

Government Response to the Independent Review of the Gasfields Commission

Recommendation	Government Response
<p>Recommendation 1 That:</p> <p>a) <i>the Gasfields Commission should have a Chair (who now need not be full time) plus three part time Commissioners representing the interests of landholders, the onshore gas industry and the communities in which the onshore gas industry operates</i></p>	<p>Support in principle The <i>Gasfields Commission Act 2013</i> currently requires a full-time Chairperson and up to 6 part-time Commissioners. It is proposed to amend the Act to give effect to the recommendation that the Chair need not be full time.</p> <p>No legislative amendment is necessary to give effect to the recommendation that there be only three part-time commissioners. The <i>Gasfields Commission Act 2013</i> currently specifies that there may be up to six part-time commissioners (s.9(1)(b)) and three of these commissioners must represent the interests of landholders, the onshore gas industry and the communities in which the onshore gas industry operates (s.9(2)(b)). More than three part-time commissioners may be appointed, for example as the board transitions to a new model, to provide additional specific expertise on the board or to ensure that the interests of particular stakeholders are fully represented.</p>
<p>b) <i>the position of general manager should be redesignated as Chief Executive, Gasfields Commission and should be filled as a matter of urgency</i></p>	<p>Support It is proposed to amend the <i>Gasfields Commission Act 2013</i> (s.30) to rename the role of the General Manager to the Chief Executive.</p> <p>The Gasfields Commission has recently filled the position of General Manager.</p>
<p>c) <i>the Gasfields Commission publish and communicate its role with clarity. It should say what it does and what it does not do by reference to examples</i></p>	<p>Support The Gasfields Commission can deliver this recommendation through its existing functions. This can be delivered through the annual report, online or through other communication material. Clarification of agencies roles and responsibilities in the onshore gas industry is expected to be a key element of the extension and</p>

	<p>communication programme in Recommendation 2(b).</p> <p>No legislative amendment to the <i>Gasfields Commission Act 2013</i> will be required.</p>
<p>d) <i>the current membership of the Gasfields Commission author a document setting out the learnings of the Commission in discharging its responsibilities; that paper being in a form suitable to inform others embarking upon a task similar to that which confronted the Commission</i></p>	<p>Support The Commission has advised that it is currently undertaking this activity.</p> <p>No legislative amendment to the <i>Gasfields Commission Act 2013</i> will be required.</p>
<p>e) <i>individual peak producer bodies and local governments impacted by the onshore gas industry be invited to attend Commission meetings and make submissions or raise issues with the Commission on a regular (annual or biannual) basis</i></p>	<p>Support The <i>Gasfields Commission Act 2013</i> currently provides for the establishment of a Gasfields Community Leaders Council (Section 29). This could be the vehicle to invite peak producer bodies and local government to raise issues with the Commission. Alternatively, stakeholders may be invited to attend board meetings.</p> <p>The Gasfields Commission will be requested to consult with relevant stakeholders and develop an optimal arrangement for enhanced consultation. This strategic approach to stakeholder engagement is expected to be a key element of the extension and communication programme (see Recommendation 2(b)).</p> <p>No legislative amendment to the <i>Gasfields Commission Act 2013</i> will be required.</p>
<p>f) <i>the Gasfields Commission encourage CSG companies to develop innovative and effective methods of engaging with landholders and associated gasfields communities to maximise the opportunities for trust and collaboration</i></p>	<p>Support Government recognises the importance of resource companies working cooperatively with local communities, businesses and landholders to develop trust and build productive working relationships.</p> <p>The Commission can already perform this function under the Act and this activity</p>

	<p>would be captured in the extension and communication programme (see Recommendation 2(b)). It should be noted that the Commission’s role extends to the entire onshore gas industry not just CSG companies.</p> <p>No legislative amendment to the <i>Gasfields Commission Act 2013</i> will be required.</p>
<p>g) <i>the Gasfields Commission review its Strategic Plan (consistent with the recommendations and observations in this report) and instruct the Chief Executive of the Commission to prepare an Operational Plan</i></p>	<p>Support</p> <p>The effect of the structural and organisational changes to the Commission recommended by the review will result in extensive changes to the operation of the Commission. The full extent of this change will be subject to legislative amendment to the <i>Gasfields Commission Act 2013</i>.</p> <p>In the interim, the Gasfields Commission will be requested to review its Strategic Plan and develop an Operational Plan to give effect to the relevant recommendations supported by government that are not reliant on amendments to the <i>Gasfields Commission Act 2013</i>.</p>
<p>Recommendation 2</p> <p><i>That the Gasfields Commission Act be amended to reflect the following purpose:</i></p> <p><i>The purpose of the Act is to continue the Gasfields Commission to create and maintain a harmonious and integrated relationship between landholders, regional communities and the onshore gas industry in Queensland.</i></p>	<p>Not Support</p> <p>The National Harmonised Regulatory Framework for Natural Gas from Coal Seams 2013, defines coexistence as:</p> <p><i>“Principle that acknowledges and respects the rights of all land users and the potential of all regulated land uses, while ensuring that regulated land is not restricted to a sole use without considering the implications or consequences for other potential land uses, and the broader benefits to all Australians.”</i></p> <p>The State and many regional stakeholders have invested significantly in building a broad understanding in the community of the concept of coexistence across the area of operation of the onshore gas industry. Despite the definition of coexistence at a national level, it is accepted that the concept of coexistence is subject to interpretation by different stakeholders. Survey data presented in the review indicates a small minority of</p>

