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GasFields Commission to establish a Compensation and Conduct Agreements register

Introduction

The Queensland Government has passed laws to formally establish the GasFields Commission Queensland and to define its role in promoting better relationships between landholders and coal seam gas proponents.

The Commission will be given a broad mandate to engage with regional communities and the onshore gas industry with a view to achieving sustainable co-existence.¹

The Gasfields Commission Bill 2012 (which is currently awaiting assent) is the result of public consultation on the role the Commission should play in regulating the burgeoning coal seam gas ("CSG") industry in Queensland. Former AgForce president and rural advocate John Cotter heads up the Commission, assisted by six other commissioners.

A key initiative arising from the Bill is the provision of powers to establish a register of conduct and compensation agreements ("CCA"). A summary of the Commission's powers is set out below.

CCA Register

Conduct and compensation agreements between coal seam gas companies and landholders will be registered by the GasFields Commission under statutory powers given to the Commission. Around 3,500 CCAs will be collected and information collated from those documents under the Commission's mandate.

A confidential register of CCAs will be maintained by the independent Commission, which will use information to assist landholders in negotiating with resource companies. According to the Queensland Government, a database of financial arrangements will enable landholders to "establish a market" for compensation and make "informed judgements" based on agreements already negotiated.²

The GasFields Commission will use its information-gathering powers in the Gasfields Commission Bill 2012 to obtain information and copies of CCAs. Landholders and CSG companies (including contractors and agents) must comply with the request, unless the material contains confidential information about someone who has refused to consent to disclosure or if disclosure would be detrimental to the company's commercial interests.

Other limited exclusions also apply.³ The penalty for non-compliance with an information request is a fine of up to \$11,000.

It is unknown at this stage whether the Government intends to amend the petroleum legislation to require CCAs to be lodged with the GasFields Commission, or whether the same confidentiality exceptions will apply.

While the terms of the Gasfields Commission Bill 2012 provide that the Commission cannot publish confidential information (defined as information that could identify an individual or entity, is about a person's financial position, or would be likely to damage the commercial activities of a party), the register may be subject to disclosure under Queensland's right to information laws.⁴

The powers of the GasFields Commission are expected to commence from 1 July 2013, although no details have been given about when the register will be established or when qualitative or statistical data on the content of CCAs will be made available.

GasFields Commission and Government

The GasFields Commission will be established as a statutory body and will be funded by the government, however the Queensland Government maintains that the Commission will be "independent" and not subject to outside direction.⁵ \$2.5 million has been set aside to fund the Commission in the first 12 months of its operations.

In addition to its powers to compel information by private landholders and CSG companies, the Commission also has the power to request information about the coal seam gas industry and any other information relevant to the functions of the Commission from any government entity. Some exclusions will apply.⁶

The Commission has been charged with the task of reviewing the effectiveness of the implementation of the current regulatory framework, particularly in respect of land access. The Commission may make recommendations to government on industry best practice and how the regime may be improved. Commission Chairman John Cotter has already recommended the petroleum legislation be amended to enable CCAs to be registered on the title of the relevant property and allow CSG companies and landholders to opt out of formal land access agreements.⁷

The government has also asked the Commission to provide advice on the ability of landholders, regional communities and the CSG industry to co-exist within certain areas, though the government has not revealed details of the Commission's focus in this respect.⁸

Other functions

It is intended that the GasFields Commission will play an important advisory role in the development of policy affecting the coal seam gas industry. The Bill encourages the government to consult with the Commission on any proposed policy or legislation, however a failure to consult will not affect the validity of any decision by government in this respect.

The Commission may also be engaged to broker agreements between landholders, regional communities and CSG companies. The government has indicated that the GasFields Commission could play a greater role in alternative dispute resolution administered under the land access framework, which is currently under review.

In addition, the Commission will also be undertaking a review of the information currently available to landholders and industry on the petroleum legislation and the land access framework, with a view to consolidating information and developing materials that will further assist landholders and CSG companies to reach agreement on land access issues.

Going forward

Gas companies are advised to review their CCAs and any contracting arrangements to identify any confidentiality issues prior to the establishment of the CCA register. Further detail of the register is expected to be released when the GasFields Commission's powers come into effect after 1 July 2013.

For more information on the GasFields Commission log on to:
<http://www.gasfieldscommissionqld.org.au/gasfields> or
 contact a member of Carter Newell's Resources team.

¹ Queensland, *Parliamentary Debates*, Legislative Assembly (17 April 2013) 1052-3 (Jeff Seeney, Deputy Premier and Minister for State Development, Infrastructure and Planning).

² Queensland, *Parliamentary Debates*, Legislative Assembly (17 April 2013) 1054 (Jeff Seeney, Deputy Premier and Minister for State Development, Infrastructure and Planning).

³ Gasfields Commission Bill 2012 section 24(3).

⁴ Note that when deciding whether to grant access to information, regard must be had to whether disclosure would prejudice the private, business, professional, commercial or financial affairs of entities or be reasonably expected to prejudice the protection of an individual's right to privacy. See *Right to Information Act 2009* Schedule 4 for details.

⁵ Queensland, *Parliamentary Debates*, Legislative Assembly (17 April 2013) 1053 (Jeff Seeney, Deputy Premier and Minister for State Development, Infrastructure and Planning); Gasfields Commission Bill 2012 section 31.

⁶ Gasfields Commission Bill 2012 section 21(3).

⁷ Queensland, *Parliamentary Debates*, Legislative Assembly (17 April 2013) 1054 (Jeff Seeney, Deputy Premier and Minister for State Development, Infrastructure and Planning).

⁸ Queensland, *Parliamentary Debates*, Legislative Assembly (17 April 2013) 1054 (Jeff Seeney, Deputy Premier and Minister for State Development, Infrastructure and Planning).

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Special Counsel joins Corporate team

Carter Newell is pleased to welcome **Matt Couper** to the firm as Special Counsel in the Corporate team.

Matt joins Corporate Partner Tony Stumm and brings almost 10 years experience advising public and private companies and government entities in relation to mergers and acquisitions, strategic investments, joint ventures, structuring, due diligence and general corporate and business issues.

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