st December 2012, AGL candidly stated '*[a]s a project develops, so too does AGL's understanding of these issues and constraints*'.

In fact AGL's comments to the CCC suggest that AGL does not yet know the geology well enough to be able to predict the performance of any CSG well in advance of drilling it and attempting to bring it into production. AGL apparently cannot predict *beforehand* (or perhaps will not tell us):

- how much gas it will extract from any well, if any at all¹⁴,
- whether it will need to frack the well,
- whether its operations will have serious environmental impacts such as damaging aquifers and associated surface water whose connections were not foreseen or did not previously exist. (That's what AGL's groundwater monitoring bores are designed to detect, ***after the fact*** and ***without any evidence from AGL that it can fix any damage caused.***)
- and finally, *after all that*, whether AGL will need to re-apply to drill a replacement well because the original one failed - the fate of 38% of the production wells drilled in the Camden Gas Project according to AGL's evidence to the 2011 NSW Upper House Inquiry into coal seam gas. In its evidence AGL suggested these were largely drilled in the wrong location, and gave assurances to the Inquiry that AGL's knowledge of the geology had since improved. This is apparently not the case as AGL has since admitted in the CCC that this is a key reason for on-going modifications to well locations in the CGP¹⁵. If there is another reason, e.g. *collapsing well bores* (which we understand to be a risk in horizontal drilling¹⁶) then AGL has not told us.

¹³ *Geological variations* as a rationale for needing to constantly modify the CGP was not recorded in the Minutes of the Camden Gas Project CCC meeting of 28th June 2012, although we had requested by email on the 5th July 2012 that they be. The accuracy of the Minutes is an on-going issue.

¹⁴ Minutes of the Camden Gas Project CCC meeting of 16th February 2012, section 7.0 and 28th June 2012, section 3.0.

¹⁵ Minutes of the Camden Gas Project CCC meeting of 28th June 2012, section 3.0.

¹⁶ Minutes of the Camden Gas Project CCC meeting of 25th November 2010, section 27-6.7.

6.3. Invalid comparison between rural and urban environments

We do not feel that AGL, in attempting to transfer its experience in prior stages of the Camden Gas Project to the CGP3 has sufficiently taken into account different risk factors in the Sydney Metropolitan Area compared with the bulk of its operations outside this area. The subsurface area of the CGP3 contains more than 150,000 people and is undergoing rapid growth as part of Sydney's South West Growth Centre. Accidents and incidents (non-compliance with operating conditions) that have occurred on the CGP and elsewhere¹⁷ take on different risks in the urban environment. AGL cannot rule these out. Risks increase with the greater potential for vandalism (already experienced on the CGP), the possibility of terrorism, many more people, greater traffic and presence of children. We are not aware that there has been consultation with police in this matter in relation to the Scenic Hills Protection Area where there are churches, schools, religious communities and family recreational use of the area, and in the new urban areas of Camden. The incident on the Sugarloaf property at Menangle in 2011 (see p. 17 of this submission) could have resulted in the well contents blowing over children at the nearby Broughton Anglican College. Instead it blew over the Upper Canal that carries Sydney's back-up water supply, which was apparently empty at the time. These risks are greatly increased in the CGP3, noting the proximity to housing and schools and the concentration of pipelines and wells near the Upper Canal.

6.4. The evolving nature of the technology of coal seam gas mining

Point 6.2 above demonstrates that even while AGL is producing gas from the CGP it is really still 'exploring'. This is what *adaptive management* encourages, which is entirely inappropriate given the increased risk factors in such a highly populated area as CGP3, and the potentially devastating impact it could have on the fragile Scenic Hills Protection Area. Added to these 'unknowns' is the fact that the technology is constantly evolving. In the CGP3, we understand that the use of well 'clusters' is a *relatively* new approach but the proposed *number* of wells per cluster for the CGP3 is entirely new (AGL has been unable to show us a similar sized cluster). Likewise drilling of horizontal (SIS) wells is apparently not a technique that has yet been perfected and may result in well collapse. We are unable to find any data or realistic analysis of environmental impacts of well bores collapsing including impacts on groundwater, air, or landform (subsidence). Further, despite recent media reports, AGL has confirmed in writing to SHA (Jacqui Kirkby) and copied to the CCC that it will not rule out the possibility that it will frack the horizontal wells in the future should the technology allow it to do so (see Appendix F). AGL states that it conducted experiments with this in conjunction with the CSIRO in 2007 that were not successful. We understand it was not successful because the wells collapsed (though AGL has since declined to confirm this). The lack of experience that this all implies when combined with other factors, such as the failure of the current system to monitor the CGP (see below) is reason enough to decline AGL's project application for the CGP3.

¹⁷ In Dalby in May 2011 a coal seam gas well blew out while it was being brought into production, spewing methane and waste water 90 metres into the air for 24 hours until it was brought under control. The landowner claimed it was the fourth incident on his property over 10 years. See The Courier Mail 24th May 2011, <http://www.couriermail.com.au/business/farmers-demand-coal-seam-gas-ban-after-well-blowout-near-dalby/story-e6fregmx-1226061392597>

6.5. The uselessness of baseline studies in protecting the environment in high risk situations

AGL has misrepresented our views on groundwater in its Detailed Responses Nos. SHA_05, _20). AGL's proposal to take a baseline study and set up groundwater monitoring **in Stage 3** (having admitted it had no lessons to bring from prior Stages of the Camden Gas Project in this regard) was and is rejected by us on the basis that it does not protect the Hills or its heritage from irreparable damage. It will merely indicate **after the fact** that damage has occurred with no evidence that any damage can be fixed, and it may be difficult for the community to establish that any change was due to CSG mining. This subjects this area to a vast experiment, posing an unacceptable risk to the Hills and its heritage (see original submission 2.4.2) and the properties within the Hills. This is no substitute for the hydro-geology study that we requested that would document the groundwater system in advance and provide data that could be used in the determination process.

We also reject, for the same reasons, the conducting of baselines studies on air quality and potential CSG-related health impacts in this area **as a condition of approving** the CGP3. It is not appropriate to use the population of South West Sydney as an experiment in coal seam gas mining. In addition to the ethics of the situation we contend that multiple factors affecting air and health may make it difficult to establish CSG mining as a cause, resulting in a long drawn out legal battle to secure compensation, made more difficult by the fact that AGL (like the rest of the industry) is being allowed to take its own baseline studies (using consultants which it engages and pays for and for whom AGL may be an important client) when it has a vested interest in the outcome. AGL has already shown that it cannot be trusted in this (see below), and in any case financial compensation would be of little comfort to those whose health had been irreparably damaged.

We also wish to point out that any experiment would be already scientifically compromised as a result of not conducting baseline studies at the outset of the CGP3 and before exploration of CGP3.

We do however support research that assists in the **determination** of this project application (which is different to using the area to gather research on CSG mining impacts for future use). We contend that there is insufficient research in groundwater, air quality and health in this area and in CSG mining generally to determine the potential impacts of this project. Potential risks, however are of such a magnitude that the research we support is not required to decline the application.

6.6. Complying with the minimum (and out-of-date) requirements

Rather than conduct its own research or risk analysis, AGL has merely relied on the former NSW Department of Infrastructure, Planning and Natural Resources' *Locational Guidelines: Development in the Vicinity of Coal Seam Methane Wells*¹⁸ to rebut our concerns about impacts on sensitive land use in the Hills (Response No. SHA_09). These guidelines were published in 2004 and are clearly out of date given the information that has emerged over the last nine years. Indeed they would be out of date if they had been published two years ago. In particular we note that they relate to single wells only, not to multiple wells clustered on a single pad site (a significant technological change

¹⁸ *Locational Guidelines: Development in the Vicinity of Coal Seam Methane Wells*, NSW Department of Infrastructure, Planning and Natural Resources, May 2004.

since the Guidelines were promulgated). It is reckless of both AGL and the NSW Government to continue to accept these guidelines without further research into the dangers of CSG mining on communities and without a professional risk analysis (weighing probabilities by outcomes) based on sound research.

6.7. Missing data about fracking, well bore failure and land instability

The National Water Commission in its Position Statement of 3rd December 2010 (which it re-endorsed in 2012) raised concerns about cumulative impacts of CSG mining projects including subsidence. We are deeply concerned that this has not been properly considered by AGL with regard to the size of the well clusters, the possibility of fracking the horizontal wells when and if the technology becomes available to do so¹⁹, the risks of well bore failure (and the probability of this with or without fracking horizontal wells), and the problems created by changing pressure in the geology from de-watering the coal seam. AGL has merely dismissed any connectivity between the surface and subsurface areas (due to the distance between them, refer AGL's Detailed Response SHA_06) and between the land contained within its development *envelopes* and that outside of it. We believe that this is a flawed and self-serving methodology which is not supported by expert opinion particularly when it comes to subsurface impacts on the surface.

We also note the identified instability of the land where AGL intends to place its infrastructure. The land in the Scenic Hills (Central Hills) is subject to land creep and slide. In the *Campbelltown, Camden and Appin Structure Plan 1973*, although the reserving of the Hills as a protected green space was based on principles of regional city design and conservation, it was supported by the unsuitability of the land for urban development. The plan stated "*The instability of substantial parts of the Razorback Range and the Central Hills Lands [Scenic Hills] strengthens the case for conserving these areas.*"²⁰ There is evidence of a major land slide on Bunbury Curran Hill (apparently from the 1980s) and we are aware of a critical incident due to a landslide in the Camden Gas Project at Glenlee in 2009. In an application by AGL on the 7th September 2009 to re-route a damaged section of pipeline at Glenlee, AGL noted that "[a] landslide occurred along the route of the Glenlee-06 gas gathering line, which resulted in the gas gathering line rupturing" (page 1, *Assessment Report, Stage 2 Camden Gas Project Section 96 AA Modification*). We also reference a report in our possession, *Landslip and the Central Hills Campbelltown*, by Arthur Jones 2000, with photographs showing clear evidence of land creep. AGL's reliance on there being no evidence of subsidence (or other impacts related to the geology/geography) in prior stages of the Camden Gas Project is not accepted as evidence that we need not be concerned about instability in Stage 3. The Scenic Hills is a unique location, with very steep, apparently unstable slopes in parts. It is clear that, despite AGL's over-confident assertions, the geology varies in unexpected ways, which when combined with the evolving technology of this project, including the new and experimental size of the proposed well clusters and future fracking of horizontal wells (SIS), the geological response remains an unquantified risk to the Hills heritage, to water and generally to the environment and human safety.

