



Tenure Matters



A column by Sue Slater, Senior Advisor Petroleum, RLMS

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Welcome back. The topic of discussion for this month is the Gas Action Plan, with a discussion paper being released on November 6. This plan has been in preparation for a long time now, with the Terms of Reference released in July 2015, following the initial announcement by the Minister on 8 July 2015. The terms of reference stated that the Gas Supply and Demand Action Plan would be developed according to four principal themes¹.

1. Characterising the Queensland gas sector
2. Identification of the barriers to achieving least cost supply
3. Ensuring that markets have adequate information and liquid and transparent mechanisms in gas production, processing and transportation continue to evolve
4. Ensuring Queensland capitalises on all possible demand opportunities.

Following consultation on the discussion paper, the Gas Supply and Demand Action Plan is now expected to be completed in mid-2017. So two years to prepare a plan, which may or may not deliver the goods. Over 12 months to deliver a discussion paper which presents nothing particularly new – many of the “reform ideas” have been suggested or recommended before as part of other reviews or projects. Many of us probably expected the current discussion paper to be the *actual Plan*. The Government needs to be able to act a lot quicker if any of these strategies have a chance of making a difference.

Feedback on the discussion paper closes on 19 December². There will be a webinar on 8 December where the government will discuss the reform ideas presented in the discussion paper³.

The discussion paper makes reference to other government reviews and strategies: including:

¹ https://www.dnrm.qld.gov.au/_data/assets/pdf_file/0012/621210/terms-reference-gas-action-plan.pdf

² Submit here <https://www.getinvolved.qld.gov.au/gi/consultation/3109/view.html>

³ Register here <https://attendee.gotowebinar.com/register/6824484334014639362>

- GasFields Commission Queensland review (commenced March 2016, final report submitted 29 July 2016)⁴ – this report is not yet publically available, although the Terms of Reference indicate that it will be made public after consideration by government;
- Advance Queensland⁵; and
- Jobs Queensland⁶ established in January 2016 under the *Jobs Queensland Act 2015*.

Financial assurance is specifically excluded from the scope of the discussion paper, and is being addressed via another process (Queensland Treasury Corporation review⁷). This is a key issue, especially for smaller operators, who cannot afford to have all their funds tied up in financial assurance. We need to think more laterally about this issue and come up with an alternative model that doesn't cripple activity and yet provides some surety of rehabilitation.

The discussion paper divides the reform ideas into two broad categories – social licence to operate and decreasing barriers to supply.

Under the category social licence to operate, eight ideas are presented:

1. Reporting system for sector-wide performance and regulatory compliance
2. Centralised end-to-end management of community enquiries and complaints
3. Basin-wide approach to community messaging pre-land release
4. Conduct and compensation agreements
5. More research into community needs and concerns regarding the gas sector
6. Improve the provision and clarity of information regarding the gas sector to communities
7. Improved capability and capacity of local suppliers to the gas sector
8. Improved pre-qualification and induction requirements for local suppliers to successfully tender for gas work.

Under the category of increased gas supply, a further 21 ideas are presented:

9. Negotiate an agency memorandum of understanding (state and federal) to provide a framework for collaboration and cooperation across all regulatory functions, systems and reform initiatives
10. Whole-of-government case/project management support for pre-exploration through to production with regular liaison
11. Basin and sub basin-wide approach to exploration approvals to reduce costs for the gas sector
12. Removal of obstacles to the market achieving economies of scale and commercially viable field development
- 13. Streamlined authority to prospect (ATP) and petroleum lease (PL) application/approval processes and target timeframes for approval**
14. Continuous improvement of regulatory processes
- 15. Progressive move to more outcomes-based legislation (where applicable)**

⁴ <http://statedevelopment.qld.gov.au/industry-development/gasfields-commission-review.html>

⁵ <http://advance.qld.gov.au/>

⁶ <https://training.qld.gov.au/employers/engage-government/jobs-qld>

⁷ Terms of reference not publically available, report due end of November 2016

- 16. Strategic exploration tenure release framework⁸**
- 17. Providing a concession to petroleum explorers and producers to align with the Exploration Industry Expenditure Concession (EIEC)⁹**
- 18. Validating and publishing geoscience, resource and production data
- 19. Select and implement a new geoscience data management solution to transform collection, storage, publishing and trading
- 20. Develop a Queensland exploration strategy**
- 21. Well head productivity data
- 22. Improved governance arrangements and coordination for the gas sector
- 23. Enhanced international marketing of the gas sector
- 24. Introduction of an online regulation framework tool
- 25. Less prescriptive tenure work programs
- 26. Technology road map developed with an alternative funding and delivery model
- 27. Exploration development incentive (EDI)¹⁰ extended to junior petroleum explorers (Australian government-led initiative)**
- 28. Reform pipeline trading arrangements
- 29. Assessment of whether upstream skills requirements can be satisfied from the local labour force.

There is obviously not space to comment on all these ideas here, however, a couple are deserving of special mention.

Under the **social licence to operate** basket, I have said before that social licence applies equally to government as it does to the industry¹¹. Government cannot devolve all responsibility for obtaining social licence to the sector – they have a critical role to play both pre- land release and post –land release. Without community confidence in government’s ability to manage the sector and regulate appropriately, there will continue to be less than ideal social licence conditions. The reason the “lock the gate” groups have got so much traction is as much about distrust of government as it is about distrust of industry.

