

Strategic Regional Land Use Policy



Foreword from NSW Premier Barry O'Farrell



The NSW Government committed to develop a Strategic Regional Land Use Policy to address one of the State's ongoing challenges - to provide greater protection for valuable agricultural land and better balance competing land uses.

For the first time in our history, the NSW Government is identifying and protecting strategic agricultural land, protecting valuable water resources and providing greater certainty for companies wanting to invest in mining and coal seam gas projects in regional NSW.

This policy is the result of an extensive consultation process, during which the views of farmers, miners and the wider community were heard and have informed its development and final form.

The policy has 27 new measures that work together to identify, map and protect the State's most valuable agricultural land and critical water resources.

It provides certainty around processes and allows for greater input from local communities, landholders and scientific experts into the assessment of exploration, mining and coal seam gas production proposals.

This policy also provides the platform to resolve conflicts over competing land use. Farmers and miners now know where they stand.

This document provides an overview of the initiatives contained in the Strategic Regional Land Use Policy and provides a guide for appropriate future land use in regional NSW.

Advice on where to find more information and detailed policy documents can be found on the back of this brochure.

Barry O'Farrell
Premier

Strategic Regional Land Use Policy

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About the Strategic Regional Land Use Policy

The Strategic Regional Land Use Policy Package sets out a range of initiatives to better balance growth in the mining and coal seam gas (CSG) industries with the need to protect important agricultural land and water resources.

Exploration activities

- There is a greater emphasis on the upfront protection of agricultural land and water through strong new requirements at the initial exploration stage and the bolstering of measures already in place. New initiatives include:
 - The creation of a Land and Water Commissioner position with an unfettered oversight and community advisory role with respect to exploration across the State.
 - The requirement for a specific assessment of agricultural impacts at the exploration stage through the preparation of an Agricultural Impact Statement.

Strategic Regional Land Use Plans and Mapping of Strategic Agricultural Land

- The NSW Government is mapping Strategic Agricultural Land across the entire State to ensure that important land and water resources in areas impacted by mining and CSG activity are properly protected.
- This mapping will then be incorporated into either a new Strategic Regional Land Use Plan or via the reviews of existing Regional Strategies, some of which are already underway. See table for a regional breakdown and status of mapping.
- The mapped land will be a trigger for the Gateway process – an upfront, scientific assessment of the impacts of State significant mining and CSG proposals on Strategic Agricultural Land. This assessment will be undertaken by an independent, expert panel.
- If the panel considers that a proposal does not meet the Gateway criteria relating to agricultural and water impacts, it will issue a certificate with conditions tailored to address the proposal’s likely impacts. These proposals then proceed to the development application stage where they must

fully address the matters stipulated in the conditions of the Gateway Certificate, including amending the proposal if necessary.

- Mapping has been completed and Strategic Regional Land Use Plans released for the Upper Hunter and New England North West regions – regions which are experiencing the most rapid growth in the mining and CSG industries and which have some of the State’s most valuable agricultural land. In these two regions alone, more than two million hectares of Strategic Agricultural Land has been mapped – a significant increase from the amount of mapped land in the draft plans released in March 2012.

Status of Strategic Agricultural Land Mapping	
Strategic Regional Land Use Plans	
Complete:	Upper Hunter New England North West
Commenced:	Central West Southern Highlands
To be commenced in 2013:	Western Murrumbidgee Alpine
Other Regions	
Regional Strategies – to be reviewed and updated over the next two years:	Far North Coast Mid North Coast Lower Hunter Central Coast Illawarra South Coast Sydney-Canberra Corridor Murray

Aquifer Interference Policy

- The Aquifer Interference Policy has been introduced statewide to protect the State’s crucial water resources through the assessment of potential impacts associated with mining and CSG activities.
- The policy outlines how the volumes of water taken as part of an aquifer interference activity will be licenced and accounted for.
- For the first time, the policy sets out minimal impact considerations against which the NSW Office of Water will assess the potential impacts of all proposals. This process will ensure minimal impacts on our State’s groundwater systems.

Introduction

With the mining industry continuing to grow in regional areas of the State and CSG beginning to emerge as a new energy resource in NSW, it is crucial the proper framework is in place for the protection of our valuable agricultural land.

The Strategic Regional Land Use Policy is the NSW Government's response to this challenge. It puts in place a number of measures to balance the often competing needs of these industries and, crucially, to ensure our most important agricultural and water resources are protected.

