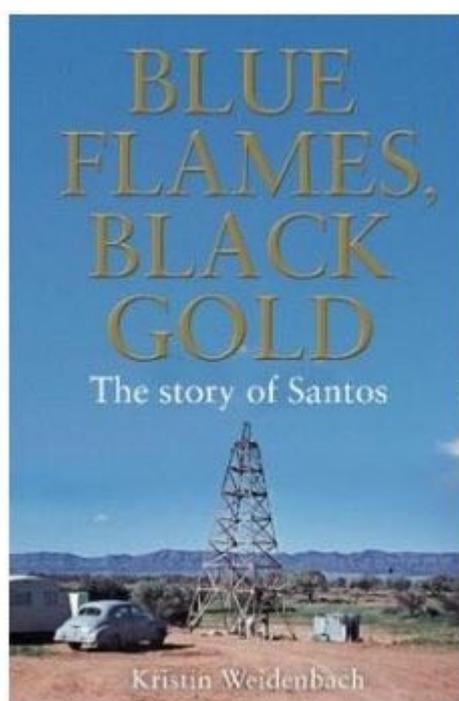


# Maules Creek Community Council – Submission re last minute Santos Financial Reports August 2020



*“His main strategic goal was to gain exposure to global gas prices for the company’s large-scale gas resources. LNG was the key, since LNG marketed globally at prices linked to oil-fetched prices four times or more above the prevailing price of gas in Eastern Australia he informed shareholders in the 2007 Annual Report.”*

Michael West at the SMH wrote at the time:

*According to research by Credit Suisse, “Santos now argues that its aim in Gladstone LNG was always as much about raising the domestic gas price, and therefore re-rating large parts of the portfolio outside of GLNG, as it was about the project”.*

“In other words, its LNG project is turning sour, so now Santos is telling analysts it was deliberately trying to ratchet up the price of gas all along. Not only are consumers getting smashed but the entire economy is hostage. Thanks to these people piping their gas to Gladstone, prices are already up from \$4 a gigajoule to \$8.70 a gigajoule.

**Credit Suisse reckons that every \$2 GJ rise in the gas price puts an 0.8 per cent drag on the economy.”<sup>1</sup>**

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<sup>1</sup> SMH, 7.6.2014, Schoolchildren embroiled in CSG dispute, <https://www.smh.com.au/business/schoolchildren-embroiled-in-coalseam-gas-dispute-20140606-39ogq.html>, Downloaded 20.8.2020

## **Introduction:**

The Maules Creek Community Council has provided a number of submissions and legal advice regarding residual risk and the need for insurance in relation to the proposed Narrabri gas project.

The new, last minute economic update reports<sup>2</sup> provided by the proponent still do not assess, cost or plan to address residual risk<sup>3</sup>, despite the purported economic nature of the report.

After 5 years in the planning system, it is clear Santos has no intention of complying with the 27.9.2016 Secretaries Environmental Assessment Requirements to address residual risk and the NSW Chief Scientists Report Recommendation 9<sup>4</sup>.

The new economic update report has limited value for decision making purposes using cost benefit analysis as the full costs (that includes the cost of the projects residual risk), and the distribution of those costs are still not known.

The failure to adequately address residual risk is a ongoing theme in all the proponents planning documents including this last minute financial update.

The report is the proponents view of a narrowly focused range of indicators which is a last minute attempt to frame the debate, ignore residual risk and restrict the economic terms of reference under planning consideration at this crucial time.

Without fully addressing the project risk, including residual risk, the project cannot be approved.

## **A Laissez-faire Attitude to Risk:**

The proponent's last minute paid consultants report makes no mention in the commentary, tables or in the model assumptions of the proposed Narrabri gas project's residual risk. It is silent on the distribution of the costs of that risk with the obvious implication that the cost of addressing residual risk is being externalised to the community and the environment.

### **In direct contravention of the SEARs.**

The glaring omission highlights in bright lights the company's dismissive attitude to planning regulation, a disregard of risk to the community and environment, and a basic lack of competence when after 5 years it can't even complete the planning application correctly.

Compare this dismissive attitude to the proponents public urgency to get the project up and running, to its unrelenting engagement in political lobbying and public relations, and its behind the scenes highjacking of the Australian economic response to the Covid19 pandemic.

On review of the companies history and publicly stated strategy one suspects there is a strong reason for the ongoing omission of residual risk management. It maybe that the proponent simply can not obtain insurance for landholders given its history, or that its Board's excessive appetite for risk is not shared by the rest of the community.