¹⁹ In the email to me of the 18th April 2012, AGL stated in the attachment, "*Although it is extremely unlikely and not current practice to fracture an SIS well, AGL cannot guarantee that it will never fracture an SIS well in the future*"...because such a guarantee "*would not allow the company to evolve with technological advances*".

²⁰ *The New Cities of Campbelltown, Camden, Appin Structure Plan*, State Planning Authority of New South Wales 1973, p. 48.

6.8. Repeated failure of monitoring bodies to ensure compliance

The Camden Gas Project is the only large scale producing coal seam gas field in NSW. As such it already operates under strict conditions of consent. As we understand it, AGL must comply with its planning consent conditions (overseen by the NSW DoPI), conditions of its PPLs (overseen by the Department of Trade & Investment) and its EPL 12003 (overseen by the EPA).

The process to ensure compliance is essentially one of self-monitoring, self-investigating (when there is an accident or incident) and self-reporting. AGL is obliged to submit annual returns to the EPA and Annual Environmental Performance Reports to the DoPI, with external audits (Independent Environment Audits) conducted every two years. In the time that SHA has been on the CCC this system has repeatedly failed to ensure compliance.

- On joining the CCC in November 2010 we found that AGL had not published the previous two Independent Environment Audits of 2008 and 2010 on its website as required and CCC guidelines were not generally being followed.
- No complete picture of the CGP was available either on the DoPI's website or AGL's. Further AGL resisted providing this information until SHA complained to the DoPI and only posted it in mid-November 2012 six months after receiving the request at the CCC on the 17th May (contrary to the CCC guidelines which require AGL to respond within 28 days). AGL has still not fully complied with this request: the location and status of exploration wells has not been provided for Stages 1 & 2 and no break-up of infrastructure on private versus public land has been provided.
- Similarly in the May CCC we asked for a report on the management of waste water from the CGP - from extraction to its treatment at the Windsor treatment facility and subsequent reuse. Of particular concern was whether AGL tested the water for possible contaminants and/or provided a list of possible contaminants to Windsor.²¹ AGL has so far not produced this report despite being directed to do so by a DoPI representative at the CCC of 15th November 2012.
- There has been non-compliance with licence conditions of the Camden Gas Project's Environment Protection Licence (EPL No. 12003) in each year since it was issued in 2004.
- AGL admitted on the 15th August 2012 that it had failed to conduct continuous air monitoring at its RGP, later stating that this had been the case since 2008. This was not picked up by any authority responsible for ensuring compliance for four years: not the NSW Department of Planning, the NSW Department of Trade and Investment or the EPA. It was also *not* picked up by the auditors in the two year Independent Environment Audits of 2008 or 2010. The potential breach (the provision of false or misleading information) carries the highest penalties under the *Protection of the Environment Operations Act*. The EPA has not yet reported its findings and regulatory response on this despite it being a massive failure of the system to monitor and manage this industry. This information is critical to the

²¹ At a meeting hosted by the NSW Farmers Association at Cobbitty in June 2011, AGL admitted that it did neither of these, which called in to doubt whether the water was being effectively treated before re-use.

determination of the CGP3. Meanwhile we understand that AGL is still not in compliance on this condition.

- There have been other three incidents over the last two years that were only brought to the public's attention by the community and/or media. The regulatory responses to both have been unacceptable.
 - On the 31st August 2011 Channel 7 News reported it had sourced documents showing that AGL had pumped 30% more acid-rain causing sulphur oxides into the air at its RPGTP than permitted by its licence for three years running. AGL claimed that the original levels it had agreed to were un-measurable. The EPA's response was to **modify the licence conditions** so that AGL has since complied. (See Appendix A for more information on this).
 - On the 17th May 2011, AGL was caught by Channel 10 News (accompanying Greens MP Jeremy Buckingham) venting the contents of a well clean-out (*well maintenance workover*) to the air near the Upper Canal carrying Sydney's back-up water supply and towards houses in Glen Alpine near Campbelltown. There was a school nearby. In the following investigation, AGL was allowed to collect its own soil and water samples for analysis at an external laboratory and to later engage its own consultant to report to the EPA. AGL initially claimed in the Camden Gas Project CCC that it had done nothing wrong and the reason it had reported the incident to the EPA **two days after the event** was because it had been caught on camera by Channel 10 News and was concerned about community perception. The EPA later determined that AGL had not followed procedure but as there was no significant environmental harm it was **given a warning**. The reason for grass 'discolouration' where the contents had landed was never explained.
 - On Tuesday the 29th January 2013 AGL failed to initially report an incident at a newly drilled well (MP25) on the banks of the Nepean River on land at Tabcorp Park Menangle (Harness Racing Club), until after it discovered staff from MP Jeremy Buckingham's office on site. MP25 was a modification to Stage 2 of the Camden Gas Project and we understand it was the first CSG mining development application approved (in July 2012) by the current NSW Government against vehement opposition from Campbelltown City Council. Amongst a number of objections, Council also warned both AGL and the government about the use of a lined pit to contain waste run off from the drill site within 50 metres of the Nepean River on a flood plain.²² Given Council's concerns one would think that the EPA or one of the other government monitoring arms would have carried out a spot check at the site when flooding was imminent. Shortly after the flood peaked Greens staff discovered the lined pit inundated and gas bubbling up in the water across the drill pad site. AGL and another industry body (Jemena, owner of Sydney's gas distribution network) were allowed to take their own air samples in the presence of the EPA. The EPA had no experts or equipment to verify anything for itself. Once

²² Refer PAC approval: http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4989

again it appears that AGL did not believe that it had done anything wrong as we understand that it did not report this as a pollution incident. Yet at a subsequent site visit AGL admitted to members of the CCC that the contents of the lined pit ended up in the river. We have no way of independently knowing what was in it the pit, only that the purpose of the pit was to prevent what happened (and failed, as Campbelltown Council had warned).

- These last two incidents give concern about the total number of such incidents that might have occurred but have not been reported because there was no one from the community watching.
- More disturbingly we feel that there is the possibility of CSG mining companies using the law to break the law when it comes to monitoring. AGL is quick to raise issues of trespass against members of the community who seek to do the job that government agencies are failing to do in holding AGL to account.

We believe that these incidents show conclusively that allowing the coal seam gas industry to self-monitor, self-investigate and self-report does not work, and that the Government cannot manage this industry no matter how much regulation it puts in place (see below for further support for this).

6.9. Expert opinion on risk management

Given the nature of the industry we do not believe that the government can ever put in place a system to effectively manage it, and particularly with a view to *preventing* harm which must be the objective when it comes to the environmental impacts on human and animal health. Some of the issues to consider are:

- The wells and other infrastructure are often located on properties that are not accessible to the public or to other landholders and residents who may be affected by its operations, and are largely out of sight in the ground where expertise is required to determine if damage is being/has been done, and which may not exhibit for some time (according to the National Water Commission).
- From incidents on the CGP it appears that an independent but highly experienced and knowledgeable inspector needs to be on site every time the gas companies are carrying out major operations where there is a greater potential for something to go wrong: e.g. well drilling, fracking, bringing wells into production and well maintenance workovers. We doubt that any government would have the resources to fund this, though these costs should be loaded onto the industry (but not in control of the industry).
- The government has a conflict of interest in managing the industry itself given the royalties that it will now collect. We are concerned that this may be influencing the misleading statements put out recently by Government Ministers.
- *Adaptive management* does not prevent harm even with independent inspectors overseeing the major operations.

Our views find expert support from Alan Randall, Professor of Agriculture and Resource Economics at Sydney University who has written²³ that we do not yet know how to manage the risks of CSG mining. He rejects the current risk management process *adaptive management* adopted by successive NSW governments (which AGL's water monitoring is set up to support), saying '*Adaptive management is essentially reactive – basically, feeling our way in the dark. This is a perfectly acceptable trial-and-error approach to unanticipated problems. But defaulting to adaptive management in the case of CSG, when we still have time to be pro-active, is more like standing aside while the lights go out and then feeling our way in the dark.*'

Ignoring such expert advice is unwise.

7. Economic justification

In our submission of 2010 we noted that AGL had not provided an analysis of this project that balanced the benefits to the community (both local and state) against the costs including its risks (cost-benefit analysis). We noted that the economic analysis was unconvincing, full of unsubstantiated motherhood statements and that it was '*an unacceptable basis for making any risky business decision, and in particular, a project determination that is deemed to be of "state significance", particularly as this must surely set precedents for further CSG exploitation in the SMA [Sydney Metropolitan Area].*' (p.4).

In its response (Response No. SHA_10) AGL has apparently 'misunderstood' our point focusing on comments about the non-inclusion of renewables in the analysis. We had intended that this be considered as an alternative to CSG mining in the area. Instead AGL has generalised its response to its general investment in renewables, ignoring our other comments.

We stand by our original comments. A cost benefit analysis is required and needs to take into account new information that has emerged over the last two years including:

7.1. Global warming potential and CSG's role as a transitional fuel

The Intergovernmental Panel on Climate Change (4th Assessment Report) calculates that methane's global warming potential is 24 and 72 times that of CO₂, over a 100 and 20 year timeframe respectively.²⁴ Therefore the extent of fugitive emissions - taken in the broader sense to include not only those emissions escaping from wells and pipelines, but also through fissures and other pathways either already in existence or that may appear along fault lines following the de-watering of the coal seams (and the resulting pressure changes), or through fracking – is critical to determining CSG's role as a transitional fuel moving from coal to renewable sources of energy. Evidence from overseas is throwing unconventional gas mining's role as a transitional fuel into doubt, however the research has mainly been carried out in relation to shale gas mining. The research in Australia is only just being commissioned. The preliminary findings of researchers from Southern Cross University quoted earlier in this submission suggest that CSG's role is unclear and is

²³ "Going slow on CSG makes economic sense", The Conversation 20th March 2012: <http://theconversation.edu.au/going-slow-on-csg-makes-economic-sense-6085>

²⁴ http://www.ipcc.ch/publications_and_data/publications_and_data_reports.shtml#URJTsPIUNK9

also in doubt.²⁵ It is critical that this be determined before this industry is permitted to roll out further given the potential risks and the costs associated with those risks (e.g. affecting other economic land use, health, environment and property values).