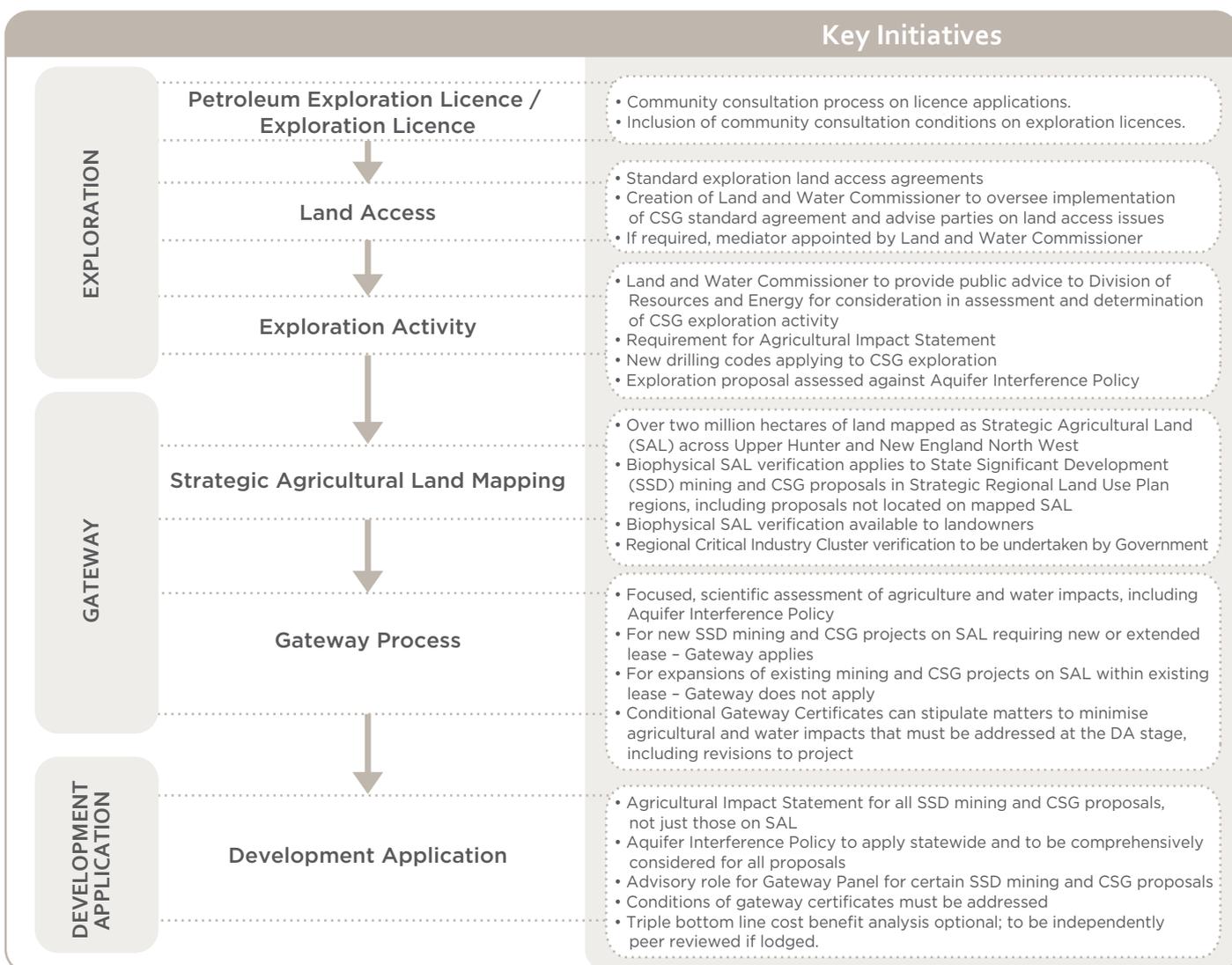
The policy package consists of:

- A comprehensive suite of initiatives to better regulate exploration activities;
- Creation of a Land and Water Commissioner;

- Strategic Regional Land Use Plans, with the Upper Hunter and New England North West regions the first to be prepared;
- A statewide Aquifer Interference Policy;
- The requirement for an Agricultural Impact Statement at the exploration and development application stages; and
- Two new Codes of Practice for the CSG industry.

For the first time in NSW history, this package identifies, maps and protects the State's most valuable agricultural land and its critical water resources from the potential impacts of mining and CSG.

Importantly, these protective measures cover the entire process from land access and exploration through to planning application and finally extraction – as shown in the flowchart below.



Comprehensive consultation process

In the development of the Policy, the NSW Government undertook a robust consultation process, involving a wide range of industry stakeholders, local councils and communities.

A Stakeholder Reference Group consisting of 10 industry and stakeholder bodies was established from the outset to discuss the detailed policy proposals and advise the Government on their implementation.

Draft policy documents were then exhibited for public comment from 8 March to 14 May 2012. Almost 1,600 submissions were received on the two draft Strategic Regional Land Use Plans alone, with a further 500 received on the draft Aquifer Interference Policy and more than 100 on the draft Code of Practice for CSG Exploration.

Around 1,000 people attended 11 public forums and information sessions held across the two regions where Ministers and senior staff from government agencies outlined the policy and answered questions from the community.

A number of online discussion forums were also hosted where interested members of the public could provide feedback.

Key issues raised in consultation were:

- regulation of mining activities and CSG exploration
- the “Gateway” process
- agricultural land mapping
- the proposed “exceptional circumstances” provision
- aquifer impacts
- the natural environment



Initiatives To Better Manage Exploration

If not regulated appropriately, exploration activities undertaken by the mining and CSG industries may have the potential to impact important agricultural land and water resources.

While consideration of these impacts has traditionally been left until an application is made to extract the resource, the NSW Government has shifted the emphasis to protection upfront by introducing a number of strong new requirements at the initial exploration stage and bolstering existing measures.

New initiatives

The position of Land and Water Commissioner has been created. The Commissioner will have an unfettered oversight and community advisory role with respect to exploration across the State. The Commissioner has the ability to review any exploration approval and advise government and the community whether the assessment process has occurred in accordance with the regulatory and legislative framework.

The Commissioner will oversee the implementation of a standard land access agreement for exploration activity. This agreement is currently being negotiated between key stakeholders including the NSW Farmers' Association and the Australian Petroleum Production and Exploration Association.

The Commissioner will also collate and publish remuneration information on land access agreements to assist parties in negotiating future agreements, and will be able to appoint a mediator if requested.

The introduction of this new position will provide added transparency to the negotiations between landholders and miners on important matters such as land access and remuneration, and allow these negotiations to happen fairly and in good faith.

For the first time in the State's history, a project's potential agricultural impacts must be specifically addressed by the applicant at exploration stage through the preparation of an Agricultural Impact Statement.

This new requirement will allow the Government to carefully assess potential agricultural impacts at the earliest stages of a mining or CSG production proposal and ensure that even preliminary exploration activities do not adversely impact our valuable agricultural and water resources.

To strengthen community and stakeholder confidence in the new processes, 40 new compliance and community liaison personnel will be employed, with most located in regional NSW.