	<p>stakeholders do not accept coexistence is possible. For the vast majority, it appears that coexistence ranges on a spectrum from “embracing or approving” to “accepting or tolerating” (see report page 21).</p> <p>Given the broad understanding of the term coexistence in the community and the adoption of the concept at a national level, it is considered that there has not been sufficient justification provided in the report to change the purpose of the <i>Gasfields Commission Act 2013</i>.</p> <p>The preference of the government in supporting the majority of the recommendations of this review, is to address issues raised by stakeholders whilst building on the purpose of the Commission to manage and improve the sustainable coexistence of landholders, regional communities and the onshore gas industry in Queensland (<i>Gasfields Commission Act 2013</i> section 3). Recommendations for example that clarify the role of the Gasfields Commission and other agencies, improve communication and strategic stakeholder engagement and more streamlined and accessible processes to manage disputes, are all expected to deliver long-term improvements in the sustainable coexistence with the onshore gas industry.</p>
<p><i>That the Gasfields Commission Act be amended to reflect the following functions of the Gasfields Commission:</i></p> <p>a) <i>facilitate and maintain a harmonious and balanced relationship between landholders, regional communities and the onshore gas industry in Queensland</i></p>	<p>Not Support</p> <p>This recommendation reflects the change in the purpose of the Commission in Recommendation 2 above, which the government does not support. The report states that the Gasfields Commission has contributed significantly to improving relationships between landholders, regional communities and the onshore gas industry. The current function s.7(a) “<i>facilitating better relationships between landholders, regional communities and the onshore gas industry</i>” supports the principle of co-existence between stakeholders.</p>
<p>b) <i>implement an extension and communication programme that:</i></p> <p>(i) <i>helps landholders to become informed and</i></p>	<p>Support in principle</p> <p>The government supports the extension and communication functions outlined in this recommendation, however, it is not considered that legislative amendment is required to</p>

<p><i>self-reliant and aware of their legal rights in their dealings with coal seam gas companies, including negotiations for a conduct and compensation agreement or a make good agreement</i></p> <p><i>(ii) helps landholders in the management of land subject to a conduct and compensation agreement or a make good agreement and the management of any complaints or disputes that arise</i></p> <p><i>(iii) informs landholders of current information and developments in science; leading practice or management; regulation, law or policy relating to the onshore gas industry</i></p> <p><i>(iv) helps regional local governments, local businesses and communities to understand the timing and impact of CSG projects in their area including any business opportunities that may be generated</i></p> <p><i>(v) ensures the consistency of information being publicly provided by government agencies with respect to the onshore gas industry</i></p>	<p>give effect to this function. The function in section 7(j) of the <i>Gasfields Commission Act 2013</i> is “<i>publishing educational materials and other information about the onshore gas industry</i>”. This function is sufficient to capture the extension and communication activities recommended, but would also allow for broader extension and communication activities should new issues emerge over time.</p> <p>The Gasfields Commission will be requested to develop an extension and communication programme in consultation with agencies and peak bodies. The programme should build upon existing information and ensure effective dissemination to give effect to the relevant recommendations supported by government that are not reliant on amendment to the <i>Gasfields Commission Act 2013</i>.</p> <p>It should be noted that the Commission’s role extends to the entire onshore gas industry not just CSG companies.</p>
<p><i>c) review and report on the performance and effectiveness of government entities in implementing regulatory frameworks that relate to the onshore gas industry</i></p>	<p>Support in principle</p> <p>This function is provided for under s.7(b) of the Act “<i>reviewing the effectiveness of government entities in implementing regulatory frameworks that relate to the onshore gas industry</i>”.</p>

	<p>No legislative amendment to the <i>Gasfields Commission Act 2013</i> will be required.</p>
<p>d) <i>obtain, monitor and publish comprehensive relevant data concerning all recorded formal interactions between landholders, CSG companies, government agencies and judicial and quasi-judicial bodies (including the Queensland Ombudsman, the Land Court, the proposed Moderator and arbitration process) to identify trends, deficiencies and any need for intervention or change of processes and mechanisms</i></p>	<p>Support in principle The government supports the monitoring and publishing functions outlined in this recommendation; however, it is not considered that legislative amendment is required. The function in section 7(j) of the <i>Gasfields Commission Act 2013</i> is “<i>publishing educational materials and other information about the onshore gas industry</i>”. This function is sufficient to capture the data collection, monitoring and reporting activities recommended, but would also allow for broader data collection activities should new issues emerge over time.</p> <p>To give effect to this recommendation, it is proposed that the government will request the Commission to work with the relevant organisations to ensure the publication of relevant, useful and current information with due regard for privacy constraints in relation to personal or commercially sensitive information. The majority of this information (where it is not confidential) is publicly available but improved access to information is supported by government consistent with the open data strategy.</p> <p>The government will also request the Commission consult with stakeholders and investigate whether an annual ‘state of the sector’ report may also provide a convenient, readily accessible format to present relevant data and evaluate trends. This would capture information in a number of recommendations from this review (e.g. see Recommendation 2(e)) and would be a key element of the extension and communication programme (see Recommendation 2(b)).</p>
<p>e) <i>collect, maintain and publish information and data which quantifies and describes the growth of the onshore gas industry within rural Queensland including such matters as the</i></p>	<p>Support in principle The majority of this information is publicly available already but is not readily accessible in a single location. For example, the CSG theme globe through the Queensland Globe allows a person to search for wells on a property or in a particular</p>