7.2. CGP3's contribution to issues of gas supply and lower prices

Claims by NSW Liberal politicians, notably the Minister for Resources & Energy, that NSW risks running out of gas, that the 'lights will go out' and/or that prices will increase if NSW does not exploit its own CSG resources are without substance²⁶. These claims appear to be part of a fear campaign that may constitute false and/or misleading information with the potential to influence the determination process for the CGP3. We reference in contrast the comments made by BHP Billiton's chief Mike Yeager to an oil and gas industry conference in Adelaide on the 14th May 2012, where he stated that the company had enough gas in its Bass Strait field to supply the East coast of Australia '*indefinitely*'.²⁷

When Minister Hartcher's comments are applied to the Camden Gas Project this becomes even more misleading. The Camden Gas Project supplies a mere 5-6% of NSW's gas. AGL has been unwilling in the CCC to commit to how much gas it will extract from Stage 3 as an increment to that, admitting that it cannot know for sure until the wells are drilled. However statements made by AGL's Group General Manager for Upstream Gas at the NSW Upper House Inquiry into CSG on the 17th November 2011 suggests that there will be no/little increase in the total amount of gas in the CGP3 as the new wells will be replacing depleting wells elsewhere in prior stages.²⁸ This could hardly make the CGP3 '*significant*' or '*essential*' to NSW's gas supply no matter what the situation in 2016 when contracts expire. At any rate there is a risk that that the supply will be less than expected and this must be weighed against the potential costs.

With regard to prices, we expect that mining companies will want to ensure that their shareholders get the market price for this resource. This will mean price parity with exports. If these prices go up so will NSW's. This is not a reason to hold off signing contracts with interstate companies, especially where those companies offer less environmentally damaging sources of gas (conventional).

7.3. Local and state job creation

In light of AGL's comments made at the NSW Upper House Inquiry, it is unlikely that there will be significant overall job creation as a consequence of the CGP3, and local jobs cannot be guaranteed due to the location within the Sydney Metropolitan Area. Jobs will go to the most appropriately

²⁵ *Submission to the Department of Climate Change & Energy on National Greenhouse and Energy Reporting (Measurement) Determination 2012 – Fugitive Emissions from Coal Seam Gas*, 19th October 2012, Southern Cross University

²⁶ These claims are attributed to Energy Minister Chris Hartcher and quoted in various media articles e.g. in The Sunday Telegraph, 9th December 2012; <http://www.dailytelegraph.com.au/news/fight-over-coal-seam-gas-blows-up/story-e6freuy9-1226533043408>

²⁷ Sydney Morning Herald 15th May 2012: <http://www.smh.com.au/business/nsw-to-press-on-with-coal-seam-gas-hartcher-20120515-1yo6c.html#ixzz2FBp7uEID>

²⁸ Statements made by the Group General Manager of AGL Upstream Gas under oath at the NSW Upper House Inquiry on the 17th November 2012 (transcripts pp. 66-67) in an exchange with the Hon. Jeremy Buckingham MLC.

qualified applicants within the Sydney area (and perhaps beyond), not necessarily to locals. AGL has not substantiated its claims in this regard.

7.4. Potential royalties to the state of NSW

If AGL is unable to quantify the amount of gas it is hoping to extract then we wonder how other benefits can be calculated either. We note that in the NSW Upper House Inquiry AGL quoted a figure of approximately 38% well failure in the Camden Gas Project as at the end of December 2011.

7.5. Costs to the local population from potential property devaluation and the flow-on effect to the local economy

We believe that this is potentially so significant that it warrants further research as a risk factor for inclusion in any cost-benefit analysis, and should be included as a specific term of reference in the PAC's merit review.

We note the difficulties of selling properties in coal seam gas fields in Queensland reported by Agforce to the Senate Inquiry into coal seam gas (part of the larger inquiry into the Murray Darling Basin) in 2011 and in more recent newspaper reports.²⁹ Since it has been common practice for small business owners to borrow against the home, any general devaluation by banks and/or the Valuer General could have significant impacts on the local economy. Similarly we are receiving feedback within the community of land developers experiencing a slow-down in housing sales in response to recent publicity, and property owners suspending further investment (home renovations) for fear that the property will not be worth it. All of this is anecdotal but is indicative of a potential major problem for Campbelltown and Camden LGAs affecting some of Sydney's most vulnerable residents.

7.6. Other risk factors

Without a professional assessment of risks - for example to the environment, health, loss of amenity, loss/damage to state listed heritage assets of the state and local community, loss of income from other land uses - no cost benefit analysis can be made. Since the research has not been done on much of this we cannot see how AGL can economically justify its project.

8. Planning Assessment Commission

In its Detailed Response No. SHA_13, AGL notes our call for the establishment of a Planning Assessment Commission to investigate this project, claiming this has been delivered.

The Scenic Hills Association withdrew its support for this back on the 23rd May 2011. Our previous support for a PAC review was made in a different legislative and political environment, and before we had professional legal advice in relation to the process. We changed our views once we understood that a merits review with public hearings would take away our right to legally appeal the merits of the determination in the Land & Environment Court (LEC). Our concern to keep this option open followed the PAC's decision on AGL's Gloucester Gas Project on the 22nd February just prior to the change of

²⁹ Refer: <http://www.dailyexaminer.com.au/news/csg-to-cut-property-values/1644228> and <http://www.couriermail.com.au/news/opinion/farm-women-join-coal-seam-gas-protest/story-e6frerdf-1226101108203>

Government that allowed AGL to pursue an *adaptive management* approach, with the community having no right to a merits appeal. Our concerns grew when the PAC approved a modification to the Camden Gas Project (*Camden Gas Project Stage 2B – Mount Taurus and Paceway Mod. 2*) that allowed AGL to drill a horizontal well (MP25) 40 metres from the Nepean River at Menangle despite vehement opposition from Campbelltown City Council³⁰ (whose judgement has now been proved correct).

We hope that this PAC will restore our confidence in the process; however it will not change our view that our right to a merits appeal in the LEC is a basic democratic right that should never have been removed, and that this means less public scrutiny, not more. We do not believe that companies seeking SSD will ever be forced to provide professional and honest EAs without this right being restored as a matter of course. We also regard this action of the NSW Government as breaking a Coalition pre-election promise to give planning back to communities.

9. Moratorium

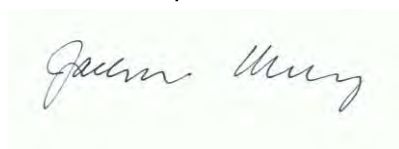
AGL has noted our support for a moratorium on CSG mining in its Detailed Response No. SHA_12.

While we continue to support a moratorium generally as stated in our original submission, we no longer believe that we need a period of further research to establish that CSG mining is inappropriate within the Sydney Metropolitan Area and other areas of unresolvable planning conflict such as here in the Scenic Hills of Campbelltown and the adjoining areas of Camden. The intensity of the industrial process, the known risks of accidents and incidents that carry a higher probability of occurrence in Stage 3, the health risks in an area that already has issues of air quality causing respiratory problems, terrorism risk (given the size of the population target), the potential destruction of amenity, alternative land use and irreplaceable heritage, and the potentially devastating financial and economic impact of property devaluation in the highly populated area overlying the proposed *subsurface project area* should be enough to warrant this project application being declined. We cannot understand how such a poor quality EA with poor risk assessment, and without a professional cost benefit analysis could ever have been accepted by the DoPI into the SSD regime.

We therefore object in the strongest terms to AGL's proposal to mine for coal seam gas in the Camden Gas Project Stage 3, Northern Expansion, and hope that this community is never again subjected to the anxiety and loss of productivity caused by having to deal with such a proposal.

We note the restrictions imposed by the time of year in securing professional advice and highlight that we may make a further submission to correct or supplement the information contained here.

Yours sincerely



Jacqui Kirkby



Greg Burke OCD

³⁰ See Council submission and PAC decision: http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4989

Appendix A:

Excerpt from Scenic Hills Association Submission to the NSW Upper House Inquiry into Coal Seam Gas (General Purpose Standing Committee No. 5), 16th September 2011, Section 4 Legislation and Regulations

4.3. Community Consultation, Transparency and Language of Disclosure

We are deeply concerned that there are insufficient legal constraints on the way in which the CSG mining industry discloses its activities to the public, and the consultation process it conducts with landholders (for access arrangements) and the community generally. This not only disadvantages landholders and others in the community but creates deep distrust.

4.3.1 Language

People can make innocent mistakes or be unclear in their communication without it being intentional, and many of us are guilty of ‘styling’ our case (SHA included).

However our concerns are with more serious issues relating to way CSG mining companies advise the public on matters that concern the public’s financial well-being, safety and health, where that communication misleads through:

- omission,
- the use of certain words,
- spin, and
- being **factually correct** while **contextually misleading**.

The following are some examples in our dealings with AGL. Others have been documented in previous sections of this submission.

AGL frequently uses the word “*independent*” when referring to consultants that are employed and paid by AGL to fulfil a specific task. In other words these consultants are ‘third party’. There is a difference between ‘outsourcing’ and independence.

Likewise AGL frequently uses, (in its EA for the CGP Stage 3 and in its CCCs) vague terms. In the CCC 25th November 2010, the SHA representative stated “Given the potential risks moving into Sydney, the community needs to have far more assurance than ‘in most’ or ‘potentially’. What are the circumstances, we need firmer language...”³¹

In the Public Forum held at Campbelltown on the 25th June, 2011, AGL’s Group General Manager, Upstream Gas refuted the claim in a video that gas companies can forcibly access landowners’ land, saying that gas companies need access agreements. He omitted to say that landholders are legally obliged to negotiate access agreements and that ultimately the vast

³¹ *Minutes of the Community Consultative Committee, AGL – Camden Gas Project, Meeting No. 27, 25th November 2010.*

majority cannot stop gas companies coming onto their land (which was the message in the video). Omitting these facts was highly misleading and was corrected by SHA at the meeting.