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2 Acil Allen, Report to Santos (Eastern) Pty Ltd Narrabri Gas Project Update of Economics

3 Residual risk. <http://www.businessdictionary.com/definition/residual-risk.html> retrieved 21.4.2017

4 NSW Chief Scientist and Engineer, *Environmental risk & responsibility and insurance arrangements for the NSW CSG industry*, May 2014

## History: Residual Risk is a feature with Santos

The way the company does business is a real concern for the MCCC and the wider North West community. Its history locally and overseas shows an approach to risk and risk planning that excludes the environment and the community, absolving itself and moving on.

### 1. Plan B: Cut and Run - Sidoarjo mudflow disaster<sup>5</sup>

The Santos 18% share in the spectacular 2006 well failure in Sidoarjo, Indonesia is well documented. By 2015, 40,000 people were displaced with costs exceeding \$US2.7 billion.

Though the cause of the failure has been disputed in the usual finger pointing exercise<sup>6</sup>, what is concerning is the proponent's response to the drilling catastrophe was to cut and run. It seems likely it would do so again as there is nothing in the draft Department of Planning approval conditions to prevent it doing the same at Narrabri.

Indeed, the new economic update for the Pty Ltd company Santos (Eastern) shows that the ownership structure is already in place to sell the project off, should things pan out badly.

The early commentary in the Australian press was how big a hit the disaster would have on Santos balance sheet with initial estimates of \$US200million out of the overall cost of \$US1.1 billion<sup>7</sup>.

Santos skirted that liability by 'selling' its 18% share to its politically connected partner<sup>8</sup> by paying it just \$US22.5 million. Approx 10% of its initial anticipated liability<sup>9</sup> share of \$US200 million and just 4.6% of the 2015 share of liability.

There was no insurance cover from the proponent for the local people to cover the risk and eventually meet the costs of the disaster on their lives and livelihoods, and no ongoing support from the company as it sought to distance itself financially, and in the public narrative from the project.

Indeed the "cut and run" approach in the face of disaster or declining profitability seems to becoming mainstream for Australian resource companies looking to get out of their non performing assets. For example

1. RIO Tinto sold its Queensland Blair Athol mine for \$1 to mining minnow Terracom with a \$A80 million rehab bond<sup>10</sup> refund to significantly sweeten the deal
2. BHP is foreshadowing the sale of its huge Mt Arthur thermal coal mine as thermal coal prices collapse in the face of climate change and burgeoning rehabilitation costs<sup>11</sup>

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5 The Age, *Santos gets caught in toxic Indonesian mudflow*, <https://www.theage.com.au/business/santos-gets-caught-in-toxic-indonesian-mudflow-20060708-ge2o8o.html>

6 The New York Times, *Indonesia's 'Mud Volcano' and Nine Years of Debate About Its Muck*, <https://www.nytimes.com/2015/09/22/science/9-years-of-muck-mud-and-debate-in-java.html>

7 Herald Sun, *Santos stuck in the mud*, <https://www.heraldsun.com.au/businessold/santos-stuck-in-mud-flow/news-story/08001371ea13da370d24f1a50e885dad>

8 Wikipedia, *Aburizal Bakrie*, [https://en.wikipedia.org/wiki/Aburizal\\_Bakrie](https://en.wikipedia.org/wiki/Aburizal_Bakrie)

9 Wikipedia, *Sidoarjo mud flow*, [https://en.wikipedia.org/wiki/Sidoarjo\\_mud\\_flow](https://en.wikipedia.org/wiki/Sidoarjo_mud_flow)

10 ABC News, *Queensland Government released almost half of \$80 million bond to company that purchased Blair Athol mine* <https://www.abc.net.au/news/2020-05-01/part-of-rehabilitation-bond-returned-to-mining-company-terracom/12132422>

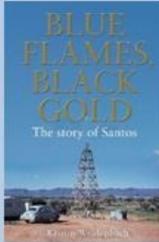
11 Mining and Quarry World, 24.6.2020, *BHP hires JP Morgan to sell Australian thermal coal mine Mt Arthur* <https://mqworld.com/2020/06/24/bhp-hires-jp-morgan-sell-australian-thermal-coal-mine-mt-arthur/>, downloaded 20.8.2020

## 2. Board Mismanagement and Excessive Risk Taking: Gladstone LNG

The proponents Board has shown an excessive appetite for risk with other peoples money and environments over the last couple of decades as it single mindedly pursues a strategy to link Australian gas to the international oil price. This story is graphically detailed in the book Blue Flames Black Gold – The Story of Santos<sup>12</sup>.

