

## Submission on the National Gas Infrastructure Plan

March 2021

The Centre for Public Integrity welcomes the opportunity to make this submission on the National Gas Infrastructure Plan (**NGIP**).

The Minister for Energy and Emissions Reduction has stated that the NGIP will be used by the Commonwealth Government to choose which particular gas infrastructure it will underwrite with public funds.<sup>1</sup>

The proposed expenditure of large sums of public money under the NGIP raises significant questions of integrity and transparency. The present consultation requests information about specific gas infrastructure and proposals for increasing gas demand but provides no detail on the NGIP itself, the process by which it is being developed, or how projects will be selected for public financial support. The legal basis intended to underpin this financial support from the Commonwealth is also unclear.

It is concerning that the government is seeking proposals for public expenditure without outlining publicly the basis upon which decisions will be made. The lack of transparency and detail is especially troubling given potential conflicts of interest regarding both the substantial donations made by gas companies to major political parties, and the involvement of gas industry figures advising the government on public financial support to the gas industry.

### **Conflicts of interest: east coast LNG terminals or connected infrastructure**

The High Court decision of *McCloy v New South Wales* [2015] HCA 34 (**McCloy**) upheld the constitutionality of New South Wales laws imposing caps on political donations, banning donations by property developers and prohibiting indirect campaign contributions. In that case, the plaintiff (Jeff McCloy, a property developer who also stands to benefit from the NGIP) argued that gaining access through political donations to exert persuasion was not undue influence. The High Court disagreed with this proposition, pointing out that the line between ingratiation and access, and corruption, “may not be so bright”.<sup>2</sup>

Recent analysis by the Centre for Public Integrity has shown that the resource and energy industry is the largest industry donor to political parties. Over the two decades to 2019, the third and fourth largest political donors from this industry were Australian gas corporations Woodside and Santos, with disclosed donations totalling \$2.0 million and \$1.5 million respectively.

Both Woodside and Santos stand to potentially benefit from the NGIP. Woodside operates LNG terminals in WA and exports large volumes of LNG; it is also currently

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<sup>1</sup> Hansard (2020) *Angus Taylor, MINISTERIAL STATEMENTS; Energy - 29 Oct 2020*  
[https://www.aph.gov.au/Parliamentary\\_Business/Hansard/Hansard\\_Display?bid=chamber/hansardr/401a8e85-65d0-4704-8cfc-ef351b7cb8b6/&sid=0012](https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=chamber/hansardr/401a8e85-65d0-4704-8cfc-ef351b7cb8b6/&sid=0012)

<sup>2</sup> *McCloy v New South Wales* [2015] HCA 34, 35.

seeking to develop a large new gas field, Scarborough, for LNG export. Santos also operates and owns shares in LNG projects, and is proposing a large new field, Barossa, to feed LNG exports. These companies could stand to benefit from LNG import terminals on the east coast, to which they could send their LNG cargos, and therefore may be the beneficiaries of government support to east coast LNG terminals or connected infrastructure.

### **Conflicts of interest: Narrabri coal seam gas project**

Santos is also proposing the Narrabri coal seam gas project in New South Wales. There appears to be active consideration of public financial support for infrastructure that would help enable this project.<sup>3</sup>

The Narrabri project has received strong political support from Federal and State governments: the 2020 'Bilateral Agreement' on energy between the NSW and Federal governments included increasing NSW gas supply by 70 PJ per year – roughly the proposed supply of the Narrabri project – and in June 2020 the Commonwealth made Narrabri one of 15 "major projects" chosen for "national economic or strategic significance" and targeted for expedited assessment.<sup>4</sup>

To exploit this gas, Santos requires construction of a new gas pipeline. A prominent contender is the Hunter Gas Pipeline (**HGP**), connecting the Queensland gas network at Wallumbilla, through Narrabri, to Newcastle in NSW.