In an AGL advertisement in the Macarthur Advertiser on the 7th September 2011, AGL claimed that recent media reports about the Camden Gas Project were misleading. In addition to statements about Rosalind Park (referred to in the previous section), AGL's Group General Manager, Upstream Gas wrote *"I completely reject media claims that AGL would drill gas wells within 20 metres of residential homes...all new wells must be constructed at a minimum of 200 metres from the nearest existing home."*³² This is factually correct but contextually misleading as it would lead people to assume that they will not have wells closer than 200 metres. This is not correct, and was not what the media story was about. It referred to the distance that houses can be built from existing wells that have already been sunk.³³

4.3.2 Significant Errors of Fact in Environmental Assessments (EA)

There appears to be insufficient legal redress or disincentives regarding misleading information provided in EAs. AGL's EA for the CGP Stage 3 contained significant errors of fact that were potentially misleading to decision-makers. We reiterate some examples below:

- In the Main Report, on page 1-6, AGL claims, *"During the preparation of this EA, key stakeholders were identified. These stakeholders included local community groups as well as key government agencies. Throughout the preparation of the EA, these stakeholders have been kept informed of the progress of the Project and issues raised by these stakeholders have been addressed as part of the EA."* The EA further states (Main Report page 1-8), *"Well surface locations, gas gathering lines and access roads have been chosen in consultation with landowners..."* (Main Report, page 3-4) *to accommodate the primary existing land use."*

While AGL responded to SHA's request for meetings **after** the EA went on public exhibition and invited SHA onto its Community Consultative Committee, SHA was **not** included in the preparation of the EA and we are not aware of any other community groups in the Stage 3 area that were consulted. Further, other landowners, in their submissions to the DoPI have complained that they were not consulted about having wells on their land at all, or were not advised that AGL intended to put wells on their land and only found out from others after the Public Exhibition had closed (Serbian Orthodox Diocese).

- In the Main Report page 8-8, in referring to the 'undeveloped' and 'agricultural' land in the *surface project area*, AGL states, *"Much of this land has been rezoned or is proposed to be rezoned under a Draft LEP. It is therefore important to note in this regard that planned future growth in the area will result in large portions of currently undeveloped land being released and developed for a variety of land uses, thereby resulting in the*

³² "It's time to set the record straight", Macarthur Advertiser, 7th September 2011, p.14.

³³ Refer *Locational Guidelines: Development in the Vicinity of Coal Seam Methane Wells*, NSW Department of Infrastructure, Planning and Natural Resources, May 2004.

loss of existing rural and agricultural land.” This statement is not correct and would reasonably lead decision makers to dismiss community concerns about impacts on rural activities or threats to the Environmental Protection area.

- The NSW Office of Water (see section 4.1.3.1) in its submission noted that AGL made an incorrect claim to hold a 30ML/year water entitlement when it had no such entitlement or water licence.
- AGL omitted to carry over to the EA that went on Public Exhibition, from its Preliminary EA, the consultant’s recommendation that the CGP Stage 3 be referred to the Commonwealth under s70 of the *Environmental Protection and Biodiversity Act 1999* (Cth). The Preliminary EA specifically stated that the project had the potential to impact upon matters of National Environmental Significance in relation to threatened species and ecological communities.³⁴
- AGL has admitted to SHA³⁵ that it does not know how to get its gas back under pressure to its Rosalind Park gas treatment plant from up to 60% of its planned wells since the previous Minister for Planning (Tony Kelly) vetoed a new plant in the Scenic Hills. To do so it will need either infield compression or it will have to reapply for permission to build a gas plant. These facts were not included in the EA and their omission would reasonably lead the community to underestimate the ultimate impact of the development. The absence of comment, resulting from the community’s inability to comment on a project that is not fully specified, is potentially misleading to those responsible for the project’s determination.

CSG mining companies should not be able to put on Public Exhibition documents with the potential to mislead, leaving it up to others to discover the errors and omissions, but with no repercussions for the mining companies. This could induce dangerous and irresponsible game-playing by the CSG mining industry. We understand that some legal penalties apply for deliberately providing misleading information in the EA but that the onus is on the complainant to prove that it was done deliberately.

Severe penalties should apply where incorrect information or omissions could reasonably be held to have a significant impact on the determination.

4.3.3 Community Consultation and Landholder Access Agreements

There is a need for legislation to ensure that CSG mining companies do not mislead communities and landholders in the process of establishing or expanding their operations, through landholder access agreements or through formal community consultation: the Community Consultation Committees.

³⁴ Preliminary Environmental Assessment for the Camden Gas Project Stage 3, Northern Expansion prepared by AECOM for AGL Gas Production (Camden) Pty Limited, 5th February 2010, p.27.

³⁵ Meeting between SHA representatives and AGL Management, 10th December 2010.

4.3.3.1 Landholder Access Agreements

We have received a number of complaints, and there are further complaints in landholder submissions to the DoPI about the way AGL went about securing landholder consent to putting CSG wells and infrastructure on their land. The process appears to be one of ‘selling’ rather than properly ‘informing’ landholders and communities about their rights, about AGL’s proposed activities and the likely impacts and possible risks.

To be valid, landholder access agreements should be accompanied by a signed statement from the landowner that they have received and read a document compiled by the government outlining landholder rights and other important information. This would be similar to the arrangements in place between Real Estate Agents and their Vendors.

If possible, all existing landholder access agreements should be reviewed to ensure adequate compensation, remediation and insurance against damage to properties including water, with these being struck down where there are clear signs of deception or unfair negotiations.

We support the call for landholders to be given the right to say no to having CSG wells and other infrastructure on their land, but do not support the reverse, i.e. the right of landowners to say yes where this is contrary to the local zoning and local DCPs.

4.3.3.2 Community Consultative Committees (CCC)

These committees are currently set up and approved by the NSW Department of Planning under Department Guidelines.³⁶

Given the conflicts between this industry and other land use it is hard to imagine that these committees could be anything other than somewhat dysfunctional. However we note that they are intended to be set up once a mining project has been approved. Therefore our comments should apply only to committees where existing projects are in operation and need to be managed, and/or where there is future agreement about where CSG mining can co-exist in communities based on a full investigation into the science. Committees that were established to oversee exploration licences are a grey area and are bound to produce a great deal of conflict where the community has had no input into the approval process and there has been minimal legislative oversight.

Our experience on AGL’s Camden Gas Project CCC is that it is not being run in accordance with key aspects of the Guidelines which may have implications for other CCCs as there appears to be no quality control in place to ensure the proper running of the CCCs. In the time that SHA has been sitting on the CCC, we have observed that AGL is **not** fully complying with its responsibilities under the Guidelines, with no one (other than SHA) requesting that compliance, including the provision of Independent Audits (not provided since 2006 as at the last CCC in June), and the posting of the CCC Minutes on AGL’s website. In our time on the CCC, AGL has

³⁶ *Guidelines for Establishing and Operating Community Consultative Committees for Mining Projects*, NSW Department of Planning, June 2007.

mostly not provided “*timely, accurate or comprehensive reports on their operations*” and AGL has not responded within 28 days to SHA requests in the CCC.

Additionally the CCC does not appear to be properly constituted in terms of the number of community representatives (given the three LGAs represented, the community is under-represented), the types of representatives, nor the recommended selection process. AGL appears to be nominating who it wants onto the CCC, thereby compromising the CCC’s integrity as a community forum. There is no declaration of pecuniary interests in the meetings (to the extent that these exist), and SHA has raised deep concerns about the quality and accuracy of the Minutes, requesting that these be audio-recorded for accuracy if the current guideline that AGL records the minutes remains in place.

We recommend that the Guidelines and their implementation be reviewed, as our experience suggests that the current system, together with non-compliance with key aspects of the Guidelines, seems designed to facilitate the progress of this industry rather than provide a balanced and constructive dialogue between the community and the CSG companies.

Appendix B:

**Media Release from the Hon. Tony Kelly MLC, NSW Minister for Planning,
5th July 2010**

“Gas Plant Not Allowed At Varroville”

Appendix C:

Letter from the Scenic Hills Association to the Hon. Brad Hazzard, NSW Minister for Planning, 23rd August 2012 regarding AGL's application to transition the Camden Gas Project Stage 3 to the new State Significant Development Regime

Appendix D:

Select Documents acquired by the EDO on behalf of the Scenic Hills Association under s.41 of the *Government Information (Public Access) Act 2009* (NSW) (GIPA) in respect of AGL's request to transition the Camden Gas Project Stage 3 (MP09_0048) to the regime for State Significant Development

Appendix E:

**Letter to the Hon. Tony Burke, Minister for Sustainability, Environment, Water,
Population and Communities, 1st March 2011, requesting the call in of the
Camden Gas Project Stage 3(MP09_0048) for assessment under s70 of the
Environmental Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC
Act)**

Appendix F:

Email with attachment from AGL Upstream Gas to Jacqui Kirkby (Camden Gas Project Community Consultative Committee), 18th April 2012, responding to a list of questions regarding the boundaries of the Camden Gas Project Stage 3 (surface and subsurface areas) and the intention to frack.

Appendix B:

**Media Release from the Hon. Tony Kelly MLC, NSW Minister for Planning,
5th July 2010**

“Gas Plant Not Allowed At Varroville”



Hon Tony Kelly MLC
Minister for Planning
Minister for Infrastructure
Minister for Lands
Deputy Leader of the Government in the Legislative Council
Leader of the House in the Legislative Council

MEDIA RELEASE

5 July, 2010

GAS PLANT NOT ALLOWED AT VARROVILLE

AGL will not be permitted to construct a gas treatment plant at Varroville in Sydney's south west.