Existing and strengthened initiatives

Other initiatives in relation to exploration activities include:

- The introduction of a public comment process on licence applications
- The inclusion of community consultation conditions on exploration licences and the release of community consultation guidelines
- The release of updated, improved environmental assessment guidelines for exploration activities
- The publication of approvals for exploration activity on the Division of Resources and Energy (DRE) website
- The introduction of an industry levy to fund enhanced regulatory and communication capabilities within DRE
- The introduction of an Aquifer Interference Policy which requires any exploration activities taking more than three megalitres per year to hold a water access licence
- A review of security bonds and penalties, which is currently underway

A number of other important initiatives relating specifically to the exploration and extraction of CSG have also been introduced by the NSW Government, including:

- A ban on the use of BTEX chemicals in drilling and hydraulic fracturing
- A ban on the use of evaporation ponds for the disposal of extracted water associated with petroleum production
- Two Codes of Practice for the CSG industry covering well integrity and fracture stimulation, following an independent review led by the Chief Scientist & Engineer
- Multi-agency assessment of applications for exploration activities
- Removal of the five year royalty holiday for CSG producers
- Draft Code of Practice for CSG explorers

Strategic Agricultural Land Mapping

Strategic Agricultural Land is highly productive land that has unique natural resource characteristics (such as soil quality and reliable water access) or socio-economic value (such as high productivity, infrastructure availability and access to markets). There are two categories of Strategic Agricultural Land:

- Biophysical Strategic Agricultural Land – based on the inherent qualities of the land; and
- Critical industry clusters – based on the land’s importance to a highly significant and clustered industry such as wine making and horse breeding.

Over 2 million hectares of Strategic Agricultural Land has been mapped across the Upper Hunter and New England North West regions. The mapped land will be a trigger for the Gateway process - an independent, scientific and upfront assessment of the impacts of State significant mining and CSG proposals on Strategic Agricultural Land.

A number of important changes have been made to the initial two Strategic Agricultural Land maps in response to issues raised during consultation.

Biophysical Strategic Agricultural Land

The amount of biophysical Strategic Agricultural Land in currently mapped areas has significantly increased, as shown in the table below and the two maps over the page.

Region	Draft Maps		Final Maps	
New England North West	955 910 ha	9.6 % of region	1 525 462 ha	15.3 % of region
Upper Hunter	199 436 ha	8.2 % of region	211 060 ha	8.8 % of region

New England North West

In response to concerns raised during consultation about the extent of land mapped as biophysical Strategic Agricultural Land, an extensive review was undertaken to determine whether the biophysical Strategic Agricultural Land criteria appropriately reflected all areas with an inherent high agricultural value.

As a result of this review, the criteria for biophysical Strategic Agricultural Land have been revised by adding land with moderate soil fertility which also meets the standards for Land and Soil Capability Classes I and II. This now captures areas with a high agricultural value but slightly lower soil fertility, such as important cotton producing areas around Gunnedah, Moree and Narrabri. As a result, the amount of biophysical Strategic Agricultural Land in the region has increased by 463,000 hectares.

The biophysical Strategic Agricultural Land maps are partially derived from land and soil capability data sets compiled by the Office of Environment and Heritage. At the time of the release of the draft Strategic Regional Land Use Plans for public exhibition, the Office of Environment and Heritage had completed a review of these data sets for the Upper Hunter but not the New England North West.

The Office of Environment and Heritage has since completed its review of New England North West data sets which have been used to remap biophysical Strategic Agricultural Land in the New England North West region, resulting in an additional 106,000 hectares of biophysical Strategic Agricultural Land.

In total, the area of biophysical Strategic Agricultural Land in the New England North West region has increased by 569,000 hectares to more than 1.5 million hectares or over 15 per cent of the region.

Upper Hunter

The underlying rainfall data sets for the biophysical Strategic Agricultural Land have been updated using Bureau of Meteorology data. This has resulted in an additional 11,000 hectares of biophysical Strategic Agricultural Land in the Upper Hunter region, including an area to the west of Merriwa that was not shown as Strategic Agricultural Land in the draft maps.

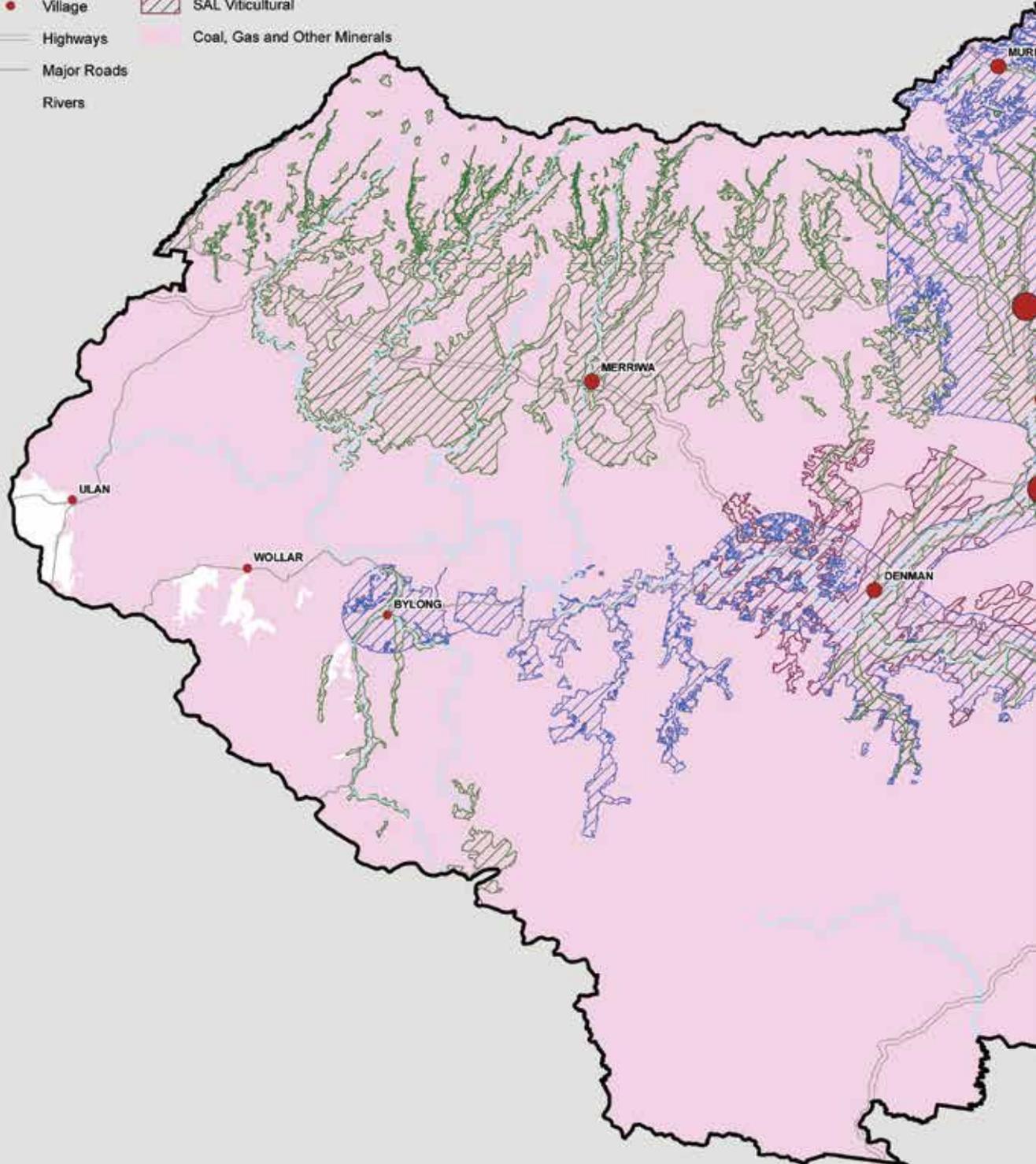
In total, the area of biophysical Strategic Agricultural Land in the Upper Hunter region has increased by 11,600 hectares to more than 211,000 hectares or almost 9 per cent of the region.



