

Our ref: R11/0033 Out-21396

12 April 2013

Mr Daniel Keary  
Director Strategic Regional Policy  
Department of Planning and Infrastructure  
GPO Box 39  
SYDNEY NSW 2001

Email: [srlup@planning.nsw.gov.au](mailto:srlup@planning.nsw.gov.au)

Dear Mr Keary

### **CSG Exclusion Zones – Proposed Amendments to Mining SEPP**

Local Government New South Wales (LGNSW) welcomes the opportunity to provide feedback on the draft amendments to the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 - known as the Mining SEPP. We note that the proposed amendments would prohibit coal seam gas (CSG) development:

- on or under land in and within 2km of a residential zone or future identified residential growth areas; and
- on or under land which is in a Critical Industry Cluster (CIC), and that currently, two CICs have been identified - the Upper Hunter equine and viticulture CICs.

We also note that this proposed amendment to the Mining SEPP is a second and separate amendment to those which were proposed in late 2012 to put into effect the gateway process for strategic regional land use plans (SRLUPs). LGNSW made a separate submission on these amendments. Comments on these most recent proposed amendments are outlined below.

#### **1. Future residential growth areas**

The future residential growth areas map being exhibited as part of the SEPP amendment currently only covers the North West and South West Growth Centres in the Sydney metropolitan region. LGNSW notes that the Department of Planning and Infrastructure is currently compiling information on all future growth areas across the State in consultation with councils, to include in a final map prior to the finalisation of the SEPP amendment. LGNSW encourages the Department to finalise these maps as soon as possible to minimise uncertainty.

#### **2. Excluding certain R5 areas – Potential confusion**

By not including R5 zones along with the other residential exclusion zones, and placing certain criteria on only particular selected areas within R5 zones, we expect confusion among councils and rural residential property owners. If CSG extraction activity is deemed to be inappropriate in and within 2km of residential zones, it will be difficult to uphold a distinction between R1 – 4 and R5, given that all are “residential zones” under the Standard Instrument LEP. It raises the question as to how and why the Government has made this distinction.

Councils and communities may consider that the exemption should apply to all “residential zones” under the Standard Instrument LEP, including R5 subdivisions. If all residential zones were included in the CSG prohibitions, and there were no distinctions made between zones and no “R5 village criteria”, this would negate the need to introduce evaluation of nominations from councils as another planning approval layer. For simplicity and consistency, it would therefore appear to be a more practical approach, particularly in the context of removing complexity within our planning system which is one of the platforms of the wider planning system reform.

### **3. Council exemptions**

Allowing councils to opt out of the provisions of the SEPP by identifying land to be exempted from the CSG prohibition, is consistent with the overall message of returning powers to councils and is a position that is strongly supported by LGNSW.

We note in the *Frequently Asked Questions* alongside the draft amendments that the “NSW Government believes that local councils know their local areas better than anyone and is giving councils greater say in the planning decisions that affect their area”. Local Government would like to see the Government extend this principle, giving councils greater control over their local areas, into other planning initiatives.

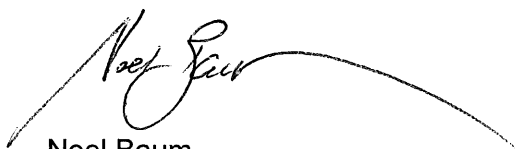
We understand that the Department does not intend to apply any sort of ‘assessment’ of requests by councils for exemption to this policy, and that following receipt of such a request, the Department would make a subsequent amendment to the SEPP by adding the identified land to Schedule 2 (referred to in clause 9A).

There are some practical implications in the application of this exemption provision that we wish to raise:

- Will the opt-out areas only apply to specific localised areas of land within the LGA, rather than a blanket LGA-wide exclusion that would apply to all residential zoned land in the LGA?
- Would there be any intention or requirement for the Department to publicly exhibit any proposed additions to the Schedule 2 prior to amending it?
- What happens in the event that a new council decides they wish to reverse a decision (of a previous council) to opt out? There could be potential economic ramifications for companies which may have invested in the area on the basis of the council-initiated exemption, which could create uncertainty for those investors/companies.

Ms Jane Partridge (phone 9242 4093; email [jane.partridge@lgnsw.org.au](mailto:jane.partridge@lgnsw.org.au)) is available to discuss these matters with your staff, should you wish to contact LGNSW.

Yours sincerely



Noel Baum  
**Director - Policy**