INQUIRY INTO UNCONVENTIONAL GAS IN VICTORIA

I make this submission for the Committee's consideration particularly in relation to items 3 and 6 of the Terms of Reference which refer respectively to the impacts of the unconventional gas industry on existing land and water uses and to the management of risks in similar industries.

My experience as a planning lawyer concerns how current regulatory safeguards under Part 6A of the *Mineral Resources(Sustainable Development) Act 1990* ("the Act") fail to adequately protect farmers whose groundwater supplies are threatened by extractive industry proposals. My understanding of the Act is that the agricultural community would have even less protection from activities requiring a mining licence than they do with an extractive industry licence. Current legislation around mining licences is inadequate to give the agricultural industry the legal standing to which its economic contribution to Victoria entitles it. In a changing climate, groundwater for stock and domestic purposes will need greater, not less, protection from industries like unconventional gas whose effects may intrude onto and under farm land.

The Committee needs to be aware that, in relation to protection of groundwater supplies, the current regulatory framework for extractive industry licences is chaotic, with duplication of processes, lack of clarity as to responsibility and lack of accountability from those nominally responsible. It is byzantine and frustrating for farmers and proponents alike but, nevertheless, governments of all persuasions have allowed such inefficiency and confused responsibilities to persist. These are regulatory loopholes that can be easily exploited by large and well resourced corporate interests who are well practiced at lobbying senior levels of government.

A major overhaul of the legislation would be required before an industry like unconventional gas, with the potential to cause major conflict in agricultural communities, could have any hope of co-existing peacefully with agriculture.

In the extractive industry process, there is a worrying emphasis on high levels of what can appear to affected farmers as secretive co-operation between proponents and the Earth and Resource Division of Minerals Development Victoria, which sets and collects royalties from mining and quarrying. The farming community likely to be affected by any particular proposal sometimes only finds out about what is happening in their backyard after long periods of preparation, agency co-operation and communication between the proponent and regulators. This leads to a cosy culture between the proponents and the regulator where the regulator can begin to see themselves as one of the proponent's "crew", to further the mutually beneficial proposal regardless of existing farmers' interests.

Documents obtained through Freedom of Information in a number of cases indicate that the risks to farmers' livelihoods from threats to groundwater supplies form little part of the discussions between regulator and proponent, they are simply a matter for referral to another disengaged agency (eg Southern Rural Water) which involves a further unsympathetic and complicated licence regime under the *Water Act 1989.*

One benefit to the farming community of Part 6A of the Act is the requirement for extractive industry proposals to obtain planning permission from the responsible authority for the area. This does not at the moment apply to mining licences which means the whole process of mining licence approvals will struggle for credibility in the agricultural sector.

One problem with Part 6A is that, because a draft work plan (with only token community consultation) from the Energy and Resources Division is required prior to applying for a planning permit for a quarry, proponents, having obtained their draft work plan, are loathe to co-operate with the greater scrutiny involved with community involvement through third party review rights under the *Planning &Environment Act 1989.* Legislative reform is needed to create an integrated approval process for mining licences in which genuine community involvement (eg third party appeal rights) becomes the norm.

At present, responsible authorities can become lazy in scrutinising a proposal. When council town planners see that the draft work plan mirrors the planning permit process (minus the third party review which is now an essential part of community life), it is somewhat understandable that the planners lack motivation to pursue risks to groundwater that have already been dismissed without community scrutiny through tick box agency referrals under the work plan.

Also, the Energy and Resources Division, seeing its role as lobbyist for the proponent's "crew" as described above, can intervene with the municipal authority to lessen the regulatory requirement on the proponent. I have documentary evidence of this happening.

I have evidence also of a parliamentarian personally intervening on behalf of a proponent to further a proponent's interests. This is the type of behaviour that has become the focus of anti-corruption inquiries in New South Wales. I am prepared to share this evidence with the Committee on a confidential basis if the Committee would prefer that approach. I consent to this paragraph being deleted from this submission for public display purposes.

I would be grateful for the opportunity to present further to the Committee on this issue at a hearing.

Yours sincerely

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