### **Conflicts of interest: the Hunter Gas Pipeline**

Documents released under Freedom of Information establish that in early 2020 Santos lobbied the Federal Government to provide taxpayer financial support to the HGP.<sup>5</sup> The documents show that Santos told the Government's National COVID19 Coordination Commission (**NCCC**) that it would "support sensible policies" such as "low interest finance" to build gas pipelines such as one connecting "Wallumbilla – Narrabri – Newcastle" – that is, the HGP.<sup>6</sup>

The Centre for Public Integrity has previously raised concerns about conflicts of interest and the lack of transparency at the NCCC, with the Commission and its 'Manufacturing Working Group' comprising gas industry directors and others with gas industry links.

The NCCC's 'Manufacturing Working Group' report recommended that the government subsidise gas industry expansion including by providing large scale public financial assistance to gas infrastructure like pipelines.<sup>7</sup> This recommendation, from Santos and the NCCC, is now being implemented through the NGIP.

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<sup>3</sup> Macdonald-Smith (2020) *Hunter Gas Pipeline angles for government backing*  
<https://www.afr.com/companies/energy/hunter-gas-pipeline-angles-for-government-backing-20200828-p55qe1>

<sup>4</sup> DAW (2020) *EPBC Act major projects*, <https://environment.gov.au/epbc/major-projects>

<sup>5</sup> Thompson (2020) *Santos' actions not 'surprising' say campaigners*,  
<https://newcastleweekly.com.au/santos-actions-not-surprising-say-campaigners/>

<sup>6</sup> Thompson (2020) *Santos' actions not 'surprising' say campaigners*,  
<https://newcastleweekly.com.au/santos-actions-not-surprising-say-campaigners/>

<sup>7</sup> Long (2020) *Government's COVID Commission manufacturing plan calls for huge public gas subsidies*,  
<https://www.abc.net.au/news/2020-05-21/leaked-national-covid-commission-gas-manufacturing-report/12269100>

It is important to note the final NCCC report was never published. It was made public only after a draft was leaked. This lack of transparency has continued through to the NGIP.

In August 2020, it was reported that HGP proponents were in talks with the Energy Minister's office about government financial support for the HGP. Garbis Simonian, one of the proponents, described the subsequent policy change in the following terms:

*"The policy has changed in a way that supports us building this project [...] We're holding discussions [with the government] and they are assisting us in securing GTAs [Gas Transportation Agreements] by encouraging customers and gas suppliers to come to an agreement to bridge the gap,"*<sup>8</sup>

Mr Simonian holds interests in the HGP via two companies - DVP Investments Pty Ltd and Watou Holdings Pty Ltd.<sup>9</sup> Watou Holdings has donated more than \$25,000 to the NSW Liberal Party, shown across NSW<sup>10</sup> and federal registers.<sup>11</sup>

Mr Simonian is founder and managing director of Weston Aluminium, which has also donated to the NSW Liberals.<sup>12</sup>

Two other backers of the HGP, Hilton Grugeon and Graham Burns, have also been major donors to the NSW Liberals. Both Mr Grugeon and Mr Burns have donated via Hunter Land Pty Ltd, a property development company they co-founded and still operate.<sup>13</sup> Hunter Land Pty Ltd made substantial political donations to the NSW Liberal Party over many years coinciding with an earlier period in HGP development, as well as substantially smaller donations to the ALP.

Between 2002 and 2007, the Commonwealth register discloses \$105,378 in donations from Hunter Land to the Liberal Party – almost all to the NSW Division – with a further \$15,500 donated to the NSW ALP.<sup>14</sup> An additional \$46,000 in donations from Hunter Land to the NSW Liberal Party is disclosed on the NSW donations register.<sup>15</sup> Mr Grugeon also personally donated \$62,500 to the Liberal Party of Australia in 2007.<sup>16</sup>

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<sup>8</sup> Macdonald-Smith (2020) *Hunter Gas Pipeline angles for government backing* <https://www.afr.com/companies/energy/hunter-gas-pipeline-angles-for-government-backing-20200828-p55qe1>

<sup>9</sup> ASIC Current & historical company extracts.

<sup>10</sup> The Commonwealth register shows \$10,433 donated in 2007.

