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Director

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Mr R Scott
GasFields Commission Review
Department of State Development
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Dear Mr Scott

Centre for Coal Seam Gas Submission to the Gasfields Commission Independent Review

Thank you for your invitation to provide a submission to the independent review of the Gasfields Commission Queensland (GFCQ).

The Centre for Coal Seam Gas (the Centre) at The University of Queensland (UQ) conducts and coordinates studies on technical and social challenges associated with the development of the coal seam gas (CSG) industry in Queensland. It was founded in December 2011 and is funded by The University of Queensland (20%) and the four main CSG industry proponents in Queensland (80%). The Centre is not a group of researchers dedicated *solely* to CSG research. Rather it supports projects by researchers employed across up to 18 different schools and centres at UQ. The conduct of all Centre supported research is subject to the University's research integrity and ethics policy and procedures (www.uq.edu.au/ppi).

As Director of the Centre, I and several research colleagues have direct experience working with the Gasfields Commission. We often look to the Commission and to individual Commissioners for advice on our research program and direction, for direct assistance with key research projects and to guide our engagement with the regional community. In this regard, the focus achieved by having such a Commission has been very enabling for research and the research community. Once research is underway, our researchers also engage with the Commission to share early findings and insights as and when they arise, often in advance of project completion or final publication in peer reviewed journals (which is typically many months after insights are generated).

In response to the main queries in your letter:

The purpose of the Gasfields Commission and the degree to which it is being achieved.

The GFCQ was established under the *Gasfields Commission Act 2013* (the Act) to “...manage and improve the sustainable coexistence of landholders, regional communities and the onshore gas industry in Queensland.” The Act did not include ‘sustainable coexistence’ as a defined term. Section 7 of the Act also defines 12 key “functions”. The Commission reports annually on these functions and how “efficiently and effectively” they are performed. We do not have

direct experience of all 12 functions. However, we have seen directly, effective activity relating to “facilitating better relationships”, “obtaining particular information”, and “obtaining advice about the onshore gas industry”. We have also seen several examples of quality and effective review and advice. In general, especially bearing in mind the pre-Commission situation, we consider the Commission to be positively contributing to improved and sustainable coexistence (e.g. the improving ability of the parties to live together, while respecting their differences). Given that this is a new and innovative approach, one should expect that the Commission itself is learning and improving over time re. its own operation.

Whether the functions given to the Gasfields Commission are sufficient to allow it to effectively manage disputes ... between resource companies and landholders.

The term “dispute” is not included in the Act. Of the GFCQ functions listed, there is only one that appears *specifically* related to the management of disputes (function (g) - ‘*convening ... [parties] ... for the purpose of resolving issues*’). However, taken as a whole, the set of functions in effect allow the Commission to foster a better environment where the creation of disputes might be minimized, or at least the informational ground is more fertile for informed conversation (and hence ultimately one might expect more ‘efficient’ dispute management). This broader influence on the sector environment is a key benefit arising out of the activities of the Commission, rather than, for example, their acting in the role of “judge” over individual disputes. One can foresee that having a specific, adjudicating role could reduce the broader acceptance and engagement effectiveness of the Commission e.g. in response to possible ‘unpopular’ settlements.

The question posed requires a judgement on *sufficiency* (are there enough or the right functions) and *effectiveness* (are the given functions well executed). It is worth exploring how the sufficiency or effectiveness of functions might be best measured, evaluated and made more transparent, with respect to management of “disputes”. One might for example, measure the number and at which point cases are brought to the land court and their outcomes (though this would be a very rare and lagging indicator and as such of little practical use if opportunity for ‘improvement’ is sought).

Notwithstanding difficulties in measurement, it might also be desirable to have a clearer evidence base on which trends in the numbers of complaints/disputes/issues and the speed and number resolved could be tracked (perhaps normalized against activity levels). This might inform sector-wide trends in ‘coexistence’ in that ‘improvements’ (or otherwise) over time could be noted and progress addressed.