Minister for Planning, Tony Kelly, said following discussions with the Department of Planning and Campbelltown City Council about its proposed Camden Gas Project, AGL has written to the Department confirming it would remove the gas treatment at Varroville plant from its plans.

"The proposed gas plant was not permissible or appropriate in this area under the council's planning provisions," the Minister said.

"The Department of Planning made it clear to AGL this issue meant its proposal would not be progressed in its existing form, now or in the future, which has led directly to AGL's decision to revise its plans."

Mr Kelly said this process was a perfect example of how the NSW planning system delivers the right outcome for local communities.

"Our major projects assessment system (Part 3A) has enabled this proposal to be publicly scrutinised early in the process, well before the public exhibition stage," the Minister said.

"Had the proposal gone through the normal development application process with the local council, it is unlikely the community would have had the chance to review the plans until the assessment process was much further advanced.

"When revised plans, minus the gas plant at Varroville, are lodged, the Department of Planning will again review the adequacy of the proposal before allowing it to proceed to public exhibition."

Member for Macquarie Fields, Dr Andrew McDonald and Member for Camden, Geoff Corrigan, welcomed the announcement.

"This a great result for the community which has fought hard against this proposal," Dr McDonald said.

"I note the concerted efforts of Campbelltown City Council and community representatives in achieving a great outcome for Sydney's south west," Mr Corrigan said.

Mr Kelly said at this stage, AGL's alternative plans involve connection of the proposed Northern Expansion gas field to the company's existing gas treatment plant at Rosalind Park.

"It is up to AGL to determine the technical practicalities of this approach," the Minister said.

Appendix C:

**Letter from the Scenic Hills Association to the Hon. Brad Hazzard, NSW
Minister for Planning, 23rd August 2012 regarding AGL's application to
transition the Camden Gas Project Stage 3 to the new State Significant
Development Regime**



23rd August 2012

The Hon. Brad Hazzard
Minister for Planning & Infrastructure
Governor Macquarie Tower
Level 31, 1 Farrer Place
SYDNEY NSW 2000

Re: Camden Gas Project Stage 3 (MP09_0048) – AGL's application to have the project declared as State Significant Development (SSD), transferring it out of the transitional arrangements for the staged repeal of Part 3A of the Environment Planning and Assessment Act 1979 (the EP&A Act).

Dear Minister:

I write on behalf of the Scenic Hills Association which opposes AGL's application to expand the Camden Gas Project (Stage 3, Northern Expansion) into the Sydney Metropolitan Area of Campbelltown and Camden. I also sit on the Camden Gas Project Community Consultative Committee (CCC) as a member of the Scenic Hills Association and as a community representative for Stage 3 of the Camden Gas Project (not yet approved).

At an extraordinary meeting of the CCC on the 28th June 2012, AGL advised that it had made an application to the NSW Department of Planning & Infrastructure (DoPI) to move the Camden Gas Project Stage 3 (CGP3) into the new planning system; specifically it had applied to transfer the project from Part 3A transitional arrangements to State Significant Development (SSD).

Non-compliance with process and lack of transparency

We are deeply concerned that this application and process is **not** transparent. AGL has not provided us with a copy of its application and has not been able to satisfactorily explain why it is making it. The DoPI (Clay Preshaw) has confirmed orally to us that AGL has made this application, yet it is now six weeks since we were informed and still nothing has appeared on the DoPI website relating to this, even though we understand that the DoPI has an obligation to publish this information on its website within five days of receiving it.

Not in the spirit of the SSD legislation

It is our understanding that the abolition of Part 3a and its replacement with SSD legislation was to improve responsiveness to the community and its participation. We can be excused for treating this legislation with some cynicism under the circumstances of this application to transfer:

1. We understand that if a declaration is made, AGL will not have to do another Environmental Assessment or public exhibition process, and can pick up where it left off under Part 3A. AGL has stated in the aforementioned CCC that this is its intention. Since AGL has not yet provided its Response to Submissions Report it is not clear to us whether the project has sufficiently changed to warrant a re-exhibition, however indicative information provided by AGL to the CCC suggests that it may well require this.

P.O. Box 5946, MINTO NSW 2566
Phone: 0411 873 999
www.scenic hills.org.au
Email: kirkby@scenic hills.org.au

2. We are deeply concerned that AGL may be seeking to transfer this project to SSD to avoid the prohibitions on extractive industries that would apply under Part 3A, in particular within the new zonings under the Camden Local Environment Plan 2010 (Camden LEP 2010), and or to elements of the project that have already been rejected under Part 3A (a gas treatment plant).
3. We are further concerned that AGL may be **minimising the initial footprint** of the project to assist this transfer, i.e. to avoid having to re-exhibit, to avoid judgement about its motives and/or avoid legal challenge, knowing full well that it can apply later for piecemeal modifications to the project - as has been the pattern of its operations to date in the Camden Gas Project. We note in particular, the minimisation of the number of wells and the still unsolved problem of how it can get its gas back under pressure to the Rosalind Park Gas Treatment Plant – requiring (as yet unspecified) in-field compression or a new gas treatment plant within the Sydney Metropolitan Area. **This project must be fully specified without the option of applying for later modifications (which we understand the current legislation would allow)**; else the community would be right to lose all confidence in the NSW Coalition Government's promise to change the planning system to allow greater community participation and fairness.

We look forward to your advice in this matter and ask that we receive a response prior to any decision on this application by AGL.

Yours sincerely



Jacqui Kirkby
Scenic Hills Association

Cc Panel Secretariat, Planning Assessment Commission, by email: pac@pac.nsw.gov.au

Appendix D:

Select Documents acquired by the EDO on behalf of the Scenic Hills Association under s.41 of the *Government Information (Public Access) Act 2009* (NSW) (GIPA) in respect of AGL's request to transition the Camden Gas Project Stage 3 (MP09_0048) to the regime for State Significant Development



If completing this form in soft copy, tab or arrow through the fields. Refer to the Business Contact Protocol for information.

Field	Details
Contact information	
Date of Contact	09 / 12 / 2011
Type of Communication <i>Check one</i>	<input type="checkbox"/> Telephone Call <input checked="" type="checkbox"/> Meeting
Start time	11:00 <input checked="" type="checkbox"/> AM or <input type="checkbox"/> PM
Finish time	12:00 <input type="checkbox"/> AM or <input checked="" type="checkbox"/> PM
Venue (required for meetings)	<input checked="" type="checkbox"/> Government offices <input type="checkbox"/> Council premises <input type="checkbox"/> On site <input type="checkbox"/> Other
Name/Address of Venue (required for meetings)	
Business Contact details	
Type of contact <i>Check one</i>	<input checked="" type="checkbox"/> Developer or agent of a developer <input type="checkbox"/> Council or gov't agency acting as a developer <input type="checkbox"/> Planning Consultant <input type="checkbox"/> Council or gov't agency acting as a proponent <input type="checkbox"/> Proponent <input type="checkbox"/> Council or gov't agency acting as an objector <input type="checkbox"/> Objector <input type="checkbox"/> Other <input type="checkbox"/> Community Group <input type="checkbox"/> Environmental Group
Attendees or participants	1. Name: DAVID KELLY Title: Land & Approvals Manager Organisation: AGL ENERGY LTD 2. Name: / Title: / Organisation: / 3. Name: / Title: / Organisation: /
Other attendees or participants (Name, Title, Organisation)	
Officer Details	
Primary Officer (1)	Name: CHRIS WILSON Title: ED, MPA
Additional Officer/s (2 - ∞)	Names, Titles: HOWARD REED Manager Mining Projects
Office <i>Check one</i>	<input type="checkbox"/> ODG <input checked="" type="checkbox"/> DASP <input type="checkbox"/> S&LR <input type="checkbox"/> PMUR <input type="checkbox"/> CG&P
Branch	
Project Details	
Project Number, or ID Number, or Topic	MP 09 - 0048
Project Title or Location Name	Cumden Gas Project - Stage 3
Address of site, project, proposal, or application	
Name of Local Government area	
Subject & Outcome	
Subject Matter <i>Brief summary - max 120 characters</i>	1. Status of Stage 3 PA & ATS 2. Status of other AGL projects - Newcastle, and 3. Other matters - Mining SEPP, Gloucester Gas and Gloucester Coal interactions

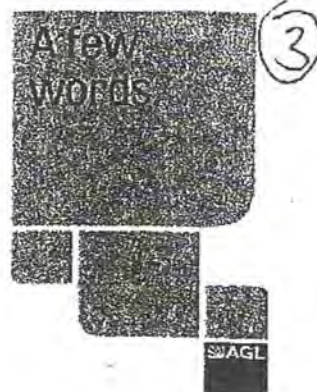
2

Field	Details
Matters discussed Re 1:	PAC indicated that it was considering options re transitioning the existing Stage 3 PA to the new SSD regime. Dept indicated this could only be done via a SEPP or a Ministerial declaration, consequent to PAC advice.
Re 2:	<p style="text-align: center;">Gloucester</p> <p style="text-align: center;">out of scope</p> <p style="text-align: center;">Gloucester Cont</p>
Re 3:	No amendments had been provided to the existing SEPP re petroleum pipeline permissibility in the current climate.
Notes	No action arising.
Primary Outcome – select one Check one	<input type="checkbox"/> Meeting declined <input checked="" type="checkbox"/> Department provided advice on process <input type="checkbox"/> Department provided advice on progress of the matter/project <input type="checkbox"/> Additional information to be provided by other parties to the meeting <input type="checkbox"/> Matter to be referred to or discussed with another party <input type="checkbox"/> Parties agreed to reconvene <input type="checkbox"/> No further action
Other Outcomes Check applicable	<input type="checkbox"/> Department provided advice on process <input checked="" type="checkbox"/> Department provided advice on progress of the matter/project <input type="checkbox"/> Additional information to be provided by other parties to the meeting <input type="checkbox"/> Matter to be referred to or discussed with another party <input type="checkbox"/> Parties agreed to reconvene <input type="checkbox"/> No further action
Approval	
Name of Officer completing form	Name: HOWARD REED Title: Mgr Mining Projects Signature: Howard Reed Date: 22.12
Name of Officer approving this form	Name: GARY WILSON Title: MPA Signature: [Signature] Date: 10.1.17

Note: Saving/Filing

Completed Business Contact Forms must be saved in the relevant project file in Objective within 10 working days of the date of the contact. The document title must include:

- the words 'Business Contact'
- the type, e.g. 'Proponent', 'Developer', 'Objector', etc.
- the name of the relevant Office dealing with the issue i.e. 'ODG', 'DASP', 'S&LR', 'PMUR', or 'CG&P'
- the date of the contact in 'YYMMDD' format.



