Growing the Business of Farming | NSW Farmers Association

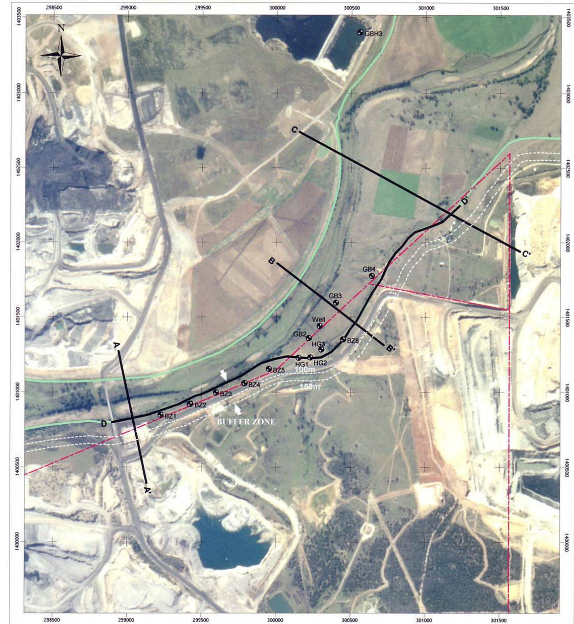
The Effect of Mining and Coal Seam Gas On NSW Farmers

Current legislation fails to adequately protect agricultural resources and farmers' property from the impacts of mining and coal seam gas (CSG) extraction and development.

It is impossible to undertake any large scale mining without permanent, destructive changes to natural resource systems and a range of negative amenity, health and financial impacts to the surrounding district. Current standards and processes, for selecting appropriate sites, minimising cumulative impacts, controlling risk and compensating affected citizens are unacceptably low.

The image at right shows open cut coal mines surrounding the Hunter River. These coal pits are far below the level of river.

These mines have already had serious impacts on the quantity and quality of ground water. If a mine wall collapsed, the Hunter River will literally end up in a hole in the ground, as happened in 2007 with the Latrobe River in Victoria (see below).



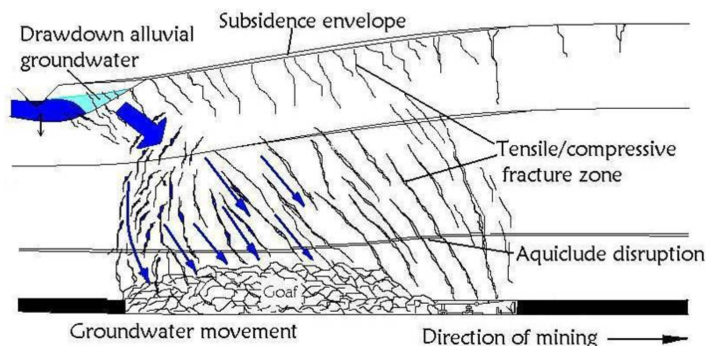
Coal mines adjacent to the Hunter River

Mining alongside the Latrobe River ended in disaster. The Yallourn Mine Batter Failure Inquiry Report, June 2008, identified slack and lapsed safety standards and found that mine consultants had lacked the skill to give competent advice for more than a decade.

While governments appear to be calm about these risks, farmers living in close proximity to mines and gas fields, and who depend on access to reliable, uncontaminated water, are not calm. They want action.

Right now, new open cut and underground coal mines and gas fields are being planned in some of the most productive farming regions in NSW. Farmers are concerned that these mines and gas fields may damage the precious underground water systems on which the productivity of the region depends.

It is impossible to reassemble and rehabilitate an aquifer after mining. It may be possible to limit the damage and risk resulting from one mine, but experience shows that one mine tends to be followed by others, and the cumulative impacts are catastrophic – not just in environmental terms, but on the entire social and economic character of the district. The same applies for CSG. Planning legislation and the current approval processes make no provision for managing these cumulative impacts.