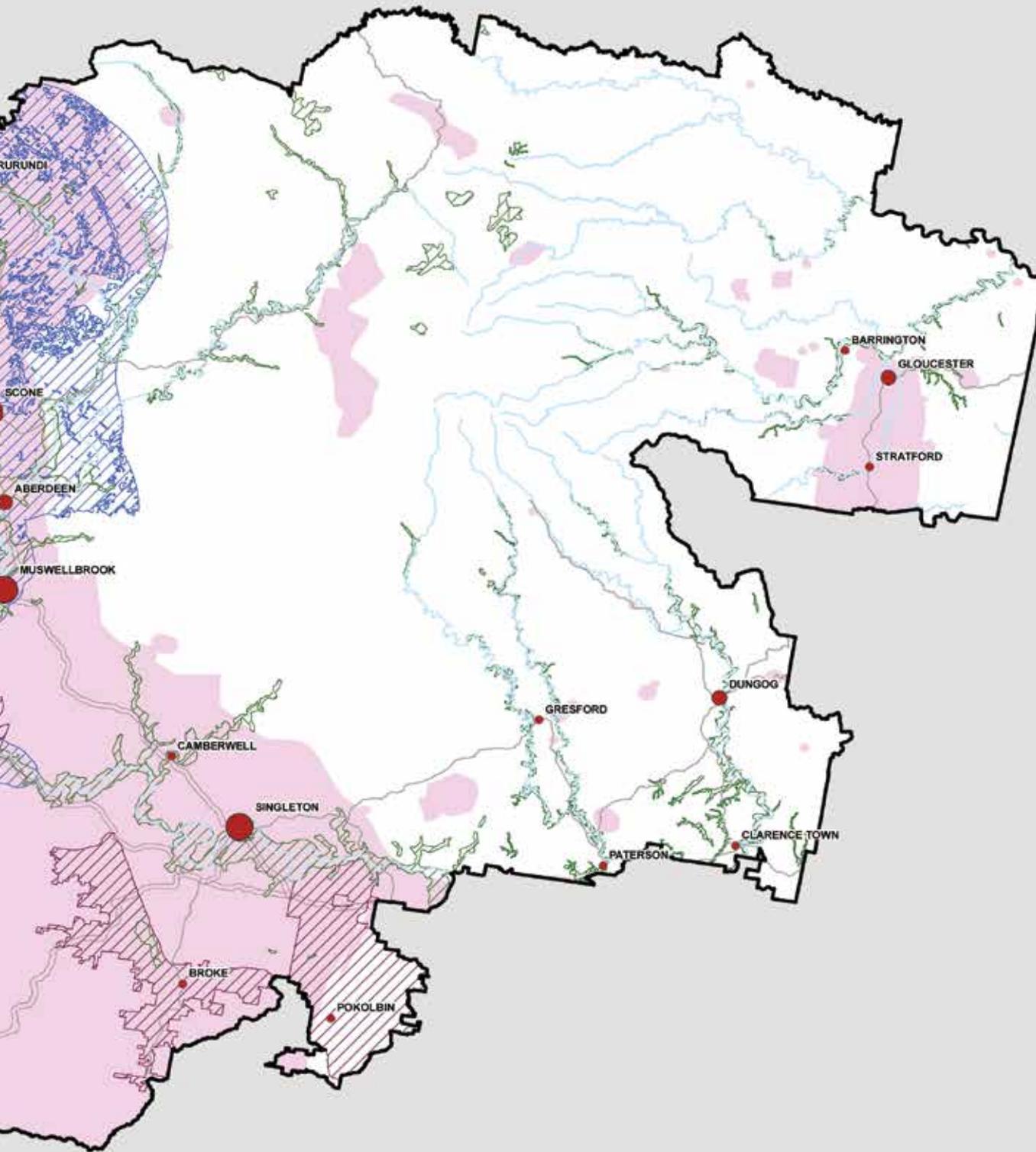
Strategic Agricultural Land (SAL)

Legend

- Major Town
- Town
- Village
- Highways
- Major Roads
- Rivers
- Biophysical SAL
- SAL Equine
- SAL Viticultural
- Coal, Gas and Other Minerals