Camden Gas project – Northern Expansion

- AGL lodged major project application for the Camden Gas Project, Northern Expansion in January 2009.
- DP&I was involved in May 2010 in achieving a mediated outcome with Campbelltown Council in regard to various matters including the voluntary removal by AGL of a proposed Gas Plant at Varroville in the Camden North proposal.
- An Environmental Assessment Report relating to Camden North Project was publicly exhibited from 26 October 2010 to 7 December 2010. A total of 24 submissions have been received, including agencies, with submissions being accepted as late as Dec 2011.
- In response to broad community concerns about Part 3A, Part 3A was repealed and replaced with the new SSD regime.
- Since Part 3A was repealed, AGL has continued to progress the Project as a Transitional Part 3A Project and has now nearly completed its Submissions Report.
- However, Schedule 6A of EP&A Act was amended on 1 December 2011 to allow Transitional Part 3A Projects to transition into SSD.
- AGL wrote to DP&I on 22 December 2011 seeking confirmation of the process for transitioning Camden North into SSD. We await a response but understand that the Department is obtaining advice on this issue.
- The project is clearly of State significance as:
 - it is necessary for ensuring the security of gas supply for NSW;
 - it has a value of \$100 million; and
 - it would be SSD under the State Environmental Planning Policy (State and Regional Development) 2011 were it not currently a transitional Part 3A Project.
- AGL understands that project would need to be referred to the PAC for advice on the State or regional planning significance of the project before it can be declared to be SSD.
- The Guideline on the Call in on SSD Projects sets out an application process for the exercise of the SSD call in powers. AGL would like to lodge a formal application under this process as soon as possible.
- Schedule 6A allows Part 3A Projects to transition into the SSD regime at the same stage it was in under Part 3A.
- The Project has been in the NSW Planning System since January 2009. AGL is accordingly very keen to finalise the assessment of the Project and get a determination as soon as possible.
- Accordingly, AGL would like to transition into SSD at the response to submissions and preferred project report stage. In the event that any additional matters require some further assessment, AGL is happy to address these as part of the response to submissions report.

CAMDEN STAGE 3 - APPROVALS PATHWAY

Security of gas supply for NSW
Value of project: \$100,000,000
Jobs created: 60 new construction jobs, 7 new operations jobs, maintenance of 35 existing jobs

OPTIONS

STATUS 22/09/11

OUTCOME

OPTION 1 - CURRENT PROJECT APPLICATION

- Application first lodged on 13/02/09.
- Draft response to submissions report prepared.
- Permissibility issue raised.

AWAITING OUTCOME OF CONCEPT PLAN MODIFICATION APPLICATION

OPTION 2 - OBTAIN CONCEPT PLAN MODIFICATION & THEN CONTINUE WITH THE CURRENT PROJECT

- Modification application lodged, no formal response received from DoPI.
- Legal advice provided on concept plan modification - modification sought is permissible under s75W.
- DoPI to formally advise on status of the application.

AWAITING DoPI DECISION

OPTION 3 - AMEND MINING SEPP

- DoPI is currently making some amendments relating to the repeal of Part 3A.
- AGL suggested amendments sent to DoPI.
- Howard Reid of DoPI is progressing.

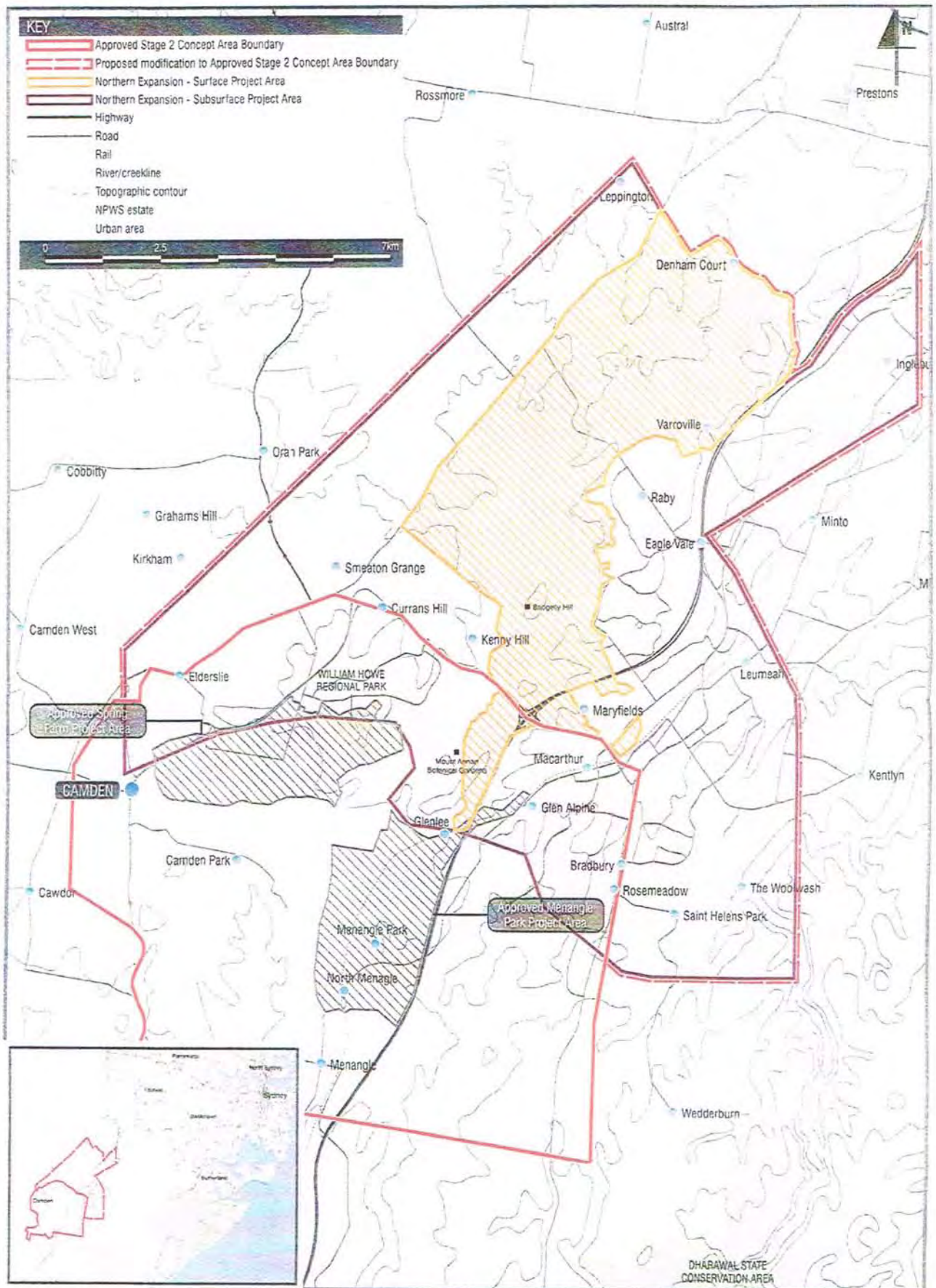
AWAITING DoPI DECISION

KEY MILESTONES

- Exploration period completed
- Submissions received
- Draft submissions report prepared
- Extensive stakeholder engagement undertaken
- Tinting

- Camden North Project is already significantly progressed with the Stage 2 Project the subject of the concept plan
- Camden North Project will be based on the same location principles as the Stage 2 concept plan area
- Gas from Camden North will flow to existing network within Stage 2 Concept Plan area to Roseland Park Gas Plant
- Addresses permissibility issue

- Addresses identical SEPP differences not just for the Camden Stage 3 project but all CSG projects
- Addresses permissibility issue
- Encourages co-location of infrastructure
- Infrastructure corridors
- However, time frame and outcome uncertain



AECOM

**CAMDEN GAS PROJECT NORTHERN EXPANSION AND PROPOSED
MODIFICATION TO THE STAGE 2 CONCEPT AREA**
Concept Plan Modification
Camden Gas Project, New South Wales

FIGURE 2



9 March 2012

Mr Chris Wilson
Department of Planning and Infrastructure
23-33 Bridge Street
Sydney NSW 2000

Dear Chris

**Stage 3 of the Camden Gas Project (09_0048)
Application for a transitional Part 3A Project to become
State significant development**



1. Application

The purpose of this letter is to apply to have Stage 3 of the Camden Gas Project, also known as the Northern Expansion (**Stage 3 Project**), to be declared as State significant development (**SSD**).

2. Background

AGL Upstream Investments Pty Ltd (**AGL**) lodged major project application 09_0048 (**Stage 3 Application**) seeking project approval under Part 3A of the *Environmental Planning and Assessment Act 1979 (NSW)* (**EP&A Act**) for the Stage 3 Project.

An Environmental Assessment Report (**EA Report**) relating to the Stage 3 Application was publicly exhibited from 26 October 2010 to 7 December 2010 and 24 submissions have been received. Since that time, AGL has continued to progress the Stage 3 Project, including by:

- commissioning Parsons Brinckerhoff to carry out a Phase 1 and 2 groundwater study and investigation for the Northern Expansion Area to address the concerns raised about water issues in the submissions;
- continuing ongoing consultation with key stakeholders including local landowners, local associations, and the Sydney Catchment Authority and Botanic Gardens;
- working on refinements to the proposed location of certain project infrastructure to address issues raised in submissions and during ongoing consultation; and
- carrying out further assessment of the impact of these refinements (including in relation to flora and fauna and cultural heritage).

