

LAND ACCESS



Coal seam gas (CSG) explorers must hold a title and enter into a written access arrangement with landholders before entering a property.

Landholders' rights

While landholders in NSW own the surface land of their properties, resources such as CSG that exist below the earth's surface belong to the State. The production of these resources contributes royalties and economic benefits to the people of NSW.

Before any activities may commence, the company must enter into a written access arrangement with the landholder. As part of this process, the company must also consult with the landholder over where drilling will

occur, provide a plan and description of the land they wish to access and a description of what sort of exploration methods they intend to use.

Access arrangements may also include provisions to minimise any loss or interference and landholders are entitled to compensation for loss caused, or likely to be caused, as a result of the activities on their land.

The NSW Government further strengthened landholders' rights by appointing the State's first Land and

Water Commissioner to oversee the development of a standardised land access arrangement in consultation with farmers, irrigators, cotton growers and petroleum explorers. This helped ensure the protection of landholders' rights in the land access process.

The Commissioner also empowers landholders in their negotiations with companies to ensure CSG activities are located and conducted in a manner which minimises any potential impact on farming activities, the environment and lifestyle of the landholder.

CSG companies are encouraged to establish long-term relationships with landholders based on courtesy and respect. Open and effective communication, including the provision of clear and accurate information, will contribute to the success of an access agreement.

If an access arrangement cannot be agreed to within 28 days, the company may request the landholder appoint a mutually agreeable arbitrator in accordance with the *Petroleum (Onshore) Act 1991*.

If either party is not satisfied with the arbitrator's determination, they can apply to the NSW Land and Environment Court for a review of the determination.

A Code of Practice for CSG Explorers sets strong standards for industry when negotiating with landholders for land access.

Exploration

Prior to any exploration activity, an explorer must first obtain a Petroleum Exploration Licence (PEL) under the *Petroleum (Onshore) Act 1991*. As part of this process, the application will be publicly advertised and invite the public to comment.

If the application is granted, only activities that have minimal environmental impact can be undertaken. Any other activities will require additional multi-agency approval.

A PEL gives the licence holder exclusive rights to explore for petroleum within a designated area. A PEL does not permit production or guarantee a Petroleum Production Lease (PPL) will be granted. Only a very small percentage of land that is subject to a PEL ever proceeds to a production lease.



Inaugural NSW Land and Water Commissioner Jock Laurie with "Ellie", Northern NSW.

Initial work programs may involve desktop studies or a site visit by a geologist or technical officer to walk the area and undertake geological mapping of rock outcrops. If an area of interest is identified, small rock samples may be collected for analysis.

Aerial or surface geophysical surveys may be undertaken. Most of the techniques for obtaining samples or geophysical surveys do not involve significant disturbance of the ground. If resources are indicated in the samples, the next phase of exploration may involve core hole drilling, which is usually conducted by using truck mounted drill rigs.

A comprehensive environmental assessment by way of a Review of Environmental Factors (REF) must be undertaken before approval for drilling and surface geophysical surveys is granted and for any proposed supplementary activities. All REFs must include an Agricultural Impact Statement which comprehensively assesses the potential impacts of the project on agricultural land, water and associated industry.

Once the exploration activity is complete, all disturbed areas must be fully rehabilitated to strict environmental standards and in line with Government requirements. If an economic resource is located through exploration, any future production proposal will require a Development Application to be lodged with the Department of Planning & Infrastructure.

The development assessment and approval process for such applications is extensive, transparent and rigorous, and provides for full community input.

This process is administered by the Minister for Planning and Infrastructure under the *Environmental Planning and Assessment Act 1979*. All relevant environmental, cultural and heritage issues are fully considered by the Government in this process.

Community consultation

Local communities now have the opportunity to comment on exploration licences for coal seam gas through the introduction of a public comment process and strict community consultation requirements.

The purpose of the consultation process is to ensure that exploration companies fully engage with landholders and community groups to guarantee that community concerns are heard and addressed.

Local communities will be given 28 days from the publication of the notice of application to comment on the granting of coal and petroleum (coal seam gas) exploration licences.

The consultation process provides communities with the opportunity to voice any concerns and improves the transparency and effectiveness of the decision-making process when determining future applications for CSG exploration licences.

CSG production

Before production can begin, a company must obtain Development Consent from the Department of Planning & Infrastructure and a Petroleum Production Lease from NSW Trade & Investment. The process involves the following steps:

- Where the project is located on Strategic Agricultural Land, the applicant will be required to go through the Gateway



Core hole drilling is part of the exploration process.

process. The Gateway process is an independent, scientific and upfront assessment of the potential impacts of a mining or coal seam gas production proposal on strategic agricultural land. It will consider proposals at a very early stage before a development application can be lodged. The Gateway assessment will be undertaken by an independent panel of experts in fields such as agricultural science, hydrogeology, mining and petroleum production.

- Where the project is NOT located on Strategic Agricultural Land, or has obtained a Gateway Certificate, the applicant will apply to the Director-General of Planning and Infrastructure to issue Director General Requirements for the preparation of an Environmental Impact Statement (EIS).
- The Development Application and EIS are lodged and publicly exhibited for at least 30 days to allow the local community and other key stakeholders to lodge submissions.



Cows graze near a CSG well at Camden, NSW.

- The Department of Planning & Infrastructure will consult with the local council and relevant agencies to discuss possible conditions on the application.
- The Minister for Planning, or the Planning Assessment Commission under delegation from the Minister, determines whether or not to grant consent.
- Once development approval is granted, the Minister for Resources and Energy grants a Petroleum Production Lease.

On the granting of a Petroleum Production Lease, landholders and secondary landholders (persons who do not have a right to possession of the land, but do have a registered interest in the land) are entitled to compensation for loss suffered, or likely to be suffered, as a result of production.

Compensation can be claimed for:

- Damage to land surface, crops, trees or other vegetation, and buildings or other structures;
- Deprivation of the use of surface land, or blocked access;
- Loss of right of way or easements; and
- Destruction, injury, or disturbance to stock.

The landholder and company must sign an agreement that specifies the payable compensation. If agreement can not be reached, the landholder may refer the matter to the Land and Environment Court.

Additional protections

Strict conditions are attached to Petroleum Exploration Licences and Petroleum Production Leases. These conditions regulate the types of activities that can be carried out and where they may occur.

Rehabilitation

Title holders are required to rehabilitate areas disturbed by CSG activities and must lodge security bonds prior to the commencement of activity. In the event the title holder fails to meet its obligations, sufficient security is provided to cover the likely rehabilitation costs. The security is not returned until the NSW Government is satisfied that the rehabilitation has been adequately completed.