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'... Ellis-Flint had a plan for Santos' future nonetheless. His main strategic goal was to gain exposure to global gas prices for the company's large-scale gas resources. LNG was the key, since LNG marketed globally at prices linked to oil-fetched prices four times or more above the prevailing price of gas in Eastern Australia he informed shareholders in the 2007 Annual Report.'



'Santos' traditional focus has been on the domestic Australian market, where we are the largest gas producer.' the Managing Director wrote to shareholders in the 2007 Annual Report. 'Our strategy for the future is to sell our products in Asia at higher prices, where demand is growing strongly... The substantial price difference between eastern Australia and SE gas prices is unsustainable, especially as demand in both markets is rapidly increasing and there is now sufficient gas to make export viable.'

Unfortunately for Santos and its Board, its strategy has completely backfired as the company successfully linked its fortunes to the collapsing international oil price, along with the price of other fossil fuels.

Unable to change tack, the Santos Board's myopic strategy is demonstrably wrong for the times in the wake of the Paris Climate Agreement and as the impacts of climate change begin to bite.

The companies share price since 2015 relative to the ASX index tells a different story to the rosy picture painted by the new economic update from its paid consultants. The real story is one of Board mismanagement, inflexibility and intransigence, and nothing in the new economic update will reverse the climate trajectory or reduce the residual risk of the Narrabri gas project.

In fact, the collapse in the company's share value means the company is less able now than when it lodged its planning application in 2016 to withstand the economic headwinds that it faces around the world, further increasing the residual risk of the project. The proponent is more likely now than ever to offload the Narrabri gas field, once depleted, to a minnow.

The share price chart below shows that since 2012 when the Narrabri Gasfield first hit the headlines Santos share price is down 45% while the broader market index has risen approx 200%.

This is a clear indicator of the value of the Board strategy and the companies financial performance. It is a measure of the proponents risk compared to a broad basket of Australian companies and gives landholders who may be forced to deal with Santos real concern as to the risks of coal seam gas and of the company's ability to deal with those risks.

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12 Alternative Title: Be careful what you wish for - The Story of Santos

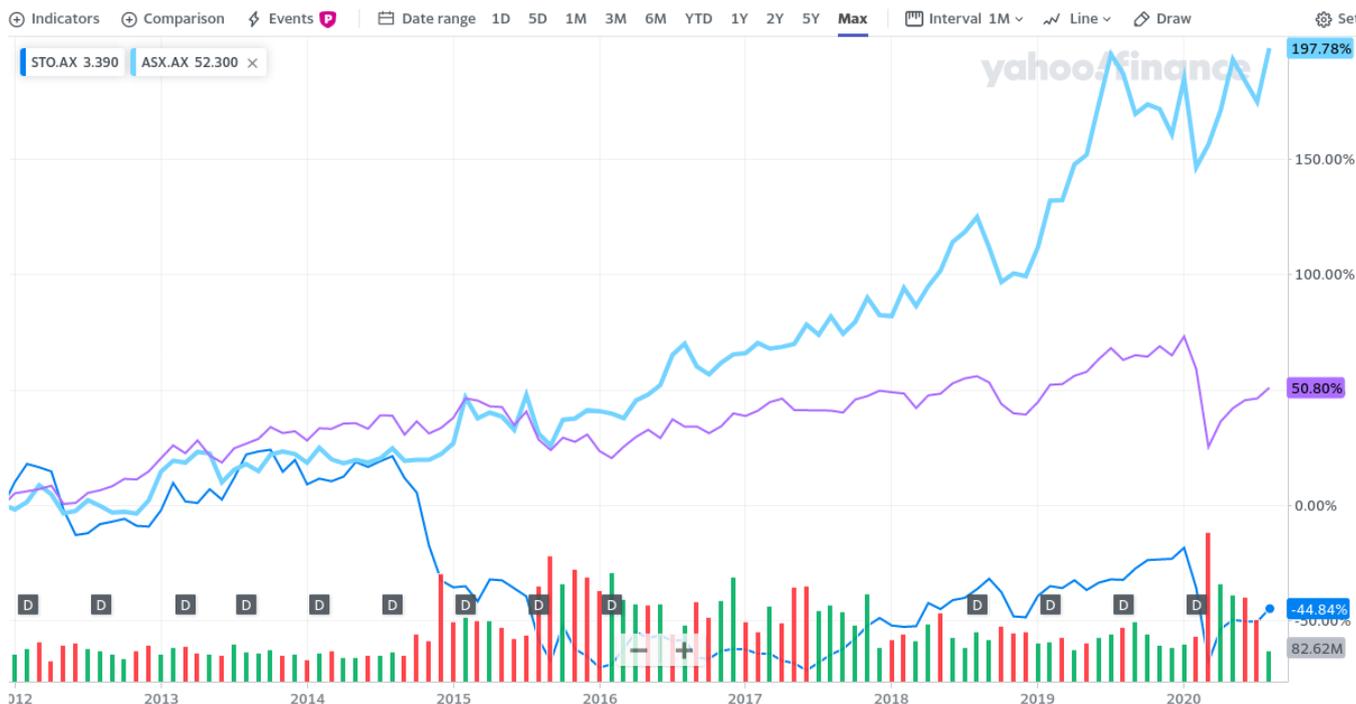
## Santos Share Price V ASX index<sup>13</sup>