With effect on 1 October 2011:

- Part 3A of the EP&A Act was repealed subject to transitional provisions inserted into Schedule 6A of the EP&A Act (**Transitional Provisions**);
- new regimes, including the new SSD regime, were inserted into the EP&A Act; and
- *State Environmental Planning Policy (State and Regional Development) 2011* (**SRD SEPP**) commenced.

The Transitional Provisions have the effect of making the Stage 3 Application a "transitional Part 3A project" to which Part 3A continues to apply notwithstanding its repeal. But for the Transitional Provisions, the Stage 3 Project would be SSD under the SRD SEPP.

On 1 December 2011, the Transitional Provisions were amended, including by inserting a new clause 6 in Schedule 6A which contains provisions enabling "transitional Part 3A projects" to be declared to be SSD and transitioned into the SSD regime.

Section 89C(3) of the EP&A Act enables the Minister for Planning and Infrastructure (Minister), by order published in the Gazette, to declare specified development on specified land to be SSD if the Minister has first obtained and made publicly available advice from the Planning Assessment Commission (PAC) about the State or regional planning significance of the development.

The Department of Planning and Infrastructure (Department) has prepared a "Guideline on 'call-in' of State significant under the Environmental Planning and Assessment Act" (Guideline). The Guideline specifies the procedure for applications seeking to have a project declared to be SSD and sets out a number of general issues to be considered in determining the State or regional planning significance of a proposal.

The Minister has provided the Guideline to the PAC and requested the PAC to consider the general issues relating to State or regional planning significance identified in the Guidelines in providing advice under section 89C(3) of the EP&A Act.

3. Matters Required by the Guideline

The Guideline requires that applications include or be accompanied by the following:

(a) Details of the proponent and landholders

Proponent: AGL is the Proponent of the Stage 3 Project. Please refer to section 1.2.1 of the enclosed copy of the EA Report which contains further details relating to AGL.

Landholders: Please refer to section 2.2 of the enclosed copy of the EA Report which contains details of the landholders whose land will be directly impacted by the Stage 3 Project.

(b) A description of the site and its surrounds, both locally and regionally

Please refer to sections 2.1, 2.3 and 8.1 of the enclosed copy of the EA Report which contain a description of the site and its surrounds, both locally and regionally.

(c) A description of the development proposal, including an estimate of the capital investment value of carrying out the proposal.

In summary, the Stage 3 Project includes:

- the construction and operation of gas wells at up to 12 well surface locations containing up to 6 well heads each;
- the construction and operation of associated gas gathering and water lines, including interconnection with the existing gas fields which form part of the Camden Gas Project, along with central water storage points where required;
- the construction of access roads and ancillary infrastructure, including storage yard(s), where required; and
- subsurface drilling of lateral well paths within the boundaries of the Subsurface Project Area.

A detailed description of the Stage 3 Project is contained in section 4 of the enclosed copy of the EA Report.

The estimated capital investment value for the Stage 3 Project is in the order of \$100 Million.



(d) A statement about its permissibility under environmental planning instruments and any supporting information

Please refer to section 5.3.2 of the enclosed copy of the EA Report which contains a statement of the permissibility of the project under the applicable environmental planning instruments.

In the interests of completeness, AGL notes that one of the submissions received in relation to the Stage 3 Project asserted that the Stage 3 Project is not permissible in the Environmental Protection (Scenic) Zone in the *Campbelltown Local Environmental Plan – District 8 (Central Hills Land)* (being Zone 7(d1)). In addition, this submission asserted that AGL's characterisation of the Stage 3 Project is incorrect. While AGL does not necessarily agree with the views expressed in the submission, it accepts that, whilst permissibility is a jurisdictional fact, minds can differ as to the permissibility of a project.

Even if the Stage 3 Project is not permissible in Zone 7(d1), it is clear that the Stage 3 Project is not wholly prohibited and so could be approved as SSD.

(e) A full justification – addressing the issues relating to the State and regional planning significance of the development proposal

AGL submits that the Stage 3 Project is of State planning significance for the following reasons:

1. Under the provisions of the SRD SEPP, the Stage 3 Project would be SSD were it not currently a transitional Part 3A project.
2. The Stage 3 Project delivers the major public benefit of assisting in securing indigenous gas supply for NSW:
 - The NSW gas distribution network supplies natural gas to more than 1,040,000 gas consumers via approximately 24,000 kilometres of mains.
 - NSW currently imports 94% of its gas supply from interstate.
 - According to the Australian Energy Market Operator (AEMO), winter peak gas demand (1 in 20 probability of exceedence) for NSW/ACT is expected to be 616 terajoules per day (TJ/day) in 2010, 700 TJ/day in 2014 and 766 TJ/day in 2019. The great majority of gas supplied into the NSW gas network is imported from interstate from the:
 1. Cooper-Eromanga Basin (South Australia/Queensland), along the Moomba to Sydney Pipeline (MSP) which has a capacity of 420 TJ/day;
 2. Gippsland Basin (Victoria), along the Eastern Gas Pipeline (EGP) which has a capacity of 268 TJ/day; and
 3. Bowen-Surat Basin (Queensland), along the South West Queensland Pipeline (SWQP), the QSN Link and ultimately the MSP.
 - Therefore, the total installed gas pipeline capacity into the NSW/ACT market is 688 TJ/day. Based on AEMO's forecasts, the current gas pipeline capacity will shortfall the winter peak day gas demand by 2014.
 - Temporary disruptions to the supply chain can and do cause gas shortages. For example:
 1. In 2007, NSW experienced a shortfall of supply resulting from coincident gas demand peaks in NSW, SA, and VIC, requiring the curtailment of large industrial and commercial customers and resulting in an estimated two days lost production for 30-40% of NSW largest commercial and industrial gas customers.



2. In 2008 there was another gas supply shortfall, resulting from an infrastructure failure at the Moomba gas production facility in SA which resulted in the curtailment of large industrial and commercial customers for approximately 24 hours.
3. In 2010 there were a number of separate infrastructure failures at the Moomba gas production facility in SA. The resulting curtailment of large industrial and commercial customers as a result was only narrowly avoided.
- CSG produced in NSW represents a small but growing proportion of gas supplied into the NSW gas network. NSW production is currently limited to the Camden Gas Project which supplies approximately 16 TJ/day or approximately 6% of NSW's gas needs.
- The expansion of CSG development in NSW, including by the Stage 3 Project, would improve gas supply security to NSW and enable it to better meet its growing energy needs by providing an alternative gas source independent of:
 1. gas field production facilities with ageing infrastructure in SA, VIC and QLD; and
 2. existing pipeline capacity constraints.

Please refer to section 20 of the enclosed copy of the EA Report for more information about the social and economic impacts of the Stage 3 Project.

2. The Stage 3 Project is of significant economic benefit to the State.

- As outlined above, the estimated capital investment value for the Stage 3 Project is in the order of \$100 Million.
- The Stage 3 Project is likely to have a positive impact on regional and State economies due to the provision of an indigenous gas supply (please refer to point 1 above).

Please refer to section 20 of the enclosed copy of the EA Report for more information about the economic impacts of the Stage 3 Project.

3. The Stage 3 Project is geographically broad in scale:

- The Stage 3 Project covers land within both the Camden Local Government Area and the Campbelltown Local Government Area.
- The Surface Project Area, which includes all land on which it is proposed to locate surface infrastructure as part of the Stage 3 Project, covers 3,900 hectares.
- In addition to this, the Stage 3 Project covers an additional 10,500 hectares of Subsurface Project Area, being the land on which it is proposed drill lateral gas wells but not to carry out any surface works.

4. Coal seam gas is a relatively new industry in NSW. AGL recognises that there is significant community concern regarding the environmental impacts, particularly groundwater impacts, of the coal seam gas industry. AGL considers that the extent of this concern makes it appropriate for the Stage 3 Project to be subject to State coordinated assessment and the specialist expertise of the PAC under the SSD process.

Please refer to the enclosed copy of the EA Report which contains an assessment of the environmental impacts of the Stage 3 Project for more information.



(f) If relevant, disclosure of any reportable political donations under section 147 of the EP&A Act

AGL submitted a political donations disclosure statement dated 13 February 2009 at the time the Stage 3 Application was lodged. Enclosed is an updated political donations disclosure statement.

(g) A fee of \$3000

Payment of \$3,000.00 will be made by EFT to the Department. Remittance will be sent following our payment.

4. Next Steps

Further to clause 6(b) of Schedule 1 of the EP&A Act, I would be grateful if you could confirm that that actions which we have taken under Part 3A of the EP&A Act in relation to the Stage 3 Application (that is, environmental assessment requirements and public exhibition) are taken by the Department to be actions taken under the corresponding provisions of Part 4 of the EP&A Act.

AGL understands that, following this application, the Stage 3 Project will be referred to the PAC for a determination as to whether it is of State or regional planning significance.

Please contact me if the Department or the PAC would like any further information regarding any of the matters contained in this letter.

Yours sincerely,

David Kelly

Head of Land & Approvals - Upstream Gas

- » Being selected as a member of the Dow Jones Sustainability Index 2006/07
- » Gaining accreditation under the National GreenPower Accreditation Program for AGL Green Energy®, AGL Green Living® and AGL Green Spirit.
- » Being selected as a constituent of the FTSE4Good Index Series

Appendix E:

Letter to the Hon. Tony Burke, Minister for Sustainability, Environment, Water, Population and Communities, 1st March 2011, requesting the call in of the Camden Gas Project Stage 3(MP09_0048) for assessment under s70 of the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act)



1st March 2011

The Hon. Tony Burke
Minister for Sustainability, Environment, Water, Population and Communities
C/o Referral Business Entry Point
Environment Assessment Branch
Sustainability, Environment, Water, Population and Communities
GPO Box 787
CANBERRA ACT 2601

Email: epbc.referrals@environment.gov.au

Dear Minister

CAMDEN GAS PROJECT - STAGE 3 (MP09_0048)

We are writing to you to request that you call in the Camden Gas Project –Stage 3 (MP09_0048) (**the Northern Expansion**) for assessment under s70 of the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**).

