



Australian Dairy Industry Council Inc.

Australian Dairy Industry

Represented by

Australian Dairy Industry Council Inc.

Response to

**Inquiry into Australia's legislative regulatory and
policy framework for unconventional gas mining**

15 March 2016

Submission to: Senate Select Committee on Unconventional Gas Mining
gasmining.sen@aph.gov.au

Contents

About the Australian dairy industry	1
Contact for submission	1
1. Submission summary	2
2. Australian Dairy Industry Council policy position	3
3. Australian dairy industry study on coexistence	4
4. Response to Terms of Reference	5
1(b) The health, social, business, agricultural, environmental, landholder and economic impacts of unconventional gas mining;	5
1(f) Harmonisation of federal and state/territory government legislation, regulations and policies	7

About the Australian dairy industry

Australian dairy is currently a \$13.5 billion farm, manufacturing and export industry. Australia's 6,100 dairy farms produced around 9.7 billion litres of milk in 2015, for a farm gate value of approximately \$4.7 billion¹. Based on farm gate value of production, it is ranked third behind the beef and wheat industries. The Australian dairy industry directly employs around 40,000 people on farms and in factories, while more than 100,000 people are indirectly employed in related service industries.

Our industry has the potential to grow and change substantially over the next decade to meet growing domestic and international demand. Realising this growth potential and expanding the industry's economic, social and environment benefits depends on a positive national and international operating environment. Recent trade agreements provide a strong setting for growth. The regulatory framework is a key determinant of the industry's ability to operate, prosper and remain competitive.

The Australian Dairy Industry Council (ADIC) is the national peak policy body for the Australian dairy industry and represents all sectors of the industry on issues of national and international importance. Its constituent organisations – the Australian Dairy Farmers Limited (ADF) and the Australian Dairy Products Federation (ADPF) – represent the interests of dairy farmers, manufacturers, processors and traders across Australia. Dairy Australia (DA) is the research and development corporation (RDC) for dairy farmers and the industry.

Contact for submission

Irene Clarke — Senior Policy Manager
03 8621 4250 | iclarke@australiandairyfarmers.com.au
Level 2, 22 William Street, Melbourne, Vic 3000

¹ Dairy Australia *Australian Dairy Industry In Focus 2015*

1. Submission summary

The Australian Dairy Industry has undertaken a study of considerations on the current and potential interactions between dairy and unconventional gas mining activities in Eastern Australia (refer to section 3). The report has highlighted a number of areas of risk with the coexistence of dairy and unconventional gas mining.

The dairy industry is a significant industry in Australia, ranking fourth in agricultural exports for the country. But to realise this potential, and remain competitive in the international dairy market, it will be critical to address any risks of unconventional gas mining activity, ensure there is no compromise to the natural resources upon which the industry relies, and ensure there is no loss to reputation as a producer of high quality, safe dairy products. The Australian Dairy Industry Council position statement outlines six key principles that underpin this position on coexistence (refer to section 2).

This submission responds to those parts of the Terms of Reference most relevant to the potential for dairy farming to coexist with unconventional gas mining in Australia – items 1(b) and 1(f) of the Terms of Reference.

In relation to item 1(b) of the Terms of Reference, there are a number of potential issues with coexistence of dairy farming and the onshore unconventional gas industry. These are outlined in our policy position and principles and further in section 4 of this submission. These include but are not limited to:

- Environmental: water availability and quality
- Health: food safety
- Economic impacts: industry reputation, market access and regional development
- Social: farm access, operation and landholder rights.

In relation to item 1(f) of the Terms of Reference, there are significant resource knowledge requirements to ensure robust baseline information to underpin assessment and monitoring of any onshore unconventional gas projects nationally. Once baseline data is established, the regulation should support reliable transparent project monitoring. The regulatory framework must ensure best practices and safeguard mechanisms in the management of soil, water, noise and air quality. In addition, the framework must guide land access arrangements specifying legal rights, protections and obligations and fair and sound financial compensation.

A strategic planning approach is called for to ensure the place of agriculture in Australia has a clear mandate, and to ensure the agricultural sector can see its long term place against other industries seeking access to land and water resources with potential impact on the agricultural sector.

2. Australian Dairy Industry Council policy position

The Australian Dairy Industry Council has developed a national dairy industry position on unconventional gas mining activity. The policy position includes two statements of position with six underpinning principles.