<p><i>number of properties affected, the number of wells and processing facilities on properties, the amount of funding invested and the number of jobs created. The purpose of this information is to assist stakeholders in identifying the level of impact of the CSG industry in Queensland. Such information may inform the need for intervention or change in policies</i></p>	<p>region. This is part of the Queensland Government’s open data strategy.</p> <p>No legislative amendment is required to deliver this recommendation, as <i>publishing educational materials and other information about the onshore gas industry</i>” is an existing function under s.7(j) and sufficiently broad to cover the outcome sought from this recommendation. This activity would also be captured in the extension and communication programme (see Recommendation 2(b)).</p> <p>However, as outlined in the response to Recommendation 2(d) above, the government will also request the Commission consult with stakeholders and investigate whether an annual ‘state of the sector’ report may also provide a convenient, readily accessible format to present relevant data and evaluate trends.</p>
<p>f) <i>make recommendations to the relevant minister that regulatory frameworks and legislation relating to the onshore gas industry be reviewed or amended</i></p>	<p>Support This is an existing function under s.7(d) of the Act and will be retained.</p>
<p>g) <i>make recommendations to the relevant minister and stakeholder representative bodies about leading practice or management relating to the onshore gas industry</i></p>	<p>Support This function exists under s.7(e) of the Act and will be retained.</p>
<p>h) <i>partner and network with other entities for the purpose of conducting research related to the onshore gas industry in relation to issues of science as well as legal arrangements, practices, policies and other innovations identified in Queensland or in other jurisdictions</i></p>	<p>Support This function is similar to s.7(k) of the Act “<i>partnering with other entities for the purpose of conducting research related to the onshore gas industry</i>”; which is sufficiently broad to give effect to the outcome sought from this recommendation.</p>

<p>i) <i>assist Queensland Health in its work in the onshore gas industry areas in the provision of health information and the establishment of risk assessment of health issues for the benefit of residents</i></p>	<p>Support in principle It is recommended that the function reflects the broader range of stakeholders working in health and health related matters, and the importance of building community confidence in health risk assessment work and is proposed to be amended into two parts as follows:</p> <ul style="list-style-type: none"> <i>i) supports the provision, to the community and stakeholders, of information prepared by government and other agencies on relevant health and wellbeing matters</i> <i>ii) facilitates community engagement on initiatives to assess the health and wellbeing impact associated with CSG activities</i>
<p>j) <i>in response to requests for advice from the chief executive under the Regional Planning Interests Act 2014 about assessment applications under that Act, advise that chief executive about the ability of landholders, regional communities and the resources industry to coexist within the area the subject of the application</i></p>	<p>Support The Department of Infrastructure, Local Government and Planning (DILGP) has advised that between June 2014 and August 2016, seven of the eighteen applications received under the <i>Regional Planning Interests Act 2014</i> have been referred to the Commission.</p> <p>The requirement to consult with the Gasfields Commission is set out in Section 46 of the <i>Regional Planning Interests Act 2014</i> and is provided for under Section 7(ca) of the <i>Gasfields Commission Act 2013</i>.</p> <p>No legislative amendment to the <i>Gasfields Commission Act 2013</i> will be required.</p>
<p>k) <i>obtain advice about the onshore gas industry or functions of the commission from government entities</i></p>	<p>Support This function exists under s.7(i) of the Act and will be retained, noting that the Act states: “<i>obtaining advice about the onshore gas industry or functions of the commission from government entities</i>”.</p>
<p>Recommendation 3 <i>That the Gasfields Commission, together with the Queensland Ombudsman, provide information to</i></p>	<p>Support The Gasfields Commission will be requested to liaise with the Queensland Ombudsman in relation to making information available to landholders about the Queensland</p>

<p><i>landholders about the Queensland Ombudsman service, including the circumstances in which it is available in the context of government regulation of the CSG industry and how landholders can make complaints.</i></p>	<p>Ombudsman’s services.</p> <p>This will form part of the extension and communication programme (see Recommendation 2(b)) to ensure landholders are aware of the services available. Consistent with the report’s recommendations in relation to clarity about roles and responsibilities, it will be important to clarify that the Queensland Ombudsman does not examine the conduct of gas companies.</p> <p>No legislative amendment to the <i>Gasfields Commission Act 2013</i> will be required.</p>
<p>Recommendation 4 <i>That for negotiations for a conduct and compensation agreement, the Petroleum and Gas (Production and Safety) Act should be amended to remove the option of a conference with an authorised officer to satisfy the ADR requirement prior to a party being able to apply to the Land Court.</i></p> <p><i>This recommendation does not apply to make good agreements.</i></p>	<p>Support in principle Government supports a low cost and timely dispute resolution process which includes utilising the services of an authorised officer within government to resolve disputes and minimise referrals to the Land Court. Giving effect to this recommendation would be dependent on the legislative and policy package to provide for the alternative dispute and arbitration procedures as an alternative or additional to a conference with an authorised officer.</p> <p>The recommendations in this report related to dispute resolution represent a significant change and have extensive regulatory and policy implications. In developing the legislative and policy package to give effect to the recommendation supported by government, consultation with stakeholders will be undertaken including the Office of Best Practice Regulation. For this specific recommendation, this will need to include consideration of the flow-on impacts for the mineral and coal sectors as well as stakeholders views on the benefits of retaining the option of a conference (noting the recommendation in relation to the conference not satisfying the requirement to allow a party to apply to the Land Court).</p> <p>This consultation will also consider the benefits in having a consistent framework with make good agreements under the <i>Water Act 2000</i> (where the option of a conference with an authorised officer is recommended to be retained) to minimise confusion for</p>