### Santos Limited (STO.AX) ☆

ASX - ASX Delayed price. Currency in AUD

5.61 -0.27 (-4.51%)

As of 2:22PM AEST. Market open.



## Litany of misteps and miscalculations

It is the behaviour of the Board rather than the words of its consultants, Ancil Allen, that speaks volumes regarding the proponents appetite and management of risk. It's risky behaviour as shown below must be controlled and avoided for the public good.

1. The Board approved the construction of 2 LNG trains at Gladstone without a full assessment of the quantity and quality of the coal seam gas resource it had available<sup>14</sup>.
2. The Board established the LNG facility in the midst of a global LNG building boom, next to three other proposed LNG plants<sup>15</sup> exposing it to massive construction cost blowouts<sup>16</sup>.
3. The Board have been unable to fully supply the Gladstone LNG trains from Queensland CSG despite claiming otherwise in its original Gladstone LNG EIS<sup>17</sup>. It has had to access Bass Strait and Moomba gas to supply export contracts, draining low priced conventional

<sup>13</sup> Santos Share price chart downloaded Wed August 19, 1612, <https://www.asx.com.au/prices/charting/?code=STO&compareCode=ASX&chartType=COMMONBASE&priceMovingAverage1=&priceMovingAverage2=&volumeIndicator=BAR&volumeMovingAverage=&timeframe=daily>

<sup>14</sup> Bruce Robertson, Santos blows \$7 billion in 5 years and no relief for gas customers, <https://www.michaelwest.com.au/santos-blows-7-billion-in-five-years-and-no-relief-for-gas-customers/> downloaded 20.8.2020

<sup>15</sup> The Arrow energy plant was not constructed

<sup>16</sup> SMH, 28.6.2012, Santos Slumps on LNG cost blow-out, <https://www.smh.com.au/business/companies/santos-slumps-on-lng-cost-blow-out-20120628-213uh.html> downloaded 20.8.2020

<sup>17</sup> Santos, GLNG Project - Environmental Impact Statement Chapter 6 Page 6.15.11

gas away from Australian gas users<sup>18</sup> and driving gas prices to unsustainable levels, threatening local industries and jobs.

4. The Board established the LNG facility without any concern for Australian domestic gas users or the impact on the national economy with the management telling investment advisers Credit Suisse that Gladstone LNG was as much about valuing up the gas tenements under its control as gas export<sup>19</sup>.
5. Despite a global gas glut, the Board is pushing on with new gas field development at Narrabri that will add to that glut on the back of huge global LNG investment<sup>20</sup>.
6. New gas import plants will be up and running before Narrabri gas gets to production<sup>21</sup>
7. The Narrabri field is not competitive compared to international prices. New gas import plants will make the Narrabri gasfield unviable.
8. Incredibly, as Australia became the global number one LNG gas exporter, the Santos Board's policy has led to sustained high domestic gas prices<sup>22</sup> in excess of the international gas price and higher than the gas price paid by Australia's foreign gas customers despite additional shipping costs.
9. The Board continues to run the LNG plant at Gladstone LNG on gas rather than using cheaper renewable energy. The redirection of gas used at Gladstone for export gas refrigeration purposes into the domestic market would significantly reduce the need for domestic gas, tipping the supply/demand balance and driving down gas and electricity prices. This would have a further benefit of reducing Australia's greenhouse gas emissions which have spiked due to the new LNG plants at Gladstone.
10. The Board has not moved to embrace renewable energy as climate change begins to bite and opportunities in renewable energy grow

From a Maules Creek landholders perspective it is doubtful that an organisation with this level of selfishness, risk taking and waste should ever be rewarded with any further planning approvals.