Our policy position

1. ***The Australian dairy industry must continue to operate and prosper without unconventional gas mining activity compromising the natural resources upon which the industry relies and without loss to industry reputation or market access.***
2. ***All risks of unconventional gas mining impacting natural resources or dairy industry reputation must be addressed. This may be achieved through:***
 - ***Ensuring robust legislative frameworks are fully developed and implemented.***
 - ***Fully and transparently assessing, monitoring and managing environmental, economic and social implications of unconventional gas mining.***
 - ***Limiting the expansion of unconventional gas mining areas.***
 - ***The Australian dairy industry working with government agencies and stakeholders to ensure appropriate consideration of the co-existence of unconventional gas mining and dairy farming.***

Our principles

The following six principles underpin the Australian Dairy Industry's position on the co-existence of unconventional gas mining and dairy farming in Australia.

i. **Productive agriculture must be protected through strategic planning**

The Australian agriculture sector plays a crucial role in sustainably supplying food and fibre to domestic and international markets. The place of agriculture as a core pillar of the Australian economy is recognised by Federal and state governments. Strategic planning must provide for the long-term sustainability of the dairy industry in regions of current and foreseeable coexistence with unconventional gas mining. Proactive, quality, transparent long-term strategic planning must provide clear direction in how co-existence between industries will be managed for optimal environmental, economic and social benefit.

ii. **Water quality and quantity must be protected for dairy production to be viable**

The preservation of sustainable surface and groundwater resources is essential for dairy production. There must be continued supply of safe water that farmers can rely upon to irrigate, water stock and operate milk harvesting equipment. Any water used in unconventional gas mining should be sourced within the existing allocative system. An assessment and monitoring system needs to provide independently verified baseline data and on-going monitoring data to transparently identify potential cumulative impacts of unconventional gas mining in a regional context, with any impacts remedied.

iii. **Food, animal and people safety must be protected for the reputation of the dairy industry**

The health and wellbeing of people and animals is crucial for the Australian dairy industry. The unconventional gas mining industry exposes the dairy industry to a range of risks that could compromise achievement of high quality safe dairy products. Risk management, underpinned by Quality Assurance programs, is the cornerstone of the industry's ability to provide world-class food safety, animal welfare and safe work practice standards to Australian and global food markets. The dairy industry faces commercial risks if consumer confidence is affected by impacts or potential impacts of unconventional gas mining. The reputation of the Australian dairy industry needs to be protected and promoted in order for the industry to prosper and grow.

iv. Farmers must be able to continue their farm operations

A farming business must be able to undertake the necessary activities required to produce food in an efficient, cost effective manner. Dairy production has specific infrastructure requirements and relies upon seasonal and daily routines, unique to the management of each farm, being conducted without disruption. Farmers' ability to operate their farms, have ongoing access to their farm assets, and have options to develop and grow their business must not be compromised by unconventional gas mining operations either on their own land or in the local area. Sound working relationships between farmers and gas mining operators must be based upon respect, integrity and trust between all parties and underpinned by a strong legislative framework clearly specifying legal rights, protections and obligations and fair and sound financial compensation. A farmer's right of choice about whether to proceed or not proceed with negotiations for unconventional gas mining activity on their land is acknowledged. Farmers should be appropriately compensated for any access and operational impact.

v. Robust environmental management must include best practice of today and the future

Unconventional gas mining projects must adopt best practices and safeguard mechanisms in the management of soil, water, noise and air quality for the protection of the Australian dairy industry's reputation as a producer of quality, safe dairy products. Unconventional gas mining projects must undertake recognised best practice management including adopting proven technical advancements during the mining project, decommissioning, post-decommissioning rehabilitation and management. The provision of a nationally consistent and regulated framework, incorporating learnings from past experience, is paramount in this process.

vi. All projects must have reliable monitoring, reporting and compliance

The safe production of food products, a safe work environment and the growth of dairy industry market opportunities, relies on a strong, transparent monitoring and compliance system for unconventional gas mining projects. This needs to provide accurate monitoring data, demonstrated performance against regulated approval conditions, timely reporting of non-compliance matters, and the ability to resolve any non-compliance or unacceptable results. This system must be across all jurisdictions and be underpinned by a reliable, trusted audit process and comprehensive disaster planning. The dairy industry should not be responsible for any costs involved in monitoring, reporting, compliance or response.

3. Australian dairy industry study on coexistence

In 2014, Dairy Australia commissioned a report on the key considerations for current and potential interactions between dairy and unconventional gas mining activities².

The report is the result of a desktop review to inform the dairy industry on likely activities of unconventional gas exploration, extraction and production which may currently, or in the future, have the potential to interact with dairy businesses of eastern Australia. The review included consideration of the legislative framework under which these activities currently or potentially may be conducted in Queensland, New South Wales and Victoria.

