

**Kirsty Kelly**

**Landholder compensation review**

Independent Pricing and Regulatory Tribunal

I am writing in response to the Landholder benchmark compensation rates-Gas exploration and production in NSW document.

Thank you for the opportunity to make comment on your proposal.

I am a mother of 4 living and working on an irrigated broad-acre and cropping farm within the borders of a Santos Petroleum licence. We are not landowners but would love to be one day.

We would like to think that our employer would have the ability to say 'no' to our family having to live in an industrial environment where; air and water quality, further chemical exposure, incoming and outgoing traffic, personnel and equipment would all pose concerns for the health and wellbeing for my husband and I, our 4 children and other staff on the property.

Firstly I would caution you that the terminology used within any recommendations, legislation and legally binding documents should be clear, concise and use plain English. Even the review you have set out requires people to read, re-read and look up a glossary to understand the true meaning of the words eg. Non-market valuation, injurious affection, solatium etc. this is unacceptably complicated for mere farmers, landowners and working men and women who will be required to comprehend the full implications of these documents.

Base line studies and ongoing monitoring should be part of any compensation agreement. Before an agreement is signed the contract should refer to baseline health assessments of water, soil, biodiversity and individuals to accurately document the effects on environment and those living and working under the environmental conditions created by CSG operations. There should also be a compensatory framework for each, which indicates what changes over time will be compensated for. The companies should be required to take out insurance to assure that compensation agreements are funded throughout the long term.

***1 Do you agree with our proposed principles of transparency, adaptability and practicability to guide our recommendations for this review? Are there other principles that we should apply in making our recommendations?***

In theory I agree with the three principles of transparency, adaptability and practicability but would like to add the principal of ***impartiality*** supported by a wider research base. Information that is available to your process should be widely sourced from across the world, not limited to the companies currently operating within Australia thus far.

***2 Do you agree with the four key steps in our proposed approach for this review (identify impacts, estimate compensation for these impacts, estimate benefit payments and make recommendations)? If not, what are your concerns?***

I agree with these four steps at this point in time but am concerned that should new impacts arise, there may be no way to account for them retrospectively in terms of an agreement unless there is provision within the agreement for compensation for unforeseen events or impacts.

***3 Do you agree with our preliminary view on the relevant heads of compensation for hosting CSG exploration and production (value of land occupied and loss due to severance, injurious affection and disturbance)?***

Solatium should also be included in this list as many people living near CSG wells feel that their health is in danger from toxins dispersed into the air during flaring and gas leakage. These people often sign up believing there will be no problems and find later that their health and wellbeing has suffered immensely. These people must be compensated for having to relocate to feel safe and well. Even if this is compensated as a standard weekly rental cost for housing equivalent to that of the house they are vacating. There are other times when people are asked to move off their land for CSG development purposes or when incidents occur that pose risks over the short term.

***Are there other temporary impacts of CSG exploration and production on landholders that we should consider?***

There are many temporary impacts that should be considered including gas leaks, spills, acid rain as a result of flaring, smells and air quality during flaring, contaminated dust on roofs and in water tanks.

***4 Should we consider any 'special value' of land and 'loss of opportunity to make planned improvements on the land' in recommending compensation for CSG exploration and production?***

Special value of land and loss of opportunity should be considered compensable. For example a producer who has a long term plan to be an organic farmer and has gone through that process and set himself up but can no longer follow that plan due to CSG or someone undertaking carbon sequestration plans, should have access to compensation. Other special values to be considered would be conservation, heritage areas, highly biodiverse areas or farm projects that are unique and have tourism or research values.

***5 Are there any permanent impacts on the market value of land arising from hosting gas exploration and production that we should consider?***

Disturbance clauses to cover subsidence, long term water contamination, gas leakage that may not arise or be apparent for many years into the future. A disturbance compensation for unforeseen complications that are found in future to be connected with CSG, eg earthquakes are now being linked to reinjection of produced water to aquifers in the USA therefore the cost of earthquake damage on structures and equipment should be claimable in that event.

The costs of long term monitoring of wells, gas emissions at the well head and soil and water quality decades beyond the lifetime of production should be considered. Plugging and abandoning of wells should not be seen as the end of monitoring requirements nor access agreements, which should allow for the costs/inconvenience to landowners to allow monitoring to continue forever.

***6 Do you agree with our preliminary view that NSW legislative provisions for landholder compensation for gas exploration and production should be broadened? If so, how? If not, why?***

Yes I agree with the view that legislative provisions for landholder compensation should be broadened. Legislation should seek to prepare for all issues that may arise rather than be limited by strict definitions.

