

Reply to: Margaret Fleck
"Kilchurn"

26 October 2020

The Hon. John Barilaro
Deputy Premier
submitted via webform

Michael Wright
Deputy Secretary, Mining, Exploration and Geosciences
Michael.wright@planning.nsw.gov.au

Dear Deputy Premier and Mr Wright

We write regarding the consideration of applications to renew eleven expired and unused petroleum exploration licences in the north west of New South Wales.

Attached to this letter we provide information relevant to your decision on these applications and which we believe indicates that these applications for renewal should be refused.

The licences in question extend across 4.6 million hectares of land from the Upper Hunter and Liverpool Plains north to Moree and west to Coonamble, affecting some of our most vital groundwater resources, including the productive groundwater of the Liverpool Plains and aquifers of the Great Artesian Basin, as well as the Warrambungles Dark Sky Park, strategic agricultural lands, the Namoi River and many towns and villages. Santos has an interest in seven of these licences and full details of their ownership and location are provided in the attached table.

We note that the NSW National Party passed a conference motion in 2019, proposed by the Boggabri branch, to the effect that petroleum exploration licences should be extinguished as soon as they expire. This motion has not been acted upon and under the Act as it currently stands, these licences remain in force beyond their expiry as long as a valid renewal application was made prior to expiry.

The expired licences in north west New South Wales pre-date the recommendations of the Chief Scientists report, the Gas Plan and the Strategic Release Framework. They are a legacy of decisions made long before New South Wales created its contemporary framework for managing the impacts of coal seam gas and ensuring there is a strategic, triple-bottom-line approach to the granting of areas for petroleum exploration.

We note that the matters for considering in granting applications for renewal of petroleum exploration titles are laid out in Schedule 1B of the *Petroleum (Onshore) Act 1991* and we have addressed these statutory matters directly in the attached information, specifically:

1. the need to conserve and protect the environment and opportunity to undertake studies necessary to assist in decision-making;
2. refusal on the grounds the applicants have not met applicable minimum standards with respect to work programs;
3. further information on foreign ownership.

Only one petroleum exploration title, PEL238, has been the subject of active exploration activity in the last five years. As the attached information shows, the title holders of the other eleven expired and unused petroleum titles have not complied with minimum standards which is grounds for not renewing titles. None of the 11 titles have been the subject of active exploration in the last five years and none appear to have current active work programs. Most are also not complying with the requirement to provide annual updates to the community or dedicated webpages, which is a breach of the conditions of the licence.

We ask that you:

1. Consider the attached information when making your decision about the renewal of the eleven expired and unused petroleum titles in north west New South Wales, and
2. In accordance with Schedule 1B 2 (2), cause studies to be prepared to consider the environmental context of the licences in question to assist in your decision making, and
3. Refuse the applications to renew these titles, and
4. Provide timely information and notification to affected communities about your decision-making with regard to these titles.

I am available on _____ should any of the information attached require further elaboration.

Yours sincerely

Margaret Fleck

Attachment: Grounds for non-renewal of petroleum exploration licences

Sections 2-5 of Schedule 1B of the *Petroleum (Onshore) Act 1991* sets out the matters for consideration in granting or refusing applications to renewal exploration licences and grounds for refusal of such applications.

Requirement to consider the environment

Section 2 (1) requires the Minister to take into account the need to conserve and protect the environment in or on the land over which the petroleum title is sought.

The eleven licences in question have never been subject to the Strategic release framework that has now been introduced to consider the environmental and social aspects of exploration applications prior to granting. As such, a Preliminary Issues Assessment has never been conducted that would identify whether the lands in question are suitable for petroleum exploration. In light of this, further studies need to be commissioned to assist in the making of the decision on renewal, as is available to be done under section 2 (2) of Schedule 1B. Such studies are necessary before making a decision on these applications.