	landholders and industry.
<p>Recommendation 5 <i>That information be provided to landholders setting out the different types of alternative dispute resolution processes and what they involve (including less common types of alternative dispute resolution such as case appraisal). In order to reach its required audience this information should be compiled by the Gasfields Commission and distributed in accordance with its extension and communication role.</i></p>	<p>Support in principle Subject to the development of the legislative and policy package to give effect to those recommendations in this report related to dispute resolution which are supported, this information would be expected to be part of the extension and communication programme (see Recommendation 2(b)) for the Gasfields Commission. In the interim period whilst the legislative and policy package is being developed, the Gasfields Commission will be requested to provide relevant information on the availability and different types of alternative dispute resolution processes and what they involve. It should be noted that information about alternative dispute resolution is already available free to the public. For example, the Queensland Law Society has information available here - http://www.qls.com.au/For_the_community/Dispute_resolution_services.</p>
<p>Recommendation 6 <i>That:</i> a) <i>Government establish a panel comprising practitioners with expertise in each of the various ADR categories. This panel will comprise not only mediators, but also conciliators, case appraisers, and other alternative dispute resolution practitioners</i></p>	<p>Support in principle The merit of developing a list of ADR practitioners with specific expertise in land access matters is recognised; however further consideration needs to be given to implementation of this recommendation to ensure that if a Panel were established, it achieves the intended outcomes for parties in dispute. ADR specialists are accredited through national bodies with the appropriate skills and expertise to carry out this function. Peak legal organisations in Queensland presently maintain a list of suitably qualified practitioners in the various ADR disciplines. These are freely available to members of the public wishing to engage the services of an ADR practitioner. While further consultation is undertaken on this recommendation, including with the Land Court, the Gasfields Commission, through the extension and communication programme (see Recommendation 2(b)), will be requested to provide relevant information on where stakeholders can get information on practitioners with expertise in each of the various ADR categories. This would include information any future panel that may be established by the government.</p>

<p>b) <i>Government establish a panel of arbitrators</i></p>	<p>Support in principle Inclusion of arbitrators in a panel of specialist ADR experts is supported in principle. As identified above, it is important that any panel is able to achieve the intended outcomes for parties in dispute. The government will undertake further consultation including with the Land Court in relation to this recommendation.</p> <p>The Gasfields Commission, through the extension and communication programme (see Recommendation 2(b)), will be requested to provide relevant information on where stakeholders can get information on practitioners with expertise in arbitration, including any panel that may be established by the Government.</p>
<p>c) <i>Government should consult the Land Court and the Gasfields Commission in deciding the accreditation that the practitioners must have before they can form part of either panel</i></p>	<p>Support in principle It is important that accreditation of ADR specialists continues to be achieved through national bodies with the appropriate skills and expertise to carry out this function. However the government recognises that ADR negotiations between landholders and resource companies occurs in complex technical and commercial environment, which requires those practitioners involved to be suitably experienced.</p> <p>Further consideration of how this recommendation is implemented and responsibility for its delivery is required. The government will undertake further consultation, including with the Land Court in relation to this recommendation.</p>
<p>Recommendation 7 <i>That the Petroleum and Gas (Production and Safety) Act and the Water Act be amended to provide that if the parties cannot agree on an ADR process or practitioner, the President of the Queensland Law Society or similar office can decide on the ADR process to be undertaken (apart from arbitration) by the parties (depending on the nature of the dispute) and select an appropriate practitioner from the ADR</i></p>	<p>Support in principle The recommendations in this report related to dispute resolution represent a significant change and have extensive regulatory and policy implications. In developing the legislative and policy package to give effect to the recommendations supported by government, consultation with stakeholders will be undertaken including the Office of Best Practice Regulation. For this specific recommendation, this will include consultation with the Queensland Law Society.</p>

<p><i>panel.</i></p>	
<p>Recommendation 8 <i>That the Petroleum and Gas (Production and Safety) Act and the Water Act be amended to provide for a distinct arbitration process, as an alternative to making an application to the Land Court if a conduct and compensation agreement or make good agreement has not been agreed following the statutory negotiation or alternative dispute resolution process.</i></p>	<p>Support in principle A clear pathway for dispute resolution may assist in timely and potentially more cost effective solutions for disputes between landholders and resource companies. Arbitration is currently not available under Chapter 3 of the <i>Water Act 2000</i> so this reform has the potential to provide more timely and cost-effective resolution for landholders and resource companies in disputes around make good agreements.</p> <p>The recommendations in this report related to dispute resolution represent a significant change and have extensive regulatory and policy implications. In developing the legislative and policy package to give effect to the recommendations supported by government, consultation with stakeholders will be undertaken including the Office of Best Practice Regulation.</p>
<p><i>Consideration be given to the following rules being applied to an arbitration of this type:</i></p> <ul style="list-style-type: none"> <i>the arbitration option can be agreed to by the parties following statutory negotiation or alternative dispute resolution; or can be elected by the landholder within a statutory time period following ADR; or by the petroleum authority holder following the expiry of the statutory time period</i> 	<p>Support in principle The government supports this recommendation in principle and is committed to ensuring landholders and industry have an effective, low cost and timely dispute resolution framework. In developing the legislative and policy package to give effect to the recommendations supported by government, consultation with stakeholders will be undertaken including the Office of Best Practice Regulation.</p>
<ul style="list-style-type: none"> <i>if either party elects to proceed to arbitration, then neither party can elect to take the matter to the Land Court</i> 	<p>Support in principle The government supports an effective, low cost and timely dispute resolution framework that provides certainty to landholders and resource holders, including clarity over when decisions are final. Limiting further appeal rights as per this recommendation will provide certainty for both parties, whilst retaining natural justice rights where there has been an error of law or similar fundamental error.</p>