AEC (2021) *AEC Transparency Register – Watou Holdings Pty Ltd*

<https://transparency.aec.gov.au/AnnualClientEntity/EntityDetail?clientFileId=20534>

<sup>11</sup> The NSW register shows \$15,293 donated in 2006 and 2007, on top of \$4,860 in 2006.

NSWEC (2021) *Disclosure Details for Donor Watou Holdings Pty Ltd*

<https://searchdecs.elections.nsw.gov.au/Details.aspx?EFID=EF00007212&ID1=IMP00000000000112705&RPID=2009H1>

<sup>12</sup> The NSW register shows \$4,000 to the NSW Liberals in 2006 and 2008, and \$1,000 to the NSW ALP in 2007. The Commonwealth register shows \$3,275 to the NSW Liberals in 2004.

NSWEC (2021) *Disclosure Details for Weston Aluminium (Producers) Pty Ltd*

<https://searchdecs.elections.nsw.gov.au/Details.aspx?EFID=EF00007228&ID1=IMP00000000000112721&RPID=2009H1>

<sup>13</sup> ASIC current and historical company extract for Hunter Land Pty Ltd.

<sup>14</sup> AEC (2021) *AEC Transparency Register – Donor Returns*

<https://transparency.aec.gov.au/AnnualDonor>, filter by "Hunter Land"

<sup>15</sup> NSWEC (2021) *DISCLOSURES LODGED - Search for disclosure information*,

<https://searchdecs.elections.nsw.gov.au/search.aspx>, search for "Hunter Land".

<sup>16</sup> NSW EC (2009) *Declaration Political Donations and Electoral Expenditure by a Political Donor – Hilton Ross Grugeon* <https://searchdecs.elections.nsw.gov.au/Documents/D2010-1247.pdf>

In total, the Liberal Party received over \$210,000 from Mr Grugeon and his company, Hunter Land.

### **Conflicts of interest: increased gas demand from Kurri Kurri gas generator**

In addition to the possible subsidising of the HGP, both Santos's Narrabri project and the HGP stand to further benefit from Federal Government funding to increase demand for gas in the area.

In September 2020, the Federal Government announced it would build a gas-fired power generator at Kurri Kurri in the Hunter Valley; the gas for this would likely come from the Santos Narrabri project, delivered via the HGP. The generator is to be built by Snowy Hydro, which is fully owned, controlled and ultimately financed by the Commonwealth Government. At the start of 2020 the Commonwealth Government appointed a new Chair to Snowy Hydro: David Knox, former CEO of Santos.

HGP proponents Mr Simonian and Mr Grugeon said they were "delighted" by the announcement of the Kurri Kurri gas power generator;<sup>17</sup> Mr Simonian elaborated upon the reason for their delight, explaining that the HGP would be built in order for the generator to operate, and the HGP would need a long-term contract with a customer in order to be built.<sup>18</sup>

Snowy Hydro has lodged a development application for the generator,<sup>19</sup> and the NSW Planning Minister has declared the proposal to be "critical state significant infrastructure".<sup>20</sup> This will remove the project from oversight of the Independent Planning Commission: the Department will assess the application and the Minister will make the decision, which will in turn be immune from merits appeal.

The Kurri Kurri site is owned by Jeff McCloy and John Stevens, who purchased it in 2020. The site was previously an aluminium smelter, owned and operated by Mr Simonian's Weston Aluminium.<sup>21</sup>

Mr McCloy has also been a major donor to the NSW Liberals: during hearings held by the NSW Independent Commission Against Corruption (**ICAC**) in 2014, he described himself as a "walking ATM" for political donations.<sup>22</sup> In 2016, ICAC's Operation Spicer found both Mr McCloy and Mr Grugeon had sought to make illegal donations, by evading the NSW ban on political donations from property developers.<sup>23</sup>

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<sup>17</sup> Parris (2020) *PM Scott Morrison's gas plan gives two huge Hunter projects a lift, but energy sector unimpressed* <https://www.newcastleherald.com.au/story/6928235/delighted-hunters-big-hitters-welcome-pms-gas-plan/>