More specifically, with respect to *reform idea number 5* – there has been research into community needs and concerns previously – the key point here is that any such research must be timely. Often this type of research is a PhD project or post-doctoral research project: these typically have long time-frames. It is critical that any research undertaken (for this reform idea or others) is available in a reasonable timeframe, properly peer- reviewed and published widely.

Under the **increasing supply** basket, I have highlighted several of the reform ideas above. These are worthy of some additional comment here.

Reform ideas 16 and 20 are, it seems to me, related. A tenure release framework surely has to be part of a Queensland exploration strategy. It is of course, however, no use in having a tenure release framework without have a framework in place to actually grant the ATPs! On that note, there are still undecided applications from land release areas in 2011 and 2014 – and yes many of these are

⁸ https://www.dnrm.qld.gov.au/_data/assets/pdf_file/0011/385094/annual-exploration-program-report.pdf

⁹ <https://www.business.qld.gov.au/industry/mining/mining-online-services/myminesonline/applying-for-eiec>

¹⁰ <https://www.ato.gov.au/Business/Exploration-Development-Incentive/>

¹¹ [Tenure Matters Issue 29 October 2016](#)

subject to native title processes, but this is precisely the point. Minerals and coal applicants have access to expedited procedures, petroleum does not; so native title issues slow down the grant of ATPs. By the time some of these areas are granted the work programs that were bid, which cannot be amended, may no longer be relevant or possible and the system is therefore setting applicants up to fail.

The strategy also needs to look at whether the land releases can be managed differently, rather than the government always determining discrete packages of blocks. In June 2015¹² I proposed that greenfield basins be approached somewhat differently, by allowing applications anywhere within a basin within a defined time period. This would, among other benefits:

- free up resources in the department,
- allow the explorer to determine their area of interest, and
- improve the perception of land availability in the State.

And while on the subject of tenures – the petroleum sector needs a properly functioning and robust retention tenure system – a stand-alone tenure that recognises that access to markets is critical, and without it there are no reserves, only resources. This will be increasingly important as, or if, greenfields areas are explored and appraised. (This has, of course, been part of the Tenure Reform Taskforce.) Government cannot expect companies to make a long-term time and effort investment without a reasonable chance of monetising the asset. It is naïve to think that in all cases a prospect can be explored, appraised and reach certification of reserves inside the maximum 12 year time frame currently allowed for an ATP – especially as the sector increasingly explores for unconventional resources. These are, by their nature, more difficult and costly to understand, may require new, as yet unproven, technologies, and are likely to be remote from markets. The other tenure issue that must be addressed is related to size. Unconventional resources typically require larger areas to commercialise, and yet Potential Commercial Areas (PCA) and Petroleum Leases (PL) are still limited to 3 graticular blocks, as they have always been.

Reform idea 13 is by no means new, but is nevertheless still valid. A shortcoming of the *Petroleum & Gas (Production & Safety) Act 2004* is that despite a plethora of rigid timeframes applied to industry, there are no assessment timeframes applied to the department. Long delays in approvals create uncertainty, slow down exploration and make raising capital difficult. Gaining approval of a 4 year work program two or three years after it was supposed to begin is entirely unacceptable – again holders are being set up to fail. At their next assessment point, they will most likely have failed to complete the work program due to the uncertainty engendered by the long approval delay; and will then find it difficult to get the next approval. It is arguable that if the department believed these approvals were extremely important they would be dealt with more expeditiously – it is time that some applications/submissions were deemed approved if not assessed within a certain timeframe. For example, if a work program is submitted, and there has been no response from the department within, say 6 months, the work program is taken to be approved. Holders that are considered ‘higher risk’ can be assessed more assiduously. This then focuses the limited resources of the department in the places where it might do the most good.

¹² [Tenure Matters Issue 16](#) June 2015

Reform idea 15 is again not new – this is one of the principle changes proposed by the Tenures Reform project. The challenge here is in the how – moving to an outcome focussed assessment will require significant cultural change. How to assess competitive applications based on outcomes rather than work programs is a question that has no doubt already received a lot of attention.

Reform idea 17 to align the petroleum sector with the Exploration Industry Expenditure Concession which currently applies only to mineral and coal explorers allows variation of expenditure. However it applies only to tenures granted outside of a competitive application process. Since all of petroleum exploration is subject to a competitive bid process, this would require a change in this policy. The petroleum and gas sector has long argued that there should be better parity across many issues between coal and petroleum – including reporting, native title process, ability to vary work programs and so on. *Reform idea 27* likewise addresses the issue of parity between the sectors.

I would encourage response to the discussion paper, even though I acknowledge that we have certainly responded to many, if not most, of these ideas previously under different guises.

Meanwhile on 11 November 2016, the department released two areas for competitive tender –

- PLR2016/17-1-1 comprises 28 sub-blocks north of Injune and is a cash-bid for CSG;
- PLR2016/17-1-2 comprises 120 sub-blocks north of Moonie and is a non-cash bid for conventional oil and gas.

Applications close 20 April 2017.

The bulk of the 2015 land release areas, in the Cooper Basin, have disappeared from view – no applications shown and no grants. So what's going on?

I am happy to hear suggestions about topics you would like covered. Feel free to email me at sue.slater@rlms.com.au with the subject heading Tenure Matters.

In the meantime, remember “Tenures make the Project; the Project doesn't make the Tenures”.

RLMS covers the project spectrum from planning through to State and Federal government approvals, including land access, compensation, environmental impact statements and work schedules for clients ranging from entrepreneurs to major corporations, from start-ups to government agencies, and state significant projects such as Queensland's LNG giants. Contact RLMS at:

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