I feel that there should be some mention of future compensation for health issues arisen from CSG wells/ processes that are scientifically linked in future. Landholders should be assured that all losses will be compensated for, not just their immediate land value and lifestyle.

***7 Do you agree with our preliminary view that our recommendations on compensation should be limited to landholders who host CSG activities and their neighbours who are directly affected? If not, why?***

No, compensation should not be limited to landowners and their direct neighbours where csg operations take place. Councils also need agreements for compensation for issues that affect their infrastructure, land use etc. There also needs to be a compensation agreement for community whereby all people reliant on water or road access can be compensated if there has been increased traffic leading to secondary issues, an incident directly related to the companies' actions within the community that leads to health problems, visual amenity, noise, loss of services, and loss of property and/or life.

***8 Are gross margin and market rental approaches appropriate for estimating compensation for the value of land occupied? Are there other approaches that we should consider?***

One size does not fit all. Market value of areas can change quickly within just a few kms or years, an independent valuer needs to be appointed and a second opinion available. Valuation should include income associated with the current land use and planned usage also.

**9 Do you agree with our preliminary view that because severance is site specific and highly variable, providing benchmark compensation would be of limited use to landholders? If not, how should we estimate and structure compensation for severance?**

Benchmark compensation may be useful to give landholders a better understanding of what they should expect, but as each instance is site specific, benchmarking could only be used as a guide to help farmers. I think a key would be a more useful tool to extrapolate compensation and a payment schedule thereafter. Eg land lost- access lost – water lost- fencing lost- costs of this to management over time etc.

**10 Do you agree with non-market valuation and relocation cost approaches for estimating compensation for injurious affection? Are there other approaches that we should consider?**

Injurious affection covers such a broad range of impacts that it is difficult to say what approaches would be best. I feel that once again a flow chart/ key would be useful here to identify an estimation formula available that best fits the situation. The issues paper refers to temporary impacts or long term impacts such as land value. American studies have concluded that land values are affected detrimentally by proximity to CSG wells. Other anecdotal evidence seems to confirm land use over the long term will be affected by decommissioned wells and the non-productivity of the land at the well site.

**11 Do you agree with our proposed approaches for estimating compensation, or passing through costs, for disturbance? Are there other approaches that we should consider?**

Inconveniences of maintenance, legal professional costs of researching and implementing agreements and taxation enquiries should be compensated for. Total actual costs should be claimable for the initial agreement and other costs claimable annually eg. Costs of time and legal aid for ensuring accountability of the company or negotiating secondary stages of a development according to the agreement/s. Disturbance compensation could be supported by a tabled schedule of events- likely disturbance- daily or weekly cost of compensation. To be agreed upon by both parties. For example this would likely minimise incidents where a company pulls down a fence and leaves it down for years without any concern for a landholders' ability to manage a farm without strategic fencing in working order.

**12 Do you agree with our preliminary view that benefit payments should apply during the production phase for those landholders hosting gas development on their land? If not, why?**

Benefit payments should apply during the production phase although income at other times could also go to hosts and neighbours eg income from power plants during pre-production. Tax and GST implications of payments must be transparent and documented in access / compensation agreements.

**13 Do you agree that the costs of benefit payments should be shared between the gas company and the NSW Government? If so how? If not, why?**

Benefit payments should not be covered by the government, companies should pay benefits to landholders and neighbours from within their own profits.

Government should not be considering donating any more of tax payers' dollars to encourage this destructive and risky industry. Furthermore I am disappointed that the government could contemplate funding benefit payments to entice landowners to sign up to these industries when such large numbers of tax payers are opposed to CSG and new coal developments.

**14 Should funds for benefit payments be pooled and divided among a group of landholders that have signed access agreements? If so, how?**

Are the funds pooled from within a single project area or from the whole project?

The pool of funds should be shared between landowners and their neighbours at certain percentages, based on the amount of impact they will experience. There should however be a maximum number of wells and infrastructure allowable over a certain area, to discourage some landowners from taking on all the infrastructure associated with compensation or benefit payments despite the inequality, impacts, and wishes of their neighbours.

While I appreciate efforts to make CSG and coal companies more financially accountable to those whose land, lives and infrastructure they impact on an everyday basis. It is a pity that we are still spending so much time trying to make CSG and Coal developments palatable to the public, when evidence continues to grow that the impacts of these industries are far from acceptable to growing numbers of people across the world.

I would also like to add that if CSG and Coal is unviable without immense subsidies from our government why aren't we looking for alternatives that do not have the risks to community or environment that these industries are notorious for?

Sincerely.

Kirsty Kelly, B.Teach