

The Research Director
State Development, Infrastructure and Industry Committee
Parliament House
George Street
Brisbane QLD 4000

Email: sdiic@parliament.qld.gov.au

Date: 25th January 2013

Re: Submission to the Gasfields Commission Bill 2012

Dear Research Director,

As the states peak community environmental advocacy organization, the Queensland Conservation Council (QCC) welcomes this opportunity to provide you with our comments regarding the above mentioned Bill.

1. Comments and recommendations

Our comments and recommendations regarding the Bill are as follows:

1.1 Functions of the Commission

The primary function of the Commission should be to ensure that CSG development does not cause any adverse, cumulative or irreversible social, economic or environmental impacts.

In undertaking this function, the Commission should:

- Seek and provide independent advice regarding adverse social, economic and environmental impacts potentially caused by CSG development.
- Seek and provide independent assessment of the effectiveness of CSG industry operating procedures to avoid, minimise and mitigate adverse impacts.
- Seek and provide independent assessment of the effectiveness of Government policies and regulations to avoid, minimise and mitigate adverse impacts.
- Seek and provide independent advice regarding measures to ensure that potential cumulative environmental impacts are assessed, monitored and avoided.
- Ensure that CSG operators comply with conditions attached to state and commonwealth environmental approvals

- Define best practice approaches for all aspects of CSG gas field operations to ensure that potential adverse impacts caused by CSG industry practices are avoided, minimised and mitigated

Recommendation:

Clause 6 of the Bill must be amended to include avoiding, minimizing and mitigating adverse social, economic and environmental impacts caused by CSG development as a core function of the Commission.

1.2 Powers of the Commission

To effectively undertake its functions, the Commission should have the power to:

- Direct CSG operators to provide additional and specific information when requested
- Direct government agencies to provide information when requested
- Undertake community and stakeholder consultation when required
- Commission independent research, studies and assessments
- Undertake random audits of CSG operators compliance with environmental approval conditions, environmental management and other relevant plans
- Undertake bioregional assessments to establish environmental impact thresholds (see further comments below)
- Establish CSG development no-go areas to ensure that adverse impacts to springs, wetlands, waterways, groundwater recharge areas, threatened ecological communities and other sensitive environmental assets are avoided (see further comments below)

Recommendation:

Clause 7 of the Bill must be amended to include measures that enable the Commission to hold the powers necessary to undertake the above activities.

1.3 Key operating principles

When undertaking its functions and exercising its powers, the Commission should operate under the following key principles:

- Fully apply the precautionary principle in all decisions, recommendations, advice and oversight (see further comments below)
- All decisions, advice and assessments must be based on independent and best available science
- Ensuring that recommendations and advice align with regional NRM plans.
- Provide clear direction how adverse impacts caused by CSG development are to be avoided, minimised and mitigated.

Recommendation:

The Bill must be amended to include measures that instruct the Commission to operate according to the above-mentioned principles.

1.4 Commission membership and consultation

For it to be credible and equitable, the Commission should include representation and also have direct communications with all affected sectors and stakeholders.

In particular, the Commission should incorporate representation and have direct communication with:

- Regional indigenous groups
- The conservation sector
- Independent academics
- Representatives from affected communities (E.g. Tara Estate)
- Representatives from interests groups (E.g. Lock the Gate)
- Regional Natural Resource Management Bodies

Recommendation:

The Bill must be amended to include measures that instruct ensure the Commission include representation and have direct communications with all stakeholders.

1.5 Compulsory consultation

Clause 23 of the Bill states that while a government entity that is developing policy or legislation affecting the onshore gas industry is required to consult with the Commission, the requirement is directory only and does not create rights or impose legally enforceable obligations on the State, government entities or anyone else to actually consult with the Commission.

Despite the government's intention, this anomaly could inadvertently result in the Commission not being fully consulted or involved in the development of policies and legislation associated with regulating CSG development due to the lack of legally enforceable measures in the Bill requiring that government agencies must consult with the Commission.

Recommendation:

To ensure the Commission is fully consulted by government agencies, clause 23 of the Bill must be amended by deleting subsection (2) and (3).