Six fact sheets provide a summary of the key findings of the report. The full report and the fact sheets are also available here: <http://www.dairyaustralia.com.au/Environment-and-resources/Coal-Seam-Gas-mining.aspx>

² SLR Briefing Report, *A review of the key considerations on the current and potential interactions between dairy and unconventional gas mining activities in co-existing regions of Eastern Australia*, July 2014.

4. Response to Terms of Reference

This submission outlines a response to components 1(b) and 1(f) of the terms of reference. These aspects are most relevant to the dairy industry and its interaction with unconventional gas activities. Our comments on 1(b) and 1(f) below also touch on aspects relevant to components 1(d) and 1(e) of the terms of reference. We have also provided information in section three above about dairy industry studies which may be relevant for the Inquiry.

1(b) The health, social, business, agricultural, environmental, landholder and economic impacts of unconventional gas mining;

The dairy industry produces 9.7 billion litres of milk annually on 6,100 dairy farms. The production of quality, safe and trusted dairy products supports around 40,000 people working directly on-farm and in milk processing factories and many more working in service industries.

The dairy industry has concerns about a number of issues with coexistence of dairy farming and the onshore unconventional gas industry. These are outlined in our policy position and principles in section 2 of this submission. These include but are not limited to:

- Environmental: water availability and quality
- Health: food safety
- Economic impacts: industry reputation, market access and regional development
- Social: farm access, operation and landholder rights.

These issues and more have been highlighted in the Dairy Australia commissioned study outlined in section 3 of this submission, with particular reference to pages 39-61 and 120-142.

Dairy farming and onshore unconventional gas mining do coexist in some states already, however the extent of coexistence in New South Wales and Queensland is relatively minor at this stage. In addition, dairy farming and conventional onshore gas activity also currently coexist in some states, and this has a greater extent of coexistence. Some considerations such as market access and industry reputation are largely based on the national Australian dairy industry, while relevant regulation is largely state-based. The national context of co-existence is important to this Inquiry.

Even if the evidence shows that unconventional gas mining activities and agriculture can safely operate together, a strategic approach is warranted to ensure the place of agriculture in Australia has a clear mandate and the agricultural sector can see how it is placed against other current or future industries seeking access to land and water resources. The Federal Government's recognition of the place of agriculture, and dairy in particular, as a core pillar of the economy is a key part of providing that mandate supporting the long-term sustainability of the dairy industry.

Water availability and quality

Dairy farmers rely on a secure and safe water supply to keep stock fed and watered and to produce safe and healthy food. Water is used on a farm for three main activities: growing pastures, dairy shed operations and cleaning, and for drinking by the dairy cattle.

Key considerations for the dairy industry include the potential for:

- Groundwater contamination
- Surface water contamination
- Reduced quantity of water available for dairy production
- Transparent independent assessment, monitoring and remedy of water quality and quantity.

A particular consideration with water use and/or potential contamination is that water resources are not confined to a particular farm or well site. Any contamination of water resources will have a wider regional impact for many farms and potentially a large part of the dairy industry.

Industry reputation and market access

Australia exports \$2.88 billion (2014/2015) worth of dairy products a year. Australian dairy companies depend heavily on export markets for ongoing profitability and currently export 35-40% of milk produced as milk powders, cheese, butter and other products. Dairy is fourth in agricultural exports for the country.

Dairy food safety is essential for maintaining industry reputation and access to markets. Risk management underpinned by Quality Assurance programs is the cornerstone of the industry's ability to provide world-class food safety, animal welfare and safe work practice standards to Australian and global markets.

Unconventional onshore gas mining has the potential to affect market access for export goods if there is any real or perceived risk to Australia's high quality safe dairy products. Potential areas of risk include use of produced water and chemical use in mining activities.

If global customers or domestic or international consumers perceive that unconventional gas mining is affecting the quality of dairy products, this would have significant commercial impact for Australian dairy companies. Australian dairy processors are very concerned about this risk and a need to maintain the industry reputation.

Although the export market is more significant for dairy production in some states than others, it is the reputation of the national Australian dairy industry which is more critical in potential market impacts. An incident in one state may affect the national dairy industry's reputation as a whole. While risk to industry reputation carries significant concern, we do not have evidence supporting an actual link between unconventional mining activities and consumer response.

Implications for local and regional development, investment and jobs

The dairy industry makes a significant economic, social and environmental contribution to local and regional communities in Australia. The direct economic and employment contribution is noted in the introduction to this submission. Any risk that coexistence may impact dairy production or industry reputation will have implications for the industry's prosperity and growth in regional Australia, and therefore the current and potential regional contribution of the industry.