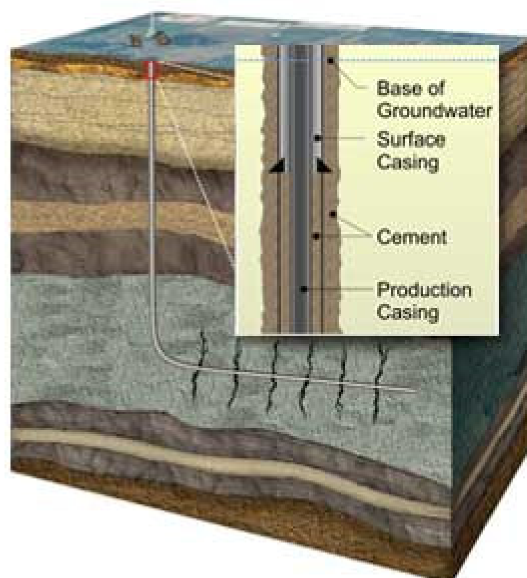
Underground mining can fracture aquifers resulting in loss and contamination of groundwater.

PROPOSED SOLUTIONS

1. *Improved Strategic Planning and Natural Resource Allocation Decision-Making*

Current planning processes are not up to the task of resolving the complex resource allocation and risk management questions that must be addressed when considering areas for mine and gas field development. This is particularly the case when highly valuable agricultural and water resources are involved.

The current process encourages significant investment in exploration and the development of mining project proposals in isolation and prior to consideration of competing values (for example agricultural values) and potential risks to those values. Mining and gas firms have an expectation that their investment will be rewarded which places pressure on government to override sensible planning considerations and the needs and wishes of local communities.



Extracting coal seam gas involves introducing fracturing fluids into the coal seam at high pressure. Industry claims there is no risk that these fluids will escape to the surrounding environment or that fracturing will damage associated aquifers.

There is currently no upfront strategic planning and cost benefit analysis regarding where, why and when mineral resources should be developed. To illustrate, NSW has extensive undeveloped coal and coal seam gas resources, including in the Liverpool plains. There has been no public process to demonstrate a rationale for allowing the Liverpool Plains to be developed ahead of other less agriculturally valuable regions. The sole decision criteria for issuing licences in this region appears to have been that it is relatively the most profitable to mine.

A related issue is that there is no provision in the approval process to assess or manage the cumulative impacts of successive mining developments, and no upfront limits to future development. This results in a 'death of thousand cuts' to farming regions, as we have seen in the Hunter.

<u>Proposed Solutions:</u>

- Exclude mining development from Part 3A of the *Environmental Planning and Assessment Act 1979* (a mechanism under which the Minister can override normal planning approval processes).
- Require aquifer interference approvals for any mining or gas activities involving impacts on ground water (as per Section 91 (3) of the *Water Act 2000*).
- Establish an integrated strategic planning process for mining development that factors in all competing social, environmental and economic values and identifies areas where mining can and cannot occur
    - The recently announced development of a strategic plan for coal mining in NSW must be expanded to include all extractive industries and a more meaningful timeframe and planning process. It should also result in a halt on mining approvals for open cut mining on alluvial (floodplain) lands or for long wall mining within 150m of a third order stream or higher until the strategic plan is finalised
- In such planning, make explicit, upfront provision for cumulative impacts, including legislated limits to the total mining and gas development possible in regions.
- Ensure that the planning and approval process, including the issuance of exploration licences, incorporates inter-agency discussion, strategy, advice and formal concurrence.

2. *Exploration Licences, Mining/Gas Licences and Access Agreements*

Currently, mining and coal seam gas exploration licences are granted with little or no consideration given to the impacts on land and water titles in the affected area. Exploration licences are awarded without any inter-agency or stakeholder consultation, independent assessments of natural resources other than minerals, or consideration of cumulative impacts. There is no formal consideration of the value and vulnerability of agricultural production activities that may be affected by the exploration process or by any subsequent development.