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18 AFR, 21.3.2017, Santos LNG to swallow 20% domestic gas, <https://www.energycouncil.com.au/media/7518/santos-lng.pdf>, downloaded 20.8.2020

19 SMH, 7.6.2014, Schoolchildren embroiled in CSG dispute, <https://www.smh.com.au/business/schoolchildren-embroiled-in-coalseam-gas-dispute-20140606-39ogq.html>, Downloaded 20.8.2020

20 Niko Tsafos, CSIS, This Gas Glut feels different, <https://www.csis.org/analysis/gas-glut-feels-different>, downloaded 20.8.2020

21 SMH, 14.8.2019, \$590 million gas terminal slated for Newcastle Port, <https://www.smh.com.au/national/nsw/590-million-gas-terminal-slated-for-newcastle-port-20190813-p52grb.html> downloaded 20.8.2020

22 SMH, Santos Narrabri Gas Project would drive up energy prices, <https://www.smh.com.au/environment/climate-change/narrabri-gas-project-would-drive-up-energy-prices-pro-renewables-group-says-20200811-p55kqk.html> downloaded 20.8.2020

### **3. Misinformation: Insurance**

#### **Unsubstantiated claims: Public Liability Insurance availability**

The company in its most recent Final Submission<sup>23</sup> that was signed by the Managing Director, claimed that landholders that host CSG infrastructure can obtain public liability insurance from insurers.

The claim has not been substantiated or quantified. No actual insurance companies were mentioned, no policies were mentioned and there was no analysis of policy conditions or Product Disclosure Statements. It is simply an assertion by a company who has a beneficial interest in a project that will affect large numbers of landholders, people and businesses.

At this point one large rural insurer, IAG, has said categorically that it won't provide Public Liability cover for landholders which host CSG infrastructure.

Maules Creek landholders have been advised by Elders insurance which is underwritten by QBE, that they do not have a specific product that provides Public Liability cover for landholders who host CSG, and they advise landholders to get legal advice to interpret rural insurance Product Disclosure Statements (PDS)<sup>24</sup>.

The General Exclusions in the PDS under Intentional Damage makes it clear that it excludes cover in all sections of the policy for "damage caused intentionally or incurred by a person acting with your express or implied consent".

Such an exclusion makes it highly likely that public liability cover would be denied to a landholder who has a land access agreement with a CSG company such as Santos obtained under a state significant project approval.

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<sup>23</sup> Santos, Narrabri Gas Project (SSD 6456) Submission to IPC following public hearing, 10.8.2020

<sup>24</sup>Elders Farm Insurance, Product Disclosure Statement May 2016

[https://www.eldersinsurance.com.au/uploads/PDS/QM3234-0516%20Elders%20Farm%20Pack\\_web\\_0516.pdf](https://www.eldersinsurance.com.au/uploads/PDS/QM3234-0516%20Elders%20Farm%20Pack_web_0516.pdf)

### Special conditions applying to this section

#### 1. Errors

If you or any person acting on your behalf becomes aware of any error in any return of income or other documents supplied to a state or federal Commissioner of Taxation, you must notify the Commissioner of Taxation without any unreasonable delay.

If you do not notify the Commissioner of Taxation without delay we may refuse to pay all or part of your claim.

#### 2. Tax returns

You must submit all returns and documents within the time limits prescribed by all relevant statutes, regulations and as lawfully required by a Commissioner of Taxation.

If you do not submit your returns on time we may refuse to pay all or part of your claim.

#### 3. Income disclosure

You must make full and complete disclosure of all income, turnover and expenses required by any tax legislation. If you do not, and the incomplete disclosure was made to avoid payment of tax, we will not pay your claim.

#### 4. Claims

If you have a claim under this section you must:

- (a) keep us fully informed of all matters in relation to your claim;
- (b) send us copies of all correspondence in relation to your claim within five days of receiving them;
- (c) instruct your accountants and solicitors to provide us with all relevant documents and information in relation to your claim;
- (d) permit us when necessary to instruct your accountants and solicitors in matters relating to your claim and for the cost of these instructions to form part of your claim. This does not mean we will take over or represent you in the audit or investigation.

### General exclusions

These general exclusions apply to all sections of this Policy.