Failure to comply with minimum standards

Petroleum title holders are required to comply with the provisions of the *Petroleum Minimum Standards and Merit Assessment Procedure* and failure to comply is a relevant consideration for renewal applications under clause 3 of Schedule 1B of the *Petroleum (Onshore) Act 1991* and grounds for refusal of applications to renewal licences under section 5 of Schedule 1B.

This procedure includes NSW's "use it or lose it" policy which "requires title holders to commit to developing the State's resources or risk losing their prospecting title. If a serious commitment cannot be demonstrated at application, transfer, upon renewal or during the term of a prospecting title, companies may face refusal or cancellation of their titles."

Serious commitment cannot be demonstrated for the eleven licences in question, as detailed in the attached table.

Prospecting title renewal applications must be accompanied by a proposed work program which must include:

- activities to progress the definition and understanding of both the undiscovered and discovered petroleum accumulations in the petroleum title;
- details of the estimated expenditure and proposed activities for effective community consultation over the term of the title, including development of community consultation plans, annual community updates and dedicated websites.

Of the 11 Petroleum Exploration Licences examined here, none have been the subject of active exploration in the last five years and most do not appear to have current work programs or have had work programs during the last five years. Most are also not complying with the requirement to provide annual updates to the community or dedicated webpages.

We note that an audit of compliance with the requirements of petroleum exploration licences was undertaken in 2014 but we are not aware of any audit conducted in the years since.¹ That audit "identified a number of non-compliances which appeared to be common across a significant number of titles." These included:

- Community consultation reports are not submitted or are not submitted within the required timeframe
- Details of the current Exploration/Technical Manager are not advised
- Annual exploration geology reports, well completion reports and other required reports are not submitted within the timeframes specified in the Regulation or departmental guidelines
- Approvals are not sought to suspend or abandon wells.

We trust this record of non-compliance will inform your decision on the renewal applications as is available to you under section 3 of Schedule 1B of the Act.

Our investigations indicate that the holders of the eleven titles in question will not be able to demonstrate having undertaken the activities above at any time in the last five years and that this non-compliance has continued since the last audit.

The proposed work programs for PEL1, PEL6 and PEL428 submitted with their renewal applications in 2015 were obtained under GIPA by the Wilderness Society in 2016. These proposed work programs provided no specific information as to how the investment and work proposed in each PEL is connected to the other PELs, including PEL 238.

Moreover, the work programs proposed for PELs 6 and 428 appeared to indicate that no "active" work would be undertaken on these PELs, in breach of the Minimum Standards. Furthermore, these programs

¹ This audit was conducted by Office of Coal Seam Gas, Department of Trade and Investment, and was provided to PEL titleholders in November 2014. A letter to Santos enclosing a summary of the audit findings was obtained under GIPA by The Wilderness Society in GIPA request 17-3, August 2016

did not include the requisite detail regarding community consultation activities. The work programs for PEL1, PEL6 and PEL428 at that time indicated that no exploration or appraisal activities had occurred since September 2013. The same is the case for PEL12, PEL427, PEL433, PEL434 and PEL456 - no “active” exploration or appraisal activities have occurred on these PELs since late 2013.

Consideration of contiguous titles

It is possible that Santos, which has an interest in nine of the eleven licences considered here, will argue that these nine titles are contiguous titles held by a common title holder and therefore can claim some flexibility in the application of the Minimum Standards.

Santos is a title holder and has a majority interest in 8 of the 11 expired petroleum exploration licences between the Upper Hunter and the Queensland border. The company does not have a majority interest and is not a title holder in PELs 427 or 428 and fails the expectations, under the Minimum Standards, to justify that these PELs are part of a contiguous project. Comet Ridge is the title holder of these two PELs and PEL 6 and admits on its website that it has undertaken no activity since 2011.

In its application to renew PELs 1, 6 and 428 in 2015, Santos argued that all PELs in the North West were contiguous exploration projects with PEL238. Nevertheless, we understand from the Department that no application to consider these titles as contiguous has been received or approved by the Minister as of 12 September 2019.