2. Further comments on issues raised above

2.1 Avoiding cumulative environmental impacts

As part of its function of ensuring that potential cumulative environmental impacts do not occur, the Commission must establish ecological threshold limits to enable any subsequent changes to natural resources and environmental values that occur as a result of CSG development to be properly assessed and benchmarked.

Establishing threshold limits of change to natural resources and environmental values will provide increased certainty that CSG development is sustainably managed and will not cause any unforeseen cumulative adverse environmental impacts.

In exercising its function of ensuring that cumulative environmental impacts are avoided, the Commission should also:

- Identify the locations where CSG development should not occur due to likelihood that adverse cumulative environmental impacts may occur
- Assess whether existing or new CSG gas field operating procedures are likely to directly cause or contribute towards any adverse cumulative environmental impacts occurring
- Assess the effectiveness of current government policies, legislation, regulations and approval conditions in ensuring adverse cumulative environmental impacts are assessed, monitored and avoided.

Recommendation:

The Bill must be amended to include measures that enable the Commission to establish threshold limits of change to natural resources and ecological values in order to benchmark potential cumulative adverse environmental impacts that may occur as a result of CSG development.

2.2 Applying the precautionary principle

Under the *National Strategy for Ecologically Sustainable Development 1992*, the precautionary principle states that a lack of scientific certainty as to whether there are threats of serious or irreversible environmental damage should not be used as a reason for postponing measures to prevent potential environmental degradation.

Due to the lack of scientific certainty regarding the extent and scale of potential adverse environmental impacts caused by CSG development, it is essential that the Commission fully apply the precautionary principle within its advice and recommendations it provides to CSG operators, government, agencies and the community.

Recommendation:

The Bill must be amended to include measures that instruct the Commission to fully apply the precautionary principle in the advice, recommendations and oversight it provides.

2.3 Establishing CSG development no-go areas

In accordance with the precautionary approach, the Commission should establish CSG development no-go areas in locations where there is a lack of scientific certainty that any adverse impacts to community wellbeing and environmental values will not occur.

Due to the current lack of scientific certainty that potential adverse impacts will not occur, the Commission should immediately establish no-go areas surrounding and adjacent to:

- Springs and Groundwater Dependent Ecosystems (GDE)
- Riparian ecological communities
- Economically important groundwater resources and recharge areas
- Wetlands
- Good quality agricultural lands
- Threatened ecological communities
- Communities and residential areas

Recommendation:

The Bill must be amended to include measures that enable the Commission to establish CSG development no-go areas to protect and conserve natural resources, sensitive environmental areas and communities.

3. Key priorities

The Commission's key priorities should include but not be limited to:

- Establishing ecological threshold limits in order to benchmark potential cumulative impacts
- Establishing no-go areas to ensure sensitive ecological areas, good quality agricultural lands and communities are protected from CSG development
- Building public confidence by utilising open, transparent and inclusive communication and consultation processes
- Providing oversight and frank advice regarding the effectiveness of government policies and industry operating practices to avoid, minimise and mitigate adverse impacts
- Ensuring that CSG development conforms to the aspirations and targets contained in regional natural resource management (NRM) plans
- Providing advice to Government regarding amendments to existing and introduction of new legislation to ensure that adverse impacts caused by CSG development are effectively avoided, minimised and mitigated
- Providing advice to government and CSG operators regarding the effectiveness of existing and new CSG development operating procedures in avoiding, minimising and mitigating adverse impacts

- Ensuring the precautionary principle is fully applied in its advice and recommendations
- Adopting a whole of landscape approach to fulfilling its role and achieving its objectives

Recommendation:

The Bill must be amended to include measures that enable the Commission to action the above-mentioned priorities.

4. Conclusion

In its current format, the Bill does not provide the Commission with sufficient powers, adequate instructions and the necessary functions to enable it to effectively undertake its roles of providing independent advice, recommendations and oversight to government and the community regarding the broad range of issues and concerns associated with CSG development.

We strongly advocate that amending the Bill to incorporate the recommendations we have made in this submission would enable the Commission to better fulfil its roles, achieve its core objectives and be able to provide increased certainty to the community that CSG development can be sustainably managed.

We would be pleased to appear before the committee to provide further information regarding the recommendations we have made above if required.

Regards,



Toby Hutcheon
Executive Director
Queensland Conservation (QCC)