This Policy excludes loss, damage, destruction, death, injury, illness, liability, cost or expense of any nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any of the following, regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

1. war, invasion, acts of foreign enemies, hostilities or war-like operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power, or
2. any act(s) of Terrorism that is directly or indirectly caused by, contributed to by, or in any way involves or is connected with biological, chemical, radioactive, or nuclear pollution or contamination or explosion. For the purpose of this exclusion, an act of terrorism includes any act, or preparation in respect of action, or threat of action designed to influence the Government of the day or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological or similar purposes to intimidate the public or a section of the public of any nation by any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or Government(s) of the day or de facto, and which:
  - involves violence against one (1) or more persons; or
  - involves damage to property; or
  - endangers life other than that of the person committing the action; or
  - creates a risk to health or safety of the public or a section of the public; or
  - is designed to interfere with or to disrupt an electronic system.
3. radioactivity or the use, existence or escape of any nuclear fuel, nuclear material, or nuclear waste or action of nuclear fission or fusion.

This Policy also excludes any loss, destruction, damage, death, injury, illness, liability, cost or expense of any nature directly or indirectly caused by, contributed to by, resulting from or arising out of or in connection with any action taken in controlling, preventing, suppressing, retaliating against, or responding to or in any way relating to 1, 2 or 3 above.

#### Intentional damage

Damage or liability intentionally caused or incurred by:

- (a) you;
- (b) a member of your family; or
- (c) a person acting with your express or implied consent or that of a member of your family.

#### Admitted insurance

Claims made or actions instituted within any Country, State or Territory (outside Australia) that require insurance to be issued or secured with an insurer or organisation licensed in that Country, State or Territory to grant such insurance.

#### Sanctions limitation and exclusion clause

You're not insured under any section of this Policy where a claim payment breaches any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, the European Union, United Kingdom or United States of America, or any local autonomous sanctions.

## **Misleading by Omission: Comprehensive Environmental Insurance**

Public liability insurance is different to Comprehensive Environmental Insurance which is recommended by the NSW Chief Scientist in Recommendation 9 of her report.

The last minute Final Submission documents have no reference to comprehensive environmental insurance to manage residual risk, despite the requirement to address the issue in the 2016 SEARs.

As shown below in this direct quote from the Chairperson of the Santos Board, the company has no intention of ever protecting landholders with insurance from risks that are residual in its business model. The Chairpersons rambling failure to answer a direct question when asked at the company 2017 AGM about landholder risk is a consistent pattern of behaviour for the proponent.

**“does Santos have adequate insurance for remediation or to provide compensation to landholders for negative impacts on their business?”**

*Santos Chairman: “Look, err, let me just make a statement. We’ve been, we’ve been at this business now for 60 years and ah, we have never to the best of my knowledge, err damaged an aquifer or caused a problem or a major problem with a water course. I’d like to just refer you to Alan Finkel’s comments, the Chief Scientist, I think its worth looking at that. That just sums up this whole debate with, with there is such emotion about watercourse and I understand the emotion on watercourse, its something that’s very dear, and very important to Australians. Quality of water. But umm, this, this is about fracking and err, not totally in response to err, what David’s question, but I just think it puts this thing in context. The Chief Scientist says that fracking is being widely used in the coal seam gasfields, particularly in Queensland. Now we don’t use fracking in NSW, but its been used particularly in Queensland. Its been widely used across America, the evidence is not there that it is dangerous, in fact the evidence is that if properly regulated it’s completely safe. Now I, the reason I raise that point is that we, we all have an emotional attachment to water, we all want, we the last thing any of us want to do is damage a watercourse. Santos has been in this business for 60 years and has not damaged, not caused any damage to an aquifer that I’m aware of, nor caused any serious damage to a water course. So, ah, you know, I think our record speaks for itself on this. Thank you.”*

The Santos Chairperson comments failed to acknowledge Santos role in the destructive Sidoardjo mudflow disaster in Indonesia in 2006 and fines for the contamination with uranium of an aquifer by a test well project at Narrabri in 2014.

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Dear Reader;

if you have made it to the bottom of this submission, it should be clear to you that the proponent has a serious and unwarranted appetite for risk, has a history of economic and environmental failure and is unable to change. The proponent should not be given a approval to operate in NSW. Coal Seam Gas is unaffordable, unwanted and unneeded.

The new material provided by the proponent does not change anything in that it still does not address a key issue with the Narrabri gas project – residual project risk.

As such the project should be rejected.