Landholders are not individually notified of exploration licences granted over their properties and often have to read about these in the local press. There are no government resources to assist the landowner to deal with the implications of the granting of the exploration licence over their property.

Nor does government take any responsibility in relation to supervising access agreements (either for exploration or mining) and the conduct of explorers and miners on farm land. For example, there is no government supervision of the conduct of opal miners, who permanent occupy and establish settlements on farmers' land and typically disregard all mining licence conditions.

Proposed Solutions:

- Require an independent scientific process **prior** to the granting of exploration licences to identify high value natural resources and highly productive agricultural land and rule out the granting of licences in such areas.
- Include an independent body in the assessment process,
- Notify each and every party with a registered interest in the land **prior** to awarding of licence,
- Provide an initial appeals process **prior** to the awarding of licences.
- Require licence conditions to be attached to access agreements
- Require agency supervision and accountability regarding compliance with these conditions.
- Provide agency support to landholders in developing access agreements and enforcing access agreements

3. *Aquifer Interference*

Part 3 A of the *Environmental Planning and Assessment Act 1979* (a mechanism under which the Minister can override normal planning approval processes) has removed the power of the Office of Water to require Aquifer Interference Approvals under Section 91 (3) of the *Water Act 2000*.

The impacts of mining and gas development on ground water resources can be catastrophic in both environmental and economic terms. It is essential, therefore, that the Office of Water has sole and direct carriage of approvals, licensing and conditions where mining and gas development involves interference with ground water systems. Approval conditions must include provisions for accurate measurement and licensing of the water lost or consumed through the activities of the mining and gas industries.

Proposed solution:

- the exclusion of Section 91 (3) of the *Water Act 2000* from the scope of Part 3A of the *Environmental Planning and Assessment Act 1979* such that aquifer interference approvals can be required by the Office of Water for all mining and gas developments involving impacts on ground water.
- the implementation of Section 91 (3) of the Water Act 2000 via an Aquifer Interference Regulation administered by the Office of Water

4. *Compensation*

In any legal challenge, the onus is on the landholder to provide all evidence regarding the extent of any damage that has been done, prove which specific mining activities are directly responsible for this damage, and bear all costs associated with the process, including any adverse cost orders in the Land and Environment Court.

Farmers do not have the resources to defend themselves against the financial clout of multinational mining companies. The miners know this, often pouring unlimited resources into cases they know they cannot win, simply to scare other individuals from taking them on.

Currently there is no requirement for independent monitoring of any environmental factors during the exploration or mining process, with these activities being left in the hands of the miners themselves. This makes it virtually impossible for famers to gather the evidence needed to prove their case.

The compensation currently available to landholders typically stops at the boundary of the directly affected property. This typically means that farmer adjacent to the mine, or in range of the mine's dust and noise, get nothing.

There is currently no provision in any statutory instrument to compensate farmers for impacts on water assets to which farmers hold legal title.

Proposed Solutions:

- Amend State and Federal water legislation to:
  - protect ground and surface water from the impacts of mining and gas activity;
  - require accounting and licensing for all water consumed or intercepted as the result of such activity; and
  - require compensation for any loss of water or degradation of water title resulting from mining
  - require full independent benchmarking of water and other environmental factors prior to exploration in areas with high agricultural values.
- Amend legislation such that:
  - miners can no longer be responsible for collecting data and monitoring their own environmental performance;
  - an Office of Mine and Gas Performance is established (funded by miners at cost) to monitor mine environmental performance (eg dust, noise, air and water pollution) including cumulative impacts where there is more than one mine in a region;
  - a Mining and Gas Ombudsman is established to advise landholders and other affected parties and investigate complaints; and
  - compensation is provided to all landholders affected by mines

The Association is not opposed to mining and coal seam gas development. We simply want equal treatment under the law, a balanced approach to deciding where and how development occurs, and just terms compensation to all affected landholders when it does go ahead.