	<p>In developing the legislative and policy package to give effect to the recommendations supported by government, consultation with stakeholders will be undertaken including the Office of Best Practice Regulation.</p>
<ul style="list-style-type: none"> <i>the holder cannot undertake advanced activities on the land without the agreement of the landholder until the arbitration is decided and the 'appeal' period has expired. At this point, the holder can give an entry notice and after 10 business days undertake advanced activities under the Petroleum and Gas (Production and Safety) Act on the land</i> 	<p>Support in principle This is a fundamental change to the Act and has the potential to impact the development of resources owned by all Queenslanders. Government acknowledges that it is preferable that landholders and resource holders reach agreement before any activities take place on the land. As the report states, it is in the interests of petroleum and gas companies to coexist with landholders given that production activities may be for 20-30 years.</p> <p>In developing the legislative and policy package to give effect to the recommendations supported by government, consultation with stakeholders will be undertaken including the Office of Best Practice Regulation.</p> <p>In relation to this specific recommendation, government will seek the views of stakeholders on whether this recommendation should be supported, or supported only where there is also a statutory timeframe for arbitration. This alternative may provide a timely, cost-effective and final decision for all parties.</p>
<ul style="list-style-type: none"> <i>evidence and submissions can be presented in person or in writing as determined by the arbitrator</i> 	<p>Support in principle In developing the legislative and policy package to give effect to the recommendations supported by government, consultation with stakeholders will be undertaken including the Office of Best Practice Regulation.</p> <p>To ensure the integrity and efficiency of the proposed arbitration system, at a minimum, the arbitrator should be required to ensure that parties to the arbitration are appropriately prepared and there has been adequate opportunity for each party to prepare information relevant to the matters that are in dispute. The introduction of new information or issues</p>

	during the arbitration process may impact on fair and timely resolution of matters in dispute.
<ul style="list-style-type: none"> • <i>both parties are able to be legally represented if agreed or with the consent of the arbitrator</i> 	<p>Support The government supports the option of legal representation if both parties agree and/or with the consent of the arbitrator. This will ensure both parties are on an even playing field in the negotiations.</p>
<ul style="list-style-type: none"> • <i>the cost of the arbitrator is shared between the landholder and the holder (unless the parties have not been through an ADR process for which the holder paid the costs of the ADR practitioner, in which event the holder pays the costs of the arbitrator)</i> 	<p>Support The government supports both parties contributing to the cost of the arbitration equally. This will ensure both parties are on an even playing field in the negotiations.</p>
<ul style="list-style-type: none"> • <i>each party pays its own costs of appearing in the arbitration, unless the arbitrator orders otherwise. This will act as an incentive to landholders to try to resolve the matter at ADR</i> 	<p>Support The government supports both parties paying their own costs unless the arbitrator orders otherwise. This will ensure both parties are on an even playing field in the negotiations.</p>
<ul style="list-style-type: none"> • <i>the arbitrator will make their decision according to the provisions of the relevant resources legislation, unless the parties agree that the arbitrator decide the matter on another basis (such as commercial terms)</i> 	<p>Support Government recognises that this recommendation will also include the <i>Water Act 2000</i>, not just the relevant resources legislation.</p>
<ul style="list-style-type: none"> • <i>there is no right of appeal on the merits from an arbitration, but either party may seek a review of the arbitrator's reasoning because of a claimed error of law or some similar fundamental error</i> 	<p>Support The government recognises the limited appeal rights in this recommendation and supports it on the basis of providing certainty for both parties. The review rights in the <i>Commercial Arbitration Act 2013</i> as it relates to arbitrator's decisions may be</p>

	applicable if there is a claimed error of law or similar fundamental error.
<ul style="list-style-type: none"> • <i>the arbitrator should have statutory immunity for anything done or omitted to be done in good faith in his or her capacity as arbitrator</i> 	<p>Support The government supports standard protections to ensure arbitrators are not held responsible for acts in good faith.</p>
<p>Recommendation 9 <i>That:</i></p> <p>a) <i>the Petroleum and Gas (Production and Safety) Act be amended to provide that the costs of the ADR facilitator are paid by the petroleum authority holder, not by the person who gives the election notice as is currently the case</i></p>	<p>Support in principle Further consideration of this recommendation and the views of stakeholders will be sought in developing the legislative and policy package to give effect to the recommendations supported by government. This will include the Office of Best Practice Regulation.</p> <p>It is essential that landholders are not under the perception that resource holders have “bought” and paid for an ADR facilitator that would be more favourable to a resource holder’s case.</p>
<p>b) <i>the Petroleum and Gas (Production and Safety) Act (and the Water Act) be amended to provide that a landholder’s necessary and reasonable professional fees incurred in the negotiation of a conduct and compensation agreement (or a make good agreement) be paid by the holder, even in the event of a conduct and compensation agreement (or a make good agreement) not being concluded between the parties. The liability for costs would commence from the giving of a negotiation notice by the holder (or the day that a bore assessment is undertaken in the case of a make good agreement)</i></p>	<p>Support in principle Government recognises that landholders invest significant time in the negotiation of a conduct and compensation agreement. The government strongly encourages cooperation between the parties and a willingness of both parties to negotiate in good faith. It is not uncommon for resource holders to meet the necessary and reasonable costs landholders incur during the negotiation process. However, if this recommendation were adopted in full, the incentive to negotiate and conclude the conduct and compensation agreement could be reduced if the liability for costs commences at the notification stage. Transferring the liability for costs may also result in disputes over what are the necessary and reasonable professional fees. As the report notes, some landholders and CSG companies are already concerned that the level of legal fees is often excessive (e.g. see page 21 and 55).</p> <p>Further consideration of this recommendation and the views of stakeholders will be sought in developing the legislative and policy package to give effect to the</p>