The Scenic Hills Association (**SHA**) is a community group based in the suburbs of Varroville and St Andrews in the south west of Sydney. Our aims are to maintain the semi-rural and environmentally protected status of the land in the area. We are concerned that the Northern Expansion will have a significant impact on a number of matters of National Environmental Significance (**NES**) and accordingly make this request to you to call the project in for assessment.

Significant impact on matters of National Environmental Significance

The Northern Expansion is being proposed by AGL Gas Production (Camden) Pty Limited (**AGL**). A Preliminary Environmental Assessment (**Preliminary EA**) was prepared by AGL's consultant (AECOM) on 5 February 2010, and full Environmental Assessment (**EA**) was prepared in October 2010.

We draw your attention to page 27 of the Preliminary EA, where AGL's own consultant **recommends** referral of the Northern Expansion to the Commonwealth under the EPBC Act for its impact on matters of NES. The Preliminary EA specifically states that the project has the potential to impact upon matters of National Environmental Significance in relation to threatened species and ecological communities (refer page 27).

Whilst the EA does not contain the same recommendation, it nevertheless identifies a number of potential impacts on the proposed Project on matters of NES. In particular, we draw your

attention to the following, noting that a significant number of Commonwealth-listed threatened species and ecological communities are located within the project area:

1. *National Heritage Places*

A total of 77 places listed on the Register of the National Estate have been identified within the search area of the EA and are protected by the provisions of the EPBC Act (refer page 5-1 of the EA).

2. *Wetlands of National Importance*

The proposed Northern Expansion would be located within the same catchment as a Ramsar site, Towra Point Nature Reserve (refer page 5-1 of the EA). Accordingly, we are of the view that there is the potential for a significant impact on the Ramsar Wetland.

3. *Commonwealth-listed Threatened Species*

Three threatened ecological communities and 41 Commonwealth listed threatened species (18 fauna and 23 flora) have been identified (refer page 5-1 of the EA). Accordingly, the potential exists for the proposed Project to have significant on threatened species under the EPBC Act.

a. *Flora: Threatened species*

The EA states that a total of 32 threatened flora species listed under the *Threatened Species Conservation Act 1995* (NSW) (**TSC Act**) and/or the EPBC Act have potential habitat within the locality (refer page 11-17 of the EA).

Moreover, based on habitat assessments during field surveys and other criteria, the EA identifies a high likelihood of occurrence for six threatened flora species recorded in the area (refer page 11-17 of the EA).

b. *Flora: Endangered ecological communities*

There are five native plant communities mapped as occurring in the Surface Project Area for the Northern Expansion (refer page 11-3 of the EA).

Four of these native plant communities are listed as endangered ecological communities under the TSC Act and Cumberland Plain Woodland (incorporating Shale Hills Woodland and Shale Plains Woodland) is listed as a critically endangered ecological community on the EPBC Act (refer page 11-17 of the EA).

c. *Fauna: Threatened species*

A total of 52 threatened and migratory fauna species have been recorded in the locality including 15 threatened species with dual listing under the TSC and EPBC Acts, 15 species listed solely under the TSC Act and 11 migratory species listed under the EPBC Act.

Moreover, based on habitat assessments during field surveys and other criteria there is a high likelihood of occurrence for five threatened bird species, six threatened bat species and a threatened invertebrate in the area (refer page 11-17 of the EA).

4. Commonwealth-listed Migratory Species

There are 14 migratory species that have been identified within the search area (refer page 5-1 of the EA). Moreover, there are 11 migratory species listed under the EPBC Act (refer page 11-18 of the EA).

The SHA is concerned that the Northern Expansion project is likely to have a significant impact on matters of NES, at least in relation to the matters identified above in AGL's own environmental assessment reports prepared for the State Government. We believe that the matters outlined above warrant the project being called in under the EPBC Act for assessment at a Commonwealth level.

We request your response as to the action the Commonwealth proposes to take in respect of the Northern Expansion within two weeks of the date of this letter, being by **15th March 2011**.

Yours faithfully

Jacqui Kirkby

The Scenic Hills Association

Appendix F:

Email with attachment from AGL Upstream Gas to Jacqui Kirkby (Camden Gas Project Community Consultative Committee), 18th April 2012, responding to a list of questions regarding the boundaries of the Camden Gas Project Stage 3 (surface and subsurface areas) and the intention to frack.

jkirkby

From: "Jacqui Kirkby" <jacqui_k@tpg.com.au>
To: "Jacqui Kirkby" <jkirkby@scenichills.org.au>
Sent: 17 December 2012 19:32
Attach: Camden CCC questions_April.pdf
Subject: Fw: Further well information

Jacqui Kirkby
 Scenic Hills Association
www.scenichills.org.au

----- Original Message -----

From: Adam Lollback
To: Jacqui Kirkby
Cc: 'Margaret MacDonald-Hill'
Sent: Wednesday, April 18, 2012 6:09 PM
Subject: RE: Further well information

Hi Jacqui,

Please find attached the response to your recent questions.

I have copied Margaret to this email so the information can be distributed for the benefit of all CCC members.

In regards to your question below, it seems the information as you've stated as being on the ABC website is inaccurate. The ED01 and CU18 wells were stratigraphic exploration wells, which were completed in 2010. These wells were not producing wells, and have been fully rehabilitated.

Regards,

Energy in
action™

Adam Lollback
 Land & Approvals Manager - Upstream Gas

AGL Energy Limited
 L20, 101 Miller St
 North Sydney NSW 2060
 Locked Bag 1837 St Leonards NSW 2065
 M: 0404 027 940
 T: 02 9921 2017
 F: 02 9921 2474
 E: alollback@agl.com.au
www.agl.com.au



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Please consider our environment before printing this email.

From: Jacqui Kirkby [mailto:jkirkby@scenichills.org.au]
Sent: Wednesday, 18 April 2012 7:08 AM
To: Adam Lollback
Cc: Aaron Clifton; Mike Roy; John Ross
Subject: Further well information

Dear Adam

CCC questions

1. Since the SIS wells run for up to 2.5km but the **sub-surface area** of the Northern Expansion appears to extend well beyond that from any of the proposed well heads, what does the **sub-surface area** represent (ie what is the expected and/or planned impact of csg extraction operations in that area beyond the SIS bore hole)?

SIS wells can be up to 2.5km in length, depending on the properties of the coal, gas can flow from an area beyond this point. The subsurface area reflects the area that AGL proposes to produce gas from. All SIS well paths are contained well within this subsurface area.

This subsurface area is also a reflection of petroleum production licence (PPL) 5 and an additional PPL, which will need to be granted to allow the northern project area to produce gas.

2. Does the de-watering of the coal seam using a SIS well result in water being pulled from the seam **beyond** the drilled bore hole of the SIS well?

The proposed SIS well paths in the Northern Expansion area will be drilled parallel to each other in order to effectively produce gas from the coal seams. Due to the nature of the local coal seams, gas and water production is understood to be limited to area 100 metres either side of the lateral well path. Comprehensive reservoir modelling is currently being undertaken to add to our knowledge on the drainage area (CSG water & gas) from horizontal laterals.

Like all CSG wells, in order to initiate and maintain gas flow from coal, the water (which is naturally occurring in the coal seam) must be removed from the targeted coal seam (allowing the gas to desorb from the coal). There are various other factors that contribute to maintaining gas flow from the wells. Some examples of variables include the geology of the particular area, and the permeability of that particular area of the coal seam. Depending on the permeability of the coal seam, water (and gas) is likely to be sourced from a certain area surrounding the section of the well bore within the target coal seam. The confining nature and integrity of the layers above and below the target coal seam confirm only water from the target seam is extracted.

3. Can/will gas be drawn from the coal seam beyond the drilled bore hole of the SIS well or can gas only be accessed to the limit of the bore hole (ie 2.5km if that is the limit of the bore hole)?

As in question 2 because of the nature of the coal seams only the area to either side of each well path will effectively drain the coal.

4. Has AGL EVER fraced an SIS well bore hole in the past?

In October 2007, AGL in partnership with the CSIRO conducted a research on two early SIS wells that were drilled into a low permeability area. The objective of this technical R&D was to determine if gas production could be achieved by further stimulation of a low permeable horizontal well. The trial was conducted and deemed unsuccessful. As such, fracturing technology is not considered suitable for horizontal wells. As previously communicated, AGL has no intentions to fracture stimulate any of the proposed Camden North horizontal wells.

5. Can AGL guarantee that it will NEVER frac a SIS well bore hole in the future?

With technology changing constantly throughout the industry, it would be inappropriate for AGL to make guarantees that would not allow the company to evolve with technological advances. Although it is extremely unlikely and not current practice to fracture an SIS well, AGL cannot guarantee that it will never fracture an SIS well in the future. If fracturing were to occur, AGL would be required to seek all necessary regulatory approvals.

6. If the planned wells for the Stage 3 Northern Expansion cannot extract gas from the whole **sub-surface area** (as mapped in the EA), will AGL seek later modifications to Stage 3 to drill wells in other locations of the planned **surface area** OR expand the **surface area** of Stage 3 in order to extract gas from the outer limits of the mapped **sub-surface area**?

AGL plan to drain all the recoverable gas from the coal seams in the first instance by optimising the placement and design of development wells. If a situation arose in the life of the project where there was a case for drilling more wells, AGL may seek to modify approvals. This is not the preferred option, as it is an extensive process. Any modification to the existing approval would require an additional consent, via an application through the environmental approvals process.

7. Can AGL guarantee that it will not penetrate beyond or have any impact beyond the mapped boundaries of **sub-surface area** in the EA with particular reference to the limit of the **sub-surface area** at Denham Court and land in the Liverpool Council area (ie AGL will not draw water or gas from coal seams beyond the mapped boundary or have any other related impact **beyond** the mapped boundaries from its operations **within** the mapped boundaries of Stage 3)?

It is likely that the planned PPL in the Denham Court area will match the subsurface project area (as described in the answer to question 1). AGL will not have rights to drill outside subsurface project area.

However, coal is a complex geological reservoir, and there are a number of factors to consider. As described above, comprehensive reservoir modelling is currently being undertaken to add to our knowledge on the drainage area from horizontal laterals. It would be inappropriate for AGL to make a guarantee on the extent of the gas drainage area within the coal seam.