Regardless, the Minimum Standards are clear that “there must continue to be active work undertaken” on all titles even if they are contiguous with active titles.

We note that in 2015, Santos reclassified its Gunnedah Basin assets as “contingent” resources and it has written the value of its exploration licences down to zero since that time. The only NSW titles to have been mentioned in the company’s Annual Reports since 2015 are PAL2 and PEL238.

Foreign ownership

Under section 4 of Schedule 1B, the Minister may require further information from companies applying to renew petroleum exploration titles regarding their foreign ownership.

We note that Santos, which is the sole or joint title holder of nine of the PELs in question, became more than 15% foreign-owned in 2015. Condition 45 of PEL12, PEL 433, PEL434 and PEL238 required prior written approval from the Minister before this acquisition occurred. We are currently seeking information through the GIPA Act to determine if prior written approval was obtained in relation to PEL238 and seeking confirmation from you as to whether this was done for the other relevant PELs.

PEL456 is owned by Hunter Gas PL, which is now majority owned by Kerogen Investments No. 1 (HK) Ltd, which is a Hong Kong company. Condition 45 of this licence required prior written Ministerial approval before this acquisition took place and we seek confirmation from the Minister about whether this occurred.

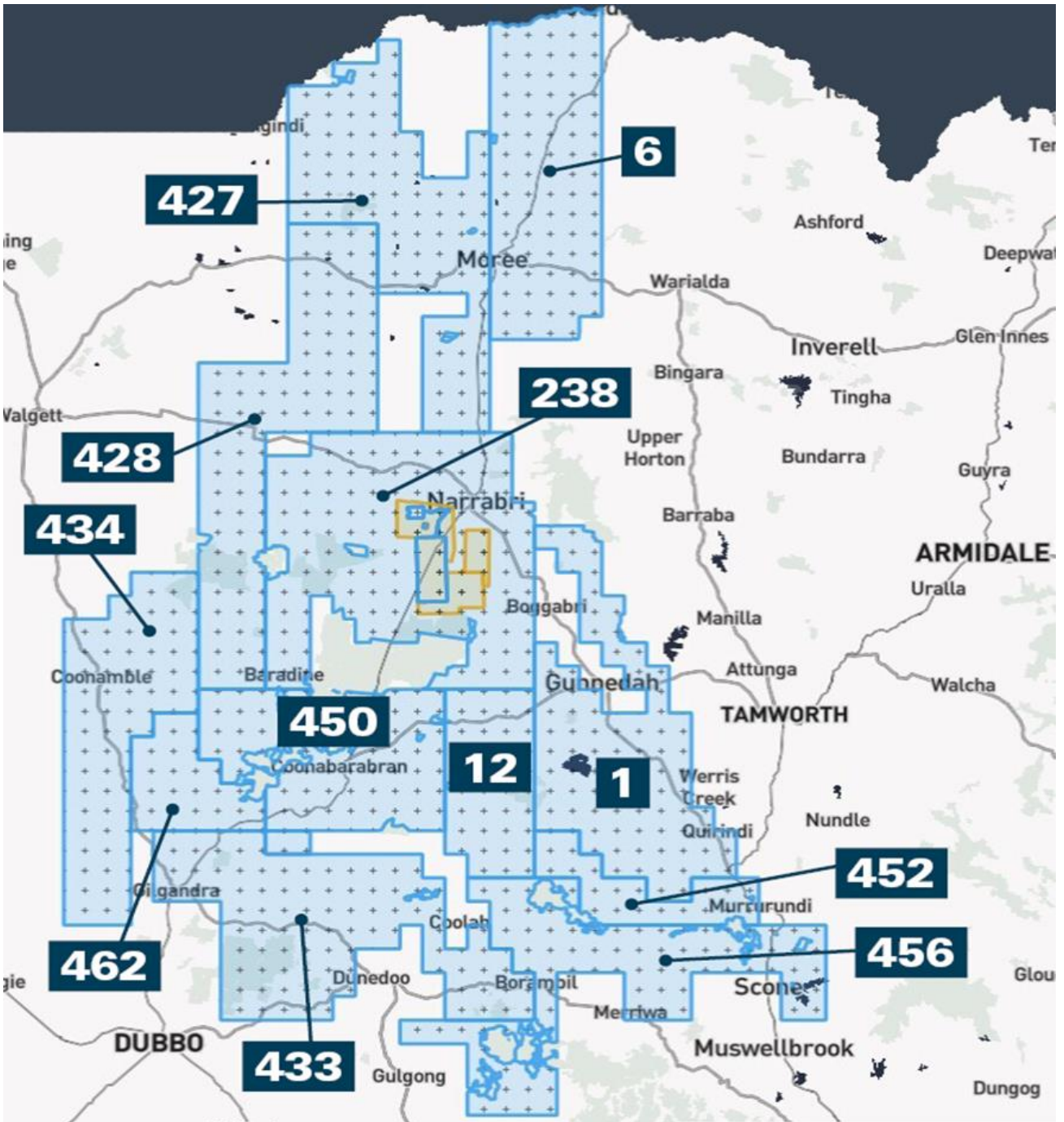


Figure 1: Map of Petroleum exploration licences in North West NSW

Table 1: Petroleum exploration licence details

Title	Title holder	Operator (interest)	Grant date	Expiry date	Evidence of activity
PEL 1	Australian Coalbed Methane Santos QNT	Santos QNT (65%)	11-Feb-1993	10-Feb-2015	Two year work program varied in 2013 and nothing since. No activity according to company's Quarterly Activity Statements.