Landholder and economic impacts

Landholders must have access to fair and reasonable processes in negotiating and deciding land access arrangements. We support the approach of some mining companies where they seek to work with farmers who are willing to have wells on their land and respect the wishes of those who don't, rather than using legal processes to force access where landowners are not willing.

Sound working relationships between farmers and gas mining operators must be based upon respect, integrity and trust between all parties and underpinned by a strong legislative framework clearly specifying legal rights, protections and obligations including fair and sound compensation.

The Dairy Australia commissioned study highlights areas for consideration to ensure protection for property owners (pp 106-118).

Land Access Agreements (LAA) and Codes of Practice are in place in New South Wales and Queensland. These types of regulations help to protect landholders and the environment and should be put into place in all states where the onshore unconventional gas mining industry operates.

Key considerations to include are:

- Initial planning with the landholder and company to ensure minimum disturbance
- Access Routes negotiation
- Landholder compensation and compensation agreements
- Mining company conduct
- Rehabilitation agreements
- Timing and location of infrastructure
- Remuneration negotiation.

Landholders must be supported through the process to ensure satisfactory outcomes.

1(f) Harmonisation of federal and state/territory government legislation, regulations and policies

Regulatory framework for managing environmental and health risks

A regulatory framework must ensure that the Australian dairy industry can continue to operate and prosper without unconventional gas mining activity compromising the natural resources upon which the industry relies and without loss to reputation as a producer of high quality, safe dairy products.

The regulatory and policy framework is currently inconsistent between federal and state, and between states. For instance, Victoria's regulatory framework is piecemeal and inadequate, compared to the more robust framework and reforms implemented in New South Wales. The Commonwealth and all states have the opportunity to learn from past mistakes in jurisdictions, including lack of appropriate community engagement, and to take the best of their current regulatory, monitoring, compliance and enforcement regimes and improve upon them.

There would be significant benefit for the dairy industry and farmers across Australia in working under a harmonised policy and regulatory framework for unconventional gas mining.

As a minimum, Australia's regulatory framework is expected to include the following aspects:

1. All companies applying for exploration and production licences to notify directly affected landholders and local government before lodging the application, and place a public notice in both newspapers generally circulating in the state, and local newspapers.
2. Mandatory codes of practice for well design, construction, fracking activities, well integrity and decommissioning, and emissions control, with legislated penalties for non-compliance.
3. Independent land, water and gas commissioner, to assist and support landholders and communities with advice and mediation, and enforce land access code of practice. Website to be one-stop for information and disclosing mandatory information as per below.
4. Mandatory Code of Practice for land access, developed in consultation with stakeholders, including farmer representative groups, and covering matters such as access points, track maintenance, biosecurity, notice of intent to access the property, water regulations, pest and weeds control, livestock management, fences and gates, and disclosure of any items brought onto the property such as chemicals.
5. Standardised land access agreements, with guidance on remuneration.
6. Mandatory disclosure of all baseline and ongoing monitoring of water table levels, water quality, and emissions readings to the host landholders, as well on the relevant Departmental website, in plain English.

7. Mandatory preparation of environmental impact assessments, including measures to minimise risks, address any failures, and assignment of liability to gas companies.
8. Mandatory disclosure of rehabilitation requirements under the licence approval conditions, to the landholder, including any penalties or other measures, for non-compliance by gas companies.
9. Mandatory inclusion of the directly affected landholders in site meetings between the gas company and the State Government Department to consider all issues that should be addressed in a draft Work Plan. These plans are a precondition for a work authority to commence exploration and production.
10. Address anomalies where coal seam gas, and shale/tight gas are governed under different Acts, with different requirements of planning and/or environmental effects assessment and approval.
11. Recommendations from Environmental Effects Assessments and Statements to be binding, rather than merely information to be considered as part of a minister's decision-making making process.
12. Water legislation to specifically govern the management, use and licensing of groundwater in onshore gas mining activities, including maintaining aquifer integrity and the treatment, use and disposal of produced water and fracking fluid.

It is critical that the regulatory framework is supported by sound processes and adequate resources for monitoring, compliance, enforcement and remedy of any non-compliance issues.

Further scientific work to inform effective regulation

The Australian dairy industry emphasises the importance of robust baseline studies to underpin assessment and monitoring of any onshore unconventional gas projects nationally. We are not satisfied that adequate baseline data yet exists nationally on which to base a reliable monitoring reporting and compliance system. Establishing robust independent baseline data is a role for the government not mining companies. Once baseline data is established, the regulation should support transparent project monitoring where information is shared with landholders and communities.