We undertook a brief search for evidence related to dispute management (based on *easily accessible* public documents) i.e. of the GFCQ Annual Report 2014-2015, Strategic Plan 2015-2019 and the websites of GFCQ, CSG Compliance Unit (DNRM) and Department of Environment & Heritage and various industry reports to the State. We offer the following observations:

1. There is little, easily accessible, consistent public information about the number and type of ‘issues’ raised, ‘disputes’ or ‘complaints’ made and/or progress thereon:
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- a. The GFCQ reports in terms of 'inquiries' rather than 'disputes' and provides no information regarding the outcomes achieved.
 - b. Departmental reporting of 'complaints' has not been consistently provided/found (data for only 2011 and 2013-2014 were identified). The complaints data in the EHP compliance report seems to be based on complaints made to the CSG Compliance Team (DNRM).
 - c. The companies which have taken FID on CSG-LNG projects (APLNG, Santos and QGC) *have* been reporting 'complaints' data to the Coordinator-General's Office in accordance with their conditions of approval. These data are reported differently by each company e.g. different categories of complaint, different reporting periods, two companies report in numbers, the third reported in percentages and so on. Given this, it is not clear what analysis the CG's office (as one example) intended to do with the data requested and we have not been able to find analyses which could help address the review's questions on effectiveness or sufficiency of the Commissions functions.
 - d. APPEA also collates statistics for formal disputes of land access, with only 1 recorded (initiated third quarter 2014), but not complaints
http://www.appea.com.au/wp-content/uploads/2014/12/Q3-2014-Total-CSG-Industry-Data_Final.pdf

Overall, these different reporting processes, definitions and standards make it difficult to assemble industry wide data regarding the number and type of complaints/disputes over time in order to identify trends and common issues where a (different) system response might be needed. There is also no comprehensive consistent data, easily accessible to ordinary members of the public regarding the number or type of complaints that have been resolved or withdrawn, or remain outstanding. Without this, it might be that the most recent, most public or 'loudest' issues dominate the attention and response of the authorities.

2. Recent UQ research (yet to be peer reviewed), has identified that *time* taken to report, iterate and resolve issues / complaints is a source of concern for some landholders. While the research sample was not designed to be representative of all landholders, the emergent findings highlight a component of the resolution process (time/effort needed and elapsed time) that needs to be taken into account as part of any review of available dispute management functions across industry and government.
 3. Other UQ research (yet to be peer reviewed), indicates that trust in the sector remains highly variable between (and sometime *within*) key stakeholder groups. The design and implementation of any measurement system needs carefully to be considered. All such systems are prone to misinterpretation and interpretation ambiguity. Nevertheless, providing easy access to comprehensive complaints/disputes statistics, with appropriate analysis by trusted sources, may contribute to improved trust over time (see recommendations below).
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As noted earlier, the Commission's functions predominantly relate to enhancing the overall environment within which the industry, landholders and regional communities coexist and can communicate. While difficult to measure, the following positive contributions are noteworthy, being the right function applied well:-

1. GFCQ undertakes a substantial range of formal and informal stakeholder engagement activities that have increased the exchange, and quality of exchange, of information between industry, government and the community.
2. The technical papers published by the Commission are of a high standard and focus on key issues of concern to the community (concerns corroborated by independent research which our researchers and others undertake in the region).
3. The Commission has initiated/completed a number of reviews (e.g. Land Access Code review, pipeline easement stocktake, review of 'make good' progress). Again, our independent research corroborates that these areas of review are of concern to the community. Enhancements in these areas have the potential to support improved relationships between the industry and landholders.

Whether the functions give to the Gasfields Commission 'should' include a role in managing or facilitating responses to public health and community concerns.

Concern has been expressed by some regarding public health issues, with questions about both physical and psychological impacts raised. Concerns are often expressed in terms of the reporting of symptoms without clear causal (testable) hypothesis and/or within an environment in which causal ambiguity or multiple contributing causes could be present. Multiple socio-environmental factors and sources are at play. Complexity and causal ambiguity are to be expected. Establishing (remembering that this could only ever be to "a degree") whether or not there are adverse health impacts caused by CSG development, would require that 'emissions' are known *and* can be matched with symptoms consistent with these emissions *via* identified transmission pathways. While each industry/activity should monitor and report its environmental emissions (as the CSG industry is conditioned to do), population health and changes to population health have to be monitored in a wider environmental, industrial and socio-economic context, not simply correlated with the activities a single industry or activity. The GFCQ might assist in convening parties and in directing concerns. However, given the complexity, we feel that the expertise required to manage public health concerns and the proper role in leading investigations sits with the State government's Department of Health (with specialist independent research support from University Schools of Population Health as required).