PEL 6	Comet Ridge Gunnedah Santos NSW	Santos NSW (70.45%)	09-Dec-1993	08-Dec-2011	Two year work program agreed in 2010. Company website reports "since 2011, no operational activities have been able to be completed.."
PEL 12	Australian Coalbed Methane Santos QNT	Santos QNT (65%)	27-Sep-1995	26-Sep-2016	The work program for PEL 12 comprised two years of activity agreed in 2013. No evidence of required community consultation.
PEL 427	Comet Ridge Gunnedah Comet Ridge	Santos NSW (40.91%)	21-May-1998	20-May-2016	Company website reports "since 2011, no operational activities have been able to be completed.."
PEL 428	Comet Ridge Gunnedah Comet Ridge Davidson Prospecting	Santos NSW (31.58%)	15-Sep-1998	14-Sep-2012	Company website reports "since 2011, no operational activities have been able to be completed.."
PEL 433	Santos NSW Santos QNT	Santos (100%)	14-Feb-2001	13-Feb-2015	Work program comprises two years of activity agreed in 2013. Relinquishment of some wells in 2015. No evidence of required community consultation.
PEL 434	Santos NSW Santos QNT EnergyAustralia Narrabri	Santos (80%)	14-Feb-2001	13-Feb-2016	Work program comprises two years of activity agreed in 2013. No evidence of required community consultation.
PEL 450	Santos QNT	Santos QNT (100%)	16-Jun-2006	15-Jun-2012	Three year work program from 2006. Relinquishment report for some wells in 2015.
PEL 452	Santos QNT	Santos QNT (100%)	10-Jan-2007	09-Jan-2013	Work program comprised two years of activity agreed in 2013 and nothing since.
PEL 456	Hunter Gas Santos QNT	Santos QNT (unknown%)	05-Mar-2008	05-Mar-2018	Work program comprised two years of activity agreed in February 2013. Relinquishment report for some wells in 2015. No evidence of required community consultation.
PEL 462	Santos QNT	Santos QNT (100%)	22-Oct-2008	22-Oct-2011	Work program comprised two years of activity agreed in 2009.