<sup>18</sup> Messenger (2020) *Gas pipeline, key to PM's gas project, could be held up by protesters, landholders* <https://www.northerndailyleader.com.au/story/6926555/wild-west-gas-pipeline-key-to-pms-gas-project-could-be-delayed/>

<sup>19</sup> NSW Department of Planning, Industry and Environment (2020) *Kurri Kurri Power Station Project*, <https://www.planningportal.nsw.gov.au/major-projects/project/40951>

<sup>20</sup> NSW Department of Planning, Industry and Environment (2020) *Critical declaration for Hunter gas-fired power plant*, <https://www.planning.nsw.gov.au/News/2020/Critical-declaration-for-Hunter-gas-fired-power-plant>

<sup>21</sup> Kirkwood (2020) *2000 new homes and industrial and commercial sector as new owners take over Kurri smelter site* <https://www.newcastleherald.com.au/story/6594525/jeff-mccloy-and-partner-to-buy-and-develop-kurri-kurri-smelter-site-confirms-owner-hydro/>;

<sup>22</sup> SBS News (2014) *I was a walking ATM: Mayor McCloy*, <https://www.sbs.com.au/news/i-was-a-walking-atm-mayor-mccloy>

<sup>23</sup> Wilkins (2020) *Money for gas: Morrison's new gas plant could hand money to ICAC'd donors*, <https://www.crikey.com.au/2020/09/23/jeff-mccloy-gas-led-recovery/>

As already noted, Mr McCloy was the plaintiff in the *McCloy* case, in which the High Court upheld the NSW donations law. In its decision, the High Court noted the line between ingratiation and corruption "may not be so bright".<sup>24</sup>

## Conclusion

Companies and individuals with interests in the Narrabri gas project, the Hunter Gas Pipeline, and the Kurri Kurri gas generator proposals, have made significant political donations – in particular, to the NSW Liberal Party. These are not the only projects standing to benefit from government subsidies, including as proposed under the NGIP, but they are of particular concern insofar as it is critical for public trust in democracy that impartiality in government decision-making not only exist but be *seen* to exist. Where those who stand to benefit from the expenditure of public funds are donors to those responsible for deciding how such funds should be expended, it is logical that this creates a perception, at the very least, of undue influence.

In respect of the NGIP process, we make the following recommendations:

- A transparent process be developed, allowing for proper public scrutiny of the government's plans; and
- Submissions to the inquiry be released (with the consent of those making them)

We make the following recommendations in respect of political donations disclosure regulations:

- A reduction in the reporting threshold for donations, with individual donations over \$1,000 and aggregated donations of \$3,000 over 3 years to political parties, candidates, associated entities, third parties and political campaigners being required to be disclosed.
- A broadening of the definition of 'donation' to include income from party fundraisers, corporate sponsorship of business forums, membership fees over \$1,000 per year, and any gift that is spent on electoral expenditure (see section 5 of the *Electoral Funding Act 2018* (NSW))
- Real time disclosure of donations, plus quarterly reports providing categorisation and aggregates of donations
- A single dedicated campaign account to facilitate auditing and enforcement;
- Related companies to be categorised accordingly, and aggregated for any donation or expenditure caps (see for example section 9(8) and section 24(6) of the *Electoral Funding Act 2018* (NSW))
- Enforcement through a strengthened and appropriately resourced enforcement division within the Australia Electoral Commission.

## About The Centre for Public Integrity

The Centre for Public Integrity is an independent think tank dedicated to preventing corruption, protecting the integrity of our accountability institutions, and eliminating undue influence of money in politics in Australia. Board members of the Centre are the Hon Tony Fitzgerald AC QC, the Hon Stephen Charles AO QC, the Hon Anthony Whealy QC, Professor George Williams AO, Professor Joo Cheong Tham and Geoffrey Watson SC. More information at [www.publicintegrity.org.au](http://www.publicintegrity.org.au).

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<sup>24</sup> *McCloy v New South Wales* [2015] HCA 34, 35.