Whether an alternative model, such as an independent Resources Ombudsman is needed to provide a mechanism for dispute resolution between resource companies and landholders.

The general role of an 'Ombudsman' is to investigate individual complaints between people and a company or organisation (including government or public authorities). A judgement of whether a new and alternative mechanism is 'needed' requires some evidence base:-

1. Are there significant numbers of bone fide disputes and relatively high rates of disputes?
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2. In what time-frame should disputes/complaints reasonably be responded to, addressed and resolved (noting that 'resolved' does not imply that a complainant is necessarily satisfied)?
 3. Given the current mechanisms, are there significant numbers of disputes or complaints remaining un-addressed or un-resolved in this reasonable time frame?

While seemingly simple, each question requires some degree of value based judgement or greater definition (e.g. the nature of 'significant', 'bone fide', 'reasonable' time frames and determining when a dispute is deemed to be 'resolved').

If evidence did suggest that current performance on dispute resolution is unsatisfactory, then an analysis of barriers or perceived barriers to accessing and resolving through *existing* mechanisms would be instructive, before creating an entirely new mechanism. Such analysis could then inform whether an 'Ombudsman' would then be the most appropriate mechanism, for example, as opposed to modifications to current mediation, arbitration or courts systems.

I understand that the review is considering alternative models to the Commission. The review should also consider impacts of significantly changing the Commission and the message that might be inferred from this – it is still a relatively new body within a relatively new sector. The high profile activism in other States and multiple government reviews of unconventional gas extraction activities are likely to remain an unsettling influence on Queensland's rural landholders and regional communities. The CSG industry will be present in the region for another 20 – 30 years and the issues of community concern will change or be reactivated during that period. Continuity is important in the broader engagement, facilitation, review, discovery and education functions of the Commission.

Summary & Recommendations

The Gasfields Commission was constituted *after* the commencement of major CSG development in the region. Our experience suggests that the functions it has been given, have by and large enabled it to be effective in improving the broader 'coexistence' environment in which the sector operates. It has undergone and is undergoing a learning curve which will be valuable for both continued CSG development as well as other major gas and other resource projects.

The Commission, industry and various Queensland departments all report (or require) information which might be used to better identify trends and improvements in coexistence, including performance vis-à-vis dispute resolution. However, responsibility for compilation, analysis and publication of these data is not clear (and are not obviously within the remit or resources of the Commission). At present, this information is difficult for the public to access, either in its raw form or following collation, synthesis and interpretation. In addition, information regarding the various complaint *options* available to landholders is addressed separately by the different bodies and is not readily available in a consolidated form. The GFCQ could (if appropriately resourced) be well placed to address these informational issues in the following ways:

1. Publishing a common document that clearly explains the options (across government and industry) for *lodging* complaints about industry practice and government process, including expectations of reasonable time frames for responses.
2. Consulting with these bodies to document and given guidance to landholders on appropriate *escalation* procedures.
3. Measuring and monitoring, working with the Office of the Coordinator-General, DEHP and DNRM to ensure consistent reporting and analyses of disputes arising, their handling and resolution.

It is recommended that a consistent evidence base be constructed regarding disputes and progress on their resolution, and that causes and barriers be analysed to inform whether alternative or improved mechanisms should be implemented. It is not recommended that ultimate 'judgements' vis-à-vis individual disputes be made by the Commission.

It is recommended that the Commission does not play a direct role (other than assistance with convening and connecting) in *managing* public health issues. This would seem to be within the expertise and responsibility of the Queensland Health (www.health.qld.gov.au/system-governance/strategic-direction/plans/doh-plan/default.asp).

More Information - Research Briefings

Finally, several findings from a number of the Centre's research projects may be of interest to this independent review. The final reports for several of these projects are currently in preparation, and the research has yet to be peer reviewed and published. However, we are able to provide update briefings to the reviewers on our research and suggest that the following projects/areas would be of interest:

- a) Groundwater research program.
- b) Cumulative socio-economic impacts
- c) Stakeholder trust in the CSG industry
- d) Small-medium enterprise study: measuring economic trends and benefits
- e) Interactions of CSG development with agriculture
- f) Environmental and public health scoping study

Please, do not hesitate to contact to make arrangements for a research briefing or to discuss any of the points made in this submission.



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