- Upper Hunter

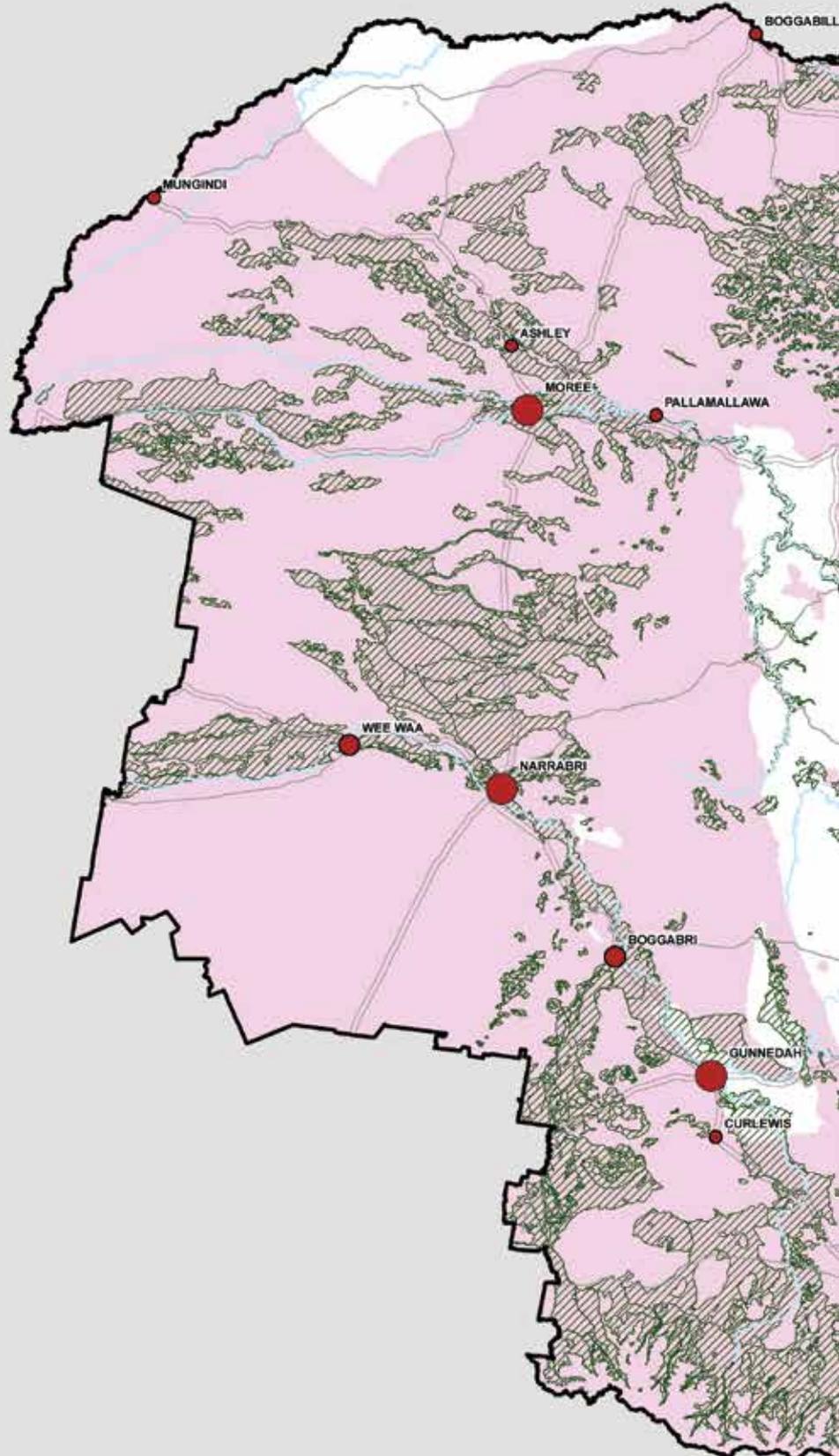




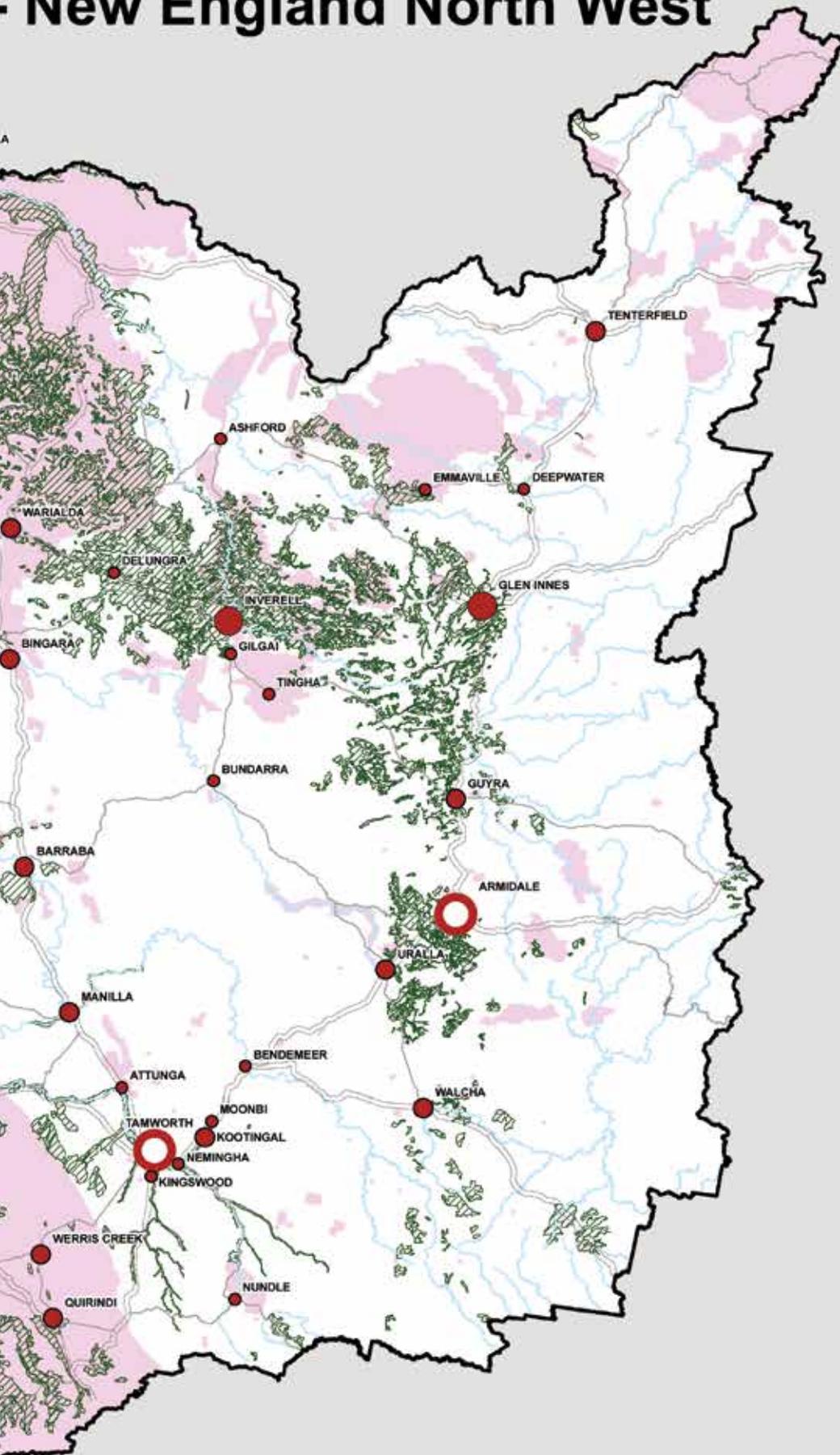
Strategic Agricultural Land (SAL) -

Legend

-  Major Regional Centre
-  Major Town
-  Town
-  Village
-  Highways
-  Major Roads
-  Rivers
-  Biophysical SAL
-  Coal, Gas and Other Minerals



- New England North West



Critical Industry Clusters

The areas of the equine and viticulture Critical Industry Clusters in the Upper Hunter have been amended to include additional areas associated with these industries. These changes can be seen in the table below:

Critical Industry Cluster	Draft Maps		Final Maps	
	Area (ha)	Percentage of region	Area (ha)	Percentage of region
Viticulture	53 292 ha	2.2 % of region	107 135 ha	4.4 % of region
Equine	183 452 ha	7.6 % of region	233 286 ha	9.7 % of region

In response to submissions from the wine industry and local government, the viticulture Critical Industry Cluster now includes important grape growing areas around Denman. This has more than doubled the size of the viticulture Critical Industry Cluster to over 107,000 ha or 4.4 per cent of the region.

Based on submissions from the thoroughbred industry, the criteria for the equine Critical Industry Cluster were also amended to include land up to 18 degrees in slope. This has increased the size of the Critical Industry Cluster to over 233,000 hectares, or 9.7 per cent of the region.

In total, the amount of land identified as a Critical Industry Cluster has increased by more than 103,000 hectares to more than 340,000 hectares.

Strategic Agricultural Land verification processes

Due to the regional scale of the mapping and the objective nature by which Strategic Agricultural Land is identified, it is important that appropriate processes are in place to provide for site-specific verification that particular sites do meet the Strategic Agricultural Land criteria.

The verification process for biophysical Strategic Agricultural Land now requires that State significant mining or CSG proposals within the Strategic Regional Land Use Plan regions that are not located on mapped Strategic Agricultural Land must verify whether the land they are on meets the criteria for biophysical Strategic Agricultural Land. If it does, then the proposal will be required to go through the Gateway process. Landowners, including those in areas outside the Upper Hunter and New England North West regions, will also be able to apply for verification of whether their land meets the criteria for biophysical Strategic Agricultural Land. If the land is identified as biophysical Strategic Agricultural Land, the Gateway process will apply to subsequent State significant mining CSG proposals on that land.