	<p>recommendations supported by government. This will include consultation with the Office of Best Practice Regulation.</p>
<p>c) <i>the class of professional fees that are the subject of compensation under the Petroleum and Gas (Production and Safety) Act and the Water Act be expanded to allow a landholder to retain an agronomist or other such technical expert to assist in evaluating the impact of the proposed CSG activities on the subject land</i></p>	<p>Support in principle Professional expertise may be necessary to assist some landholders negotiating a conduct and compensation agreement. The government supports the reimbursement of reasonable professional fees required as part of the negotiation (noting issues in relation to costs in response to 9(a) and 9(b) above). This expansion should however, be limited to retaining the services of an agronomist. This will complement the existing services that can be reimbursed (legal, valuation and accounting).</p> <p>This change to include an agronomist would be consistent with work the government is undertaking in the <i>Environmental Protection and Other Legislation Amendment Bill 2016</i>. This Bill proposes to amend Chapter 3 of the <i>Water Act 2000</i> to require resource companies to pay the landholder’s reasonable costs in engaging a hydrogeologist for the purposes of negotiating a make good agreement, require resource companies to bear the costs of any alternative dispute resolution process and insert a cooling-off period for make good agreements.</p>
<p>d) <i>jurisdiction be given to the Land Court to determine the appropriate level of professional fees claimed by a landholder in the negotiation of a conduct and compensation agreement or make good agreement</i></p>	<p>Support in principle As outlined in the response to recommendation 9(c) above, government supports in principle landholders being reimbursed for reasonable professional fees claimed during the negotiation of a conduct and compensation agreement and a make good agreement. Government expects landholders and resource holders to work cooperatively to determine what is reasonable based on the particular circumstances.</p> <p>However, in cases where landholders and resource holders cannot agree on what quantum is deemed reasonable for reimbursement, there will be further consultation with stakeholders and the Land Court on an appropriate process for resolving these disputes as to fees and costs.</p>

<p>Recommendation 10 <i>That an Office of the Petroleum and Gas Moderator be established to assist parties to a dispute about alleged breaches of make good agreements and conduct and compensation agreements on the following basis:</i></p> <p>a) <i>to maintain the perception of independence, the Moderator should not be located in a government department. It could be co-located with an existing court or tribunal for ease of access to administrative and support services so as to lower costs</i></p>	<p>Support in principle Government supports in principle the establishment of an independent body that will assist parties to deal with disputes in relation to alleged breaches of Conduct And Compensation Agreements. Based on the functions anticipated by the government from this recommendation, this body may require establishment through legislation (this will be informed by consultation with stakeholders). Given the potential functions and that the body could also be available to assist with disputes in relation to coal and minerals; the office is proposed to be established as the land access ombudsman.</p> <p>It is the government’s view that the <i>Water Act 2000</i> already has sufficient measures in place in relation to dispute resolution for make good agreements and it is not proposed that the land access ombudsman would be available to consider make good agreements.</p> <p>A land access ombudsman that deals with coal and minerals in addition to petroleum would align with the <i>Mineral and Energy Resources (Common Provisions) Act 2014 (MERCPC)</i> which brings the land access framework into a single Act and applies across all resource tenures.</p> <p>Prior to establishment, further consultation will be undertaken with stakeholders in relation to the structure, scope, powers and resourcing required.</p> <p>Advice from the Gasfields Commission is that 5,000 land access agreements have been signed by more than 2,000 landholders (see Gasfields Review page 21). Whilst these are confidential agreements between parties, many are expected to contain specific dispute resolution procedures. It will be important to understand the potential number of agreements where parties are in dispute and how many may elect to use the services of the land access ombudsman to inform the structure and resourcing required.</p>
<p>b) <i>the Moderator’s recommendations would not be binding on the parties, but, in the event the parties cannot come to an agreement and the dispute</i></p>	<p>Support-in-principle It is usual practice for the decision as to whether to accept evidence in a proceeding to be up to the discretion of the court. However, the powers and functions of the proposed</p>

<p><i>proceeds to a court of competent jurisdiction, the recommendations may be tendered to the court</i></p>	<p>land access ombudsman will be developed in consultation with stakeholders.</p>
<p>c) <i>the Moderator's recommendations will otherwise remain confidential to the parties</i></p>	<p>Support-in-principle It is understood that it is standard practice to have confidentiality provisions in conduct and compensation agreements. This recommendation is consistent with maintaining this confidentiality but further consultation will be undertaken during the establishment of the proposed land access ombudsman to evaluate stakeholder's views.</p>
<p>Recommendation 11 <i>That the CSG Compliance Unit, the Office of Groundwater Impact Assessment and the Department of Environment and Heritage Protection provide clear and readily available information to stakeholders about their respective roles (including clarification of what they do not do).</i></p>	<p>Support The Gasfields Commission will be requested to liaise with the CSG Compliance Unit, the Office of Groundwater Impact Assessment and the Department of Environment and Heritage Protection, to identify where improvements can be made to current information available consistent with the Commission's extension and communication programme (see Recommendation 2(b)). This recommendation will also apply to the proposed land access ombudsman once established.</p> <p>Publishing educational materials and other information about the onshore gas industry is a function of the Commission under s.7(j) of the <i>Gasfields Commission Act 2013</i> and no legislative amendment is required.</p>
<p>Recommendation 12 <i>That the Department of Environment and Heritage Protection and the CSG Compliance Unit publish service delivery benchmarks for their CSG related functions and report against these benchmarks. These reports should be evaluated by the Gasfields Commission in the exercise of its function of independently reviewing the effectiveness of government entities (section 7(b) Gasfields Commission Act).</i></p>	<p>Support in principle Government is committed to providing quality services to members of the public including the timely response to inquiries or complaints.</p> <p>The Gasfields Commission will be requested to work with the Department of Environment and Heritage Protection and the CSG Compliance Unit on appropriate benchmarks and reporting arrangements. In giving effect to the outcome sought from this recommendation, it will be important that any service delivery benchmarks account for the complexity of the inquiry or complaint, with more complex issues requiring detailed investigation and evaluation taking longer to resolve. To most efficiently</p>

