



4 November 2015

Independent Pricing and Regulatory Tribunal of New South Wales  
Level 15, 2-24 Rawson Place  
Sydney NSW 2000

Submitted via: [www.ipart.nsw.gov.au/Home/Consumer\\_Information/Lodge\\_a\\_submission](http://www.ipart.nsw.gov.au/Home/Consumer_Information/Lodge_a_submission)

### **Origin response to the Draft Report on Landholder Benchmark Compensation Rates - Gas exploration and production in NSW**

We refer to the Draft Report about 'Landholder Benchmark Compensation Rates – Gas exploration and production in NSW' (**Draft Report**) prepared by the Independent Pricing and Regulatory Tribunal of New South Wales (**Tribunal**) dated 30 September 2015. Origin Energy (**Origin**) thanks the Tribunal for the opportunity to make comments in relation to the Draft Report.

#### **Origin**

Origin is Australia's leading energy company. Being integrated, Origin has diverse operations spanning across the energy supply chain, from gas exploration and production, to power generation and energy retailing. We are committed to all of our stakeholders, including landholders and customers, and we have a strong focus on ensuring the sustainability of our operations.

Through Australia Pacific LNG, an incorporated joint venture with ConocoPhillips and Sinopec, Origin is the Upstream Operator of one of Australia's largest Coal Seam Gas (**CSG**) to Liquefied Natural Gas (**LNG**) projects. Origin has the longest track record of any major CSG company in Australia, having drilled our first CSG exploration well in Queensland in 1993. For over 20 years we have been working with local communities to gain access to CSG resources.

Origin is committed to working with all stakeholders and landholders in a constructive way and we strongly support policies and approaches that enable co-existence. We strive to achieve balance and sustainability in all of our activities.

The Queensland CSG industry is one of the most robustly regulated in Australia, and we consider that our projects have undergone rigorous and effective approval processes. Origin supports a sound regulatory framework across the nation, which is vital in helping to ensure the safe and responsible development of Australia's natural gas resources, whilst facilitating further investment and participation in the industry.

## Response to Draft Report

Origin provides its comments in relation to the Draft Report as an experienced operator in the Queensland CSG industry and with a desire for a sound regulatory framework across the nation to enable the safe and responsible development of Australia's natural gas resources in co-existence with Australia's agricultural industry.

Origin supports many of the Tribunal's findings and recommendations and makes the following comments:

- Origin supports the finding that a 'one-size-fits-all' approach to compensation should not be the standard approach and agrees that the level of compensation will depend on individual circumstances and the proposed gas activities, both of which are highly variable and site-specific. Origin notes however that a default formulaic approach (when the parties have exhausted their endeavours to reach an agreement, including the use of alternate dispute resolution processes such as mediation) may be more favourable than resorting to litigation. Origin also supports the observation that conduct arrangements in a land access agreement are as important as compensation.
- Origin supports the adoption of Queensland's compensation criteria and believes this is a sound, established policy position that is well understood by the industry and the professional advisors supporting landholders (such as lawyers and valuers).
- Whilst Origin agrees there is benefit for many stakeholders in a flexible system, it is also critical that any land access regime provides some certainty and structure to allow discussions to progress and to avoid protracted negotiations. In Origin's view, a conduct and compensation discussion set within some boundaries is likely to support productive discussions and ultimately result in a better long-term relationship between industry and landholders. Origin believes that the structure afforded by 'default' outcomes (such as standard agreement terms and set minimum compensation payments) would provide a better alternative to the litigious resolution of land access disputes.
- Origin is confident that significant value is shared with our landholders and the broader communities in which we operate. In addition to compensating landholders, Origin contributes in many ways to the regions including, for example, through community investment and its 'Working Together' program. The program provides opportunities for landholders to share in the benefits of the gas industry. Origin broadly supports providing a guiding spreadsheet, but holds concerns that the example spreadsheet may be setting incorrect expectations about the quantum of compensation required to meet the statutory liability, especially given that 'averages' are being used. Based on Origin's calculations, the overall compensation (when including the incentive payment) suggested by the spreadsheet is well in excess of what would be statutorily required and may not be economically sound. An unintended consequence could

be that other value sharing initiatives that benefit entire communities would be lost. It would be undesirable for landholders to incorrectly believe that the spreadsheet model is a compensation 'calculator' as such. In Origin's view, any publication of the spreadsheet model should carry a warning that the spreadsheet model provides an estimate only of compensation for the landholder's general type of property but that compensation must be negotiated and agreed based on the unique attributes of each property, the gas activities proposed for the property and the way in which those activities will be undertaken.

- Origin's view is that a strict benefits payment regime removes flexibility from negotiations with landholders. Currently in Queensland, it is possible to structure a compensation package to best meet the business and personal needs of the landholder and to further share benefit through other initiatives. By setting a strict regulatory regime around benefit payments, some of that flexibility is removed and wouldn't actually promote resolution of the conduct and compensation matters.
- Origin agrees with the finding that it is important for landholders to seek professional advice as negotiations for land access are often complex. As required under Queensland law, Origin currently compensates landholders for their legal, accounting and valuation costs that are reasonably and necessarily incurred in the negotiation of access arrangements. Origin, however, supports the Tribunal's original view (in its Issues Paper) that fees should be paid up to a cap. It is Origin's experience that professional fees associated with land access negotiations vary widely and that in some cases, work undertaken by a landholder's professional advisor may not have been necessary in managing risk or achieving a better outcome for their client. The quantum of legal costs is commonly the most difficult issue to resolve, and often prolongs land access negotiations without any obvious benefit to the landholders. A fee-cap or a schedule of fees would assist in ensuring that landholders receive timely, cost-effective advice that leads to the best possible outcome for landholders.
- In Origin's view, co-existence is best achieved when each party has a robust understanding of the other's needs and requirements and of the other's industry in which they work. Origin is, therefore, supportive of the Tribunal's proposal to fund workshops for landholders to build a better understanding of land access for coal seam gas and access negotiations. In Origin's view, it would assist landholders greatly to be presented with clear and correct information about coal seam gas operations. Those workshops would be further enhanced if the information exchange was two-way, to ensure industry could hear perspectives on impacts to the agricultural sector.
- Origin generally supports the concept of a voluntary, non-identifying public register of CSG compensation payments. In Origin's view, confidentiality should also extend to the gas companies that are paying compensation. Further, it would be important to ensure that information recorded on the register was not at a level of detail such as to provide a 'defacto' identification of a property or parties to an agreement.

If you have any questions about our response, please contact Heidi Cooper, Senior Manager Government Relations.

Yours sincerely

**Tim O'Grady**

General Manager - Public Policy & Government Engagement  
Origin Energy