Over the coming months, the Government will also be undertaking a regional-scale verification process for the mapped Critical Industry Clusters in the Upper Hunter. This exercise will involve field work and extensive consultation with landowners and industry groups to develop a database of existing equine and viticulture land uses and revised Critical Industry Cluster maps. This is to ensure that the areas mapped as Critical Industry Clusters meet the relevant classification criteria.

Once the database and revised maps are finalised, they will be included in the Upper Hunter Strategic Regional Land Use Plan and the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2009 (known as the Mining SEPP).

In the interim, the current Critical Industry Cluster maps will be included in the Upper Hunter Strategic Regional Land Use Plan and the Mining SEPP as a trigger for the Gateway process.

Buffer zones

The draft Strategic Regional Land Use Plans proposed that State significant mining and CSG projects on land within two kilometres of mapped Strategic Agricultural Land would also be required to pass through the Gateway process.

Many submissions raised a number of issues regarding the proposed buffer zones, including that their purpose was unclear and that they added to the complexity and scope of the Strategic Agricultural Land mapping and Gateway process.

Following a review of these issues, buffer zones around mapped Strategic Agricultural Land areas have been replaced by the following:

- The requirement for State significant mining and CSG projects that are not located on biophysical Strategic Agricultural Land to verify whether or not the land they are on meets the criteria for biophysical Strategic Agricultural Land.
- The requirement for all State significant mining and CSG projects with a potential impact on agricultural land or resources (not just those located on mapped Strategic Agricultural Land) to lodge an Agricultural Impact Statement with their development application. This requirement will ensure that proposals located in proximity to any mapped Strategic Agricultural Land are subject to a heightened assessment of potential impacts on Strategic Agricultural Land.
- Statewide application of the Aquifer Interference Policy – which means that all proposals, including those located in proximity to mapped Strategic Agricultural Land, will still be fully and comprehensively assessed against the provisions of that policy.

The Gateway

The Gateway is an independent, scientific and upfront assessment of the impacts of State significant mining and CSG proposals on Strategic Agricultural Land that will be undertaken before a proposal can proceed to the lodgement of a development application (DA). The Gateway assessment will be undertaken by a panel of independent experts who must issue a Gateway Certificate in order for a proposal to proceed to the DA stage.

Following public exhibition, significant refinements have been made to improve the operation of the Gateway process and to focus it on those mining and CSG proposals with the highest level of potential impact on strategic agricultural land and its associated water resources.