	<p>deliver this recommendation, the reporting and evaluation should utilise existing rather than be an alternative to, existing service delivery standards and reporting by agencies. Information on the performance of regulatory agencies may be relevant information that could be included in an annual ‘state of the sector’ report outlined in the response to recommendation 2(d).</p>
<p>Recommendation 13 <i>That:</i> a) <i>the Gasfields Commission publish a document that refers to the CSG Compliance Unit as the preferred single point of contact for all landholder inquiries and complaints regarding the CSG industry and includes the Compliance Unit’s contact information</i></p>	<p>Support The Department of Environment and Heritage Protection and the Department of Natural Resources and Mines have negotiated a memorandum of understanding regarding the role of the CSG Compliance Unit as landholder’s primary point of contact with enquiries. When an issue regarding an environmental matter is raised, the CSG Compliance Unit directs the landholder to the Department of Environment and Heritage Protection’s Customer Response Team. The most efficient and effective approach for referral and management of complaints within the jurisdiction of the proposed land access ombudsman (see Recommendation 10) will be considered as this body is established.</p> <p>It is proposed that the Gasfields Commission will be requested, through the extension and communication programme in Recommendation 2(b), to prepare a whole of government protocol outlining the roles and responsibilities of each agency involved in managing CSG landholder concerns. This will clarify which agency is responsible in particular scenarios and procedures for referral and investigation of public inquiries and complaints. This recommendation will be reviewed once the proposed land access ombudsman is established (see Recommendation 10).</p>
<p>b) <i>the Gasfields Commission, CSG Compliance Unit and Department of Environment and Heritage Protection publish a document explaining expectations of timeframes for responses to enquiries and complaints and how feedback to enquirers and complainants will be provided</i></p>	<p>Support in principle The government will request that the extension and communications programme (see Recommendation 2(b)) provide information setting out how complaints are dealt with by government (see also response to Recommendation 13(a) above). Timeframes for resolution are dependent on the complexity of the inquiry or complaint, but it is proposed that indicative timeframes for typical matters and the key steps in the process</p>

	<p>e.g. confirmation of receipt of enquiry; expected timeframe for response will form part of the information collated by the Commission.</p>
<p>c) <i>the Gasfields Commission, CSG Compliance Unit and Department of Environment and Heritage Protection provide guidance to landholders on the appropriate escalation steps and procedures if they are not satisfied with how their enquiry or complaint has been handled</i></p>	<p>Support The government will request that the extension and communications programme (see Recommendation 2(b) provide information setting out how complaints are dealt with by government and the appropriate escalation steps (see also response to Recommendation 13(a) above).</p> <p>For individual complaints, due to statutory responsibilities, agencies responsible for the administration of the legislation respond to complainants directly. This would also apply to the proposed land access ombudsman once established (see Recommendation 10).</p>
<p>d) <i>the CSG Compliance Unit be responsible for providing feedback to enquirers and complainants on the outcome of their enquiry or complaint and include information on how complaints can be escalated</i></p>	<p>Support in principle The Department of Environment and Heritage Protection and the Department of Natural Resources and Mines have negotiated a memorandum of understanding regarding the role of the CSG Compliance Unit as landholder’s primary point of contact with enquiries. When an issue regarding an environmental matter is raised, the CSG Compliance Unit directs the landholder to the Department of Environment and Heritage Protection’s Customer Response Team (see also response to Recommendation 13(a) above).</p> <p>Due to statutory responsibilities and subject matter expertise, agencies responsible for the administration of the legislation respond to complainants directly. This would also apply to the proposed land access ombudsman once established (see Recommendation 10).</p> <p>Escalation issues are covered in the response to recommendation 13 (c) above.</p>

<p>e) <i>the Gasfields Commission develop a memorandum of understanding with the CSG Compliance Unit and the Department of Environment and Heritage Protection to formalise the Commission’s dealings with these government agencies agreeing on arrangements for referral of enquiries and complaints and provision on strategic information</i></p>	<p>Support in principle See response to Recommendation 13(a) above.</p>
<p>f) <i>the CSG Compliance Unit develop a memorandum of understanding with Queensland Health to formalise procedures for referral and investigation of health related inquiries and complaints</i></p>	<p>Support in principle See response to Recommendation 13(a) above.</p>
<p>Recommendation 14 <i>That:</i> a) <i>provision be made for issuing of penalty infringement notices for infringements of the mandatory provisions of the Land Access Code and other relevant provisions of the Petroleum and Gas (Production and Safety) Act</i></p>	<p>Support in principle Any proposal to provide for the issuing of penalty infringement notices for infringements of the Land Access Code would need to be assessed against the Department of Justice and Attorney-General’s <i>Guidelines for the prescription of penalty infringement notices offences under the State Penalties Enforcement Regulation 2014</i>. The government notes that a breach of the Land Access Code is not currently an offence that would facilitate the issuing of penalty infringement notices.</p> <p>However, government considers this an opportunity to review compliance options available to determine what compliance tools and framework (including and in addition to penalty infringement notices) may be appropriate for regulation of the CSG industry. Consultation with stakeholders will be undertaken including the Office of Best Practice Regulation.</p>
<p>b) <i>in order to increase stakeholders’ confidence in the regulation of the CSG industry, compliance and enforcement actions such as the issuing of</i></p>	<p>Support in principle As provided in the response to recommendation 14(a) above, government will undertake a review of compliance options available to determine what compliance tools may be</p>

<p><i>penalty infringement notices by the CSG Compliance Unit and Department of Environment and Heritage Protection should be published for the community's information. Any legal impediments to publishing penalty infringement notices, including naming of offenders, should be removed with changes to legislation</i></p>	<p>appropriate for regulation of the CSG industry.</p> <p>Where it is in the public interest to do so, the Department of Environment and Heritage Protection will prosecute individuals or companies who breach their obligations to protect the environment and natural resources. A selection of the department's enforcement actions are summarised in prosecution bulletins outlining the facts and outcomes of finalised prosecutions.</p> <p>The issues associated with publication of enforcement actions for any new compliance options (see recommendation 14(a) above), would be investigated during stakeholder consultation.</p>
<p>Recommendation 15 <i>That Government carry out investigations to identify circumstances where multiple small mining operations are located on a single property, the scale of this phenomenon and issues of coexistence identified, and the manner in which coexistence issues should be dealt with.</i></p>	<p>Support Government will undertake a review of these situations, undertake consultation with landholders and industry, and provide recommendations whether action is necessary, noting that protections for regionally significant agricultural operations already exist under the <i>Regional Planning Interest Act 2014</i>.</p>
<p>Recommendation 16 <i>That:</i> a) <i>Queensland Health in consultation with mental health specialists and service providers (including non-government organisations) develop material on mental health awareness and services available in the region</i></p>	<p>Support There are a range of existing materials that can be made available to the Gasfields Commission, which would be particularly suitable for supporting mental health awareness. In addition, Queensland Health (Mental Health Branch) will work with the Darling Downs Hospital and Health Service and the Department of Communities to ensure up to date information is available on local mental health awareness and mental health services available in the region.</p>
<p>b) <i>the Gasfields Commission facilitates the provision of information on mental health awareness and</i></p>	<p>Support The Gasfields Commission will be requested to make available relevant information prepared by professionals in this field to the community.</p>

<p><i>services through its extension and communication initiative</i></p>	
<p>c) <i>the Gasfields Commission facilitate the convening of training on mental health awareness for regional service providers (such as rural legal practitioners and AgForce), businesses and community/social groups in the region and CSG Compliance Unit staff</i></p>	<p>Support CSG Compliance Unit staff have been provided with individual training on resilience. The CSG Compliance Unit is in the process of finalising a Safe Work Practice on dealing with clients demonstrating signs of stress or anxiety.</p> <p>Queensland Health (Mental Health Branch) and the Darling Downs Hospital and Health Service, will assist the Gasfields Commission to identify appropriate services that can provide training to service providers involved in CSG land use negotiations on mental health awareness. This would raise awareness of the stresses associated with negotiations over land matters and improve referral processes to the appropriate agencies.</p>
<p>Recommendation 17 <i>That the community reference group, as envisaged in the 2013 Queensland Health Report, be formed whereby:</i></p> <ul style="list-style-type: none"> • <i>an appropriate agency at the discretion of Government, lead and support the convening of the reference group. Government could call on the Gasfields Commission to assist in the formation of the reference group, if required</i> 	<p>Support It is proposed that the Gasfields Commission will be requested by government to convene the reference group.</p>
<ul style="list-style-type: none"> • <i>in consultation with the reference group, Queensland Health, together with the Department of Environment and Heritage Protection, Department of Natural Resources and Mines, and the Department of Science, Information Technology and Innovation,</i> 	<p>Support in principle Further work on assessment of health risks will have resource implications for a number of agencies including Queensland Health, as it will need to draw on the small specialised health risk assessment resources of the Health Protection Branch and the Darling Downs Public Health Unit. The scope of work will be considered by the reference group (see Recommendation 17 above) and may require funding</p>

<p><i>should undertake further work in the assessment of health risks and environmental monitoring as a follow-up to the 2013 Queensland Health Report</i></p>	<p>supplementation for this additional work. Any additional funding requirements would be subject to the standard budget considerations by agencies and the government.</p>
<p>Recommendation 18 <i>That the Department of Environment and Heritage Protection in consultation with and input from the reference group and other stakeholders, develop and implement an environment (air quality, noise, dust) monitoring plan in CSG fields, particularly in areas with sensitive receptors, and that outcomes be published and communicated to stakeholders.</i></p>	<p>Support in principle Environmental Authorities are already conditioned to require site-specific monitoring for air quality, noise and dust.</p> <p>CSIRO, through the Gas Industry Social and Environmental Research Alliance (GISERA) is leading a study which includes collection of air quality measurements through a network of five ambient quality stations in the Chinchilla, Miles and Condamine region of Queensland. The data collected is streamed live to the Department of Environment and Heritage Protection’s website. The Air Quality Monitoring team within the Department of Science, Information Technology and Innovation will be responsible for publishing air quality monitoring data on the DEHP website. The data is accessible to the general public here https://www.ehp.qld.gov.au/air/.</p> <p>The Gasfields Commission, through its extension and communication programme and the role recommended above (see Recommendation 17), will be requested to work with agencies and the industry to evaluate cost-effective options for improving the availability of regionally relevant data on noise and dust. It should be noted that site-specific monitoring of air quality, noise and dust is critical to manage the risk of environmental harm to sensitive receptors, and any regional network would build on rather than replace site-specific monitoring.</p>