Issues considered by the Gateway

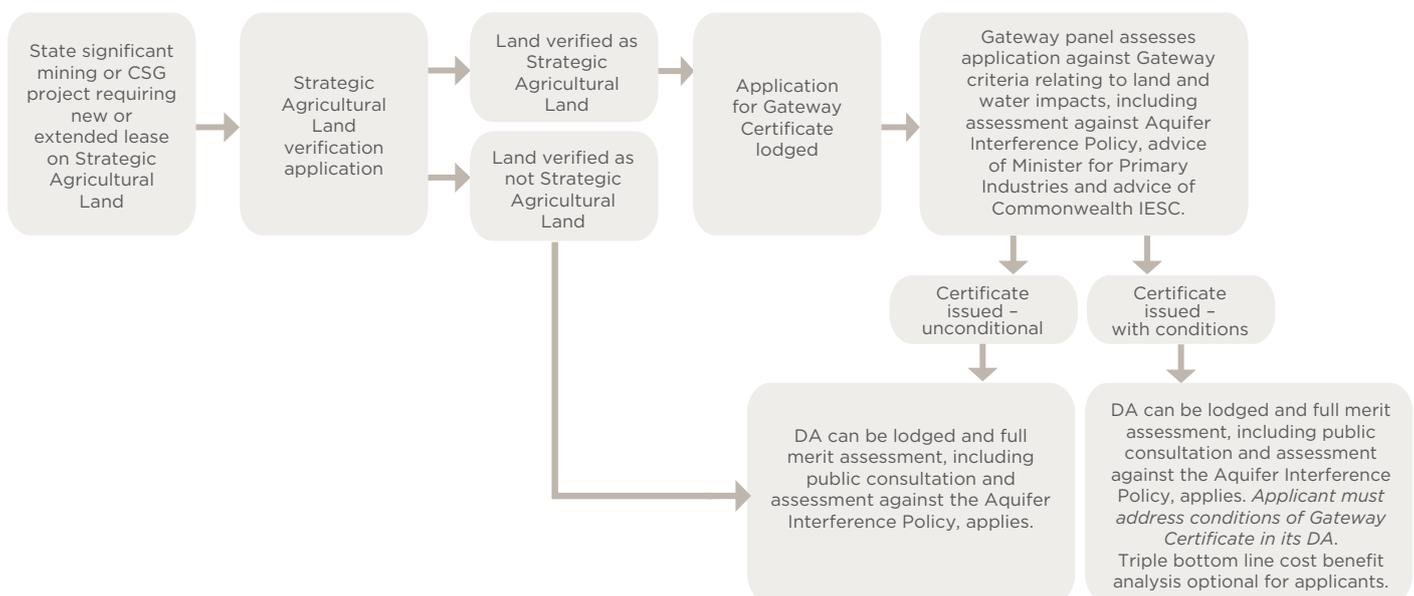
The Gateway process has been revised to focus only on the scientific assessment of land and water impacts of projects located on Strategic Agricultural Land. This will include an assessment of potential aquifer impacts based on the advice of the Minister for Primary Industries and the Commonwealth Independent Expert Scientific Committee.

Other matters, such as the socio-economic impacts and benefits of the proposal, will not be considered at the Gateway stage but will be considered at subsequent stages during the assessment and determination of the DA.

Upon completion of its assessment, the Gateway Panel will have the option of either:

1. Issuing an unconditional Gateway Certificate if the panel determines that the proposal meets the criteria relating to agricultural and water impacts. The proposal can then proceed to the DA stage for a full merit assessment and public consultation process; or
2. Issuing a conditional Gateway Certificate if the panel determines that the proposal does not meet the criteria relating to agricultural and/or water impacts. The conditions of the Gateway Certificate would be tailored to address the panel's issues in relation to the potential impacts of the proposal on agricultural land and water. Conditions could include, for example, the requirement for additional environmental studies or physical amendments to the project to avoid or minimise impacts. Proposals issued with a conditional Gateway Certificate will be able to proceed to the DA stage for a full merit assessment but, importantly, will be required to fully address the matters stipulated in the conditions of the Gateway Certificate. For example, a proposal may need to be substantially revised to avoid or minimise impacts on Strategic Agricultural Land. Any conditions of a Gateway Certificate, as well as a cost benefit analysis if prepared by an applicant, will be specifically considered by the Planning Assessment Commission in its determination of the DA.

See the flowchart below for how the Gateway will work.



Importantly, the ‘exceptional circumstances’ provision that would have allowed certain mining or CSG production projects to bypass the Gateway process has been removed.

Projects to which the Gateway applies

As well as revisions to the way it operates, changes have also been made to the types of projects to which the Gateway applies. The Gateway process applies to State significant mining and CSG proposals on Strategic Agricultural Land that extend beyond an existing mining or petroleum production lease area or where a new lease is required.

New greenfield projects and brownfield projects involving expansion beyond their lease area are the projects likely to have the most significant impact on Strategic Agricultural Land.

The diagram below entitled “Application of the Gateway” demonstrates how this will work.

Transitional arrangements

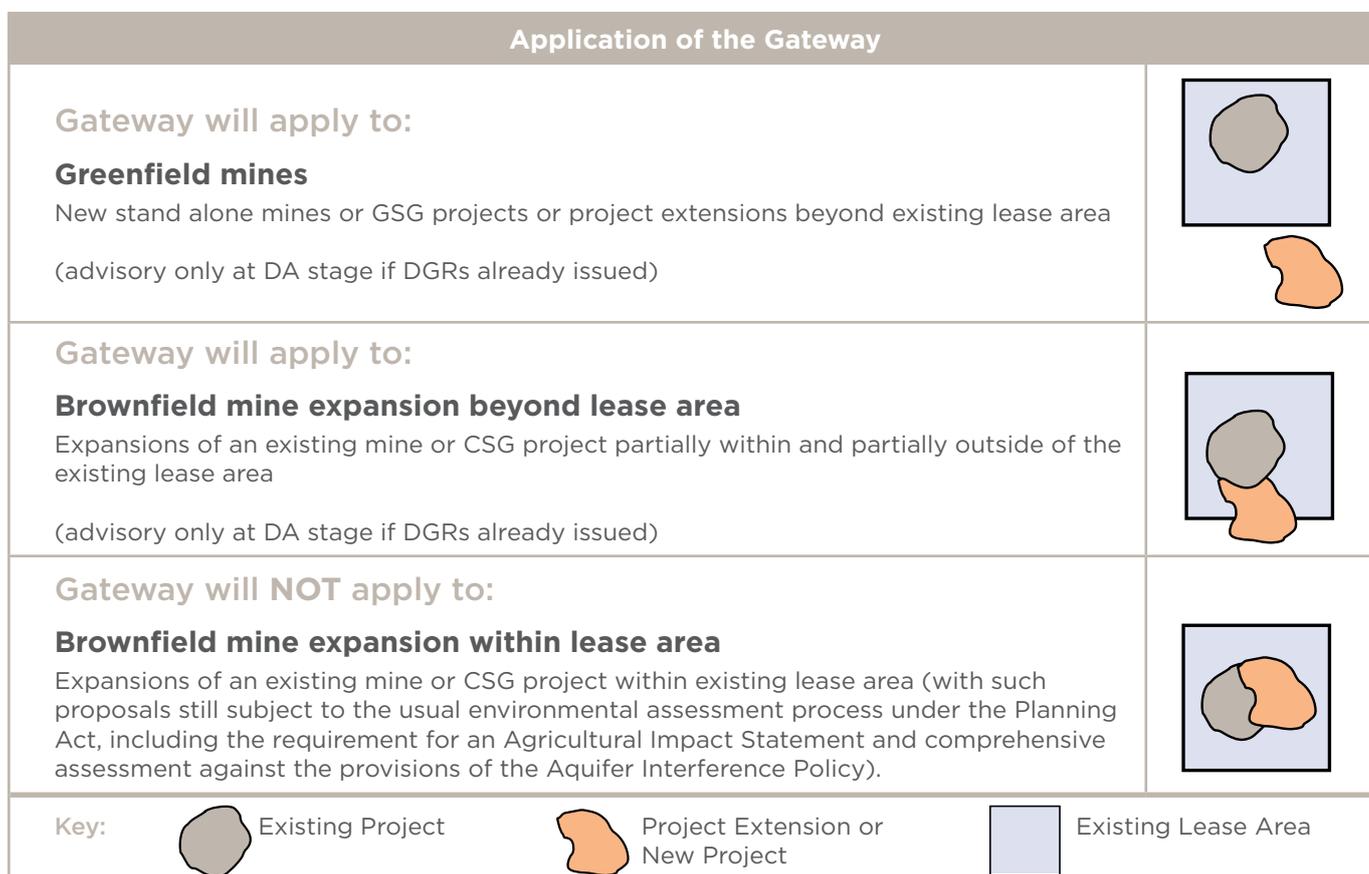
Due to their advanced stage in the development assessment process, projects for which Director-General’s Requirements have been issued will not be required to obtain a Gateway Certificate. However, such projects will still be subject to a comprehensive assessment of potential agricultural impacts at the DA stage through:

- Referral to the independent Gateway Panel for advice
- The requirement for an Agricultural Impact Statement
- Assessment against the Aquifer Interference Policy
- Referral to the Commonwealth Independent Expert Scientific Committee for advice, where the project will impact on highly productive groundwater as defined in the Aquifer Interference Policy

Applicants will have the option of submitting a triple bottom line cost benefit analysis with their DA. This would be used for a detailed consideration of the economic, social and other benefits of the proposal against its possible impacts through the merit assessment process and, ultimately, in the determination of the independent Planning Assessment Commission. If a cost benefit analysis is prepared by the proponent, it will be independently peer reviewed.

Full details of the Gateway process and criteria will be included in an amendment to the Mining State Environmental Planning Policy (SEPP) that will be exhibited for public comment.

Expressions of interest will be sought for Gateway Panel members.



Aquifer Interference Policy

Agricultural land requires a reliable source of water to support viable cropping and livestock activities. As a result, the protection of agricultural land must incorporate measures to not just manage impacts on the land itself but its water sources, both above ground and below.

The Aquifer Interference Policy is the NSW Government's approach to protecting these crucial water resources, particularly from potential impacts associated with mining and CSG activities.

The Aquifer Interference Policy will be applied statewide to clarify water licence and assessment requirements for aquifer interference activities.

The Aquifer Interference Policy has two main purposes. Firstly, it outlines how the volumes of water taken as part of an aquifer interference activity will be licenced and accounted for.

Secondly, the Aquifer Interference Policy sets out the assessment considerations to ensure that impacts on groundwater systems are minimised. For the first time, the policy sets out minimal impact considerations against which the NSW Office of Water will assess the potential impacts of proposals.

The minimal impact considerations

The minimal impact considerations include thresholds for impacting water table and water pressure levels as well as water quality changes in different types of groundwater systems, including alluvial aquifers that are highly connected to surface water. The productivity of groundwater systems has also been taken into account as part of the considerations.

The considerations include numeric thresholds for water table, water pressure and water quality impacts, which vary according to the type of groundwater asset and its associated water source.

There are two levels of minimal impact considerations. If the predicted impacts are less than the Level 1 minimal impact considerations, these impacts will be considered as acceptable.

Where an activity's predicted impacts are greater than the Level 1 minimal impact considerations, the proposal will be subject to additional requirements that must be assessed through the DA process. These requirements will depend on the level of predicted impacts and range from additional monitoring, mitigation and remediation to additional studies to further assess the predicted impacts.

Role of the Aquifer Interference Policy for State significant mining and CSG projects

The Minister for Primary Industries will provide advice on aquifer impacts during the assessment of a State significant mining or coal seam gas proposal. This advice will be provided at the Gateway and DA stages, and made public before any Gateway Certificate is issued or DA determined.

The Minister's advice will be based on an assessment by the NSW Office of Water of the project against the minimal impact considerations in the Aquifer Interference Policy. This assessment will determine the potential impacts of the project and whether further avoidance, prevention, mitigation measures or additional studies should be required.

This approach will ensure that potential aquifer impacts are fully considered up front in the planning assessment process and given significant weight in deciding whether a mining or CSG proposal should be allowed to proceed.



Implementation And Next Steps

The Gateway process will be implemented by an amendment to the Mining SEPP. This amendment will outline matters such as the projects to which the Gateway will apply, the role and functions of the Gateway Panel, and the matters to be considered through the Gateway process.

A draft amendment to the Mining SEPP to give statutory effect to the Gateway process will be exhibited for public comment.

A draft guideline on the triple bottom line cost benefit analysis methodology will also be publicly exhibited.

More Information

Further information about the Strategic Regional Land Use Policy, including the Strategic Regional Land Use Plans, the Aquifer Interference Policy, the Codes of Practice, fact sheets and frequently asked questions, can be found on this website:

www.nsw.gov.au/strategicregionallanduse